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Response

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

from 30 January to 1 February 2011

The Albanian Government has requested the publication of this response. The CPT's report on the January/February 2011 visit to Albania is set out in document CPT/Inf (2016) 11.

Strasbourg, 17 March 2016

In reply to the Report 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 30 January to 1 February 2011, below you will find the comments/information prepared by the Albanian authorities, according to the specific paragraphs:(in English and Albanian)

Paragraph 4

The General Directorate of Prisons, in collaboration with the relevant structures, due to the 21st January occurrence, has designated a comprehensive contingency plan, for the management of such situation in the future, starting from the way of acceptance of prisoners, up to their accommodation within the penal institutions.

Paragraph 11

After the verification of all the cases alluded to, no written complain or use of force has been documented. According to the declarations of the Head of Security Staff of Jordan Misja, it is not used force toward the prisoners and the police staff has fully respected the rights of detained persons, as been described at the law principles for the "freedom and treatment of prisoners". In additions, based on the supervision through the camera monitoring, on 21st of January and so on, it is not found any scene that can officially state the use of force by the prison security staff.

Paragraph 15

In the General Directorate of Prisons, it is not registered any written complain of mistreatment, regarding the 21st January occurrence. The procedure which is applied for any other case of mistreatment witch is confirmed is described at the amendments defined as to the law, as well as penal delation in the prosecutor office.

Detailed account of the investigative steps taken

Information on the criminal case number 286/1 of February 15th, 2011.

On January 22nd, 2011, the criminal proceeding nr.286 was filed against some citizens who were arrested by the police commissariat nr.4 and which are suspected of the criminal offences foreseen in the articles 236/2, 237 as well as 150 and 25 of the Criminal Code. These actions are attributed to them by the Judicial Police while the same were carried out during a rally organized by the political subject of the Socialist Party of Albania in front of the prime ministry building and around it in the midday and afternoon hours of the same date.

It appears from the acts that a group of police agents of this commissariat after having kept under surveillance a number of protesters, have focused on a part of them, which carried out violent actions towards the public order forces hitting them with stones, umbrellas and bats or other circumstantial objects. Furthermore, after they left the rally, they have been seized in flagrancy and accompanied in the premises of the police commissariat nr 4, Tirana. After being interrogated the arrest in flagrancy has been decided for them.

Furthermore, during the investigations, some damages in some of the arrested people were noticed, about which there were claims that they were caused during the police accompaniment or in police premises. These damages have been proved by expertise acts.

Moreover, the subject of the Socialist Party of Albania filed a suit in connection with the damages of some citizens participating in the rally of the 21 January, 2011. The suit claims that several citizens have been accompanied for long hours from a police

commissariat of Tirana to another by staying in fact more time than allowed also by the law regulating the work and functioning of the state police. Therefore, the rights of the citizens in connection with their freedom have been violated.

Furthermore, it has been claimed that citizens have been deliberately injured during the accompaniment in the police premises by being beaten up by state police effectives. Their rights were also violated in the pre-detention premises of IEVP in the capital, where it is being claimed they should have not been sent without a court's decision for the definition of the precautionary measure.

According to this material brought up during investigation, it has been decided the separation of acts and the registration of a separate criminal matter numbered 286/1 of Feb 15th, 2011. The administered acts fulfilled the condition for the registration of the criminal case for "committing arbitrary acts" and "duty abuse". This paved the way to other investigative actions for the definition of the fact and of the criminal offence as well as for the clearing out of the criminal responsibility of its authors, the identification of the responsibility of each one of them and the responsibility of the crime committal in complicity.

The prosecutors

as well as the judicial police officers (JPO)

of the prosecution of Tirana judiciary district were tasked with the investigation of this proceeding.

So far the JPO have carried out investigative actions related to the premises' examinations of all police commissariats of the capital, examination of registers of accompanied people and of those arrested in these commissariats as well as of all acts, registers and other documents related to the accompaniment, arrest or detention of citizens, of criminal events notifications, etc. We have ordered the same thing and it is being conducted for the two institutions of the criminal sentences execution in the capital.

Furthermore, work is going on for the collection of data, filming or video registrations in connection with the criminal case related to the rally resulting in assault, property destruction and loss of life of some citizens.

Some police officers or effectives who have performed the seizure, detention or arrest of suspected people, who later on have filed maltreatment suits, have been questioned. Work is going on for a more detailed collection of claims from the injured.

Following the obtaining of these acts and evidence, there will be other investigative actions related to the proving of the injured claims. We have to point out that as regards the proceeding body, following the arrest of the suspects, it has been conducted the examination of some of the persons in the places they were located and during their questioning by the prosecutors or the prosecution JPOs, there have been no claims for maltreatment. This occurred for most of the interrogated people. For those who during the examination appeared to have damages we have decided to register the above case.

Given the fact that the case includes many accompanied and arrested people and in several places, the involvement of a large personnel of police forces and the massiveness of the case, investigations are complex and might need time to come to an exact conclusion.

