



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 30 January to 1 February 2011

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 (2016) 12.

Strasbourg, 17 March 2016

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Copy of the letter transmitting the CPT's report

Ms Margarita Gega
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Permanent Representative of Albania
to the Council of Europe
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67000 Strasbourg

Strasbourg, 30 March 2011

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 30 January to 1 February 2011. The report was adopted by the CPT at its 74th meeting, held from 7 to 11 March 2011.

The recommendations, comments and requests for information made by the CPT are set out in bold type in paragraphs 4, 15, 17 to 20, 22, 24 and 25 of the visit report. The CPT requests the Albanian authorities to provide **within three months** a response containing an account of action taken by them to implement the Committee's recommendations and setting out their reactions and replies to its comments and requests for information.

The CPT would ask, in the event of the response being forwarded in Albanian, that it be accompanied by an English or French translation.

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

Yours faithfully,

Lətif Hüseynov
President of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

I. INTRODUCTION

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 30 January to 1 February 2011. The visit was one which appeared to the CPT "to be required in the circumstances" (see Article 7, paragraph 1, of the Convention) and was the Committee's tenth visit to Albania¹.

2. The delegation was composed of Lətif Hüseyinov, Head of Delegation, and Marija Definis-Gojanović, supported by Michael Neurauter, Head of Division, from the CPT's Secretariat.

3. The main objective of the visit was to examine the treatment of persons who had been taken into custody in the context of disturbances which occurred on 21 January 2011 in Tirana. Following violent clashes between demonstrators and the police in the vicinity of the Prime Minister's Office, some 150 persons² were apprehended by the police, and many persons (including 54 police officers³) sustained injuries of varying degrees; in addition, four persons died after having been shot by members of the Republican Guards⁴. Initially, 32 persons had been remanded in custody (three persons for an indefinite period of time and all others for 15 or 20 days), and a number of persons had been placed in remand detention in the course of the week following the events. All the juveniles who had been taken into custody were no longer in detention at the time of the visit.

4. The delegation was informed that, due to the limited capacities of the existing police detention facilities in Tirana, ad hoc arrangements had been made by the police service and the prison administration in the course of the above-mentioned events, so that large numbers of detained persons could be accommodated in Prisons Nos. 302 and 313 (pending the court decision on a possible remand detention). **In the CPT's view, it would be desirable that a comprehensive contingency plan be drawn up with the involvement of all relevant authorities for future situations where large numbers of persons may be taken into custody at the same time.**

5. The CPT welcomes the fact that, on 22 and 23 January 2011, representatives of the Office of the People's Advocate (in their capacity as National Preventive Mechanism (NPM) under the Optional Protocol to the United Nations Convention against Torture), carried out inspection visits to all police establishments and Prisons Nos. 302 and 313 in Tirana, in order to interview persons detained in the context of the above-mentioned disturbances. The inspection report which was subsequently drawn up by the Office of the People's Advocate refers, *inter alia*, to numerous allegations of police ill-treatment and also contains specific recommendations on measures to be taken by the Albanian authorities in order to prevent instances of excessive use of force and ill-treatment during any future crowd control operation.

¹ The CPT has previously carried out four periodic visits (in 1997, 2000, 2005 and 2010) and five ad hoc visits (in 1998, 2001, 2003, 2006 and 2008) to Albania. Visit reports and related Government responses are available on the Committee's website: <http://www.cpt.coe.int/en/states/alb.htm>

² There were 113 persons apprehended during or immediately after the demonstrations, while other persons were detained in different parts of the country in the course of the week following the events.

³ According to the information provided by the Director General of the State Police.

⁴ For further details concerning the events of 21 January 2011, see paragraphs 3 to 9 of the Special Report of the Council of Europe Commissioner for Human Rights (CommDH (2011) 9).

On 24 January 2011, the report was officially transmitted to the Director General of the State Police and the Director General of Prisons (with copies to the Ministers of the Interior and Justice) and subsequently published. The delegation was surprised that none of the interlocutors among the Albanian authorities whom it met during the visit were aware of the existence, let alone the contents, of the above-mentioned report of the People's Advocate.

6. The delegation interviewed individually and in private a total of 34 persons who were in remand detention at the time of the visit (including all the inmates who had been apprehended at the time of the events or shortly afterwards). Most of the persons interviewed were being held at Prison No. 313 and the rest at Prison No. 302. In addition, the delegation held consultations with police officers and examined relevant records at three police establishments in Tirana, namely the Police Directorate General and Police Stations Nos. 1 and 2.

7. In the course of the visit, the delegation held fruitful consultations with Lulzim Basha, Minister of the Interior, and Hysni Burgaj, Director General of the State Police, as well as with Ina Rama, Prosecutor General of Albania. In addition, it met representatives of the Office of the People's Advocate - Artur Lazebeu, Head of the Private Office, and Ervin Karamuço, Head of the NPM Unit - as well as Dr Besim Ymaj, Director of the National Institute of Forensic Medicine.

