

## **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 16 to 20 June 2008**

The Albanian Government has requested the publication of this response. The report of the CPT on its June 2008 visit to Albania was published on 21 January 2009 and is set out in document CPT/Inf (2009) 6.

Strasbourg, 02 July 2010

**Comments and remarks on recommendations of the 2008 Report of European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)**

**❖ On Recommendation in relation to Paragraph 6 :**

Police Directorate General has continuously and officially made clear to local police structures the role, function and competences of the CPT and its delegations. For this purpose, upon the arrival of CPT delegations, appropriate measures must be taken according to assigned tasks for the smooth implementation of their mission. Hence, the required personnel and documentation must be made available to CPT delegations and they will have permission of access and visits in any premises of the directorates of Police Stations where escorted, detained/arrested persons are kept, questioned or treated. As regards the case referred to in the report, senior officials of the Police Station no 3, Tirana, were warned of and no similar situations will happen again in the future. Also, a letter oratory was submitted to all local police structures for purposes of preventing the recurrence of similar situations in the future.

**❖ On recommendations in relation to Paragraphs 10, 11 and 12**

Currently, the pre-trial detention system is under full administration of the Ministry of Justice. Pre-trial detention personnel is completed with the required civilian and non-civilian employees and Pre-trial Detention Regulation approved by the Minister of Justice is applicable to all pre-detainees. With the functioning of new prisons in Vlora Fushe Kruja and Korça where pre-trial detention centres are attached, present conditions of treatment and observance of rights of pre-detainees are significantly improved.

For the purposes of improvement of situation and conditions of premises where escorted persons were held (up to 10 hours) and of related premises for detainees/arrested persons, central authorities have drafted and approved the following acts:

- Order of Director General of Police, no. 139, dated 25.02.2009 "On guaranteeing the rights of persons during escort or custody in police premises".
- Inspection plans along with inspection groups for directorates and Police Stations, with the participation of senior officials and experts from Departments of Public Security, Crime Investigation, Supporting Services and Directorate of Professional Standards.

The above- of cited order stipulated the establishment of working groups in each County Police Directorate, as well as the tasks for revision and broader information about legal acts and bylaws sanctioning freedoms and rights of escorted persons and the improvement of conditions and standards of premises where this category of persons is kept. It has also specified the taking of disciplinary measures against responsible persons and the establishment of working groups at the Police Directorate General for the inspection of the work of groups attached to county police directorates. The control/inspection groups set up within the General Directorate carried out inspections in the county police directorates of Korçë, Shkodër, Lezhë, Fier, Vlorë and Berat.

**On Recommendation in relation to Paragraph 13:**

3.5 square meter custody cells in premises for arrested and detained persons at the Police Directorate General in Tirana are used for a specific number of hours, in order to avoid overcrowding or their division according to respective categories. For the purposes of improvement of situation in premises where detained/arrested persons are kept in the Police Directorate General of Tirana and its Police Stations, the construction of a single related centre is planned for holding and treating them in accordance with the required conditions and standards.

**❖ On Recommendation in relation to Paragraph 14 :**

The existing premises of the Korça Police Station for holding and treating the detained/arrested persons have not been used since September 2009 as their reconstruction has started. Detained persons (up to 10 hours) are kept in the offices of police experts or assistant police experts. As regards to the premises where detained persons are kept in the Police Station of Vlora, actions are taken for their equipment with benches and desks under proper hygienic conditions. No interventions are made to enlarge windowsills, as efforts will be made soon to provide new premises for the entire police station, including the ones for detained persons.

**❖ On Recommendation in relation to Paragraph 16 :**

As regard to infrastructure, with the support of EU/CARDS project, three new prisons are built in Vlora, Fushë Kruja and Korça, in compliance with the current standards. They were operated by the Ministry of Justice during 2008. The opening of new prisons significantly reduced overcrowding and enhanced the observance of the rights of imprisoned persons. All detainees are currently transferred to the new premises (Vlorë, Fushë Krujë, Korçë and Durrës) and the old premises are closed down. The construction of new pre-trial detention centre in Durres was completed in November 2008, with the budget of Albanian Government. Together with the reconstruction of the psychiatric medical institution for treatment of persons under the medical measure of “compulsory medication in a medical institution”, it reaches the cost of 180 million Lek.

