



CPT/Inf (2007) 35

**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 28 to 31 March 2006**

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 (2007) 36.

Strasbourg, 6 September 2007

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**Copy of the letter transmitting the CPT's report**

Strasbourg, 19 July 2006

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 28 to 31 March 2006. The report was adopted by the CPT at its 60th meeting, held from 3 to 7 July 2006.

The CPT requests the Albanian authorities to provide within three months a response to the recommendations, comments and requests for information set out in **bold type** in paragraphs 9, 10, 17, 18, 19, 20, 21, 25, 26, 27, 28, 31, 32 and 33 of the visit report. The Committee would also welcome any observations which the Albanian authorities might wish to make on other parts of the report.

The Committee would ask, in the event of the 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 report in a computer-readable 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

**Mr Shpëtim ÇAUSHI**  
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Permanent Representative of Albania to the Council of Europe  
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## I. INTRODUCTION

### A. Dates 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 28 to 31 March 2006<sup>1</sup>. 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 visit was carried out by the following members of the CPT:

- Mauro PALMA, First Vice-President of the CPT (Head of delegation)
- Mario BENEDETTINI
- Marija DEFINIS-GOJANOVIĆ.

They were supported by Michael NEURAUTER of the CPT's Secretariat and assisted by the following interpreters:

- Teuta BARBULLUSHI
- Mirela FURXHI-KUMBARO
- Albana LILAJ QAZIMI.

### B. Context of the visit and establishments visited

3. In the report<sup>2</sup> on the May/June 2005 periodic visit to Albania, which was transmitted to the Albanian authorities in December 2005, the CPT expressed its serious concern about the fact that the majority of its recommendations made after already five visits to Albania had still not been implemented (in particular, as regards police and prison matters). The persistent failure by the Albanian authorities to implement the 1996 Mental Health Act, which includes a number of guarantees intended to safeguard the fundamental rights of psychiatric patients, was yet another matter of considerable concern. The 2005 visit also demonstrated that the information provided by the Albanian authorities in their responses to previous visit reports had repeatedly been incorrect. Indeed, a number of recommendations had not been implemented, despite explicit assurances to the contrary given by the Albanian authorities.

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<sup>1</sup> The CPT carried out three periodic visits (December 1997, December 2001, May/June 2005), as well as three ad hoc visits (December 1998, October 2001, July 2003) 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 and CPT/Inf (2006) 22 to 25.

<sup>2</sup> Cf. CPT/Inf (2006) 24, paragraph 8.

In the above-mentioned report, the CPT also stressed that if the Albanian authorities continued to fail to improve the situation in the light of the recommendations made, it would have no choice but to set in motion the procedure provided for in Article 10, paragraph 2, of the Convention<sup>3</sup>.

4. Before taking any formal decision with regard to a possible Article 10 (2) procedure, the CPT decided to carry out another ad hoc visit to Albania. The main purpose of this visit was to examine the measures taken by the Albanian authorities in response to the most urgent recommendations made by the CPT after the May/June 2005 visit and to have high-level consultations with the Albanian authorities with a view to enhancing their co-operation with the Committee.

To this end, the delegation focused on the treatment of persons detained by police, the conditions under which persons were being held in police pre-trial detention facilities and local police stations and on the transfer of the competence for pre-trial detention facilities from the Ministry of the Interior to the Ministry of Justice. By having consultations with the relevant authorities, the delegation also examined the progress made in the implementation of the 1996 Mental Health Act (as regards involuntary placement procedures).

5. The delegation carried out follow-up visits to the following establishments:

- Pre-trial detention facility at Durres Police Directorate
- Pre-trial detention facility at Fier Police Directorate
- Police Station No. 1, Tirana
- Police Station No. 4, Tirana.

**C. Co-operation received and consultations undertaken during the visit**

6. The CPT's delegation enjoyed excellent co-operation at all levels. In particular, the CPT wishes to express its appreciation for the constructive and fruitful consultations with the Prime Minister, Mr Sali BERISHA, the Minister of the Interior, Mr Sokol OLLDASHI, the Minister of Justice, Mr Aldo BUMÇI, and the Minister of Health, Mr Maksim CIKULI. The delegation also held in-depth discussions with senior officials from the Ministries of the Interior, Justice and Health, as well as with several Directors of psychiatric hospitals and a judge of Tirana District Court.

Further, the delegation was granted immediate access to all police establishments visited, none of which had been notified in advance, was able to have conversations in private with any person whom it desired to interview and was provided with all the information it required to carry out its task.

