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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 13 to 18 July 2003

The Albanian Government has requested the publication of this response. The report of the CPT on its July 2003 visit to Albania is set out in document CPT/Inf (2006) 22.

Strasbourg, 12 July 2006

**Response of the Albanian Government
to the report of the European Committee
for the Prevention of Torture and Inhuman
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**THE ALBANIAN AUTHORITIES' RESPONSES TO THE REPORT
OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE
AND INHUMAN OR OTHER DEGRADING TREATMENT (CPT),
RELATING TO ITS VISIT IN ALBANIA
(13-18 JULY 2003)**

1. Albanian Authorities have examined carefully and with special responsibility the final report drafted by the delegation of the European Committee for the Prevention of Torture and inhuman or other degrading treatment, after the visit carried out in Albania on 13-18 July 2003.
2. These authorities appraise the report submitted by the European Committee on prevention of torture and express their highest consideration for its activity and contribution on evidencing the violations and shortcomings, at the same time the co-operation with the Albanian institutions to respect and ensure the European Convention for the Prevention of Torture and Inhuman or other Degrading Treatment.
3. The Albanian institutions, especially those that were part of the monitoring program, have shown their maximal and serious engagement to create for the delegation all the necessary conditions and facilities to fulfil their mission. The structures of all these institutions have been engaged to implement the obligations deriving from the provisions of the Convention especially Article 3, Article 8 etc. At the same time they express their appreciation for the effective co-operation with the delegation during its monitoring visit in all the programmed selected institutions.
4. The Albanian authority` responses relating to the report have been given chronologically in accordance with the issues and respective paragraphs in the report. These responses reflect the comments done by the responsible institutions for the issues dealt with, such as the Ministry of Public Order, the Ministry of Justice, the Ministry of Health, the General Prosecution Office etc.

Paragraph 8

5. The conditions and the treatment of persons deprived of their liberty, who are placed in institutions administered by the General Directorate of Prisons are in continuous process of changing and improvement. In pursuance of policies of adequate treatment of the convicted persons and detainees, as well as by the extension of the accommodating capacities (by establishing the new prison in Peqin), the best part of sentenced prisoners by a final judgement who were maintained in Police Stations are transferred in prisons. Actually there are 137¹ convicted persons by a final judgement, who are not yet transferred in prisons because of lack of the accommodating capacities, but considering the capacity extension in prison of Rrogozhina which is currently under repair, the remaining contingent in police stations will be completely transferred. This issue will be considered continuously as a priority.
6. The issue of pre-trial detention system administration and its transfer from the Ministry of Public Order to the Ministry of Justice are dealt with in paragraphs 68- 69 below.

¹ This information refers to the date 14 March 2004.

7. The improvement of airing conditions and the exercising of physical activities in Prison no. 313 present some practical difficulties because of the improper infrastructure and the great number of detainees. The increase of sport activities is enabled by the measures taken, and some of these activities are carried out according to a monthly scheme program followed by the Education Sector. This program will be realised in continuance.

Paragraphs 12-13

8. The cases dealt with in these paragraphs are not accompanied by the disclosure of identity of the examined persons. For this reason we cannot state whether the injuries of these persons have occurred during the police operations for their capture, during their accompaniment or during their stay in police stations.

Paragraph 14

9. On 6 June 2003, a group of inmates in the pre-trial detention facilities of Shkodra Police Directorate, taking advantage of a request for health care of a detained person, have instigated a riot in an attempt to escape from the establishment. For this reason the police force have interfered to take the situation under control. After the rebellion initiated from the detainee persons was avoid and after the situation was under control, the detainee who was not in a good health state had received all the necessary health care. For this incident based on the statements of some detainees, who alleged ill- treatment by the police officers, the district Prosecution Office of Shkodra has initiated criminal proceedings. After an entirely objective examination of this issue, it results that the use of force by police officers to restore the situation falls within the legal limits and there has been no excessive use of force in breach of what is prescribed by law. For this reason is decided that the criminal proceedings be suspended. Based on this decision taken by the competent body, none of the members of police forces are given disciplinary measures

10. We emphasise that all police structures are continuously instructed to use physical force as minimally as possible and only as a last means, also only when the other measures did not give or continued not to give any results. After the situation will be taken under control at any case, the use of any kind of force or violence will be considered unlawful and will be punished.