The state budget for the year 2009 has allocated approximately 67 million Lek for the improvement of standards in the pre-trial detention system, with concrete projects for pre-trial detention premises in the detention centre of Tropoja ( the project’s cost is 18 million Lek) and in the detention centre of Saranda (the project’s cost is 15 million Lek).

General Directorate of State Police has taken actions and made investments with the funds of the state’s budget for the reconstruction or construction of new premises for holding and treating escorted/detained/arrested persons.

In this framework, we refer to the investments that are made, planned or underway:

- Investments in new premises for this category of persons at the Police Station of Fier have been executed, where the premises for escorted persons are made operational and the premises for detained/arrested persons will start to operate soon.
- Completion of the construction of new premises for this category of persons in the Police Station no 5 attached to the County Police Directorate of Tirana and their functioning in May 2009.
- Security cells for detained/arrested and escorted persons at the Police Station of Lezha are refurbished and they have started to operate in August 2009.

- Construction of new premises for this category of persons in the Police Station of Kavaja is at the stage of completion.
- Works have started in September 2009 for the reconstruction of respective premises in the Police Station of Korça.
- Tendering process has finished and works will start soon for reconstruction of premises for escorted, detained/arrested persons in the Police Stations of Kukës, Dibër, Vlorë and Gjirokastrë.

Reconstruction or construction of premises for this category of persons is implemented in full accordance with standards and parameters specified by the European Committee on Prevention of Torture and Cruel or Degrading Treatment. Thus, they created and guaranteed necessary spaces for stay per person, proper conditions for meeting personal needs at any time, accommodation in beds with clean and proper sleeping clothes and accessories, access to 24 hour potable water and cleaning, full natural lighting and aeration etc. For the ongoing period, General Directorate of State Police will request from the Ministry of Interior the increase and provision of required funds for the reconstruction or creation of new premises within other police directorates or stations, according to the required standards or norms.

❖ **On Recommendation in relation to Paragraph 17 :**

Law no. 9888 dated 10.3.2008, “On some addenda and amendments to Law no 8328 dated 16.4.1998, “On rights and treatment of imprisoned persons”, amended, and the Decision of Council of Ministers no 303, dated 25.03.2009, “On approval of General Regulation of Prisons” has regulated in details the status of pre-detainees and sentenced persons as a guarantee for a better protection of their rights.

In addition to other amendments which further approximate the legal framework for the treatment of imprisonment persons to European sentence serving rules and standards, Law No 9888, dated 10.3.2008 has foreseen the creation and functioning of the National Mechanism on Prevention of Torture, Inhuman or Degrading Punishment or Treatment, as a special authority within the structure of the Ombudsman, which is directly responsible for the surveillance of treatment of persons deprived of liberty and their protection from torture, cruel, inhuman or degrading punishment.

The new regulation on pre-trial detention has established higher standards of the rights of pre-detainees, particularly with regard to increase of contacts with family members and relatives and has guaranteed for the first time the right of informing, thus allowing the use of electronic and written media in the pre-trial detention premises. This Regulation is applicable to the entire pre-trial detention system.

The Ministry of Justice has continuously attached special importance to the issue of physical ill-treatments in pre-trial detention centres. To be precise, we have to inform that administrative measures are taken against employees of the penitentiary system, in accordance with the level of reported violations for purposes of further prevention of cases of ill-treatment of detainees, aiming to guarantee the full observance of their rights. The most recent concrete case to which the given recommendation has referred to, includes measures taken against the director, physician and three police operatives of the Institution of Enforcement of Criminal Judgments, Korçë. Specifically, the disciplinary measure of “warning notice for discharge” was taken against the director of the institution; the disciplinary measure of “ discharge” was taken against the institution’s physician who was employed on a part time basis; the disciplinary measure of “ warning notice for discharge” was taken against an expert of information in the

detention centre and disciplinary measures of “ warning notice” and “ suspension from duty for a week with no right of payment” respectively, were taken against two officers of basic level of the Prison Police.