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<sup>3</sup> 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".

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Ill-treatment

7. A number of allegations were received from detained persons that they had been subjected to deliberate physical ill-treatment whilst in *police custody*, in particular, during police questioning.

8. Further, violence against detained persons appeared to remain widespread in the *pre-trial detention facility at Durres Police Directorate*. Once again, a number of allegations were heard from inmates regarding instances of excessive use of force and/or deliberate physical ill-treatment by staff, mainly by members of the establishment's special intervention group. The accounts given by inmates, interviewed separately, appeared to be very similar to those already received during the 2005 visit. Allegedly, they had been handcuffed with their hands behind their back, and a helmet put on their head, before being severely beaten on their head with hard objects in an office on the third floor. They all described, once again, in the same way the very old design of the handcuffs (i.e. so-called "German-style handcuffs", with two metal bars attached to each other with metal screws), as well as the colour and the specific characteristics of the helmet. Both items were found by the delegation in the same cupboard/drawer in an office used by staff on the third floor of the establishment, where they had been discovered already during the 2005 visit.

In contrast, no allegations of physical ill-treatment by staff were received at *Fier Police Directorate*.

9. In their response of 27 June 2006 to the report on the 2005 visit<sup>4</sup>, the Albanian authorities indicated that the current regulations "on the security and treatment of the arrested and detained persons" were being revised, taking into account the specific recommendations made by the CPT concerning the prevention of ill-treatment<sup>5</sup>. The Albanian authorities also stated that they had taken measures to ensure that in the context of interventions in pre-trial detention facilities, police officers no longer wore masks.

This is a welcome development. However, in the light of the information gathered during the 2006 visit, it is all the more important that, in addition to existing regulations on police conduct, a clear message be delivered to all levels of the police, in particular to police officers responsible for interrogations, members of special intervention groups and custodial staff in pre-trial detention facilities that all forms of ill-treatment of detained persons (including verbal abuse) are not acceptable and that such acts will be prosecuted and be the subject of severe sanctions.

**The CPT must recommend once again that such a message be delivered by the relevant political authority at the highest level, that is the Minister of the Interior himself.**

**Further, law enforcement officials should be reminded, at regular intervals, that the force used when performing their duties should be no more than is strictly necessary and, once persons have been brought under control, there can be no justification for striking them.**

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<sup>4</sup> Cf. CPT/Inf (2006) 25, page 9.

<sup>5</sup> In the revised draft regulations, a provision is maintained which stipulates, *inter alia*, that "[t]he police state structures must fulfil their functional duties in conformity with the respective legal framework, respecting and guaranteeing the human rights and fundamental freedoms provided by law to all the citizens, especially to those deprived of their liberty".

10. The CPT has serious misgivings about the use of the above-mentioned "German-style handcuffs" in the pre-trial detention facility at Durres Police Directorate. The application of this outmoded type of handcuffs is not only potentially harmful but also unnecessary, due to the availability of normal (i.e. mobile) police-type handcuffs. Further, it is clear that the helmet once again discovered by the delegation was not worn by any member of the special intervention group or any other officer during police operations. **The Committee recommends that both items be removed from the pre-trial detention facilities at Durres Police Directorate.**

11. In the report on the 2005 visit, the CPT emphasised that, in several of the pre-trial detention facilities visited (in particular, at Durres), detained persons were being held in conditions of detention which could easily be considered as inhuman or degrading. Indeed, the accumulation of execrable material conditions, the legal prohibition of any activity inside the cell, the almost total absence of activities outside the cell, and the prolonged duration of placements in the facilities concerned was described by Committee as "being, in its experience, unique in a European context".

It is a matter of grave concern that from the observations made at Durres during the March 2006 visit, the situation has clearly remained virtually unchanged. It must be added that the situation found at Fier Police Directorate was scarcely more favourable.

During the high-level consultations with the Albanian authorities, the delegation's view was also shared by the Prime Minister who stated that the conditions of detention in pre-trial detention facilities were "a shame for Albania"<sup>6</sup>.

Already at this stage, the CPT must also express its serious concern about the absence of care for a severely ill detainee who was found in his cell in the pre-trial detention facilities at Fier Police Directorate. He had been left in a catatonic state on the floor of his cell for several days, without receiving any medical attention.

These issues will be addressed in detail in the following section of the present report, but the seriousness justifies them already being flagged in this section on ill-treatment.