We also clear out that the group of the above prosecutors have not received any suit material or investigative acts from the Interior Audit Service so far. Therefore, we are not aware of concrete investigative actions from this police service.

We have officially asked recently information and acts on the investigation which is being said they have performed.

Paragraph 16

Based on the information of the Health Staff of Jordan Misja prison, the conclusions of the CPT report are not precisely put. All the detained persons were subject to physical examination. The examination has been made by the prison's doctor, under the assistance of the prison's nurse. Since the first moment of the examination, a number of prisoners have been diagnosed for medical treatment.

During the medical examination, it is not required the uniform police staff attendance. Although, in one or two cases, for safety reasons and by the request of the health staff, regarding the specific case of 21st January, the police staff has been present during the health examination.

Regarding the opening of the medical files for the pre-trial detainees, was explained to the CPT experts during the visit, that this procedure was due, because of the court decision. The persons, who entered into the institution were in transit and did not have a court decision which declared "prison arrest". In this case, a medical file is not opened.

Paragraph 16/1

As to the verifications made by the GDP staff, in the book of the commission acceptance, resulted that during the new entrances of the prisoners, the entire personnel was present, as the dispositions defined in the article 15 of the General Regulations of Prisons.

Paragraph 17 –CPT Recommendations

An official letter has been sent to all the penal institutions in the country, for information and implementation of the CPT's recommendations, in case of the occurrence of same events. Also, the Department of the Health Sector in GDP organized a meeting with the Heads of Health Sector in penal institutions. During the meeting were explained in details the issues raised in the two institutions visited by CPT. In the same time, some methodologies on the managements of such cases were introduced.

C: Conditions of Detention

As a result of the building amortization, IEVP Jordan Misja has relatively poor infrastructural conditions. Also, it has a considerable level of overpopulation. The 21st January occurrence influenced negatively on the level of the overpopulation in the institution as well as the equipment of the institution with the adequate logistics equipments. Nevertheless, after the CPT's visit, immediate measures were undertaken for the equipment of Jordan Misja institutions with the necessary furniture. In addition, were taken into the consideration the recommendations of the Ombudsman for the alleviation of the situation of this category of prisoners, during their temporarily stay in Jordan Misja.

Regarding the infrastructural conditions of the institutions, based on the investments project, actually is being tendered the project of the new building of the pre-trial detention centre of Jordan Misja (313). The funds of the investments are planned in the Mid-Term Budget Plan 2012-2014. The conditions of the new detention centre are projected as to contemporary standards.

Ministry of Interior/State Police

State Police in order to assure the respectability of freedoms and the rights of the people escorted, detained, arrested at police stations, has stipulated some special

policy in adherence with the Convention "for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment", Constitution of the Republic of Albania, Criminal Procedural Legislation, as well as with CPT-s recommendations.

For this purpose it is approved and put into force by order of the General Director of Police. No. 64, dated 25.01.2010, Code of Regulations "For the treatment and security of the detained and arrested persons at police stations".

Related to what in the CPT report was expressed concerning the findings of non-guarantying enough rights to the detained persons and the ill-treatments of the latter in police premises of some police commissariats, we stress the following comments:

Paragraph 17

1. Concerning the visits and medical check-ups of the arrested and detained persons at police stations:

We clarify that this right is stipulated in the Code of Regulations "For the treatment and security of the detained and arrested persons at police stations".

In clause III of Article II and in clause IV of Article IV of this Code is stipulated that ;

- The arrested/detained person before getting to the security premises goes through a medical check-up by the Medic or his/her assistant of the police station.
- Medical personnel for the check-up assigns a personal medical file for each person, and a copy of which goes with the person at the Institution for the Enforcement of Penal Sentences.
- When physical violation signs are noticed, then a report is filled in and for event is notified the head of the police unit and prosecution.
- Medical check-ups are performed by the medic and his/her assistance, without the presence of other persons.
- For the arrested and detained persons is ensured medical service for the whole time of their presence in these facilities, according to the demands and needs that they have. For services and special treatments the arrested/detained persons are sent to regional and main public medical centers in Tirana.
- Medical treatment, with medicaments for the persons that have been under these treatments before being put to these facilities (police stations), is not interrupted.

Paragraph 20

2. As for communicating and granting of their rights to the arrested/detained persons and their meetings with relatives:

- Arrested/detained persons are informed, by Judicial Police Officers for their legal and procedural rights that they have in this phase, as well as by the person in charge for the security facilities for their rights during their stay in this facilities until the sentence given by the court.
- At main and local police stations, at the security and detention quarters, posters and written posts are posted with the rights of this people. At present, is not applied the signing of a form/declaration by the arrested/detained where it can be acknowledged the fact that they are notified about their rights, but this document is going to be produced shortly.