### **Juveniles’ ill-treatments**

For the purposes of prevention of ill-treatment of detainees, particularly of juveniles, the Parliament of the Republic of Albania, upon the proposal of the Ministry of Interior, approved the Law no 9859, dated 21.01.2008, “On some addenda and amendments to Law no 7895, dated 27.01.1995, “Criminal Code of Republic of Albania”, amended:

Thus, article 124/b of the above-cited law “ juveniles’ ill-treatment” reads as follows:

- Physical or psychological ill-treatment of juvenile by the person who is obliged to take care of him/her, shall be sentenced to imprisonment for a term from three months to two years of imprisonment.
- Coercion of the juvenile to work, to earn incomes, to beg or to carry out actions prejudicing his personal development, shall be sentenced to imprisonment for a term up to four years and a fine from fifty thousand to one million Lek.
- If the offence has caused serious damage of health or the death of the juvenile, it shall be sentenced to imprisonment for a term of ten up to twenty years of imprisonment.”

For the purposes of prevention of maltreatment, a psychologist is made available in County Police Directorates. The psychologist provides assistance to structures having contacts and carrying out procedural actions with juveniles.

The Minister of Interior and the Director General of State Police have continuously considered and requested from State Police operatives the observance of human rights and fundamental freedoms, in particular for persons being deprived of liberty, as well as the elimination and punishment of cases of the exercise of violence and various maltreatments. These recommendations were made in the meetings the said authorities held with senior officials of the State Police, in the framework of the annual analysis of the work of Police for the year 2008, in seminars and round tables organized with the participation of representatives from State Police, Ombudsman and NGO-s for protection of human rights and fundamental freedoms and in official correspondences with the directorates of police stations. No cases of exercise of violence, torture or maltreatments by police operatives against escorted, detained/arrested persons were reported during the period from the visit of CPT Delegation to September 2009. For the ongoing period, measures will be intensified for the monitoring of inspection of the activity of local police structures concerning the observance and guaranteeing of rights of persons during escort, questioning, detention/arrest and stay in those premises.

### **❖ On Recommendation in relation to Paragraph 19 :**

The pre-trial detention centre in Durres has become fully operational since October 2008 and all sentenced persons were transferred while the previous premises were definitely closed down.

❖ **On Recommendations in relation to Paragraphs 21, 22, 27 and 28:**

The Ministry of Justice is fully committed to provide a legal remedy for the activity of the employment of inmates, which will make possible for them to work on their own account. They can be employed on account of the institution where they are accommodated and on account of external participating subjects in turn of remuneration for the job done, with equal rights as the free employees.

The legislative plan includes the approval of Law no 10 023, dated 27.11.2008, "On some addenda and amendments to Law no. 7895, dated 27.1.1995, "Criminal Code of Republic of Albania", Law no. 10 024, dated 27.11.2008, "On some addenda and amendments to Law no. 8331, dated 21.4.1998, On enforcement of criminal judgments" which have treated cases on enforcement of alternative sentences against imprisonment. In support of this new legal framework, the institution of "Probation Service" is established and has become fully operational. It is an entirely new institution in Albania, which will supervise the enforcement of alternative sentences. For the purposes of completion of the above-cited legal framework, the Regulation "On organization and functioning of probation service and specification of standards and procedures, supervision of enforcement of alternative sentences" is currently approved by Decision of Council of Ministers No 302, dated 25.03.2009. On one hand, this Regulation specifies rules on organization and functioning of the institution of Probation Service and on the other hand it specifies the role of this institution in each stage of the criminal proceeding and the relations it creates with state institutions and judicial bodies (prosecutor's offices, courts). Also, this decision specifies rules concerning the status of the employees of Probation Service, standards and procedures on supervision of the enforcement of alternative sentences and the way of implementation of the rights of sentenced persons, subject to alternative sentences.