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<sup>6</sup> A similar statement was reportedly made by the Prime Minister in a press conference shortly after the visit.

## **B. Pre-trial detention facilities at Durres and Fier Police Directorates**

### **1. Conditions of detention**

12. Detained persons continued to be subjected to deplorable material conditions (severely overcrowded cells, no mattresses/blankets, extremely high temperatures and humidity, appalling hygienic conditions, etc.), combined with a legal prohibition of any purposeful activities inside the cell (i.e. no reading material, games, radios, not even a piece of paper or a pencil), and an almost total absence of activities outside the cell (only access to the open air, in extremely small cubicles, not granted every day<sup>7</sup>, and for a period of up to 30 minutes each time). A number of detained persons had been held under such conditions for several years (in one case, at Fier, even more than four years).

The situation was further exacerbated by the fact that in neither establishment were inmates in a position to maintain an appropriate level of personal hygiene (no personal hygiene products provided, access to a shower only once every ten days; etc.). Further, ready access to drinking water was still not guaranteed, 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 compelled to resort to plastic bottles, in order to comply with the needs of nature.

13. As in 2005, the provision of food appeared to be totally inadequate (especially as regards young detainees) in both establishments visited.

14. The CPT is also concerned by the fact that juveniles were still being held in the pre-trial detention facilities at Durres, despite an immediate observation made by the delegation (under Article 8, paragraph 5, of the Convention) at the end of the 2005 visit and a specific recommendation made by the Committee in the report on that visit.

15. Further, no improvements had been made as regards detainees' contacts with the outside world. In particular, correspondence (including with a lawyer) remained prohibited, and the visit entitlement (three closed visits of 15 minutes per month) had not been increased<sup>8</sup>. Further, visits still had to take place in the same unacceptable conditions.

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<sup>7</sup> As a rule, no outdoor exercise was granted on weekends, public holidays and days when detainees could receive visits, despite the fact that, only a few days before the visit, the Albanian authorities had assured the Committee in their preliminary response of 20 March 2006 to the report on the 2005 visit, that in all pre-trial detention facilities detained persons were allowed to go to the open air every day, including on Saturdays, Sundays and public holidays.

<sup>8</sup> In practice, the actual visiting time was even less (some five to ten minutes per visit).



16. In their response of 27 June 2006 to the report on the 2005 visit<sup>9</sup>, the Albanian authorities provided the following information:

- "Based on the recommendations made by the CPT in the report 2005, the Ministry of Interior and the General Police Directorate have revised the draft regulation "On the security and treatment of the arrested and detainee persons", by including all the recommendations related to the prevention of torture and the degrading or inhuman treatment, concerning to the detained, arrested or accompanied persons. (...)
- (...) Also, measures have been taken for painting, the hygiene and furnishing of the detention places with other necessary accessories as sitting benches etc.
- Regarding the accommodation conditions, measures have been taken for fulfilling the pre-detainees' demands for new mattresses and blankets.
- The improvement of the light and airing conditions actually remains a problem, which needs to be resolved. This situation is due to the fact that the pre-detention places *de jure* have passed under the competences of the Ministry of Justice, which means that this Ministry administers the respective financial funds on the maintenance and investing of these facilities.
- We consider as prior issue, which calls for proper consideration the enlargement of the windows in the existing pre-detention facilities, in order to improve the lighting conditions as soon as the financial funds are provided.
- Regarding the detained persons' right to have the possibility to come out in fresh air, currently is offered at least one hour per day the exit in the outgoing airing cubicles, as well even for the Saturdays and Sundays, as well as the days off or official holidays. Concerning the conditions of the pre detention facilities, measures have been taken to improve the hygiene, cleaning conditions, even in the interior places, through every day painting and cleaning. To this purpose, the respective responsible structures have assured all the necessary facilities in order to realize the cleaning.
- In the pre-detention system the work is under way in order to improve the situation, towards the establishment of the proper infrastructure (as far as possible) and the normative system, in order to allow activities, such as: the reading, games, radio and the correspondence abroad.
- The Ministry of Interior is exploring the respective food norm provided in the pre detention facilities, in order to improve the quality of the food provided.
- Regarding the meetings of the pre-detainees with their familiars or relatives, the situation is improved, and in this context, we would like to mention that not only these meeting are increased from three to four per month, but also measures have been taken in order to respect the time period for these meetings, and to improve the visiting facilities conditions.
- Regarding the treatment of the juvenile detainees, immediate measures have been taken in order to ensure that they are treated in separate rooms, divided from the other major detainees.(...)