Paragraph 17

11. We have sent the Order -Letter of the Ministry of Public Order and the one of General Director of State Police, for appliance to all Directorates and Police Stations. In these letters, it is emphasised the obligation of all police structures to fulfil their functional duties conform the law, respecting and guaranteeing human rights and freedoms provided by law to all the citizens especially to those deprived of their liberty. These letters are part of the domestic rules provided for the activity of the entire Police State Structure.

Paragraphs 20-24

12. The district Prosecution Office of Tirana initiated on this case the criminal proceedings dated 05.03.2002 with regard to the criminal offence of "arbitrary acts" in charge of police officer E. H.. The district prosecution office has suspended the criminal investigations for this issue on date 17.07.2002, on the basis of "lack of evidence". In spite of this conclusion, based on the informing relations of the Office of People`s Advocate, the General Police Directorate has given disciplinary measures "Reprimand" for the police officer implicated in this issue.

Paragraphs 25-30

13. For the issues dealt with under these paragraphs, the district Military Prosecution Office of Shkodra, has initiated the criminal investigations no. 290 on date 11.06.2002 in charge of police officers, V. F. and F. L.. The district Prosecution Office has accomplished all the necessary investigations in order to verify the allegations made by citizen L. C; by interviewing persons under investigation, by interviewing persons who could help with obtaining useful facts about the investigation, the administration of the forensic expertise acts and other useful facts for investigation. The file contains also all the statements of citizens; V. F. and F. L., who have been interviewed as persons under investigation.

14. The only person who has not accepted to appear before the district Military Prosecution Office in order to give suggestions, to be cross-examined, to be acquainted with the procedural investigation proceedings, which are necessary to prove his allegations, was the citizen L. C.. This can be corroborated by a list of telegrams, summons and official letters sent to Shkodra Police Station to find the aforementioned residence.

15. In conclusion the investigations in charge of the Albanian citizen F. L. and V. F. for committing the criminal offence (misuse of duty by the military officer) are suspended because their guilt could not be proved. Also the criminal investigations no.290 relating to the criminal act "Voluntary light injuries" is suspended for lack of evidence.

16. The General Police Directorate based in the informing relation of the Office of People`s Advocate has taken the disciplinary measures "Reprimand" with regard to police officer V. F., also the disciplinary measures of suspension from service of the State Police with regard to police officer F. L.. Also all the problems dealt with in the report about this case and the recommendations submitted in it, have been taken into consideration, so that to communicate them afterward to all the district Prosecution Offices.

Paragraphs 31-35

17. The case dealt with under these paragraphs regards the incident dated 22 April 2002, when some prisoners have been transferred from the Police Directorate of Durres to the prison no.302 in Tirana. Since all these prisoners were highly dangerous (some of them life-sentenced prisoners), their transfer was realised by high security measures accompanied by RENEA Special Forces. During the transportation, these prisoners have been involved in a riot, verbally abusing police forces and have reacted even by using physical force when they were put the handcuff trying to stop by all means the police forces exercising their duties. They have also reacted violently when they were put in the police van which would serve for their transportation. In this situation assessing the high danger of these persons and their commitment of criminal acts, the police forces have used the physical force to restore the situation and fulfil the order of the General Directorate of Prisons during their transportation.

18. As regards this incident, the Tirana district Prosecution Office has initiated the criminal investigation no.938 dated on 15.05.2002 with regard to the criminal act "commitment of arbitrary acts in co-operation", provided by articles 250-251 of the Criminal Code. During these proceedings criminal investigation actions are carried out, such as: the forensic expertise of prisoners G. B., V. Y., E. Y. and T. B.; interviews of the the above-mentioned citizens, as well interviews of the Commandeer of the RENEA Unit. We emphasise that based on the forensic expertise, it results that all the above-mentioned detainees have surpassed injuries that do not enter in that kind of category, which causes temporary disabilities.

19. We ascertain that the actions of the police officers have been completely conform the law and considering the form of violence used by the detainees, we do not find elements of criminal arbitrary commitments in co-operation, as provided by articles 250-251 of Criminal Code, nor elements of other criminal acts. For this reason based on article 328/1, letter "b" of this Code, the Prosecution Office has decided to suspend the criminal investigations no.938/2002, as the facts do not constitute a criminal act as provided by law.

