



CPT/Inf (2006) 22

**Report to the Albanian Government
on the visit to Albania
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
from 13 to 18 July 2003**

The Albanian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2006) 23.

Strasbourg, 12 July 2006

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Copy of the letter transmitting the CPT's report

Strasbourg, 28 November 2003

Dear Ambassador,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Albania drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Albania from 13 to 18 July 2003. The report was adopted by the CPT at its 52nd meeting, held from 3 to 7 November 2003.

The CPT requests the Albanian authorities to provide **within six months** a response containing an account of action taken by them to implement the Committee's recommendations and setting out their reactions to its comments and requests for information. The recommendations, comments and requests for information are listed in the Appendix to the report.

The CPT would ask, in the event of the above-mentioned response being forwarded in Albanian, that it be accompanied by an English or French translation. It would also be most helpful if the Albanian authorities could provide a copy of the response in electronic form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours faithfully,

Silvia CASALE
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

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I. INTRODUCTION

A. Dates and context of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Albania from 13 to 18 July 2003¹. The visit was one which appeared to the CPT "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

2. The main purpose of the visit was to examine the efficacy of legal remedies available to persons deprived of their liberty in cases involving allegations of ill-treatment by law enforcement agencies and to review the conditions of detention in police pre-trial detention facilities. In addition, the delegation carried out a follow-up visit to Elbasan Psychiatric Hospital, in order to review the measures taken by the Albanian authorities following the recommendations made by the CPT after its two previous visits to that establishment.

3. The visit was carried out by the following members of the CPT:

- Mario BENEDETTINI (Head of the delegation)
- Mauro PALMA
- Erik SVANIDZE.

They were supported by Michael NEURAUTER from the CPT's Secretariat and assisted by:

- Dan DERMENGIU, Associate Professor, Chair of Forensic Medicine Department, Medical Faculty "Carol Davila", Bucharest, Romania (expert)
- Catherine PAULET, Psychiatrist, Regional Medical and Psychological Service, Baumettes Prison, Marseilles, France (expert)
- Teuta BARBULLUSHI (interpreter)
- Mirela KUMBARO-FURXHI (interpreter)
- Arben LESKAJ (interpreter)
- Dritan TOLA (interpreter)
- Edmond TUPJA (interpreter).

¹ The CPT carried out two periodic visits (December 1997 and December 2001), as well as two ad hoc visits (December 1998 and October 2001) to Albania. The reports on these visits and the responses of the Albanian authorities have been published under the following references: CPT/Inf (2003) 6 to 12.

B. Establishments visited

4. The delegation visited the following places of detention:

Establishments under the authority of the Ministry of Public Order

- Elbasan Police Directorate (pre-trial detention facilities)
- Elbasan Police Station (pre-trial detention facilities)
- Shkodra Police Directorate
Shkodra Police Station
- Police Station No. 2, Tirana

Establishments under the authority of the Ministry of Justice

- Prison No. 313, Tirana

Establishments under the authority of the Ministry of Health

- Elbasan Psychiatric Hospital.

In addition, the delegation went to the Prison Hospital, the Military Hospital and the Forensic Medical Institute in Tirana, in order to examine medical files of persons deprived of their liberty.

C. Consultations held by the delegation

5. In the course of the visit, the delegation held meetings with Luan RAMA, Minister of Public Order, Sokol HAZIZI, Deputy Minister of Justice, and Eduard HASHORVA, Deputy Minister of Health, as well as with Theodori SOLLAKU, Prosecutor General of the Republic, and Jorgo DHRAMI, Deputy People's Advocate. In addition, it met judges, civil and military prosecutors, and other senior officials.

D. Cooperation between the CPT and the Albanian authorities

6. The delegation received good co-operation at all establishments visited, with two exceptions:

At *Elbasan Police Directorate*, the delegation was initially refused access to the pre-trial detention facilities and subsequently prevented, for some time, from interviewing detained persons. After a delay of some 40 minutes and the intervention of the Ministry of Public Order, the delegation was finally able to carry out its work. It appeared that the police officers concerned were not familiar with the mandate and powers of a visiting delegation under the Convention (despite the fact that the establishment had already been visited twice by the CPT in the past).

In *Tirana*, the delegation was not able to consult a specific criminal police file concerning the alleged ill-treatment of a detained person by police officers. It received various contradictory explanations from the District Prosecutor's Office, the General Police Directorate and Police Station No. 2 as to why the file could not be produced, none of them convincing.

Whilst acknowledging the considerable efforts made by the CPT's liaison officer to disseminate information brochures to the relevant services of all Ministries and prosecutors' offices concerned, the CPT wishes to recall the obligations of the Albanian authorities under Article 3 (general principle of co-operation) and Article 8, paragraphs 2 and 3, of the Convention (unlimited access to any place of deprivation of liberty; access to information necessary for the Committee to carry out its task; right to interview detained persons in private, etc.).

The CPT trusts that all police officers and prosecutors in Elbasan and Tirana will be reminded of these obligations.

7. The CPT also wishes to emphasise that the principle of cooperation set out in the Convention is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken, including at the highest political level, to improve the situation in the light of the Committee's key recommendations.

At the end of the visit, the delegation informed the national authorities that it was particularly concerned by the persistence of severe forms of ill-treatment of persons deprived of their liberty by law enforcement officials, as well as by the absence, in many cases, of appropriate responses from the authorities at judicial and disciplinary levels, a state of affairs which could well be considered to amount to impunity.

The CPT must stress that, if this situation were to persist, it would be obliged to consider having resort to Article 10, paragraph 2, of the Convention.²

² Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

E. Immediate observations under Article 8, paragraph 5, of the Convention

8. At the end of the visit, on 18 July 2003, the CPT's delegation held final talks with the Albanian authorities, in order to acquaint them with the main facts found during the visit. On this occasion, the delegation made the following immediate observations, in pursuance of Article 8, paragraph 5, of the Convention:

- to take urgent steps at the pre-trial detention facilities at Elbasan and Shkodra Police Directorates (as well as in other establishments of this kind) to ensure that:
 - all detained persons are provided with a clean mattress and clean blankets;
 - all detained persons are granted ready access to sanitary facilities;
 - the prohibition of any activity (reading, games, radio, etc.) inside the cells is abolished;
 - the systematic prohibition of correspondence with the outside world for all sentenced and remand prisoners is abolished;
 - the visit entitlement for remand and sentenced prisoners is significantly increased;
 - the practice of placing juveniles and adults in the same cells is discontinued.
- to provide a precise timetable for the implementation of the transfer of remand and sentenced prisoners from police pre-trial detention facilities to prison establishments;
- to take immediate steps at Prison No. 313 to ensure that all prisoners, including those on remand, are offered at least one hour of outdoor exercise every day;
- to take the necessary steps to ensure that all involuntary admissions at Elbasan Psychiatric Hospital (as well as at other psychiatric establishments in Albania) are notified to the competent courts.

The above-mentioned immediate observations were subsequently confirmed by the Executive Secretary of the CPT in a letter of 1 August 2003, in which the Albanian authorities were requested to provide, within two months, an account of the measures taken in response.

9. By letter dated 21 October 2003, the Albanian authorities informed the CPT of the measures taken in response to the above-mentioned observations. These measures will be assessed later in the report. However, at this stage, the CPT wishes to acknowledge the very constructive spirit in which the Albanian authorities reacted to the delegation's immediate observations.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement establishments

1. New evidence of torture and other forms of ill-treatment

10. The vast majority of persons interviewed by the delegation alleged that they had been ill-treated whilst in police custody. Most of these allegations related to ill-treatment during police questioning and, more particularly, during interrogation by officers of the criminal police. Instances of kicks, punches, and severe beatings with batons of suspects - mainly to obtain confessions - were said to be a matter of “normal routine”. In many cases, the severity of the ill-treatment alleged was such that it can be considered to amount to torture. Some allegations concerned beatings on the soles of the feet (so-called “falaka”) and/or on the palms and backs of hands, as well as the submersion of a suspect’s head into a water barrel and similar techniques. In a significant number of cases, the delegation’s doctors examined medical documentation and/or made direct medical observations which were consistent with the allegations received.

11. The following cases of alleged ill-treatment by law enforcement officials have been selected for their illustrative value. They do not constitute an exhaustive list of all such cases encountered and/or investigated by the delegation. In fact, it is important to recognise that they represent but a small fraction.

12. Case 1

A detained person met by the delegation at Shkodra Police Directorate claimed that, following his apprehension one week earlier, he had been severely beaten by police officers.

Upon physical examination by a medical member of the delegation, the person concerned displayed the following injuries:

- a 2 x 1.5 cm blue-violet bruise on the right infraorbital area;
- a bruised area, blue-violet, covering all the posterior area of the right arm;
- a bruised area, blue-violet, covering all the posterior area of the left arm;
- a bruised area, blue-violet, 8 x 14 cm on the right scapular region;
- on the posterior thorax, several parallel (1 cm apart) blue-violet linear bruises, with lengths ranging from 12 to 20 cm;
- a bruised area, blue-violet, 16 x 10 cm on the posterior region of the left thigh;
- a bruised area, blue-violet, 8 x 10 cm on the posterior region of the left leg;
- swollen soles.

According to the medical members of the delegation, the injuries described above appeared to have been caused by multiple blows with blunt objects (some produced by long cylindrical hard objects), their age being consistent with the detainee’s allegations.

13. Case 2

Another detainee met by the delegation at Shkodra Police Directorate alleged that he had been beaten and hit in a police van by police officers some ten days before the visit.

Upon physical examination by a medical member of the delegation, the person concerned displayed the following injuries:

- on the right frontal region of the head, a linear (2.5 x 0.2 cm) pink (almost healed) lacerated wound;
- over the medial 1/3 of the left clavicle, a linear (1.5 x 0.2 cm) pink (almost healed) lacerated wound;
- on the medial aspect of the proximal 1/2 left leg, a pink abrasion (1.5 x 0.2 cm);
- on the medial aspect of the proximal 1/2 left leg, a pink abrasion (2 x 0.5 cm) partially covered by a brown scab;
- on the mid portion of the left tibial anterior margin, a linear (2 x 0.2 cm) pink (almost healed) lacerated wound;
- 8 cm above the right medial malleolus, a linear (3 x 0.2 cm) lacerated wound covered with a red-brown scab.

According to the medical members of the delegation, the injuries described above appeared to be determined by blows with blunt objects, their age being consistent with the detainee's allegations. However, upon admission to Prison No. 313, the only entry made in the medical file after his initial medical examination was: "elongated bruise on the posterior thorax and bruise of the right orbital region". No further details or comments were recorded by the prison's medical staff (cf. paragraph 47).