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<sup>9</sup> Cf. CPT/Inf (2006) 25, pages 9 and 10.

- About the transfer of the persons sentenced by a final decision to the penitentiary institutions, (...) the Ministry of Justice has taken all necessary steps [to tackle this problem]. By a special order (no. 3768/1, date 10.05.2006), the Minister of Justice asked the General Prisons Department that in cooperation with other competent state authorities, carry out the transfer and accommodation of sentenced persons in prisons, after all legal procedures for the execution of the court decision are accomplished. The General Prisons Department has taken all the necessary measures to execute the immediate transfer of the prisoners to the penitentiary institutions, after the relevant legal documents have been completed."

17. The CPT welcomes the steps taken thus far by the Albanian authorities in order to improve the conditions of detention in both pre-trial detention facilities visited. However, vigorous, additional steps are needed to render the conditions acceptable.

In particular, it is totally unacceptable that in-cell activities (such as reading, games, radio, etc.), as well as correspondence with the outside world, are still prohibited for persons who are detained on remand (or, in some cases, even serve their sentence), for months or even years on end, despite the specific recommendations repeatedly made by the Committee over several years.

During its consultations with representatives of the Ministries of the Interior and Justice, the delegation was informed that "in theory it was possible to directly apply the relevant legal provisions concerning sentenced and remand prisoners to detained persons in pre-trial detention facilities which were still under the authority of the Ministry of the Interior, but that, due to the current infrastructure, it was not possible to do so in practice".

In the CPT's view, such a position is indefensible. As a matter of fact, Section 75 of Law No 8328 on the Rights and Treatment of Prisoners<sup>10</sup> stipulates that, in principle, the provisions of the law also apply to "arrested or detained persons". Even from a practical standpoint, it is not conceivable that there are any structural impediments to allowing inmates in pre-trial detention facilities to enjoy in-cell activities (such as reading, games, radio, etc.) or to send letters. **The Committee calls upon the Albanian authorities to take all necessary steps to ensure that remand detainees who are still held in pre-trial detention facilities under the authority of the Ministry of the Interior enjoy with immediate effect the same rights regarding, *inter alia*, activities and contacts with the outside world as remand prisoners held in establishments under the authority of the Ministry of Justice. For the sake of clarity, the anachronistic restrictions contained in the existing regulations of the Ministry of the Interior should be abolished without further delay.**

18. The Committee welcomes the existing plan to open a new pre-trial detention facility under the authority of the Ministry of Justice at Durres by July 2007. **This plan should be implemented as a matter of priority, in order to close down the current pre-trial detention facility at Durres as soon as possible.** For as long as the current facility remains in use, **the CPT calls upon the Albanian authorities to take immediate steps to ensure that juveniles are no longer detained in that establishment.**

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<sup>10</sup> This law provides for the rights of prisoners, *inter alia*, to work, to have access to various kinds of activities within and outside their cell, and to send or receive letters.

19. With regard to conditions in the pre-trial detention facilities at Durres and Fier Police Directorates (as well as, if appropriate, in other establishments of this kind), the CPT calls upon the Albanian authorities to take immediate steps to ensure that:

- all detained persons are provided with adequate quantities of essential personal hygiene products;
- all detained persons are granted ready access to sanitary facilities;
- the quality of the food provided is improved and the outdated nutritional standards are revised.

20. As a new pre-trial detention facility should soon open at Durres, it would be pointless to invest resources in structural changes of the establishment. However, **with regard to the pre-trial detention facilities at Fier** (as well as, if appropriate, in other establishments of this kind), the CPT calls upon the Albanian authorities to significantly:

- improve the material conditions of detention, in particular, as regards access to natural light and artificial lighting and ventilation;
- enlarge the existing outdoor facilities in order to enable detained persons to exert themselves physically.

Further, particular efforts should be made to ensure that juveniles are offered conditions of detention appropriate to their age.

21. In its report on the 2005 visit<sup>11</sup>, the CPT already expressed its concern about the limited progress made in implementing the long-standing plan to transfer the responsibility for pre-trial detention from the Ministry of the Interior to the Ministry of Justice. According to the Albanian authorities, this process was supposed to be completed by April 2004.