In support of full completion of the legal basis on organization and functioning of the institution of Probation Service, the following acts were amended: the Order of Minister of Justice No 6325, dated 31.07.2009 "On specification of rules of cooperation of the Probation Service with NGO-s and intermediation service" which specifies detailed rules of the cooperation of Probation Service with non-profit organizations and intermediation service, for the purposes of implementation of social re-integration process of the former sentenced persons; the Order of Minister of Justice No. 5331/1, dated 06.07.2009 "On specification of jurisdiction and territorial competences of Local Offices of Probation Service"; the Order of Minister of Justice No 4583/1, dated 11.06.2009 "On approval of samples of registries of probation service, evaluation report and final report"; the Order of Minister of Justice No 6225/1, dated 03.08.2009 "On approval of samples of identification documents of probation service personnel".

With the functioning of the institution of probation service, one of the most important legal issues is solved, namely, the practical enforcement of alternative sentences in the system of the enforcement of alternative sentences, with the aim that these sentences can become incentives for the improvement of general standards and humanitarian regimes for persons committing petty offences of low social endangerment.

The Decision of Council of Ministers No 303, dated 25.03.2009, "On approval of General Regulation of Prisons is another highly significant act completing the legal framework that measures the standards of the penitentiary system in Albania. This DCM specifies the way of the implementation of rights and obligations of inmates sentenced by imprisonment or pre-detainees, organization of their life, conditions and way how criminal imprisonment sentences are enforced, implementation of working activity and remuneration for the job done and the way of functioning of General Directorate of Prisons and of institutions of enforcement of criminal judgments.

Currently, in application of articles 83, 84, 85, 86, 87, 88 "Inmates' work" of the Regulation, relevant practices are carried out for the institutionalization of the Permanent Commission of Job Evaluation in Prisons, which will perform the evaluation of incoming bids to the General Directorate of Prisons by different businesses and companies for the employment of sentenced persons. Present employment of about 685 sentenced persons and pre-detainees had a positive impact not only on the improvement of service in institutions but also in the rehabilitation of this category of persons.

Also, an employment draft is produced in cooperation with the institution of Probation Service for persons under partial liberty. This draft foresees the signature of acts of cooperation with different businesses and companies for the employment of persons under restricted freedom out of the premises of the institution where they serve the sentence.

A Memorandum of Cooperation was signed in July 2009 between the Ministry of Justice and the Ministry of Labour, Social Affairs and Equal Opportunities, on practical enforcement of the right to vocational training of the pre-detainees and sentenced persons in detention centres, in support of their professional qualification and reintegration in the society.

### **Outdoor exercise**

Following the recommendation of the Committee on Prevention of Torture in respect of the outdoor exercise in all prisons, for at least one hour per day on each day of the week ( including Sundays and official holidays) and the creation of special premises for aeration in the pre-trial detention institution in "Jordan Misja" Street, Tirana, General Directorate of Prisons has taken necessary organizational measures and it is made possible for all inmates to be in fresh air each day of the week, including Sundays and official holidays.

Further, the General Directorate of Prisons has planned the construction of necessary spaces for the aeration of inmates in the detention centre in "Jordan Misja" Street, Tirana. The financial cost for this investment will be afforded by the budget approved for the Ministry of Justice for the year 2009, and this action is to be carried out during this year.

### **❖ On Recommendation in relation to Paragraph 23 :**

To prevent the communication and contact of imprisoned juveniles with the sentenced adults, the Minister of Justice has approved special rules for their treatment in special sections within the prisons. Also, closer cooperation is established with different organizations out of detention centres for the purposes of increasing the number of activities and qualification of personnel being in contact with juveniles.

Attaching special importance to the opening of a special institute for treatment of juveniles sentenced by imprisonment, the Ministry of Justice is committed to the establishment and operation of the detention centre of Kavaja, the construction of which is made possible with the financial support of EU CARDS Program 2004. This institute is expected to be functional soon as its organizational structure is already approved. Currently, the Joint Commission with members from Ministry of Justice and General Directorate of Prisons has finished staff recruitment in the Juveniles' Correctional Institute in Kavaja. Following the testing of candidates and verification of documentation, duty assignment orders were issued for civilian and non-civilian staff. The organizational structure of this institution is completed and with the termination of some works, the institution will be fully operational.