14. The delegation also received a number of credible allegations of ill-treatment by law enforcement officials from persons held at the pre-trial detention facilities of Elbasan and Shkodra Police Directorates.

By way of example, allegations were received concerning operations carried out on 6 June 2003 at Shkodra Police Directorates by the internal intervention group of the Police Directorate (*Grupi i gatshem i komisariatit*) and external special forces (*Repartet speciale*), following a protest by a group of detainees (allegedly triggered by the refusal of custodial staff to provide urgent medical assistance to a detainee). The delegation was informed that criminal proceedings had been initiated concerning the detainees' behaviour, but that no investigation had been carried out into the cases of alleged ill-treatment by the above-mentioned police forces (cf. also paragraph 39).

At the end of the visit, the delegation requested the Albanian authorities to carry out without any further delay a thorough and independent investigation into the allegations of ill-treatment of detainees at Shkodra Police Directorate on 6 June 2003 and to provide information, within three months, on the results of such investigations and on the measures taken in response.

15. In their letter of 21 October 2003, the Albanian authorities essentially confirmed that criminal investigations had been initiated into the above-mentioned incident and that, according to the information gathered so far by the criminal police, the riot had been triggered by a group of inmates in an attempt to escape from the establishment. It is further stated that “[f]rom the detainee persons included in this rebellion, only one has alleged violation against him” and that “[t]he Prosecution Office has ordered that this allegation must be examined objectively”.

The CPT would like to be informed of the outcome of the above-mentioned criminal investigations and the action taken in response thereto (at judicial and disciplinary levels).

*

* *

16. On the basis of all of the information obtained by the CPT before and during the July 2003 visit, the Committee can only conclude that the ill-treatment of persons deprived of their liberty by the law enforcement agencies in Albania continues to be a serious problem in 2003, six years after the first periodic visit when similar conclusions were reached.

The delegation has noted the efforts made by the Albanian authorities to tackle the problem of ill-treatment by law enforcement officials, in line with the previous CPT recommendations. In particular, it has taken note of a few recent cases in which police officers charged with ill-treatment of detained persons had been brought to trial. However, given the large scale of the problem, those exceptional instances of a proper reaction to instances of police ill-treatment can only be considered as an initial step in the right direction.

In particular, decisive action is required to address the phenomenon of impunity, which is capable of nullifying all efforts to eradicate torture and other forms of ill-treatment.

2. Action to combat torture and ill-treatment

a. a statement at the highest political level

17. As already emphasised by the CPT in previous visit reports, an important step towards eradicating the problem of police ill-treatment is the delivering of a formal statement by the highest competent political authority to law enforcement officials, reminding them that the rights of persons in their custody must be respected and that the ill-treatment of such persons will be prosecuted and be the subject of severe sanctions.

The CPT took note of the public statement made by the Minister of Public Order in January 2003, following the death of a detained person - Gazment Tahirllari - in police custody at Korca Police Directorate, in which he condemned police ill-treatment as “severe violations of the law”.

Moreover, in their letter of 21 October 2003, the Albanian authorities informed the CPT that, on 28 July 2003, the General Police Directorate had addressed internal instructions to all police establishments concerning the “prevention of violations and the protection of human rights and freedoms of citizens”. It is stated that these instructions set out “concrete duties to eliminate and prevent the constituted violations in the future”. **The CPT would like to receive a copy of the above-mentioned internal instructions issued by the General Police Directorate.**

However, to date, the CPT has found no evidence that a clear message emanating from the Minister of Public Order, unequivocally rejecting ill-treatment, had been conveyed directly to police officers, as specifically requested by the CPT in its previous visit reports.³ **The CPT calls upon the Albanian authorities to ensure that a formal statement emanating from the highest competent political authority be delivered to all law enforcement officials (including members of the criminal police), impressing upon them that the ill-treatment of persons deprived of their liberty is an affront to the values which constitute the very foundations of the State and will not be tolerated. The statement should make clear that any law enforcement officials who disregard this principle will be the subject of severe sanctions.**

b. combating impunity

i. introduction

18. The CPT has repeatedly stressed that one of the most effective means of preventing ill-treatment by law enforcement officials lies in the diligent examination by all competent authorities of all relevant information regarding alleged ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint; in this connection, judges and prosecutors have a particularly important role to play.⁴

³ Cf. CPT/Inf (2003) 9, paragraph 19, and CPT/Inf (2003) 11, paragraph 14.

⁴ Cf. CPT/Inf (2003) 11, paragraph 20.

Under Albanian law, all persons arrested by the police must be brought before the competent prosecutor (within 24 hours) and the competent judge (within 72 hours). This provides a timely opportunity for persons deprived of their liberty to indicate whether or not they have been ill-treated by law enforcement officials. Further, even in the absence of an express complaint, the prosecutor/judge is in a position to take action in good time if there are other indications (e.g. visible injuries) that ill-treatment might have occurred.

In addition, every public official is under a legal obligation to report in writing to the prosecutor or the criminal police any facts related to a criminal offence which may have come to his/her knowledge.⁵ Specific obligations to report facts which are indicative of a criminal offence are incumbent on police officers⁶ and medical personnel⁷ (cf. also paragraph 48).

19. The delegation examined a number of individual cases of alleged ill-treatment by law enforcement officials, in order to ascertain the measures taken in response by the relevant prosecuting and judicial authorities. In order to make its assessments, the delegation scrutinised the relevant criminal files (including the medical documentation prepared by medical staff working in police/prison establishments and/or the Forensic Medical Institute) and met with the prosecutors in charge of those cases.

ii. examination of accountability issues in four cases

Case 1⁸

20. On 24 November 2001, at around 3.30 p.m., two brothers, X. and S. Ç., were apprehended during a house search carried out by E. H., a criminal police officer at Police Station No. 2 in Tirana. They both alleged that, upon arrival at the police station, they were beaten with a plastic stick, as well as slapped and kicked on different parts of the body (including the head) by E. H. and that they were subsequently transferred to the General Police Directorate, where they were beaten again.

On the same day, two relatives, E. S. and J. K., went to Police Station No. 2 in order to clarify matters related to the ongoing criminal investigation. Senior police officers directed them to E. H., who allegedly ill-treated them as well (beatings with a plastic stick, slaps and kicks). At around 11 p.m. the same day, the four men were released. The Ç. brothers submitted a complaint to the People's Advocate Office. Several relatives and other persons confirmed in their interviews with the Office of the People's Advocate the detention of and the allegations of ill-treatment by the above-mentioned persons (including the severity of the injuries).

⁵ Article 281 of the Criminal Procedure Code (CPC).

⁶ Article 282 of the CPC.

⁷ Article 293 of the CPC and Article 7 of the Law on the Service of Internal Control of the Ministry of Public Order.

⁸ Criminal case file No. 83 opened against criminal police officer E. H. concerning the ill-treatment of X. and S. Ç. and E. S.

21. On 30 November 2001, S. Ç. and E. S., along with two other persons (J. K. and F. F.), were apprehended by E. H. and taken to Police Station No. 2 (for some three hours). They alleged that they had been ill-treated again by E. H., for having submitted a complaint to the Office of the People's Advocate.

22. The following day, S. Ç. and E. S. went to the Forensic Medical Institute in Tirana, in order to request a forensic medical examination. Their request was, however, rejected, since the competent prosecutor had not asked for such an examination. It was not until the intervention of the Office of the People's Advocate - and the subsequent official request by the Prosecutor - that they finally managed to undergo a forensic medical examination. The medical certificates fully confirmed the existence of injuries.

23. On 15 January 2002, the People's Advocate forwarded relevant materials (testimonies of the complainants and witnesses, forensic medical certificates, etc.) to the Office of the Tirana District Prosecutor and recommended that criminal investigations be initiated. On 9 July 2002, the criminal police officer in charge of the investigation reported back to the Prosecutor and proposed discontinuing the investigations for lack of evidence. On 17 July 2002, the Prosecutor decided to close the case. Despite clear indications of possible breaches of professional duties, the delegation found no evidence that a disciplinary inquiry had been carried out into the conduct of the police officers concerned.

24. A thorough examination of the relevant file revealed that the first investigative action had been taken by the prosecutor (namely his decision to delegate the investigation to the criminal police) only on 5 March 2002 (i.e. almost two months after the submission of the complaint). Furthermore, the investigation file revealed a catalogue of ineffective action in the face of clear allegations of police misconduct. In addition, not all the relevant and possible investigative actions were taken. By way of example, the police investigator limited himself to the questioning of S. Ç. and E. S., as well as E. H. and four other police officers. Other complainants, and more than a dozen witnesses who had been interviewed by the Office of the People's Advocate or who had been mentioned in the criminal file, were not questioned at all, and no confrontations were carried out between the different parties involved.

Case 2⁹

25. On 20 February 2002, at around 6 p.m., A. C. was stopped in a car (together with K. C., R. S. and F. D.) by a group of police officers attached to Shkodra Police Directorate, under the command of V. F. and F. L., both senior police officers. All the passengers were allegedly taken out of the car, punched, kicked and beaten with various objects (sticks). A. and K. C. alleged in particular that they were assaulted by the two commanders and by other police officers (some of whom were masked). Members of the C. family and some neighbours allegedly witnessed the incident. Further, K. C.'s pregnant wife, who tried to intervene during the episode, was allegedly pushed aside by a police officer, fell to the ground and sustained several haematomas.

⁹ Criminal case files (joint Nos. 133 and 143) opened against police officers of Shkodra Police Directorate concerning the ill-treatment of A. D., K. C. and L. C..

26. A. and K.C. (together with the two other passengers) were transported by the police to Shkodra Police Directorate for further questioning. They alleged that they were beaten again by police officers during their transportation, and that on arrival in the centre of the village of Peruca, the police van stopped, K.C. and R.S. were taken out of the van and beaten in front of several people gathered there. According to police registers, all four persons mentioned above were detained from 7 p.m. on 20 February 2002 until 10 a.m. the following day (i.e. beyond the legal time-limit for such a measure). After their release, all four underwent a medical examination by private doctors and made photographs and a video recording in order to document their injuries. In addition, they contacted the Forensic Medical Institute in Tirana, but their request for a forensic medical examination was rejected (due to the lack of an official request). They also submitted a complaint to the Office of the People's Advocate.

27. On 23 March 2002, a second violent episode allegedly took place at about 7 p.m., when L. C. and his friends S. and A. M. were stopped in a car by a Police Rapid Intervention Force, headed by the same senior police officers identified above. L. C. was allegedly punched by F. L. and kicked by a hooded police officer, resulting in the fracture of two bones in his left leg. S. and A. M. were allegedly punched as well.