This issue was also raised by the delegation during its consultations with the Prime Minister and the Ministers of the Interior and Justice. All interlocutors stressed that the experience made at Vlora had shown that the initial plan to transfer to the Ministry of Justice the competence for pre-trial detention facilities which are located on the premises of Police Directorates was, in practice, an unworkable solution. Therefore, priority was given to the construction of twelve new pre-trial detention facilities throughout Albania under the authority of the Ministry of Justice.

In their response of 27 June 2006 to the report on the 2005 visit<sup>12</sup>, the Albanian authorities informed the CPT that the Council of Ministers had already approved the acquisition of construction sites in the districts of Elbasan, Berat, Vlora, Konca, Lezha, Fieri and Durres. At Vlora, the construction of a new pre-trial detention centre was planned to begin in August 2006 and should be completed within twelve months. Further, the Ministry of Justice had been authorised by the Council of Ministers<sup>13</sup> to purchase a building in Durres, in order to transform it into a pre-trial detention facility by July 2007 (cf. paragraph 18). Upon completion of the latter plan, more than half of the total population of remand detainees would be held in establishments under the Ministry of Justice.

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<sup>11</sup> Cf. CPT/Inf (2006) 24, paragraph 57.

<sup>12</sup> Cf. CPT/Inf (2006) 25, pages 11 and 12.

<sup>13</sup> Decision No. 163 dated 21 March 2006.

The CPT welcomes the recent steps taken by the Albanian authorities. However, given the overall extremely poor material conditions in most pre-trial detention facilities in Albania, urgent action is required to implement the long-standing plan to transfer all detained persons from police pre-trial detention facilities to establishments under the authority of the Ministry of Justice. **The Committee calls upon the Albanian authorities to redouble their efforts to complete this process as speedily as possible. Further, it would like to receive a detailed plan of the different stages and a timetable for their full implementation.**

## 2. Health care

22. The CPT has repeatedly emphasised the crucial role that medical examinations on admission to pre-trial detention facilities play in the prevention of ill-treatment by law enforcement officials, in addition to the prevention of transmissible diseases<sup>14</sup>.

23. The 2006 visit demonstrated that not a single of the specific recommendations repeatedly made in this respect by the CPT in previous visit reports had been implemented in practice, despite the explicit assurances given to the contrary by the Albanian authorities in their response to the report on the 2003 visit. In particular, in neither establishment visited were newly-arrived detainees subject to medical screening on admission (except in cases of emergency or upon request). Further, medical examinations/consultations when they did occur were still systematically carried out in the presence of police officers. It should be added that in those few cases when medical files had been opened, they lacked basic medical data and were usually accessible to non-medical staff. Such a state of affairs is totally unacceptable.

24. Further, no improvements had been made as regards the general provision of health care in either establishment visited, notwithstanding various recommendations made by the CPT in the reports on the 2003 and 2005 visits. More specifically, no steps had been taken to ensure the regular presence of qualified nursing staff (on a full-time basis at Durres). It is particularly worrying that the Albanian authorities, in their response of 27 June 2006 to the report on the 2005 visit, totally failed to address the recommendations made by the Committee on this subject.

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<sup>14</sup> Cf., most recently, CPT/Inf (2006) 24, paragraph 30.

25. The health care provided in the pre-trial detention facilities at Fier appeared to be particularly problematic and, in a number of cases, even inexistent. In addition, conditions in the health-care facilities were appalling<sup>15</sup>. The delegation received many complaints from inmates about delays in having access to the doctor and the quality of the health care provided; the delegation observed itself, on the spot, the case of one inmate in need of urgent medical care who had been left in a state of total neglect.

As already mentioned in paragraph 11, a mentally ill detainee was found lying in a catatonic state on the floor of an overcrowded cell, below a leaking sewage pipe, without receiving any medical attention. He had apparently been in this situation for several days. A physical examination by the medical member of the delegation also revealed that his right leg was of intensive red colour and swollen, painful on palpation. According to fellow inmates, he had sustained the latter injury a few days earlier when he had fallen on the floor in the sanitary facilities (to which he had to be carried by other inmates).

Upon consultation with staff and cellmates, it transpired that the detainee had been hospitalised, due to his serious mental disorder, and returned to the establishment two weeks before the visit. His health condition was said to have been stable for the first couple of days on his return, but to have drastically deteriorated subsequently, apparently due to the fact that he had not received the medication prescribed by the hospital.

When confronted with this case, the doctor claimed that he had seen the inmate concerned, but was not able to provide any precise information about his health condition or the treatment provided.