20. The non-disclosure of Special Forces identity, who accomplished the transportation of these prisoners, is based on Article 4 of Law 8292 dated 25.02.1998 "On special and intervention forces" changed by law no. 8751 dated 26.03.2001 "On some changes of Law no. 25.02.1998 " On special and intervention forces", Article 3 states :

".... The members of the Special Forces are guaranteed the privacy of their identity during the intervention and afterward. The privacy of identity is ensured even for the rapid intervention forces when they act on operations as Special Forces or just for their assistance...."

Assessing all the cases when is required the intervention of these Special Forces the possibility to amend the above cited law, is being studied with the aim to specify the cases when the non-disclosure of identity is necessary.

Paragraphs 40-42

21. The Ministry of Public Order has taken administrative -disciplinary measures towards the responsible persons, in all investigated cases of excessive use of force by its staff during the exercise of their duty or in cases of ill-treatment. In cases when the complainant conducts the case to the Prosecution Office or brings it for trial to the Court, the application of these kind of measures has been conditioned by the conclusions of the competent bodies and the resolution of the criminal proceedings.

22. All Prosecution Office structures have always been attentive during their activities to respect and ensure the protection of human rights for persons on remand, through initiating the criminal investigations in cases where there have been violations of these rights by special state structures as Police etc. (We draw the attention to the criminal proceedings initiated in charge of police officers up to the high levels, as is the case of the criminal investigation with regard to the former Elbasan Police Director.)

Paragraphs 45-49

23. Considering all the stated problems and violations by CPT delegation as right, we inform you that the conditions of the medical files have changed for all the arrivals in Prison no. 313. New medical files are disseminated for all detainees in this institution and to all other institutions administered by the General Directorate of Prisons. These medical files enable the keeping of information more accurate and complete for all detainees who come from police stations in prison no. 313. Also all detainees who come for the first time in prison no.313 go under medical examination immediately after their arrival, evidencing at the same time also the possible cases of their ill-treatment in Police Stations.

24. In the entire prison system it is applied in practice the rule of medical examination for persons who come for the first time in these institutions. During this examination the doctor takes confidentially the medical information, which is put in the medical file opened within the first 24 hours of their arrival in prison. Also it is being applied the rule that the medical file should be considered as a second passport to the convicted persons and the detainees during their stay in institution, all together with their individual and legal documentation.

25. Also in their individual medical file it is provided a special rubric where the medical staff should mention the possible cases of physical violations used against isolated persons, in order to obtain facts which could be submitted in favour of the detainees, by himself or his advocate.

26. In all the pre trial detention facilities, which continue to be under the dependence of Ministry of Public Order, for all the detainees, which obtain the security measure "On remand", will be opened medical files. All efforts are made that the medical files should be according to the recommendations and unified with those used by the General Directorate of Prisons.

Paragraphs 50-51

27. The State Police Structures in appliance of the given recommendations and respecting the law, depending on the concrete conditions or circumstances, are engaged, that in each case when a citizen is remanded or is detained, to notify his close relatives, if so required by him.

28. The state police structures should notify the person in remand verbally or in writing for all his rights including the right to have a lawyer and other legal rights.

29. Also the Albanian prosecution office has co-operated having periodic contacts with Diplomatic Representations accredited in Albania, to which it has ensured the necessary access to detention institutions, where foreign citizens are kept in isolation. To these representations periodically are given the necessary and useful information for the investigations initiated in charge of their citizens. We emphasise that in no case have been refused the meetings between the foreigner citizen detainees with the legal representative of their respective diplomatic Representations in Albania.

Paragraph 57

30. There is no case when the representatives of the Office of People Advocate have been prevented or have not been allowed to make inspections in the pre trial detention facilities. In these cases there might have been problems relating to the procedures, which have been resolved. At anytime the Ministry of Public Order has authorised visits in police stations for all national or international organisations including even non-governmental organisations, which observe the implementation of human rights and freedoms following the necessary procedures according to the rules.

31. About the recommendation to give access to People's Advocate in all the places where are persons deprived of their liberty, we inform that the existing law "For the rights and treatment of the convicted persons" already is amended by the Albanian Parliament making all the appropriate changes. The existing law "On the subjects who have the right of access in prison establishments" is changed by law no. 9071 dated 22.05.2003. This amendment provides that the People's Advocate and the Commissioners authorised by him, have the right of inspection in all institutions of criminal act's execution, including the rehabilitation institutions for the ill or incapable persons and at anytime have the right to access information and to contact freely with the convicted persons.