Further, in view of the Recommendation of Committee on Prevention of Torture, General Directorate of Prisons has taken measures so that sentenced juveniles are no longer kept in the pre-trial detention centre in "Mine Peza" Street, Tirana.

In December 2008, the Ministry of Justice and Ministry of Education and Science approved a cooperation agreement for the practical enforcement of the right to education of pre-detainees and sentenced persons according to the curricula approved by the Ministry of Education and Science. This agreement has already started to be applied for the 9 grade educational system in 5 Institutions of Enforcement of Criminal Judgments. It has been of interest for the imprisoned persons participating in the educational process offered by the teaching staff of the Ministry of Education and Science. In the meantime, the General Directorate of Prisons has taken measures to provide the relevant infrastructure and transportation to the teaching personnel to respective institutions. Teaching process is carried out on a full or part time basis in special adaptable premises within the detention centres. Full time education in the detention centre of Vaqarr is provided only for students at the age of compulsory education whereas part time education is provided in all detention centres, pursuant to the respective legislation on part time education. Currently, new academic year 2009 – 2010 has started for juveniles and the teaching process takes place in the pre-trial detention premises within the detention centres of Korça, Peqin and Fushë – Kruja.

In the meantime, this process has not started in Vlora as the Minister of Justice is expected to issue the order for the allocation of funds for salaries of the teaching staff that will carry out the process in those premises. However, it is a matter of time as in reliance of the Memorandum of Cooperation concluded between the Ministry of Justice and the Ministry of Education and Science, the latter, in cooperation with District Educational Directorates facilitates the process implementation.

❖ **On Recommendation in relation to Paragraph 30:**

The new organizational structure of prisons is currently in place, including in the capacities of each institution the specialised medical personnel as well (in most of the institutions it is foreseen a growing number of nurses and physicians and the appointment of a psychiatrist in all institutions. As regards the recruitment of this personnel, we must highlight that a cooperation agreement is concluded between the Ministry of Justice and the Ministry of Health, which provides medical service in penitentiary institutions. Contacts are established with the physicians of the psychiatric hospital of Vlora, mainly for patients displaying psychic disturbances.



❖ **On Recommendation in relation to Paragraph 33:**

After the arrival in the institution, each imprisoned person is subject to medical examination by the institution's physician. Currently, each inmate has his/her own medical records which documents medical information and only medical personnel has access thereto. Information is treated as confidential. Appointments between the physician and the patient are made without the presence of other employees of the penitentiary administration.

Also, in relation to the improvement of the medical treatment of sentenced persons and pre-detainees, a series of initiatives were launched as follows: the tender for medical and dental supplies has been successfully completed and supplies are subject to distribution in prisons according to their respective needs. The intervention program for the entire system of prisons is being implemented on hygienic-sanitary measures adopted in accordance with the infrastructure of each institution, in cooperation with the Ministry of Health. In addition, a study has been recently conducted on the level of morbidity during that period, according to the clinics in the system of prisons. This broad-scale study was conducted in the entire system of prisons and the following data were collected: 384 persons with mental health problems, 225 with heart problems, 43 with diabetes, 19 gravely sick in different clinics, 141 drug users, 1 HIV AIDS. This study supported the drafting of working plans of the health sector in relation to the planning of measures to be taken by this sector on health of sentenced persons.

A monthly planning is made for the management of medicaments according to present institutions' needs. In the meantime, cooperation has continued with regional directorates of health for the provision of specialized medical assistance in detention centres. Specifically, this assistance was offered in the detention centres of Burrel, Lezhe, Vlorë, and in the detention centres in "Jordan Misja" and "Mine Peza" street.

❖ **On Recommendation in relation to Paragraph 36:**

The Committee recommended the implementation of an initial training for newly recruited prison police officers and continuous training for prison police officers who currently serve in the system of prisons. In this respect, the Section of Education and Training at the General Directorate of Prisons has prepared special topics for the training of the police officers of basic and mid-level. Key part of these topics were the issues related to the treatment of inmates, pre-detainees or persons sentenced to imprisonment. Specifically, to prevent suicides to the largest extent possible, training sessions were planned for the entire staff serving in the detention centres. Training courses with these topics were conducted in 15 institutions.