When asked about the whereabouts of the medical file of the above-mentioned detainee as well as of other detainees, the doctor affirmed that such files existed in respect of every inmate, but claimed that he had no key to the cupboard where the files were said to be stored. After a considerable delay, a key was produced by a police officer, and it came to light that there was not a single personal medical file.

The only medical documentation available was a register for doctors' visits, the last entry dating back to November 2005. The doctor's explanation for this state of affairs was that "he had not recorded anything, because he had not received any medication to prescribe ever since".

The above-mentioned case as well as the unacceptable conduct of the establishment's doctor were brought to the attention of the Minister of the Interior, who affirmed to the delegation that appropriate steps would be taken to remedy the shortcomings identified by the delegation at Fier Police Directorate. **The CPT would like to receive detailed information on the measures taken in this respect.**

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<sup>15</sup> The delegation was particularly struck to find the doctor's consultation room littered with medicines past their use-by date, empty boxes and garbage, the rudimentary furniture being partly broken and covered with a thick layer of dust.

26. More generally, **the Committee calls upon the Albanian authorities to take immediate steps at the pre-trial detention facilities at Durres and Fier (as well as, if appropriate, in other establishments of this kind), to implement without further delay the long-standing recommendations made in paragraphs 33, 34 and 76 of the report on the 2005 visit<sup>16</sup>, in the light of the above remarks.**

27. Already in the report on the 2005 visit<sup>17</sup>, the CPT raised the issue of long delays, which had observed by the delegation especially at Durres, in transferring inmates who were in urgent need of hospitalisation to a hospital. The 2006 visit demonstrated that this problem had not yet been resolved. The delegation was informed that general hospitals were reluctant to admit detainees from pre-trial detention facilities, due to security considerations, while transfers to the Prison Hospital in Tirana were reportedly difficult, because the Prison Hospital falls under the authority of the Ministry of Justice.

At Durres, the delegation was informed by the doctor that he had not requested any transfers of detainees to the Prison Hospital for a long time, since several requests had been turned down by the Prison Hospital in 2004. The whole issue was subsequently raised during the consultations with representatives of the Ministries of Justice and the Interior. On this occasion, representatives of the Ministry of the Justice affirmed to the delegation that, as a rule, all requests for transfers of sick detainees from pre-trial detention facilities to the Prison Hospital were accepted, despite the fact that the hospital was frequently overcrowded. As far as the delegation could ascertain, there is a continuing lack of communication and co-ordination between the two ministries concerned.

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<sup>16</sup> The CPT called upon the Albanian authorities to take steps to significantly improve the provision of health care in both pre-trial detention facilities visited. In particular, there should be a regular presence of qualified nursing staff in such facilities (on a full-time basis at Durres).

Further, the CPT called upon the Albanian authorities to take immediate steps to ensure that in all pre-trial detention facilities in Police Directorates in Albania:

- every newly-admitted person – whether sentenced or on remand – is properly interviewed and physically examined by a medical doctor as soon as possible after his/her admission; save in exceptional circumstances, the interview/examination should be carried out on the day of admission. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor;
- an individual medical file is opened for every inmate;
- whenever injuries are recorded by a doctor which are consistent with allegations of police ill-treatment made by an inmate, the record is immediately brought to the attention of the relevant prosecutor.

Finally, the Committee reiterated its recommendation that steps be taken in all pre-trial detention facilities in Police Directorates throughout Albania to ensure that:

- the file drawn up after a medical examination of an inmate contains (i) an account of statements made by the detainee which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), (ii) an account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of i) and ii); upon request, the doctor's conclusions should be made available to the inmate and his/her lawyer;
- all medical examinations of inmates take place out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;
- the confidentiality of medical data is fully respected;
- all medical staff working in police pre-trial detention facilities are reminded of their obligations under Article 282 of the Code of Criminal Procedure.

<sup>17</sup> Cf. CPT/Inf (2006) 24, paragraph 74.

**The CPT trusts that, following the delegation's consultations with representatives of the Ministries of Justice and the Interior, appropriate steps will be taken jointly by both Ministries concerned, in order to ensure that persons detained in pre-trial detention facilities who need to be hospitalised are transferred to an appropriate facility with the promptness and in the manner required by their state of health.**

### **C. Police custody**

28. In 2005, material conditions at Station No. 4 in Tirana were appalling (most cells having no, or very limited, access to natural light and only very dim artificial lighting, and being poorly ventilated and in a general state of squalor). Further, detained persons were still not provided with any food during the initial period (48 hours) of police custody. The persons concerned had to rely solely on food supplied by their families. Moreover, they were still allowed access to the toilet only once or twice per day and were not provided with any personal hygiene products.