8. As had been the case during previous visits, the co-operation received by the delegation was generally very good at all levels. Steps had been taken to ensure the delegation's immediate access to all the places visited. Further, despite the reluctance initially displayed by the management of Prison No. 313, the delegation was able to speak in private with persons deprived of their liberty and obtained all the information it required to carry out its task.

9. The CPT wishes to express its appreciation for the assistance provided before and during the visit by its liaison officer, Ms Irida Laçi, from the Ministry of Foreign Affairs, and by all the other officials who took steps to facilitate the visit. The manner in which this was done is all the more commendable given the very short notice at which the visit took place.

II. FACTS FOUND DURING THE VISIT AND MEASURES PROPOSED

A. Ill-treatment

10. In the course of the visit, the delegation was inundated with allegations of ill-treatment by police officers. These allegations can be summarised as follows:

- (a) A number of persons claimed that, at the *moment of their apprehension*, they had been subjected to excessive use of force by police officers (including, in some cases, by plain-clothes persons who had not identified themselves as police officers). They alleged that they had been beaten and hit with batons after they had been brought under control (for instance, while being dragged into police vans).
- (b) The vast majority of detained persons interviewed by the delegation claimed that they had been subjected to physical ill-treatment by police officers *on the premises of various police establishments* (in particular, at Police Stations Nos. 1, 2 and 4 and the Directorate General), as well as during their transportation to or between police establishments. Most allegations referred to punches, slaps and kicks as well as blows with batons (to various parts of the body, including the head) inflicted on detained persons upon their arrival at a police establishment. It was described as a systematic practice that detained persons were compelled to pass through two lines of police officers whilst being collectively beaten by those officers. Several persons claimed that they had been physically assaulted by the Commander of Police Station No. 2 in Tirana. In addition, some allegations were received that detained persons had been slapped and beaten by police officers (including the aforementioned Commander) in the stairway of the court building.
- (c) The delegation also received a considerable number of allegations from detained persons that, *during questioning*, they had been forced by police officers to sign statements prepared in advance to confess to the criminal offences they were suspected of having committed. For this purpose, police officers had allegedly resorted to physical violence and/or threats. Moreover, almost all persons interviewed by the delegation claimed that, whilst in police custody, they had not been allowed to contact a relative or a lawyer, nor were they able to benefit from the presence of a lawyer during police questioning (see paragraphs 19 and 20).

Further, many detained persons claimed that, whilst being beaten, they were shouted at by police officers with words such as “You have hit a police officer!” This would imply that the alleged ill-treatment was a form of retaliation for the injuries sustained by police officers during the above-mentioned demonstration.

However, it should be added that no allegations of physical ill-treatment by the police were received from those persons who had been detained several days after the demonstration.

11. A number of detained persons claimed that they had also been physically assaulted by prison officers upon admission to Prison No. 313, the alleged ill-treatment again consisting mainly of kicks, punches and blows with batons⁵. It is of particular concern that several inmates had allegedly been beaten by prison officers in the presence of the prison governor.

⁵ Some allegations were also heard that after having been ordered to take off their shoes, prisoners were hit by

In contrast, no allegations of ill-treatment were received from detained persons regarding prison officers at Prison No. 302.

12. Some of the persons interviewed displayed visible injuries which were consistent with the allegations made. Due to the fact that, in particular at Prison No. 313, medical screening for injuries of detained persons upon their admission was non-existent (see paragraph 16), the possibilities for the delegation to examine relevant medical documentation were limited. That said, at Prison No. 302, an examination of existing medical records revealed that, upon admission, a significant number of detained persons had displayed head injuries (in particular, contusions and lacerations).

13. The delegation was informed that, by the time of the visit, nine persons had lodged a formal complaint regarding the manner in which they had been treated by the police in the context of the above-mentioned events⁶. Four of these persons had complained about excessive use of force by the police during the demonstration, and investigations into these complaints were being carried out by the Internal Control Department of the Ministry of the Interior. The other five persons had formally complained to a prosecutor during questioning regarding their cases about ill-treatment inflicted by police officers during police custody; investigations into these complaints were also still ongoing.

The delegation was informed that in respect of all nine above-mentioned complaints, forensic medical examinations had been ordered. That said, when the delegation met the Director of the National Institute of Forensic Medicine, only three orders had been received by the Institute. The Director of the Institute affirmed to the delegation that these examinations would be carried out on the same day.

14. The General Prosecutor had opened criminal investigations into the fatal shooting of four persons referred to in paragraph 3⁷.

prison officers with the shoes.