CARDS 2004 program was completed in July 2009, in the framework of the project "Human Management of Prisons", financed by European Commission, with a fund of 410 000 Euro, and such a project was implemented by the Albanian Committee of Helsinki. In the framework of this program, in addition to staff training sessions organized by the Training Center of Prisons, several training courses were conducted for the staff of prison police and civilian staff in most of penal institutions at national level. An approximate number of 200 employees participated in those training courses.

In the framework of this program, the Albanian Committee of Helsinki, in cooperation with the Training Center of Prisons, finalized the publication of the manual on senior management in prisons. This manual aims to help and guide at management level for a better management of institutions, based on the respective legal acts and bylaws, internationally accepted standards and recommendations of international institutions operating in this area.

The Albanian Committee of Helsinki, in cooperation with the Training Center of Prisons is finalizing the publication of the module of basic training for the newly selected non-civilian staff in the system of prisons. Also, in support of the Training Center this organization donated some computer equipment at the cost of 4650 Euro. Based on the list proposed by the Training Center of Prisons for the purchase of some books in area of criminal legislation, the Albanian Committee of Helsinki will buy a set of books at the total cost of 250 Euro.

In application of the annual plan for the training of police staff, the training of new employees recruited in the Juveniles' Correctional Institute of Kavaja was completed by early July 2009. Theoretical courses were combined with practical elements where new selected employees were offered the opportunity to conduct study tours in order to realize how a penitentiary institution operates in practice. The procedures foreseen in the training regulation enhanced the responsibility of course participants to provide a better individual performance on the training program.

The Training Center of Prisons has conducted a cycle of training sessions on narcotic substances and treatment of sentenced persons with toxic-addiction problems. Police and civilian staff (physicians, social workers) from all detention centres were involved in those training sessions. Also, training seminars are organized by the Directorate of Prison Police in the detention centres of Durrës, Tropojë, Kukës, Krujë, Sarandë, Hospital Center of Prisons, Vlorë, Lushnjë, Lezhë, and Mine Peza and Jordan Misja street. These training sessions included the introduction to General Regulation of Prisons, Law on Prison Police, Law on Rights and Treatment of Imprisoned Persons and Pre-detainees.

Another important objective of the training seminars is the observance and application of the Code of Ethics in the working place. The observance of these rules in the institute has been one of the main topics of inspections and controls conducted by the Prison Police Directorate.

❖ **On Recommendation in relation to Paragraph 39 :**

As regards the treatment of persons for whom the court has imposed the medical measure of "obliged medical treatment in a forensic institution" (*criminally irresponsible persons*) being currently treated in the Hospital of Prisons, we inform that with the budget approved for the Ministry of Justice, the reconstruction of the special hospital building located near the new pre-trial detention centre for Durres county was completed in November 2008.

In the meeting of 13 May 2009, the Council of Ministers approved the decision “ On delegation of responsibility on administration of the former-hospital of KFOR, Durres, from the Ministry of Justice to the Ministry of Health, for treatment of persons under the medical measure of “compulsory medication in a medical institution”. In the meantime, the Ministry of Health is conducting the required inspections, asking for the cooperation of the Ministry of Justice and of the Minister of State attached to the Prime Minister for adapting this building to a Psychiatric Forensic Hospital. If all above-mentioned institutions will consent to the conditions and standards offered by the building, then this hospital will start to function by early 2010.

**❖ On Recommendation in relation to Paragraph 40 :**

As regards the patients under forensic treatment, 93 forensic patients are currently waiting for their transfer to the hospital to be opened in Durres and they are supplied with a court decision that is integral part of their files (along with other accompanying documents).

**❖ On Recommendation in relation to Paragraph 42:**

As regards the amendments recommended in Mental Health Act, the working group set up for this purpose drafted a series of measures. Reportedly, several institutions were involved in the implementation of amendments provided for in the Act. Further, technical assistance was requested to European Commission in order to fill legal vacuums and ensure a more effective approach of coordination. This request is approved and we are waiting for the arrival of the European Commission expert.