The 2006 visit demonstrated that hardly any of the specific recommendations made on this subject in the report on the 2005 visit had been implemented by the Albanian authorities. Such a state of affairs is unacceptable. It is all the more of concern that, in their response of 27 June 2006 to the report on the 2005 visit, the Albanian authorities to a large extent failed to address the issue of conditions of detention in police custody. They simply stated that, in various police establishments, cells had been repainted and equipped with benches.

**The CPT calls upon the Albanian authorities to take immediate steps to ensure that at Police Station No. 4 in Tirana (as well as in all other police stations in Albania), the recommendations made in paragraphs 79 and 80 of the report on the 2005 visit are fully implemented<sup>18</sup>.**

29. In contrast, at Police Station No. 1 (adjacent to Tirana Police Headquarters), the holding and custody cells had recently been refurbished, and material conditions were, on the whole, of a good standard.

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<sup>18</sup> The CPT called upon the Albanian authorities to take immediate steps to ensure that in all police establishments in Albania:

- detained persons have ready access to drinking water and are given food at appropriate times, including at least one full meal every day;
- persons obliged to stay overnight in custody are provided with a clean mattress and clean blankets;
- persons are no longer kept in police custody cells for prolonged periods (i.e. beyond 48 hours).

Further, the Committee recommended that:

- the material conditions in the police custody be significantly improved. In particular, cells should have access to natural light, adequate artificial lighting and ventilation;
- the cell measuring 1.7 m<sup>2</sup> at Tirana Police Station No. 4 be withdrawn from service;
- persons in police custody be allowed access to the toilet when necessary, in clean and decent conditions, and be offered adequate washing facilities.

**D. Implementation of the 1996 Mental Health Act**

30. In all previous visit reports, the CPT expressed its serious concern about the lack of implementation of the 1996 Mental Health Act, in particular, as regards the procedural safeguards provided for in the context of involuntary placement of a civil nature.

By letter dated 2 November 2005, the Albanian authorities informed the Committee that the Ministry of Health had recently issued a formal instruction to all psychiatric hospitals that they must notify the competent courts within 48 hours of all new cases of involuntary admissions. Further, the Albanian authorities indicated that they were working on a solution regarding the situation of patients who had previously been admitted to hospital against their will.

This state of affairs was re-confirmed by the Albanian authorities in their preliminary response of 20 March 2006 to the report on the 2005 visit<sup>19</sup>.

However, when the delegation discussed the whole issue of implementation of the 1996 Mental Health Act during the 2006 visit with representatives of the Ministries of Health and Justice, as well as with several Directors of psychiatric hospitals and a judge from Tirana District Court, it came to light that, despite the assurances previously given to the contrary by the Albanian authorities, not a single case of involuntary placement had been notified to the competent courts by any of the psychiatric hospitals.

This unacceptable state of affairs, which constitutes a flagrant violation of the principle of co-operation as laid down in Article 3 of the Convention, was subsequently raised with the Prime Minister and the Ministers of Health and Justice.

31. In their response of 27 June 2006<sup>20</sup> to the report on the 2005 visit, the Albanian authorities informed the CPT that a new instruction<sup>21</sup> had recently been issued by the Minister of Health to all psychiatric hospitals concerning the implementation of the 1996 Mental Health Act. According to this instruction, all psychiatric hospitals were obliged to notify to the competent courts any new involuntary admissions as well as all cases of chronic patients who had been admitted to the hospitals against their will prior to the issuance of the above-mentioned instruction. The process of notification of the latter cases had to be completed by 25 May 2006.

Further, the Albanian authorities confirmed that the actual implementation of the Mental Health Act had started and provided the following account of the steps taken so far<sup>22</sup>:

- "At Elbasani hospital there are 14 cases evidenced as involuntary hospitalisation that have been sent to the court;
- At Vlora hospital have been evidenced 5 similar cases;
- At the psychiatric service of Shkodra hospital are evidenced 9 similar cases;
- At the psychiatric service of *Tirana University Hospital Center* are evidenced 9 similar cases."

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<sup>19</sup> Cf. CPT/Inf (2006) 24, paragraph 156.

<sup>20</sup> Cf. CPT/Inf (2006) 25, page 27.