- During their stay in the security quarters at main and local police stations, the arrested/detained meet their family, relatives or other persons only with permit/authorization by the prosecutor on charge of the criminal case.
- In all cases of deprivation of person's liberty by the police, they have the right guaranteed to inform a relative or a third part according to their will as well as they have the possibility to be represented by a lawyer (ex-officio or according to their will) since the moment of their detainment.

3. Criminal cases against police officers that have violated the rights of the arrested/escorted/detained persons :

By the Internal Control Service for the period January – May 2011 are performed procedural actions and referred to the prosecution 4 criminal charges against police officers at implementing level, for violation of human rights such as: arbitrary actions, other voluntary harm, and beatings.

4. Measures for the implementation of CPT's recommendations :

With the purpose of assuring fully the human freedoms and rights and in particular for the persons that are deprived of liberty (arrested/detained persons) during the work of State Police and in implementation of the CPT's recommendations, Ombudsman and other local/foreign bodies for the protection of human rights, at the Directorate of State Police is set up a task force that is working on reviewing the policy and procedures of rules foreseen in the "Manual of rules for treatment and securing of detainees by police units". There has been drafted the text of the Manual and has been send for further comments to other institutions, including the People Ombudsman.

This project aims to precise and add clearly;

- Rules and procedures followed up by personnel when carrying out personal control of detained /arrested people before they enter to detainment rooms.
- Rules and procedures followed up by personnel when offering and guarantying medical service towards these persons.
- Specification and clarification of the rights of detainees/arrested persons, especially for minors, incapacitated persons, aliens, etc. Compulsory protection of minors and incapacitated persons, sign of a written form with all their rights.
- Procedures for holding and treatment of personal belongings of detainees / arrested persons in those premises.
- Protective measures carried out by police personnel and supportive staff serving at detainment rooms for prevention of possible infections.
- Rules for guarantying of food treatment and the time table of the meals.
- Procedures for offering medical treatment in those premises, measures taken and actions carried out in cases of torture or physical violence identification, before, during and after detention/arrestment, measures taken in cases of infective diseases.
- Placement of video camera securing and monitoring system outside and inside detainment rooms, for recording all behaviours, maltreatment caused by police personnel towards detainees/arrested people.
- Further measures to improve living and hygienic conditions in those premises. Construction of special premises for washing up of detainees within these premises.

- Replacement of repressive security measures for detainees / arrested people in hospital centers (foreseen in current Manual) with others ones which do not violate human rights.
- Measures taken in serious cases (extraordinary), such as self damage or suicides of detainees / arrested people, death of persons in such premises, murders or wounded cases of detainees / arrested people by police personnel during any escape attempt from those premises.
- Review and completion of police personnel duties who serve in detainment rooms.
- Detainees/arrested people risk analyses and measures taken for prevention of serious events.
- Drafting of a written form with right of detainees /arrested people, which is acknowledged and sign by the person.
- Procedures for issuing, filling, recording and administrating personal medical files by medical staff and protecting them by non authorized persons contact.
- Measures for informing a member of family, relative or another person related for situation and location where detainee /arrested people has fallen.

5. The foreseen trainings on the respect of the rights during the accompaniment, detainment and arrest of citizens by the police.

In the respect of People's Advocate recommendations and the recommendation 12 of CE Opinion, have been planned some specific compulsory trainings for police employees on duty for 2011-2012:

1) Dealing with cases concerning detained persons:

- Updating the curriculum o the Police Basic School, introducing topics pertaining to the observation of rights of citizens during escorting, detention and arrest in the police premises, in accordance with the recommendations and in cooperation with the Ombudsman (May 2011).
- Holding training for three police employees as trainers for the fundamental human rights and freedom in France, organised by the European Union Agency for Human Rights (June and September).

Paragraph 24

2) Improvement of the treatment to arrested persons or being interviewed in police stations, including minors, for access to medical care, food and legal advice.

- Revision, in cooperation with the Ombudsman of the Manual of Procedures for dealing with the detained persons, concerning the observation of rights of citizens for medical care, food and legal advice (September 2011).
- Training 25 police employees as trainers on the topic of fundamental human rights, oriented specifically for the escorted, detained and arrested persons, including minors and females (October 2011).

- Training on the job of 800 police employees of the structures of investigation and prevention of crime on the topic observation of human rights and fundamental freedoms, in the course of escorting and interviewing the citizens (December 2012).

- Training at the Regional police Directorate of 80 police employees of the rank commissar and under-commissar carrying out the task of the supervisor of the police employees in the service of General Patrolling and those serving in the detention premises, focusing on the supervision of observation of fundamental human rights in the course of escorting and treatment of citizens in the premises of the police commissariat (March 2012).

- Re-training at the basic police school of 1450 police employees of the implementing level (11 weeks) as well as completion of the process of re-training for 6500 police employees of the implementing level(June 2012).

We assure you that the CPT's draft-report recommendations will be taken into account in the ongoing by the police structures always respecting the constitutional rights of the persons deprived of their freedom.