32. According to these legal provisions, all the necessary measures are taken and access to the People's Advocate is practically granted. Also in the framework of the awareness campaign, this institution has undertaken, in the domestic settings of prisons postured bills which provide the right for a granted phone line in order to report all the problems, violations and abuses that might happen in practice.

Paragraphs 65-67

33. The Ministry of Public Order is making efforts to fulfil the recommendations according to the Article 8 of Convention. However, the pre-trial detention system is in the process of transfer to the Ministry of Justice, for as much as it continues to partially administer this system. So:

- It is ensured the necessary bed clothing for the detainees but at the same time remains a problem the overcrowding of the accommodating capacities in some pre trial detention facilities.
- Within the general infrastructure conditions in our country especially considering difficulties for water supply and electric energy, maximal efforts are being made to improve the hygienic sanitary conditions in the pre trial detention facilities based on the existing infrastructure, ensuring for this purpose water reservoirs.
- It has enabled the organisation of outdoor activities, the reading of literature, radio listening, as much as the conditions of isolation, the rules of domestic regime, the application of security rules and the procedural investigation rules can allow this.
- The correspondence with the outside world, out of the isolation places is realised normally according to the procedures and the rules approved for this aim, thus limiting that kind of correspondence which impinges upon the security rules or the investigation process.
- There is no restriction of the time fixed for the meetings with family members, which are provided by the rules of the domestic service. Also, there are allowed even additional meetings out of order, upon the request of the person, the lawyer or prosecutor.

These measures are applied equally by all police stations and directorates. There are cases of difficulties in fulfilling these rights because of the overcrowding in some of the pre trial detention facilities.

34. In no pre-trial detention facility, even where the number of persons is larger than the normal capacity, are there placed the juvenile detainees in the same cell with the adults. In all the cases they are placed separated.

Paragraphs 68-69

35. Since December 2003, the Prison 313 in Tirana has been converted totally in a pre-trial detention institution, so that there are placed no more convicted prisoners in these cells, thus giving more aspiration and space to the detainees in this institution.

36. The transfer of the pre-trial detention system from the Ministry of Public Order under the responsibility of the Ministry of Justice- General Directorate of Prisons has caused some problems during its process of application. Thus Based on the Council of Ministers' decision Order No. 327, dated 15.05.2003, as well as the joint Orders of the Minister of Justice and the Minister of Public Order, there has been drafted a plan for the transfer of the pre-trial detention system according to a detailed graph. By the Minister of Justice on July 2003, in the framework of this process there has been approved the new Rule for the organisation and the functioning of the pre-trial detention system. This plan began its practical application on 18.08.2003, when the transfer of the pre-trial detention rooms of the Vlora Police Directorate under the responsibility of the General Police Directorate was officially done.

37. The further application of this plan, even the application of the above- mentioned Council of Ministers' decision, is creating some difficulties to be fulfilled in practise. For this reason, the transfer process has been temporarily pending and work is currently taking place for the change of this Decision in order to include other elements, which will enable a full and definite solution of the whole components of this system²

38. The Ministry of Public Order, as long as it will continue to have under its responsibility the pre-trial detention system, will show its maximal engagement to create the most comfortable conditions for all the detainees, in order to ensure the practical fulfilment of the rights and freedoms provided by law.

Paragraphs 70-71

39. In the pre-trial detention facilities in Shkodra and the Tirana Police Station No.2, there have been taken concrete measures to make them as much as appropriate with regard to their physical conditions. This kind of measures are also taken in other establishments. To this end, the General Police Directorate has organised supervising controls and imposed certain duties to be fulfilled.

Paragraphs 72-78

40. In Prison no.313 "the Rapid Intervention Group" has intervened only in special cases, relating to the breach of order, violation of rules and offences of the institution security. In this case the physical force has been used in accordance with the procedures and standards provided by law and international acts but never in the sense of violence towards convicted persons. In this framework, the measures taken and the level of intervention has been neutralising and did not intend the use of force.

41. In cases where the use of force has been identified, proceedings have been carried out in accordance with the legal provisions in power. In the framework of the continuous improvement of the detainees treatment, and at the same time to keep stable relations between the detainees and the security staff, on December 2003 the responsible officer for the treatment detainees has been replaced and 30% of the Intervention Group staff has been renovated.

42. Furthermore, the necessary measures are taken for the application in practise of your recommendations and an order has been passed, whose purpose is to give the message for a human treatment of the detainees and the correct application of the law, punishing the cases of violence or inhuman and degrading treatment.