<sup>21</sup> Instruction No. 166 of 9 May 2006.

<sup>22</sup> Elbasan Psychiatric Hospital (14 cases), Vlora Psychiatric Hospital (five cases), Shkodra Psychiatric Hospital (nine cases), Tirana University Hospital Centre (nine cases).



The CPT welcomes this development; **it would like to receive copies of all notifications of involuntary placements which have been notified by psychiatric hospitals to the competent courts in 2006, as well as copies of the related court decisions.**

32. In their response of 27 June 2006 to the report on the 2005 visit, the Albanian authorities also indicated that they had identified the numbers of those chronic patients who were held in the psychiatric hospitals "because of a lack of services and the lack of the appropriate alternatives in the actual health system" as well of mentally disabled persons who were held in psychiatric hospitals "because of a lack of appropriate structures for their stabilization".

The authorities also added that the Ministry of Health and the Ministry of Labour, Social Affairs and Equal Opportunities were jointly taking all the necessary measures to find a solution in respect of those two categories of patient. **The CPT would like to receive updated information on the measures taken in this respect, as well as a timetable for the implementation of these plans.**

Further, **if there are any persons among the above-mentioned two categories of patient who are not allowed to leave the psychiatric hospital at any time, their situation should also be notified to the competent court without delay.**

#### **E. Outdoor exercise in prison**

33. During the high-level consultations with the Albanian authorities, the delegation also raised the issue of outdoor exercise in Albanian prisons.

At the time of the 2005 visit<sup>23</sup>, no outdoor exercise at all was granted to adult prisoners at Tirana Prison No. 313 (as was the case already in 2003). Further, in none of the establishments visited (Lezha, Tepelena and Tirana-Vaqarr Prisons) was outdoor exercise granted on Sundays and public holidays.

In their response of 27 June 2006 to the report on the 2005 visit<sup>24</sup>, the Albanian authorities informed the CPT that "despite of the difficulties like insufficient staff members and lack of funds, the General Department of Prisons, has taken all necessary measures in order to allow an every day airing for the inmates in all penitentiary institutions. An airing space for the remands is planned to be constructed in the pre-detention prison in Str. "Jordan Misja" [i.e. Prison No. 313], Tirana by the year 2007".

The CPT welcomes the steps taken regarding the provision of outdoor exercise on Sundays and public holidays. **With regard to Prison No. 313, the Committee calls upon the Albanian authorities to implement, as a matter of priority, the long-standing plan to create outdoor exercise facilities for adult prisoners. It would like to receive confirmation that the necessary funding is secured for 2007.**

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<sup>23</sup> Cf. CPT/Inf (2006) 24, paragraph 97.

<sup>24</sup> Cf. CPT/Inf (2006) 25, page 13.

**F. Concluding remarks**

34. The CPT has already expressed its appreciation of the constructive and fruitful consultations its delegation had, in the course of the visit, with the Prime Minister as well as with Ministers and senior officials from the ministries concerned (cf. paragraph 6). There appears to be now a clear commitment on the part of the relevant authorities to enhance their co-operation with the Committee by improving the situation of persons deprived of their liberty, in the light of the recommendations made in previous visit reports. Further, the CPT notes a marked improvement in the overall quality of the Albanian authorities' response of 27 June 2006 to the report on the 2005 visit, as compared to the responses provided in respect of previous visit reports.

That said, the CPT must stress that, although the measures taken thus far by the Albanian authorities constitute an important step in the right direction, a very great deal remains to be done to render the situation even acceptable; this is particularly true regarding conditions of detention in pre-trial detention facilities. Plans and programmes announced by the Albanian authorities should be implemented in practice as a matter of priority.

Further, the CPT remains concerned by the fact that the Albanian authorities' preliminary response to the report on the 2005 visit, which was transmitted to the Committee just a few days before the March 2006 visit, contains information which subsequently proved to be inaccurate, even false (cf. footnote 7 above). This is unacceptable.

The CPT trusts that vigorous steps will be taken by the Albanian authorities to implement the recommendations made in the present report. The Committee notes that there have been recent changes in the officials responsible at senior and middle levels in the areas falling under its mandate and that the officials concerned appeared to be committed to altering the situation for the better. For the time being, the CPT has decided to refrain from setting in motion the procedure provided for in Article 10, paragraph 2, of the Convention. It will follow closely future developments and the action taken by the Albanian authorities in the immediate future, keeping the possibility of initiating that procedure under review.