Following the incident, they were accompanied to Shkodra Police Station and kept there (according to official records) for 40 minutes, where they were questioned and allegedly forced to state that L. C. had sustained his injuries when he fell to the ground during an attempt to run away. The same explanation was given by the police officers involved, both in their service reports and during subsequent inquiries. L. C. went to the local civil hospital to be x-rayed and documented his injuries with photographs and a video recording. He then submitted another complaint to the Office of the People's Advocate. A forensic medical examination diagnosed a "fracture of left leg - caused by a strong, solid object".

28. On 6 April 2002, the People's Advocate forwarded materials (testimonies of the complainants and various witnesses, medical certificates, etc.) concerning both incidents to the Shkodra District Prosecutor, recommending that criminal investigations be carried out and that disciplinary measures (i.e. suspension from service) be taken against the police officers concerned by the General Directorate of the State Police. The Shkodra Prosecutor's Office followed the People's Advocate's recommendation¹⁰. However, the General Directorate of the State Police decided not to suspend the police officers from service, but to impose the sanction of "reprimand" (the most lenient sanction of the disciplinary code).¹¹

¹⁰ After L. C.'s initial interrogation, the investigations were, in both cases, transferred to the Shkodra Military Prosecutor, with the approval of the Prosecutor General.

¹¹ The measure of "reprimand" does not correspond with the relevant provisions of the Disciplinary Regulations of the Ministry of Public Order, which allow for the suspension from service (or even dismissal for more serious abuses) for arbitrary acts (such as the exceeding of the time-limits of detention).

29. The delegation noted that during the investigation, L. C. was charged with an unrelated offence (injury of a police officer in a car crash on 19 August 2002) and was declared a wanted man. Subsequently, L. C. did not report to the police, although he had been summoned several times concerning his above-mentioned allegations of ill-treatment. On 31 October 2002, the case relating to the car crash was brought to court. At the same time, the Military Prosecutor decided to suspend the investigations into cases of ill-treatment, according to Article 326, paragraph 2, of the CPC¹², arguing that it was not possible to conduct further investigations in the complainant's absence.

30. The information at the delegation's disposal showed that not a single investigative activity had been conducted in respect of the first incident (20 February 2002). When asked about the reasons for his total inaction in this case, the Military Prosecutor simply stated that no formal complaint had been lodged by the victims. This explanation was refuted by the criminal file itself which contained the complaints by the persons concerned.

As regards the second incident (23 March 2002), the examination of the investigative file revealed that the Military Prosecutor confined the investigations to the questioning of police officers (including F. L. and V. F.), the summoning of L. C. and the doctor, and the checking of the relevant police registers. The delegation took note that not all the necessary and possible investigative actions had been taken (for example, no forensic medical opinion on the plausibility of the police officers' explanations as to the causes of the fractures of the bones had been sought).

Case 3¹³

31. On 22 April 2002, four life-sentenced prisoners, G. B., T. B., V. and E. Y., allegedly involved in a riot some days earlier at Tepelena Prison, were transferred from Durres Police Directorate to Prison No. 302 in Tirana. They were transported in two police vans, blindfolded and handcuffed, and escorted by six masked members of the Police Special Intervention Unit (RENEA). During their transfer, they were allegedly thrashed with wooden and plastic sticks, as well as metal objects, by members of RENEA.

32. On 15 May 2002, the People's Advocate recommended that the Office of the Tirana District Prosecutor initiate criminal investigations into the above-mentioned incident. The communication contained, among other things, testimonies from the prisoners concerned, as well as from the Head of RENEA. It also included four medical certificates issued by the Forensic Medical Institute in Tirana (dated 26 April 2002), which described the injuries sustained as follows:

¹² Article 326, paragraph 2, of the CPC reads as follows: "The suspension of investigations is decided after having carried out all possible operations".

¹³ Criminal case file No. 938 opened against members of the Police Special Intervention Unit (RENEA) concerning allegations of ill-treatment of sentenced prisoners G. B., T. B., V. and E. Y..

- T. B.: ecchymosis caused by blunt objects measuring 15 x 10 cm on the shoulder; 13 x 7 cm on the shoulder; and 8 x 2 cm on the upper part of the left arm; another ecchymosis on the right part; severely beaten - temporary incapacity for work for nine days;
- G. B.: several small haematomas;
- V. Y.: haematomas and ecchymoses;
- E. Y.: two haematomas and ecchymoses.

33. The examination of the investigation file revealed that no investigative activities whatsoever had been carried out by the prosecutor/criminal police until 25 June 2003 (i.e. almost 14 months after the incident). Furthermore, without even interviewing the four prisoners concerned or taking any other investigative actions, the prosecutor suspended the case, arguing that, according to Article 4 of the Law No. 8292 on Special and Intervention Forces¹⁴, the identity of the members of RENEA could not be disclosed.

34. The People's Advocate subsequently intervened with the Parliament's Commission of Human Rights and recommended that amendments be passed to modify Article 4 of the above-mentioned Law No. 8292, in order to ensure that the identity of members of RENEA be disclosed to relevant authorities in the context of criminal investigations related to offences committed whilst on duty. Only then did the prosecutor re-open the case and undertake its first and only investigative action, namely the questioning of the Head of RENEA (who was himself not present during the incident). During this questioning, carried out on 25 June 2003, the latter refused to disclose the names of his subordinates (as he had done previously during his interview with the Office of the People's Advocate), arguing that the identity protection set out by Article 4 was absolute. He also stated that only justified force had been used to control the resistance of the prisoners concerned.

35. On 1 July 2003, the prosecutor formally decided to close the case, in accordance with Article 328, paragraph 1 (b), of the CPC, stating that "the force used was justified in the particular circumstances". No reference was made to the issue of disclosure of the identity of the members of RENEA.

Case 4¹⁵

36. On 24 April 2002, at around 9 p.m., A. S. was driving the car of a cousin (who was wanted by the police) in the village of Maknor (Peza Commune), when he was stopped by a group of police officers. He was allegedly asked about his cousin's whereabouts and hit in the face by one of the police officers present. He was then put in a police van and transported to a café where another cousin was apprehended. Both were taken to Police Station No. 4 in Tirana for further questioning. After their release, A. S. went to the local hospital to receive medical treatment.

¹⁴ Article 4 *leg. cit.* reads as follows: "Every member of a special force or rapid intervention unit is guaranteed of keeping the secrecy of their identity during the intervention and after that".

¹⁵ Criminal case file No. 792 opened against unidentified police officers concerning the ill-treatment of A. S. and other unlawful actions (Article 250 of the Penal Code - "Arbitrary actions").

37. On 27 April 2002, the People's Advocate made an official communication (containing in particular statements from the victim and several witnesses, as well as a forensic medical certificate) to the Office of the Tirana District Prosecutor. Criminal investigations were initiated and, on 3 November 2002, the officer of the criminal police in charge of the investigation presented his report to the prosecutor. The ill-treatment was confirmed, but it was stated that the perpetrator could not be identified (the victim having been unable to recognise the police officer concerned). Consequently, the prosecutor decided to close the investigation (according to Article 327 of the CPC).

38. The examination of the investigation file revealed that the prosecutor's initial decision on the delegation of competence to the criminal police had been taken on 23 May 2002 (almost one month after the communication from the People's Advocate). The criminal police officer in charge carried out the first investigative acts on 11 June 2002, when several relatives were questioned, and immediately corroborated the alleged ill-treatment. Despite the fact that the alleged ill-treatment was confirmed by the prosecutor, no disciplinary measures were taken to assess the role of the police officers present during the incident (for example, none of the police officers present had reported the ill-treatment to the competent prosecutor, although they had been under a legal obligation to do so)¹⁶.

iii. assessment and action proposed

39. The four cases described above give rise to particular concern. The lack of effective and appropriate responses from the relevant authorities, and in particular from the prosecuting/judicial and disciplinary authorities, can only foster a climate in which police officers minded to ill-treat persons deprived of their liberty will quickly come to believe - with very good reason - that they can do so with impunity.

Even when persons have lodged a formal complaint about ill-treatment by the police, either no steps have been taken at all by the competent authorities, or the investigations have been carried out in a manifestly ineffective manner.

In those cases where criminal investigations had been initiated, criminal files to a large extent only contained materials which had been provided by a non-judicial body (i.e. the Office of the People's Advocate). Obviously, the competent prosecutors did not deem it necessary to carry out any criminal investigation themselves or through the criminal police before taking a decision to discontinue or suspend the investigations. Moreover, none of the interlocutors met could recall any case in which criminal investigations had been initiated *ex officio*, even when medical documentation corroborating the allegations was available.

Another important shortcoming lies in the fact that disciplinary proceedings did not take place or resulted in a lenient sanction (reprimand). The CPT also considers it unacceptable that persons who have been deprived of their liberty by law enforcement agencies are not entitled to have direct and unrestricted access to a forensic medical examination, in order to document injuries resulting from police ill-treatment.¹⁷

¹⁶ Cf. Article 281 of the CPC and Article 7 of the Law on the Service of Internal Control of the Ministry of Public Order.

¹⁷ According to the information gathered by the delegation, forensic medical examinations were only carried out upon request by a judge, prosecutor, the criminal police or the People's Advocate.

40. In the CPT's opinion, for a criminal investigation into possible ill-treatment by law enforcement officials to be effective:¹⁸

- the persons responsible for, and carrying out, investigations into possible cases of ill-treatment by law enforcement officials should be *independent* from those implicated in the events;

In this regard, it is, in principle, a positive feature of the Albanian legal system that it is a prosecutor - and not a senior police officer - who determines whether or not a preliminary investigation should be opened. However, from the moment a prosecutor instructs that a preliminary investigation be opened, day-to-day responsibility for the operational conduct of that investigation reverts to police officers (usually from the criminal police);

In almost all preliminary investigations reviewed by the delegation, the involvement of prosecutors had been limited to instructing the criminal police to carry out investigations, acknowledge receipt of the result, and provide an opinion as to whether or not criminal charges should be brought;

Moreover, even if the prosecutors formally responsible for preliminary investigations into allegations of police ill-treatment can be said to be independent from the police officers dealing with such complaints, the same cannot be said of the police officers who actually conduct those investigations. In a number of cases examined by the delegation, the investigating criminal police officers were employed at the same police establishment as the police officers who were subject of the investigation. In the CPT's view, it is axiomatic that such investigations should at least be conducted by police officers who are not attached to the same police establishment (for example, police officers attached to a general police inspectorate or an internal affairs department);

- the investigation must be capable of leading to a determination of whether force used was or was not justified under the circumstances and to the identification and, if appropriate, the punishment of those responsible; this is not an obligation of result, but of means;
- all reasonable steps should be taken to secure evidence concerning the incident, including inter alia eyewitness testimony, forensic evidence, and, where appropriate, an autopsy which provides a complete and accurate record of injury and an objective analysis of clinical findings including the cause of the death;
- the investigation must be conducted in a prompt and reasonably expeditious manner;
- a sufficient element of public scrutiny of the investigation or its results should be required, to secure accountability in practice as well as in theory.