⁶ Five of these persons were still in detention at the time of the visit.

⁷ For further details regarding these cases, see paragraph 21 of the Special Report of the Council of Europe Commissioner for Human Rights (CommDH (2011) 9).

15. **The CPT would like to receive a detailed account of the investigative steps taken in the context of the ongoing criminal investigations which have been initiated in respect of the above-mentioned complaints as well as any other investigations subsequently initiated, as well as information on the outcome of these investigations.**

With a view, *inter alia*, to drawing relevant conclusions for the future, **the CPT recommends that a comprehensive inquiry be carried out by an independent body into the manner in which persons detained in the context of the 21 January 2011 events were treated by police and prison officers (at the moment of apprehension, during police custody and upon admission to either of the two remand prisons in Tirana). The Committee would like to receive in due course a report on the results of that inquiry and the steps subsequently taken.**

Further, **the Committee recommends that the Albanian authorities review their policy in respect of crowd-control operations, which often involve persons being deprived of their liberty, and the training provided to police officers to perform such operations.**

16. As has been repeatedly stressed by the CPT in previous visit reports, effective screening by health-care staff can make a significant contribution to the prevention of ill-treatment of persons detained by the police and to accountability for any instances of ill-treatment (as regards the provision of health care, see paragraph 21).

It is a matter of serious concern that, upon admission to Prison No. 313, detained persons were not subjected to a physical examination by health-care staff. The “medical screening” performed by the prison doctor appeared to be limited to collective interviews with detained persons, either in a cell or in the doctor’s office. A number of inmates met by the delegation were seen by the doctor for the first time, on the day of the delegation’s visit to the prison (31 January 2011). No medical documentation whatsoever was kept by the medical service at Prison No. 313 in respect of the persons who had been held in the establishment in police custody or who were still being detained on remand. Further, medical examinations/consultations were systematically carried out in the presence of prison officers⁸. Such a state of affairs is unacceptable.

The situation was clearly more favourable at Prison No. 302, where all detained persons – including those who were still formally in police custody – had apparently been promptly examined by the prison doctor. Although no specific guidance had been provided to medical staff on how to deal with persons in police custody, the prison doctor had taken the initiative to carry out physical examinations on an individual basis and to note down any injuries observed and complaints made by the persons concerned. Further, as soon as a person had been formally remanded in custody, a medical file was opened. That said, medical confidentiality was not respected (i.e. prison officers standing by the door of the doctor’s office and medical records being routinely forwarded to the prison director).

It should be added that, despite the fact that a number of detained persons admitted to the remand prisons had displayed visible injuries and had made explicit allegations of police ill-treatment, none of the cases had been notified to the relevant prosecutor (as is required under Sections 281 and 282 of the Code of Criminal Procedure).

⁸ Overall, none of the specific recommendations made by the Committee after previous visits and, most recently, after the May 2010 visit, concerning the health-care services of Prison No. 313 had been implemented in practice (see CPT (2010) 81, paragraphs 75 to 78).

17. In the light of the above, the CPT recommends that the Albanian authorities take the necessary steps to ensure that:

- all persons admitted to remand prisons whatever their status (in police custody or on remand) are the subject without delay of a physical medical examination carried out on an individual basis;
- all medical examinations/consultations of detained persons (whether on police premises or upon admission to a prison establishment) are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of police/prison officers and that medical data are no longer accessible to non-medical staff;
- the record drawn up after a medical examination of a detained person/prisoner (both on police premises and on admission to a prison establishment) contains: (i) an account of statements made by the person 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, and (iii) the doctor's conclusions in the light of i) and ii), indicating the degree of consistency between any allegations made and the objective medical findings (a copy of the conclusions should be made available to the person concerned and, upon request, to his/her lawyer);
- all medical staff working in police and prison establishments are reminded of their obligations under Section 282 of the Code of Criminal Procedure;
- an individual medical file is opened and properly kept for every person remanded in custody.

18. The CPT wishes to stress once again the importance of the role of judicial and prosecuting authorities as regards combating ill-treatment by the police. As already indicated in paragraph 13, five persons had lodged a formal complaint while being questioned by a prosecutor, and preliminary criminal investigations had been initiated by the relevant prosecutors. That said, the delegation received a number of allegations from detained persons that they had informed a prosecutor or a judge of instances of ill-treatment by police officers, but that neither the prosecutor nor the judge had taken any action whatsoever in response to that information.

The Committee must recommend once again that the Albanian authorities take appropriate steps to ensure that, whenever an apprehended person brought before a prosecutor or judge alleges ill-treatment by the police, those allegations are recorded in writing, a forensic medical examination is ordered and carried out immediately, and the allegations properly investigated. Such an approach should be followed whether or not the person concerned bears visible injuries. Further, even in the absence of an express allegation of ill-treatment, the prosecutor or judge should request a forensic medical examination whenever there are other grounds (e.g. visible injuries; a person's general appearance or demeanour) to believe that ill-treatment may have occurred.