43. Considering the practical difficulties relating to the infrastructure and great number of prisoners in this institution, prisoners have been offered one hour of outdoor exercise per day, while the juveniles, in special prison sections have been offered 3-4 hours a day.

² The purpose is to avoid the ambiguity relating to the security and the treatment of the convicts between Public Order and Justice, the structure of the pre-trial detentions to be transferred on the responsibility of Ministry of Justice, undertaking all the duties and responsibilities for the accompanying and the external security of the detainees as well as the internal security and their financial and material treatment.

44. Furthermore, useful measures have been taken for the improvement and extension of common outdoor activity` places in prison 313, which serve to increase the prisoner`s outdoor activities. The outdoor activity places will be used in accordance with the security rules as well as investigating and procedural rules.

45. As you have been informed in response to the preliminary conclusions on October 2003, the outdoor exercise activity for one hour per day is applied in all state institutions. Depending on the concrete conditions of prison security, the practical possibilities for each one, and the prisoner categories, the outdoor exercise activities may be even 3-4 hours per day.

46. In the Prison no.313, juveniles are not placed in the same cell with adults, but separately. Also juvenile prisoners do their everyday activities, separate from adults.

47. Since November 2003 in framework of the continuous improvement for this category a special place for the juveniles has been established, as result of the conversion of Prison 313 in the pre-trial detention institution.

48. Furthermore, thinking of the special care that must be dedicated to this category, through the collaboration between some NGO-s the legal and psychological aid for juveniles has been made possible.

49. As regards health care, the responses are given above, referring to the paragraph 45-47 of the Report.

Paragraphs 79-82

50. Elbasan Psychiatric Hospital, through years serves only for psychiatric patients and not for the mentally irresponsible persons that have committed crimes. This kind of mental patients convicted with obligatory cure, based on a judicial decision since 1997 continuously has been placed, in a special ward of Hospital Prison.

51. Considering this kind of solution, a provisory but basically inappropriate, inter ministerial group has been set up by order of the Prime Minister, with representatives of Ministry of Health, Ministry of Justice, General Directorate of Prisons, General Prosecutor Office and Ombudsman, which are working for the modality of a special institution establishment, that will finally resolve this case. This new institution will be under responsibility of the Ministry of Health and will be set up in the territory of University Hospital Centre "Mother Thereza" in Tirana with a special fund approved by the state budget, contemporarily supported and assisted by foreign donators.

52. After this centre was established and began to operate, the General Directorate of Prisons will have custodial and security responsibility for the convicted persons by medical measures, whereas their internal treatment will be under responsibility of the Ministry of Health and their medical staff. This way of management is based on the law "On the rights of detainees"; the Prison General Rules; the CPT Recommendations reflected on the monitoring reports; as well as the evaluative reports of Council of Europe Recommendations (March 2000) on the reform of Health Care Service of the Albanian Prisons; Recommendations of the European Commission and Council of Europe for the promotion of the reform of the Albanian Legal System.

53. During the year 2003 there has not been any ill-treatment case of patients from the personnel staff. The evidenced ill-treatment cases have been of less importance, minimal and without serious consequences. Currently the problem is the small number of staff for the second and third shift. To this purpose will be seen the possibility to increase the number of medical staff during the afternoon and night shifts, continuously during the year.

Paragraphs 82-89

54. Relating to the patient`s living conditions, it has continuously been worked for their maintenance and improvement. In the 2004 investment program are provided about 50.000 \$ for furniture, which are very useful for the improvement of the patients` living conditions.

55. In order to ensure the beds for all the patients, as you are informed before, measures have been taken for the repair of the existent beds and to ensure a reserve stock of beds for each ward. From the fund of the Ministry of Health for the following year it has been provided the acquisition of other 150 beds. Measures to provide a reserve stock of mattresses and sheets have been taken.

56. The ascertained mistakes about the calorie counting of meals, have been resolved immediately. The medical commission of the hospital has discussed seriously this problem as well as the remarks on the meal process way, the hygienic canteen conditions and their complement with necessary furniture. Measures have been taken for the distribution way of food from the responsible staff and for the accommodation of the patients in the canteen.

57. Furthermore, it has been seen the possibility to ensure a new kitchen furniture, which will be useful for the improvement of the meals and hygienic conditions.

58. Relating to the personal hygienic conditions, as it has been ascertained, in each ward there are two or three electric showers, which are used by the patients for their personal hygiene. The limit number of showers on one hand and the vast number of patients on the other hand does not provide patients with more frequent showers. To this end will be seen the possibility to increase the number of the showers will be considered.