¹⁸ Cf. also the following judgments of the European Court of Human Rights: *McShane v. the United Kingdom*, No. 43290/98; *Kelly and Others v. the United Kingdom*, No. 30054/96; *Hugh Jordan v. the United Kingdom*, No. 24746/94; *McKerr v. the United Kingdom*, No. 28883/95; *Sevtap Veznedaroğlu v. Turkey*, No. 32357/96; *Assenov and Others v. Bulgaria*, No. 90/1997/874/1086; *Labita v. Italy*, No. 26772/95; *Finucane v. the United Kingdom*, No. 29178/95.

41. In addition, the CPT wishes to highlight the importance of two additional criteria:
- in the context of *criminal* investigations, all pieces of information which may be indicative of the commission of other criminal offences should be fully taken into account;
 - *disciplinary* culpability of law enforcement officials involved in instances of ill-treatment should be systematically examined, irrespective of whether the misconduct of the officers concerned constitutes a criminal offence.

42. With a view to enhancing the global effectiveness of the investigation procedure into possible ill-treatment by law enforcement officials, **the CPT recommends that immediate measures be adopted to ensure that the precepts set out in paragraphs 40 and 41 are systematically applied in practice. Prosecutors should in particular be provided with clear instructions from the Prosecutor General as to the manner in which they are expected to lead and supervise criminal investigations involving possible ill-treatment by law enforcement officials.**

In addition, **persons who are/were deprived of their liberty and allege that they have been ill-treated by law enforcement officials must be granted, at their request, unrestricted access to a forensic medical examination.**

43. Prosecutors and judges should be fully sensitised to the important obligations which are incumbent upon them, as regards the prevention of ill-treatment. In every case where judges and prosecutors become aware of information suggesting that a person may have been ill-treated, they have a duty to act.

In this connection, the CPT took note of existing legal provisions¹⁹, which allow for disciplinary actions to be taken against prosecutors who do not respect their legal obligation to initiate criminal investigations and judges who do not report to the relevant authorities allegations and/or signs of ill-treatment.

The CPT calls upon the Albanian authorities to ensure that:

- **in every case where *prosecutors* become aware - in any way - that a person may have sustained injuries while in the custody of the police, they immediately order a forensic medical examination and take all other necessary steps to establish the facts. Formal instructions to this effect should be addressed by the Prosecutor General to all prosecutors;**

¹⁹ Cf. Articles 28 to 34 of the Law on the Organisation and Functioning of the Office of the Prosecutor General of the Republic of Albania and Articles 31 to 35 of the Law on the Organisation and Functioning of the High Council of Justice.

- **whenever criminal suspects brought before a *judge* allege ill-treatment by the police, the judge should immediately request a forensic medical examination of the person concerned and take the necessary measures in order for the allegation to be duly investigated. This approach should be followed irrespective of whether the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination and notify the relevant authorities whenever there are other grounds to believe that an apprehended person brought before him/her could have been the victim of ill-treatment.**

Further, the CPT recommends that it be made clear that disciplinary action will be taken against any prosecutor/judge who does not respect the above-mentioned precepts.

44. The practice of not disclosing the identity of members of special and rapid intervention forces suspected of having ill-treated detained persons in the context of criminal investigations is unacceptable. If such a state of affairs were to persist it would be tantamount to granting members of special and rapid intervention forces absolute immunity from criminal liability in relation to their actions while on duty.

The CPT recommends that steps be taken without delay to ensure that members of special and rapid intervention forces can be held liable for any act constituting a criminal/disciplinary offence committed when performing their duties and that the relevant legislation is clarified accordingly.

c. role of the prison service in the prevention of ill-treatment

45. An efficient prison service can undoubtedly contribute to the prevention of police ill-treatment, in particular in establishments which represent points of entry into the prison system. In this context, the CPT's delegation reviewed the procedures followed on the admission of newly-arrived prisoners at Prison No. 313 in Tirana and the action taken by the prison management when possible cases of police ill-treatment were brought to light.

46. The CPT noted with great concern that practically none of the specific recommendations made in this respect since 1997 had been implemented. In particular newly-arrived prisoners were still not systematically subject to a *medical examination by a doctor within 24 hours of admission* (in many cases, the initial medical examination was delayed for days or even weeks). The same situation was observed in the pre-trial detention facilities of Elbasan and Shkodra Police Directorates.

47. Further, most of the *medical files* were totally devoid of information (except the name of the person concerned) or lacked the most elementary medical data. In addition, all medical files were being kept in a state of disorder amounting to chaos. In those rare cases where traumatic injuries were recorded, the descriptions of the latter left a lot to be desired. The medical notes were frequently extremely perfunctory (for example, the prison doctor noted: "patient alleges that he was beaten by police officers", and described the injuries as follows: "haematomas on head and body").

The delegation also observed that, in a number of cases, not all visible injuries had been recorded and no conclusions had been made concerning the consistency between the allegations made and the medical findings (cf. paragraph 13).

48. It is particularly worrying that, even in those cases where prisoners had complained to the doctor about ill-treatment by the police and displayed injuries consistent with their allegations, no information was communicated to the competent prosecutor by the Prison Director.

In this connection, the delegation noted with concern that the Directors of the Prison Hospital and the Military Hospital in Tirana were apparently unaware of the legal obligation incumbent on medical staff to report within 48 hours allegations/signs of possible ill-treatment by law enforcement officials to the prosecutor or any officer of the criminal police.²⁰

49. In their letter of 21 October 2003, the Albanian authorities informed the CPT that all prison establishments had been instructed to carry out medical examinations of remand prisoners immediately after their arrival and to open an individual medical file for every prisoner.²¹ The CPT welcomes this development; **it would like to receive confirmation from the Ministry of Public Order that the same approach is being followed in all police pre-trial detention facilities (pending their transfer under the responsibility of the Ministry of Justice).**

Further, **the CPT reiterates its recommendation that, in both prison establishments and police pre-trial detention facilities, the record drawn up by doctors following a medical examination of a newly-arrived inmate contain:**

- (i) a full account of statements made by the person concerned which are relevant to the medical examination (including the description of his/her state of health and any allegations of ill-treatment);**
- (ii) a full account of objective medical findings based on a thorough examination, and**
- (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. These conclusions should be made available to the detained person and his/her lawyer.**

Finally, **all medical staff working in prison establishments, police pre-trial detention facilities and the Military Hospital should be reminded of their obligations under Article 282 of the Criminal Procedure Code.**

²⁰ Article 282 of the CPC.

²¹ Cf. Rules by the Ministry of Justice on the Organisation and Regulation of the Pre-trial Detention System (dated 23 July 2003).

d. safeguards against ill-treatment

50. As regards the notification of custody, a significant number of detained persons met by the delegation alleged that they had not been able to inform a relative or another person of their choice of their detention at the outset of their deprivation of liberty. Moreover, several detained persons alleged that the denial of this right was used as a tool to extort money from them. Various interlocutors met by the delegation admitted that the right of notification could not always be effectively exercised, due to the country's poor infrastructure (telephone, post) and insufficient funding.

The CPT calls upon the Albanian authorities to pursue their efforts to ensure that all persons deprived of their liberty by the police are granted the right to notify a close relative or third party of their choice of their situation, as from the very outset of their deprivation of liberty. This right of notification should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend - and stay at - a police establishment (cf. also CPT/Inf (2003) 9, paragraph 26).

51. The CPT has repeatedly stressed that, in its experience, the period immediately following deprivation of liberty is when the risk of intimidation and physical ill-treatment is greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect upon those minded to ill-treat detained persons; further, a lawyer is well placed to take appropriate action if ill-treatment actually occurs. It is also axiomatic that the right of access to a lawyer must include the right to talk to him in private.

The findings made during the July 2003 visit indicate that the situation in this area has scarcely changed.

The CPT calls upon the Albanian authorities to take action without delay to ensure that the existing formal right of access to a lawyer for persons deprived of their liberty by the police is rendered fully effective in practice, as from the very outset of their deprivation of liberty. The right of access to a lawyer should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend - and stay at - a police establishment.

52. As regards access to a doctor, the situation had scarcely changed since the last CPT's visit in 2001. In their response to the report on the 2001 visit (cf. CPT/Inf (2003) 12, page 8), the Albanian authorities indicated that police establishments were repeatedly facing difficulties in organising visits by doctors, since the latter often refused to visit police establishments. It was further stated that no solution had been found in this regard by the Ministry of Public Order and the Ministries of Health and Justice.

The CPT recommends that all necessary steps be taken to ensure that the right of access to a doctor for persons held in police custody is fully implemented in practice.

53. As regards medical screening upon admission to police pre-trial detention facilities, reference is made to the remarks made in paragraphs 45 and 49.

54. Many of the detained persons met by the delegation alleged that they had received no information - not even orally - about their rights, despite the specific recommendations made by the CPT in previous visit reports (cf. CPT/Inf (2003) 11, paragraph 24). No information sheets on the rights of persons detained by the police were available in any of the police establishments visited.

The CPT calls upon the Albanian authorities to take steps without further delay to ensure that a form setting out in a straightforward manner the rights of persons in police custody is systematically given to such persons at the very outset of their deprivation of liberty. This form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights.

55. At Police Station No. 2 in Tirana, the delegation found suspicious unlabelled objects (metal rods, wooden poles), corresponding to the descriptions given by several persons of instruments with which they had allegedly been struck and/or threatened. The explanation received from the police officers concerning these objects was that they had been confiscated from suspects and would be used as evidence.

In order to dispel speculation about improper conduct on the part of police officers and to remove potential sources of danger to staff and detained persons alike, items seized as evidence should always be properly labelled, recorded and kept in a dedicated property store. All other objects of the kind mentioned above should be removed from police premises. **The CPT recommends that immediate steps be taken in this respect at Police Station No. 2 (as well as in all other police establishments in Albania).**

e. inspections

56. The CPT wishes to recall that the inspection of police detention facilities by an independent authority can make an important contribution towards the prevention of ill-treatment of persons held by the police, and more generally, help to ensure satisfactory conditions of detention. To be fully effective, visits by such an authority should be both frequent and unannounced, and the authority concerned should be empowered to interview detained persons in private. Further, it should examine all issues related to the treatment of detained persons: the recording of detention; information provided to detained persons on their rights and the actual exercise of those rights (in particular the three rights referred to in paragraphs 50 to 52); compliance with rules governing the questioning of criminal suspects; and material conditions of detention.