B. Safeguards

19. The information gathered during the visit suggested that the system of procedural safeguards against ill-treatment during police custody had, to a large extent, collapsed in the context of the events of 21 January 2011.

Most of the detained persons interviewed by the delegation claimed that they had not been informed of their rights whilst in police custody. As was the case during all previous visits by the CPT, no information sheets were available in any of the police establishments visited (despite the long-standing recommendation made by the Committee). On a positive note, it should be added that posters setting out the rights of detained persons were displayed in the corridors of Police Stations Nos. 1 and 2. However, in the CPT's view, such a practice cannot substitute for the provision of a specific information sheet to every person deprived of his/her liberty by the police.

The CPT calls upon the Albanian authorities to take steps without further delay to ensure that a form setting out in a straightforward manner the rights of persons deprived of their liberty by the police is systematically given to such persons immediately upon arrival at a police establishment. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights, and the date and time of the signature should be recorded.

20. Further, most of the interviewed persons alleged that they had not been allowed to *contact a relative or another persons of their choice* in police custody, and virtually all of them stated that they had not been able to *contact a lawyer*, let alone benefit from the presence of a lawyer during police questioning⁹. In all cases, *anex officio* lawyer was present only during the first court hearing.

The CPT calls upon the Albanian authorities to take effective steps to ensure that all persons deprived of their liberty by the police are granted the rights to notify a close relative or third party of their choice of their situation and to have access to a lawyer, as from the very outset of their deprivation of liberty. The fact that a large number of persons are apprehended during the same period in no way justifies a denial of the aforementioned rights.

21. The situation appeared to be more favourable regarding the right of detained persons to have *access to a doctor*. The delegation received no allegations from detained persons that, whilst being held in a police establishment or in prison, a request to see a doctor had been denied by police/prison officers. It also noted that a doctor was permanently available at the Directorate General where all detained persons were processed for the purpose of taking fingerprints. Further, persons with serious injuries were apparently transferred to a hospital without delay.

22. An examination of the custody records at Police Stations Nos. 1 and 2 revealed that they often contained no information as to when persons taken into custody in the context of the 21 January 2011 events had been apprehended¹⁰, nor when they had been released or transferred to another establishment. In this regard, **reference is made to the recommendation in paragraph 30 of the CPT's report on the May 2010 visit (CPT (2010) 81).**

⁹ According to the custody records at Police Stations Nos. 1 and 2, no lawyer visited the establishment on 21 January 2011 or on the following days.

¹⁰ Usually, only the date and time of arrival at the establishment were recorded.

C. Conditions of detention

23. Given the specific nature of the visit, conditions of detention were not examined in-depth by the delegation. However, from interviews with detained persons and the delegation's own findings (at Prison No. 313), there are a number of issues which give rise to concern (in addition to the severe overcrowding which prevailed in all police establishments and the two remand prisons in Tirana at the time of the disturbances on 21 January 2011).

24. As regards police establishments, the delegation received a number of allegations from detained persons that they had been held in police stations for up to one or two days without being given any food. **The CPT would like to receive the Albanian authorities' comments on this matter.**

25. At Prison No. 313, the delegation observed that all persons who had been detained in the context of the above-mentioned events were being held in the establishment's admission/transit unit. Conditions of detention in these cells were generally very poor (in particular, access to natural light was very limited).

Many allegations were received that, during the first two days of their stay in the prison, between 12 and 15 persons had been held in bare cells, measuring some 10 m², without any beds/mattresses or even blankets. At the time of the visit, the delegation found that, in some cells, the number of inmates exceeded the number of beds and mattresses/blankets (e.g. in one cell, there were six persons with four beds, four blankets and no mattresses at all).

In addition, throughout their stay, inmates were not allowed to take any outdoor exercise. Prison officers indicated to the delegation that it was "normal practice" that persons held in the admission/transit unit were not allowed to go outside.

Furthermore, there was no ready access to drinking water, and inmates were usually allowed access to the sanitary facilities only at fixed times, three times a day. Many inmates claimed that at other times (especially at night) access to sanitary facilities was usually denied and that they were thus compelled to resort to plastic bottles, in order to comply with the needs of nature.

The CPT calls upon the Albanian authorities to take immediate steps at Prison No. 313 to ensure that:

- material conditions of detention in the admission/transit cells are improved, in particular, as regards access to natural light;
- all detained persons are provided with a bed, a clean mattress and bedding;
- all detained persons are granted ready access to sanitary facilities;
- all detained persons are allowed at least one hour of outdoor exercise per day.