According to Albanian law, prosecutors are entrusted to carry out regular inspections of police and prison establishments. However, prosecutors met by the delegation openly admitted that this specific function was more or less neglected in practice.

The CPT recommends that appropriate measures be adopted by the relevant authorities (the Prosecutor General) to ensure that prosecutors carry out inspections to prison and police establishments, in accordance with the above-mentioned criteria.

57. The CPT regrets that, in their response to the report on the October 2001 visit, the Albanian authorities did not react to its recommendation that the People's Advocate be empowered to carry out visits to all places of deprivation of liberty and to interview detained persons in private (cf. CPT/Inf (2003) 11, paragraph 21).

Therefore, **the CPT reiterates its recommendation that the People's Advocate be empowered to carry out inspections to all places of deprivation of liberty, including police establishments, in accordance with the criteria set out in paragraph 56. The relevant legislation should be amended accordingly.**

58. Further, the delegation was informed that the Office of the People's Advocate was frequently denied access by judicial and/or prosecutorial authorities to information related to individual complaints it had received (despite the fact that such a right of access to information is embodied in Article 63 of the Constitution as well as in Articles 19 and 25 of the Law on the People's Advocate). **The CPT would like to receive the Albanian authorities' comments on this point.**

f. custody records

59. In all police establishments visited, custody records were kept. However, these were frequently found to be incomplete (for example, no indication of the precise time of apprehension and/or release). **The CPT recommends that steps be taken in all establishments visited to ensure that custody records are brought into line with the criteria set out in paragraph 86 of the report on the CPT's first periodic visit to Albania in 1997.**

3. Conditions of detention

60. The conditions under which prisoners (sentenced and on remand) were held in the *pre-trial detention facilities at Elbasan and Shkodra Police Directorates* were appalling; the cumulative effect of the execrable material conditions of detention and the impoverished regime applied to all inmates can only be described as inhuman and degrading. For a number of detainees, the situation was further exacerbated by the long duration of their remand detention (in some cases, up to 20 months).

In its report on the December 2000 visit (cf. CPT/Inf (2003) 9, paragraph 46), the CPT made a number of recommendations concerning urgent measures to be taken to improve the material conditions and the regime in police pre-trial detention facilities. However, from the facts found during the 2003 visit, it is evident that not a single one of these recommendations has been implemented in practice. Such a state of affairs is totally unacceptable, and, more specifically, constitutes a failure to respect the principle of co-operation laid down in Article 3 of the Convention.

61. As regards material conditions, the delegation was struck by the level of overcrowding prevailing in both establishments.²² As a consequence, most detainees were accommodated in very cramped conditions (for example, five persons in a cell of 5.5 m²; seven persons in a cell of 7 m²).²³ Cells were only equipped with foam mattresses and/or blankets. In addition, access to natural light was limited and ventilation was extremely poor (for example, in Shkodra, the delegation measured a temperature of 45° C). The level of cleanliness also left a lot to be desired.

There was no ready access to drinking water, nor were cells equipped with toilets. Detainees were usually allowed access to the sanitary facilities only at fixed times, two or three times a day. Many detainees claimed that at other times (especially at night) access to sanitary facilities was often considerably delayed or denied. As a consequence, they were allegedly compelled to resort to plastic bottles, in order to comply with the needs of nature.

Further, detainees were not in a position to maintain an appropriate level of personal hygiene (for example, a ban on shaving; access to a shower only once every ten days; etc.).

62. The CPT is also very concerned by the almost total prohibition of any regime activities (a state of affairs provided for by the relevant regulations issued by the Minister of Public Order²⁴). Except for outdoor exercise, any activity - even within the cell - was prohibited; consequently, there was no access to reading material, board games, radio, etc. The restrictions imposed went as far as denying detainees access to a pencil and a sheet of paper.

In neither establishment were detainees offered a minimum of one hour of outdoor exercise per day. Exercise periods ranged from 30 to 40 minutes per day at Shkodra to as little as 15 minutes three times per week at Elbasan. Further, the existing outdoor exercise facilities were totally inadequate (even for a person exercising alone). In practice, up to eight persons at a time were crammed into the small concrete "aeration" cubicles (measuring less than 4 m²), covered with a metal grille.

63. The CPT is also concerned that, in both establishments, juveniles (some as young as 14) were accommodated together with adult inmates in the same cell.

64. The general prohibition of correspondence with the outside world (including a lawyer) is totally unacceptable and, among other things, also deprives prisoners of their fundamental right of petition. Further, the official visit entitlement for sentenced and remand prisoners was insufficient (three closed visits of 15 minutes per month). In practice, the actual visiting time was even less (some 5 minutes per visit).

²² With an official capacity of 50 places, Elbasan Police Directorate was accommodating 84 detainees (including 32 sentenced adults and five juveniles on remand) at the time of the visit. Shkodra Police Directorate had a capacity of 50 places and was accommodating 99 detainees (including twelve sentenced adults, one foreign national pending his removal and five juveniles on remand) at the time of the visit.

²³ The delegation was informed that the occupancy levels had on occasion been significantly higher in recent times.

²⁴ Cf. Decree No. 1075 dated 15 September 1999 on the security and treatment of pre-trial detainees.

65. The delegation was informed of the recent decision of the Albanian authorities to transfer remand (and sentenced) prisoners from police pre-trial detention facilities to prison establishments. This is a very welcome development. However, pending the implementation of this transfer, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention and requested that urgent steps be taken at the pre-trial detention facilities at Elbasan and Shkodra Police Directorates (as well as in other establishments of this kind) to ensure that:

- all detained persons are provided with a clean mattress and clean blankets;
- all detained persons are granted ready access to sanitary facilities;
- the prohibition of any activity (reading, games, radio, etc.) inside the cells is abolished;
- the systematic prohibition of correspondence with the outside world for all sentenced and remand prisoners is abolished;
- the visit entitlement for remand and sentenced prisoners is significantly increased;
- juveniles are no longer placed in the same cell as adult detainees.

66. In their letter of 21 October 2003, the Albanian authorities informed the CPT that “the Ministry of Public Order had been engaged in its utmost to fulfil all the recommendations submitted from the delegation according to Article 8 of the Convention, more concretely:

- to ensure the necessary bed clothing however the overcrowding of the accommodating capacities;
- to improve the sanitary conditions in all the detention rooms;
- to realise different activities (reading, games, radio) with the detention rooms; this recommendation is realised taking in consideration the appliance of the security rules, procedural rules of investigation like as the elimination of the overcrowding of the accommodating capacity;
- the correspondence with the outside world is realised normally taking in consideration and applying the security rules, the procedural investigations rules, etc.;
- the limits in the time fixed for the meetings with the families, advocates etc. may be [offered] on special occasions because of the overcrowded pre-trial detention rooms and actual infrastructure. The number of visits is realised according to the rules provided, but also are practices meetings out of order with the request of the person concerned, the lawyer, families and the prosecutor.”

The CPT welcomes the steps taken so far and **would like to receive confirmation that the above-mentioned measures have been implemented in practice at Elbasan and Shkodra Police Directorates (as well as in other establishments of this kind).**

The Committee also wishes to emphasise that, as a matter of principle, the same regime should be applied to remand prisoners, irrespective of whether they are held in a prison establishment or a police pre-trial detention facility. In particular, any restrictions on contacts with the outside world should be exceptional and based on the decision of a prosecuting or judicial authority.

66. In their above-mentioned letter, the Albanian authorities also confirmed that juveniles were no longer kept in the same cell together with adult detainees in police pre-trial detention facilities.

The CPT welcomes this development.

67. At the end of the visit, the delegation also requested the Albanian authorities to provide a precise timetable for the implementation of the transfer of remand and sentenced prisoners from police pre-trial detention facilities to prison establishments.

68. In their letter of 21 October 2003, the Albanian authorities informed the CPT that the transfer of the responsibility for pre-trial detention facilities from the Ministry of Public Order to the Ministry of Justice shall be implemented by 30 April 2004.²⁵

The CPT would like to receive confirmation that the above-mentioned transfer has been implemented in practice.

69. In the light of the above, **the CPT calls upon the Albanian authorities to take immediate steps to ensure that persons held in the pre-trial detention facilities at Elbasan and Shkodra Police Directorates (as well as in other establishments of this kind) are offered at least one hour of outdoor exercise every day. The CPT also recommends that the outdoor exercise areas in both establishments visited be enlarged, in order to enable prisoners to exert themselves physically.**

Steps should also be taken to ensure that all detainees are granted ready access to drinking water and are placed in a position to maintain an appropriate level of personal hygiene.

70. At *Shkodra Police Station and Police Station No. 2 in Tirana*, persons held in police custody overnight were still not being provided with a mattress. Further, several cells at Police Station No. 2 were found to be in a dreadful state of squalor.

Urgent steps should be taken to remedy these shortcomings.

²⁵ Cf. Council of Minister's Decision Order No. 327 (dated 15 May 2003) and joint Orders by the Ministries of Justice and Public Order, No. 3750/1 (dated 10 July 2003) and No. 1883 (dated 16 July 2003).

B. Prison No. 313

71. Given the specific objectives of the visit to Prison No. 313 (examination of admission procedures, interviews of newly-arrived prisoners), the delegation was not in the position to examine in detail the material conditions of detention and the regime offered to inmates (sentenced and on remand).

72. The delegation received several allegations of ill-treatment of prisoners by masked members of the “rapid intervention group”. These allegations concerned in the main hitting (blows with batons, kicks, slaps, etc.) and verbal abuse inflicted during nocturnal interventions.

The CPT recommends that the Director of Prison No. 313 deliver a clear message to all prison officers that both physical ill-treatment and verbal abuse of prisoners are not acceptable and will be dealt with severely.

73. The delegation noted with great concern that adult remand prisoners were offered no outdoor exercise at all. Granting prisoners access to an “aeration room” with windows is by no means a substitute for outdoor exercise. In application of Article 8, paragraph 5, of the Convention, the delegation made an immediate observation and requested the Albanian authorities to take immediate steps to ensure that all prisoners at Prison No. 313 (as well as in other prison establishments in Albania) are offered at least one hour of outdoor exercise every day, in conditions which allow them to exert themselves physically.

74. In their letter of 21 October 2003, the Albanian authorities confirmed that all prisoners, including those on remand, were now offered one hour of outdoor exercise per day. The CPT welcomes this development and **wishes to receive confirmation that the same is the case in all other prison establishments in Albania.**

In the above-mentioned letter, the Albanian authorities also informed the CPT that, on 23 July 2003, the Ministry of Justice had issued Rules on the Organisation and Regulation of the Pre-trial Detention System. **The CPT would like to receive a copy of the latter rules.**

75. The delegation also observed that several juveniles were accommodated together with adult prisoners in the same cell.

76. In their letter of 21 October 2003, the Albanian authorities informed the CPT that all necessary measures had been taken for the accommodation of juveniles in cells separated from adults. The CPT welcomes this development.

77. As regards health care, reference is made to paragraphs 45 to 49.

C. Elbasan Psychiatric Hospital

1. Preliminary remarks

78. Elbasan Psychiatric Hospital had already been visited by the CPT twice (in 1997 and 1998).²⁶ As a regional establishment it covers about one third of Albania's territory.

Since the last visit of the CPT, in December 1998, the hospital's official capacity had been reduced from 334 to 310 beds, while the number of patients had increased at the same time from 260 to 328 patients. As a result, the hospital was slightly overcrowded (18 patients above the official capacity), varying from one ward to the other²⁷.

79. The CPT welcomes the fact that juvenile psychiatric patients were no longer accommodated at Elbasan Psychiatric Hospital, but treated in a specific psychiatric care department at Tirana Psychiatric Hospital. Further, it has noted that patients considered criminally irresponsible for their acts on mental health grounds were no longer kept in Ward No. 5 of Elbasan Psychiatric Hospital (which has since been converted into a ward for "acute, aggressive" male patients).

The CPT wishes to receive detailed information on the procedure followed, at present, regarding patients considered criminally irresponsible and, in particular, whether they are accommodated in an establishment falling under the Ministry of Health or in a prison establishment.

80. At the end of its first visit to the hospital, in December 1997, the CPT stated that patients' living conditions in this hospital were inhuman and degrading for the vast majority of them and that the conditions in some of the rooms in wards for patients with chronic illnesses could only be described as medical abandonment²⁸. The Committee also stressed that, while it was aware of the particularly difficult situation in which Albania found itself, there were certain basic living standards that had to be guaranteed by the State for persons under its responsibility, in any circumstances.

The second visit, in December 1998, revealed that a degree of progress had been made, above all in improvements to material conditions (food, heating, bedding) and, to a lesser extent, hygiene, and this was a factor that had contributed to a significant drop in patient mortality.²⁹

²⁶ Cf. CPT/Inf (2003) 6, paragraphs 15 to 37, and CPT/Inf (2003) 7, paragraphs 6 to 20.

²⁷ The following wards suffered from overcrowding (as at 14 July 2003): Ward No. 1 "sub-acute" male patients (55 places, 64 patients, 68 beds), Ward No. 2 "chronic" male patients (55 places, 69 patients, 62 beds) and Ward No. 6 "acute" female patients (25 places, 31 patients, 29 beds).

²⁸ Cf. CPT/Inf (2003) 6, paragraphs 26 and 30.

²⁹ This improvement was subsequently confirmed, with the number of deaths remaining stable over the following years.

The CPT did add, however, that these few improvements should not mask the vital need for other measures, in the medium and long term, with a view to gradually implementing all the recommendations made by the Committee in respect of Elbasan Psychiatric Hospital³⁰.

The main objective of the July 2003 visit was to examine whether the above-mentioned medium- and long-term measures had been implemented.

81. It should be pointed out from the outset that the CPT's delegation received no allegations of deliberate ill-treatment of patients by hospital staff. However, a number of incidents of inter-patient violence were reported, as well as attacks on staff. **The CPT invites the management of the hospital to be vigilant on this point; chronic understaffing and the resulting stress on nursing staff are liable to increase the risk of untoward behaviour.**

2. Patients' living conditions

82. The delegation noted that progress had been made in certain respects, following the recommendations made by the CPT in the reports on the 1997 and 1998 visits³¹. By way of example, several large rooms in the different wards had been split into smaller units, by installing partitions. In more general terms, major works had been carried out in four wards, with the support of the French Red Cross. These included the renovation of the waste water drainage system, renovation of the electrical system and access to the internal courtyard for patients with reduced mobility. In addition, the flooring had been renewed, as had the paintwork, and some of the door and window frames had been replaced/repared. Moreover, the kitchen had been fitted with two new ovens and other modern equipment. Even so, on many other counts, considerable progress had yet to be made.

83. As regards in particular beds and bedding, the delegation observed on the day of its arrival, in several wards, that a number of patients did not have their own bed³² and, consequently, had to share a bed with another patient; moreover, mattresses, pillows and sheets were in short supply or in a poor state. The delegation did note the efforts of the Director of the establishment to remedy the situation - partially - during the visit. However, he pointed out that he did not have adequate funding to purchase the necessary additional supplies. Consequently, during the talks held in Tirana at the end of the visit, the delegation requested the Albanian authorities to confirm within 15 days that each patient at the hospital had their own bed.

By letter of 23 September 2003, the Albanian authorities stated that all the hospital's patients had their own bed and that a reserve stock of beds had been established. The CPT welcomes this development.

³⁰ In particular these included introducing monitoring of patients' physical health; drawing up a major renovation programme for the hospital; introducing personalised treatment programmes for each patient; drawing up a charter for hospital nursing staff; setting up a proper staff training programme; and legal guarantees for patients.

³¹ Cf. CPT/Inf (2003) 6, paragraph 28, and CPT/Inf (2003) 7, paragraph 20.

³² There was a shortage of beds in Wards No. 2 (7 beds), No. 4 (3 beds) and No. 6 (2 beds).

84. As regards patients' living areas, the dormitories remained austere and completely impersonal. They were devoid of any furniture (other than the beds) and any decoration, and therefore not conducive to any feeling of privacy and self-esteem or to maintaining individual identity. As the CPT has already pointed out, every patient should have, throughout his/her stay, especially if hospitalised on a long-term basis, a clearly defined, personalised space, as well as, for example, a bedside table on which to place a few personal belongings.

Similarly, patients should be able to have their own clothing, with different clothes for day and night wear. Likewise, the communal areas, such as the spacious ward corridors, should have tables, armchairs and chairs so that the patients do not have to sit on the floor to watch television or chat.

The CPT recommends that steps be taken, in the light of the above remarks.

85. The CPT welcomes the substantial increase in the share of daily funding allocated to patients' food, which rose, in April 2002, from 196 to 257 LEK. However, that increase should be accompanied by better monitoring of nutritional quality. During the visit, the calorie counting of meals by the dietician was not always carried out. Similarly, regular checks on patients' weight were not always made. **The CPT recommends that measures be taken to remedy these deficiencies.**

86. In the same context, the CPT stresses the importance of meals within the therapeutic process. In this connection, as the delegation saw for itself, it is inadmissible that patients are obliged to huddle around certain designated tables (while nearby tables are empty) and bolt down their food (in less than five minutes), while staff hurry them on. Furthermore, at the time of the visit, the patients had a metal bowl but not all of them had a spoon³³ and none of them had a drinking goblet. In addition, the cleanliness of the canteens left something to be desired.

Eating sitting down on a sticky floor, in a dirty canteen, without the appropriate cutlery and at excessive speed is a clear sign of a failure to respect patient dignity, as is not having one's own bed. **The CPT recommends that action be taken by the Albanian authorities to significantly improve the conditions in which patients eat their meals, in the light of the preceding remarks.**

87. In more general terms, considerable efforts still have to be made regarding hygiene and cleanliness, particularly in the sanitary facilities. Several of these facilities and the corridors leading to them were found to be soiled with urine and faecal matter. The toilets should be fitted with flushes that work, and a door. Access to showers was inadequate (once a week) judging by the state of most of the patients.

The CPT recommends that the Albanian authorities pursue their efforts to improve the hygiene and cleanliness of the premises, particularly in the sanitary facilities, and to provide patients with more frequent showers.

³³ There are converging statements indicating that most of the patients do not usually even have a spoon and have to eat with their hands. In this connection, the delegation was told that the cost of any missing spoons was deducted from staff wages.

88. The delegation was told that Elbasan Psychiatric Hospital was frequently affected by drops in pressure in the drinking water supply. The management of the hospital stated that it was negotiating a direct connection to the aqueduct supplying the city, like the general hospital.

The CPT recommends that the Albanian authorities take action to support the efforts of the management to guarantee a constant supply of drinking water to the hospital.

3. Treatment

89. The delegation noted that a new classification system was in use to differentiate between patients, in order to allocate them to the wards and give them treatment better suited to their condition. Patients undergoing initial hospitalisation (from ten days to six weeks) were classified as “acute”, while those already hospitalised on several occasions were “sub-acute” patients (hospitalised for periods of between three and six months), with the remainder of the population classified as “chronic” and/or “institutionalised”.

The most common diagnoses were generally schizophrenia, schizo-affective disorders, affective disorders, paranoia, epilepsy, epilepsy associated with mental retardation, and mental retardation. It should be noted in this connection that, as of 2002, the establishment no longer took in patients solely on the diagnosis of mental retardation.

90. The management of the hospital had taken steps, in compliance with the CPT’s recommendations³⁴, to set up occupational therapy and extramural social activities within the establishment³⁵. A small occupational therapy unit had been operating since 1999 in the ward for “acute” women patients, and another new feature was a pottery workshop, which had opened two weeks before the visit, for the “sub-acute” and “chronic” patients in Wards No. 1 and No. 2. Extramural activities (such as cinema and day-trips) had also taken place.

Nevertheless, as in 1997 and 1998, treatment remained essentially drug-based and there were no individual or group psychotherapy programmes, nor any personalised treatment programmes. The general impression was that there were no prospects of therapy for most of the patients. The situation was particularly worrying for patients hospitalised on a long-term basis (i.e. two thirds of the patients)³⁶.

The CPT recommends that an individual treatment plan be established for each patient at Elbasan Psychiatric Hospital, defining the goals of the treatment, the therapeutic means used and the staff member responsible. Patients should also be informed of their individual treatment plan and the progress made.

³⁴ Cf. CPT/Inf (2003) 6, paragraph 29, and CPT/Inf (2003) 7, paragraph 20.

³⁵ The Director of the establishment was still seeking to raise funds to build a greenhouse, lay out a sports area (football/basketball) and buy a kiln for the pottery workshop (said to be due for delivery very shortly).

³⁶ Periods of hospitalisation were very variable: 68 patients had been hospitalised for between one and six months, 37 for between six and twelve months, 106 for between one and five years and 101 for more than five years.

91. In their letter of 21 October 2003, the Albanian authorities informed the CPT that the management of Elbasan Psychiatric Hospital was “engaged to realise the occupational treatment of mental disorder patients including them in simple works and different activities. Therefore is mounted a lathe for the clay elaboration and is finished the roaster. The patients are engaged in the planting of the decorative trees in the garden of the hospital. In each ward are provided certain kind of games (like as chess, domino and ping-pong) for passing free time. Is being provided the construction of mini gridiron and basketball court.”

This is a most welcome development. **The CPT recommends that the Albanian authorities pursue their efforts to develop occupational therapy and sociotherapeutic activities at Elbasan Psychiatric Hospital and to make them accessible for as many patients as possible, including chronic patients.**

92. A considerable effort had been made in terms of drug supply, with the budget earmarked for this having practically doubled in 2002, and continuing to rise by 15% since then; even so there had occasionally been shortfalls in drug supplies. **The CPT would like to receive information on the additional measures taken in response to this shortcoming.**

93. The CPT also wishes to raise the issue of dental care. The dental surgery needed major renovation, and dental care should not be limited to tooth extraction for patients whose average age is 38. **The CPT recommends that the Albanian authorities renovate the dental surgery and develop preventive dental care.**

94. Treatment of physical illnesses was provided by the doctors working in the different wards and, where necessary, patients were referred to the local general hospital. In this connection, the delegation was informed of two incidents³⁷ which highlight serious shortcomings that should be remedied. **The CPT recommends that measures be taken to step up regular reviews of patients' physical state of health.**

95. In addition, the CPT can but encourage the scheme, initiated by the management of the hospital, to create a day hospital and to undertake work with families, with a view to making patients autonomous and facilitating their psychosocial rehabilitation and return to the community. This initiative illustrates the efforts made in the sphere of mental health policy in Albania, geared to care in the community (cf. “Mental health policy in Albania”, 10/2002³⁸). This document gives a foretaste of the challenge facing the Albanian authorities in the coming years; nevertheless, this policy should not be pursued to the detriment of the patients who will have to remain in psychiatric institutions.

³⁷ In March 2003, a female patient aged about 30, suffering from medium-level mental retardation with hypomania gave birth, and nursing staff only realised that she was pregnant at the last minute. Another patient, oligophrenic, aged about 40, in whom epidermoid cervical cancer (stage III/IV) was detected in August 2002, received no treatment (radiotherapy/chemotherapy) and was not prescribed strong pain-killers until May 2003.

³⁸ Endorsed by WHO and published by the Ministry of Health in May 2003.

4. Staff

96. The situation and behaviour of nursing staff had not changed much since the visits in 1997 and 1998. Most of them still fulfilled a role of supervision only and no real care functions. The lack of psychologists and social workers at the hospital only exacerbated this state of affairs.

On average, each ward had one doctor³⁹, one head nurse, six nurses, three guards and five or six cleaners. The morning team (7 a.m. to 1 p.m.) generally comprised one doctor, the head nurse, two nurses, two supervisors and two cleaners; the afternoon team (1.30 p.m. to 8 p.m.) consisted of one or two nurses, one supervisor and two cleaners; and the night team (8 p.m. to 7 a.m.) of one or two nurses, one supervisor and two cleaners. However, it was clear to the delegation from the service records that this “official” roster was often far removed from reality, in particular because of absences for sick-leave and overtime compensation. The situation was more worrying still at weekends and on public holidays. In short, there were too few staff to look after the patients properly (particularly in the afternoons, at night, at weekends and on public holidays).

The CPT recommends that the Albanian authorities reinforce the care teams with qualified staff, capable of assisting with the development of occupational therapy and sociotherapeutic activities, as mentioned in paragraphs 91 and 92. A special effort should focus on staffing in the afternoon. Efforts should also be made to supplement the care teams with psychologists and social workers (the latter being particularly useful for improving the establishment’s relations with the outside world, breaking its isolation and promoting the policy of care in the community).

97. Once improvements in patients’ living conditions are definitively secured, it is vital to embed the future of the hospital in a medical management plan, which will form the foundation for the work of the management and the care teams. Moreover, it is important for the different professional categories of staff working at the hospital to meet on a regular basis and form teams, placed under the authority of the Medical Director and the doctors heading the wards. This will pave the way for the proper introduction of the global medical programme, at all levels, and will provide opportunities to identify problems cropping up on an everyday basis, discuss them and pass on advice. If this is not done, feelings of frustration and resentment might well occur among the staff (cf. paragraph 82). In this respect, the delegation noted that the relevant sections of the previous CPT reports had been discussed at staff meetings and that the chief nurse had begun to hold regular meetings of head nurses of wards.

The CPT recommends that the hospital’s management draw up a medical management plan, in collaboration with the doctors heading the wards, and implement it without delay. This measure should be accompanied by the introduction of regular meetings of care teams, at all levels.

98. The CPT also wishes to emphasise the anticipated benefits of a pilot training scheme developed by WHO since January 2003, which has resulted in the first exchanges of staff with British and Irish hospital facilities. It goes without saying that the Committee is very much in favour of these initiatives. However, **the setting-up of specialised training in psychiatry for nurses and basic training for nursing auxiliaries should not be overlooked.**

³⁹ The team of doctors consisted of two qualified psychiatric doctors, two doctors with experience of psychiatry recognised by the Ministry of Health, and three doctors who have worked for ten years or so in the establishment.

5. Means of restraint and seclusion

99. The delegation was told that individuals showing clastic or highly aggressive behaviour towards staff or other patients were firstly restrained manually and then sedated with injections on medical prescription. If that was not sufficient, the patient could be attached to their bed using restraining straps on the ankles and wrists. In all cases, these measures were to be noted in a special log recording the acts of violent patients⁴⁰, an obligation introduced one year previously.

Elbasan Psychiatric Hospital also had four seclusion rooms (one each in Wards 1 to 4), but very little use was made of them. They measured a little less than 4 m² and contained no more than a concrete bench. Access to natural light, artificial lighting and ventilation were satisfactory. The delegation was told that a patient would generally spend half an hour in one of these at the most, and in exceptional cases, where patients had to stay overnight, they would be given mattresses and blankets.

100. Section III of the 1996 Law on Mental Health fully covers the use of physical means of restraint; among other aspects, it lists means of restraint (including immobilisation and seclusion), the cases in which such means may be applied, the authorities who take the decision to apply means of restraint and supervise their application, patient information concerning their application, etc. The CPT welcomes the drawing up of these guidelines. Nevertheless, its delegation found a lack of thoroughness in recording the information stipulated by the law.

In this connection, the CPT wishes to stress that every instance of the physical restraint of a patient (manual control, use of instruments of physical restraint, seclusion) should be recorded in a specific register established for this purpose (as well as on the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and, where applicable, an account of the injuries sustained by patients or staff. This will greatly facilitate both the management of such incidents and the oversight of the extent of their occurrence.

The CPT recommends that a specific register of the kind above be established in each hospital ward.

6. Safeguards in the context of involuntary placement

101. Despite the specific recommendations made by the CPT after the visits to Albania in 1997, 1998, 2000 and 2001, it came to light that the 1996 Law on Mental Health⁴¹ - which includes a number of guarantees intended to safeguard the fundamental rights of psychiatric patients - was still not implemented, apparently because of a lack of will and collaboration on the part of the different parties involved (chiefly members of the medical and judicial professions). In particular, consultations with senior judges revealed that the courts were prepared to take on the role assigned to them by the law, but they themselves could not initiate the placement/review procedures.

⁴⁰ The delegation's findings suggested that the special logs were used above all to record the information necessary for the insurance of nursing staff.

⁴¹ "Internal regulations for psychiatric departments", dating from March 2000, informs health-care staff of the procedures for implementing the 1996 Law on Mental Health.

As has already been pointed out on several occasions, failure to apply what is set forth in law can only undermine the rule of law in Albania and perpetuate the outmoded image of asylum-style psychiatry.⁴²

102. At the end of its visit to Albania, the CPT's delegation made an immediate observation, pursuant to Article 8, paragraph 5, of the Convention, requesting the Albanian authorities to take the necessary steps to ensure that all involuntary admissions to Elbasan Psychiatric Hospital (as well as to other psychiatric establishments in Albania) are notified to the competent courts. The delegation requested the authorities to provide, within two months, an account of the measures taken in response to this immediate observation.

103. In their letter of 21 October 2003, the Albanian authorities informed the CPT that, on 18 July 2003, a circular had been sent by the Ministry of Health to all psychiatric establishments, instructing them to notify involuntary admissions to the competent courts. The authorities further indicated that, at the beginning, all new involuntary admissions shall be notified to the court and that, at the same time, "shall be discussed the way of proceeding for the patients that are recovered for a long time".

The CPT welcomes these first steps and **recommends that further steps be taken to ensure that all cases of involuntary placement at Elbasan Psychiatric Hospital (as well as in other psychiatric establishments in Albania) are notified to and reviewed by the competent courts.**

Further, **the Committee would like to receive information on the procedures which will be followed as regards involuntary patients admitted to Elbasan Psychiatric Hospital (as well as other psychiatric establishments in Albania) before the issuance of the circular dated 18 July 2003 by the Ministry of Health.**

104. Despite its obvious merits, this law still contains, in the CPT's view, a number of shortcomings which should be remedied. By way of example, it makes no explicit provision for appeal against a decision of involuntary hospitalisation or for periodic review of such placement; nor does it allow involuntary patients themselves to request discharge and, in the event of a refusal, to appeal to a court.

The CPT recommends that the Albanian authorities take all necessary steps to ensure that the criteria set out in the 8th General Report on the CPT's activities (cf. CPT/Inf (98) 12, paragraphs 51 to 57) are applied, in respect of safeguards for patients subject to involuntary placement in a psychiatric establishment. If necessary, a revision of the 1996 Law on Mental Health should be envisaged.

⁴² In its report on the 2000 visit (cf. CPT/Inf (2003) 9, paragraph 138) the CPT stressed that unless radical steps were taken to implement the above-mentioned recommendation, the Committee may consider having resort to Article 10, paragraph 2, of the Convention.

APPENDIX

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

Co-operation between the CPT and the Albanian authorities

comments

- the CPT trusts that all police officers and prosecutors in Elbasan and Tirana will be reminded of the obligations under Article 3 (general principle of co-operation) and Article 8, paragraphs 2 and 3, of the Convention (unlimited access to any place of deprivation of liberty; access to information necessary for the Committee to carry out its task; right to interview detained persons in private, etc.) (paragraph 6).

Law enforcement establishments

New evidence of torture and other forms of ill treatment

requests for information

- the outcome of the criminal investigations referred to in paragraph 14 and the action taken in response thereto (at judicial and disciplinary levels) (paragraph 15).

Action to combat torture and ill-treatment

recommendations

- a formal statement emanating from the highest competent political authority to be delivered to all law enforcement officials (including members of the criminal police), impressing upon them that the ill-treatment of persons deprived of their liberty is an affront to the values which constitute the very foundations of the State and will not be tolerated. The statement should make clear that any law enforcement officials who disregard this principle will be the subject of severe sanctions (paragraph 17);
- immediate measures to be adopted to ensure that the precepts set out in paragraphs 40 and 41 are systematically applied in practice. Prosecutors should in particular be provided with clear instructions from the Prosecutor General as to the manner in which they are expected to lead and supervise criminal investigations involving possible ill-treatment by law enforcement officials (paragraph 42);
- persons who are/were deprived of their liberty and allege that they have been ill-treated by law enforcement officials to be granted, at their request, unrestricted access to a forensic medical examination (paragraph 42);

- the Albanian authorities to ensure that:
 - in every case where *prosecutors* become aware - in any way - that a person may have sustained injuries while in the custody of the police, they immediately order a forensic medical examination and take all other necessary steps to establish the facts. Formal instructions to this effect should be addressed by the Prosecutor General to all prosecutors;
 - whenever criminal suspects brought before a *judge* allege ill-treatment by the police, the judge immediately requests a forensic medical examination of the person concerned and takes the necessary measures in order for the allegation to be duly investigated. This approach should be followed irrespective of whether the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination and notify the relevant authorities whenever there are other grounds to believe that an apprehended person brought before him/her could have been the victim of ill-treatment
(paragraph 43);
- it should be made clear that disciplinary action will be taken against any judge/prosecutor who does not respect the precepts set out in paragraph 43 (paragraph 43);
- steps to be taken without delay to ensure that members of special and rapid intervention forces can be held liable for any act constituting a criminal/disciplinary offence committed when performing their duties and that the relevant legislation is clarified accordingly (paragraph 44);
- in both prison establishments and police pre-trial detention facilities, the record drawn up by doctors following a medical examination of a newly-arrived inmate to contain:
 - (i) a full account of statements made by the person concerned which are relevant to the medical examination (including the description of his/her state of health and any allegations of ill-treatment);
 - (ii) a full account of objective medical findings based on a thorough examination, and
 - (iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings. These conclusions should be made available to the detained person and his/her lawyer
(paragraph 49);
- all medical staff working in prison establishments, police pre-trial detention facilities and the Military Hospital to be reminded of their obligations under Article 282 of the Criminal Procedure Code (paragraph 49);
- the Albanian authorities to pursue their efforts to ensure that all persons deprived of their liberty by the police are granted the right to notify a close relative or third party of their choice of their situation, as from the very outset of their deprivation of liberty. This right of notification should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend - and stay at - a police establishment (paragraph 50);

- action to be taken without delay to ensure that the existing formal right of access to a lawyer for persons deprived of their liberty by the police is rendered fully effective in practice, as from the very outset of their deprivation of liberty. The right of access to a lawyer should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend - and stay at - a police establishment (paragraph 51);
- all necessary steps to be taken to ensure that the right of access to a doctor for persons held in police custody is fully implemented in practice (paragraph 52);
- steps to be taken without further delay to ensure that a form setting out in a straightforward manner the rights of persons in police custody is systematically given to such persons at the very outset of their deprivation of liberty. This form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights (paragraph 54);
- immediate steps to be taken at Police Station No. 2 (as well as in all other police establishments in Albania) to ensure that items seized as evidence are always properly labelled, recorded and kept in a dedicated property store, and that all other objects of the kind described in paragraph 55 are removed from police premises (paragraph 55);
- appropriate measures to be adopted by the relevant authorities (the Prosecutor General) to ensure that prosecutors carry out inspections of prison and police establishments in accordance with the criteria set out in paragraph 56 (paragraph 56);
- the People's Advocate to be empowered to carry out inspections of all places of deprivation of liberty, including to police establishments, in accordance with the criteria set out in paragraph 56. The relevant legislation should be amended accordingly (paragraph 57);
- steps to be taken in all establishments visited to ensure that custody records are brought into line with the criteria set out in paragraph 86 of the report on the CPT's first periodic visit to Albania in 1997 (paragraph 59).

requests for information

- a copy of the internal instructions of 28 July 2003, issued by the General Police Directorate, concerning the "prevention of violations and the protection of human rights and freedoms of citizens" (paragraph 17);
- confirmation from the Ministry of Public Order that in all police pre-trial detention facilities (pending their transfer under the responsibility of the Ministry of Justice), medical examinations of remand prisoners are carried out immediately after their arrival and an individual medical file is opened for every prisoner (paragraph 49);
- the Albanian authorities' comments on the information received that the Office of the People's Advocate was frequently being denied access by judicial and/or prosecutorial authorities to information related to individual complaints that it had received (paragraph 58).

Conditions of detention

recommendations

- immediate steps to be taken to ensure that persons held in pre-trial detention facilities at Elbasan and Shkodra Police Directorates (as well as in other establishments of this kind) are offered at least one hour of outdoor exercise every day; further, the outdoor exercise areas at Elbasan and Shkodra Police Directorates to be enlarged, in order to enable prisoners to exert themselves physically (paragraph 70);
- steps to be taken to ensure that all detainees are granted ready access to drinking water and are placed in a position to maintain an appropriate level of personal hygiene (paragraph 70);
- urgent steps to be taken at Shkodra Police Station and Police Station No. 2 in Tirana to provide persons held in police custody overnight with a mattress; further, cells at Police Station No. 2 to be kept in an adequate state of cleanliness (paragraph 71).

comments

- as a matter of principle, the same regime should be applied to remand prisoners, irrespective of whether they are held in a prison establishment or a police pre-trial detention facility. In particular, any restrictions on contacts with the outside world should be exceptional and based on the decision of a prosecuting or judicial authority (paragraph 66);

requests for information

- confirmation that the measures referred to in the Albanian authorities' letter of 21 October 2003 have been implemented in practice at Elbasan and Shkodra Police Directorates (as well as in other establishments of this kind) (paragraph 66);
- confirmation that the transfer of the responsibility for pre-trial detention facilities from the Ministry of Public Order to the Ministry of Justice has been implemented in practice (paragraph 69).

Prison No. 313

recommendations

- the Director of Prison No. 313 to deliver a clear message to all prison officers that both physical ill-treatment and verbal abuse of prisoners are not acceptable and will be dealt with severely (paragraph 73).

requests for information

- confirmation that all prisoners, including those on remand, are offered at least one hour of outdoor exercise per day in all prison establishments in Albania (paragraph 75);
- copy of the Rules on the Organisation and Regulation of the Pre-trial Detention System, issued on 23 July 2003 by the Ministry of Justice (paragraph 75).

Elbasan Psychiatric Hospital

Preliminary remarks

comments

- the management of Elbasan Psychiatric Hospital is invited to be vigilant vis-à-vis incidents of inter-patient violence as well as attacks on staff; chronic understaffing and the resulting stress on nursing staff are liable to increase the risk of untoward behaviour (paragraph 82).

requests for information

- detailed information on the procedure followed, at present, regarding patients considered criminally irresponsible and, in particular, whether they are accommodated in an establishment falling under the Ministry of Health or in a prison establishment (paragraph 80).

Patients' living conditions

recommendations

- steps to be taken at Elbasan Psychiatric Hospital concerning patients' living conditions and clothing, in the light of the remarks made in paragraph 85 (paragraph 85);

- measures to be taken to remedy the deficiencies observed concerning the monitoring of the nutritional quality of the patients' food (paragraph 86);
- action to be taken to significantly improve the conditions in which patients eat their meals, in the light of the remarks made in paragraph 87 (paragraph 87);
- the Albanian authorities to pursue their efforts to improve the hygiene and cleanliness of the premises, particularly in the sanitary facilities, and to provide patients with more frequent showers (paragraph 88);
- action to be taken to support the efforts of the management of Elbasan Psychiatric Hospital to guarantee a constant supply of drinking water to the hospital (paragraph 89).

Treatment

recommendations

- an individual treatment plan to be established for each patient at Elbasan Psychiatric Hospital, defining the goals of the treatment, the therapeutic means used and the staff member responsible. Patients should also be informed of their individual treatment plan and the progress made (paragraph 91);
- the Albanian authorities to pursue their efforts to develop occupational therapy and sociotherapeutic activities at Elbasan Psychiatric Hospital and to make them accessible for as many patients as possible, including chronic patients (paragraph 92);
- the dental surgery to be renovated and preventive dental care to be developed at the hospital (paragraph 94);
- measures to be taken at the hospital to step up regular reviews of patient's physical state of health (paragraph 95).

requests for information

- the additional measures taken to remedy the occasional shortfalls in drug supplies (paragraph 93).

Staff

recommendations

- the care teams to be reinforced with qualified staff, capable of assisting with the development of occupational therapy and sociotherapeutic activities, as mentioned in paragraphs 91 and 92. A special effort should focus on staffing in the afternoon. Efforts should also be made to supplement the care teams with psychologists and social workers (paragraph 97);

- the hospital's management to draw up a medical management plan, in collaboration with the doctors heading the wards, and implement it without delay. This measure should be accompanied by the introduction of regular meetings of care teams, at all levels (paragraph 98).

comments

- the setting-up of specialised training in psychiatry for nurses and basic training for nursing auxiliaries should not be overlooked (paragraph 99).

Means of restraint and seclusion

recommendations

- a specific register of the kind described in paragraph 101 to be established in each hospital ward (paragraph 101).

Safeguards in the context of involuntary placement

recommendations

- further steps to be taken to ensure that all cases of involuntary placement at Elbasan Psychiatric Hospital (as well as in other psychiatric establishments in Albania) are notified to and reviewed by the competent courts (paragraph 104);
- all necessary steps to be taken to ensure that the criteria set out in the 8th General Report on the CPT's activities (cf. CPT/Inf (98) 12, paragraphs 51 to 57) are applied, in respect of safeguards for patients subject to involuntary placement in a psychiatric establishment. If necessary, a revision of the 1996 Law on Mental Health should be envisaged (paragraph 105).

requests for information

- the procedures which will be followed as regards involuntary patients admitted to Elbasan Psychiatric Hospital (as well as other psychiatric establishments in Albania) before the issuance of the circular dated 18 July 2003 by the Ministry of Health (paragraph 104).