59. The lack of drinking water supply caused from some administrative problems between the Elbasan Municipality and German water-supply society have been resolved and in the hospital there has been installed another water-supply line. Actually the hospital is supplied with drinking water uninterruptedly.

Paragraphs 90-96

60. Lastly, with support of the World Health Organisation the complement of the Daily Centre has been finalised. There it can be done exercises of the chronic patients to retake the necessary life wont caused by their illness. All cases treated in this centre will have their personal files, individual treatment plan (irrespective of their clinical files). This centre will be directed from occupational therapy custodian and will be assisted by the shift nurses.

61. For the improvement of the patients' life there are made efforts to raise the life quality. There are always organised differently activities, like drawing, clay-work, planting of flowers and trees, entertainment activities, like chess, domino etc. as well as outdoor activities like, excursions to Pogradec or going to the cinema.

62. The lack of the necessary medicine used in this institution has come out as a result of bid procedures. This year to resolve the urgent cases it is allowed the direct buying of a part of medicines, whereas for the rest of them the Ministry of Health has taken the measures to carry out in time the above mention tenders and optimal provision of this institution with medicines.

63. Relating to the dental care of patients, during this year it is provided the supply with the necessary equipment for dental care. The Cabinet of the public dental service will be used relating to the treatment of the problematic cases.

Paragraphs 97-99

64. For the development of the occupational therapy and social therapeutic activities, the Directory of Elbasan Psychiatric Hospital has defined for the ward custodians these duties:

- The custodian is an educator and occupational therapist for his patients;
- The custodian's duty is the education and the patients' involvement self- service in the personal hygiene maintenance;
- The custodian's duty is the involvement of patients in certain services and hygiene works in the wards as well as in the sport activities.

65. The lack of social workers and psychologists, limits the multi- disciplinary treatment and detailed individual plans for each patient. The Ministry of Health is trying to equip the hospital staff with these kinds of specialists.

Paragraphs 100-101

66. It has been discussed with the staff of the hospital the application of the law "On mental health" and specially the part of the law that draw the physical limits. These legal provisions have been drafted in the staff's rooms. After the remark made by the delegation of CPT, every measure taken towards the patient, despite the documentation in his personal file, is evidenced also in a special register for each ward.

Paragraphs 102-105

67. As you are informed, the Ministry of Health with an Ordinance date on 18 July 2003 has asked all psychiatric institutions, that relating to the application of the law "On mental health" to inform the competent courts for the legal problems in the case of involuntary hospitalised. Despite of the efforts made by the psychiatric institutions, the application of these proceedings has had and continues to have difficulties in the daily practise. In order to resolve this problem, the Ministry of Health will require the assistance of the Ministry of Justice to define the procedures and necessary documentation relating to the application of the law as well as its review and improvement.

Conclusions

68. The Albanian institutions are engaged in all their activity to respect and ensure human rights, especially for the category of the people, which are deprived of their liberty. The recommendations submitted in the Report are appraised positively and competent institutions are working for their implementation and realisation.

69. In the professional education programs of the state structures, whose activity is related to this category of persons, it has been included the incorporation and application of the European Convention for the Prevention of the Torture and Inhuman or other Degrading Treatment. In this framework, we appreciate the contribution of CPT for the publication in Albanian language of this Convention and other explanatory brochures regarding its implementation and application.

70. Albanian Institutions, responsible for ensuring the human rights of the persons deprived of their liberty, in the exercise of their functions in this field are collaborating with other different international organisations and local ones, which protect human rights and freedoms. These organisations continue to exchange information regarding cases in which human rights abuse has been observed. (Like "Amnesty International", "Article XIX") as well as the organisation of the meetings and seminars especially with the police structures.

71. The responsible structures, especially the Ministry of Public Order structures, besides the measures to acknowledge and apply in practise the obligations that derive from the respect and application of the domestic law and international conventions for the protection of human rights and freedoms, are engaged at the same time to punish every official who infringes these acts.

**RESPONSES OF ALBANIAN AUTHORITIES FOR SOME OF
THE ASCERTAINMENTS AND RECOMMENDATIONS
OF THE CPT REPORT OF YEAR 2003**

RESPONSES FROM THE MINISTRY OF PUBLIC ORDER

Paragraph 42 and 43

The Ministry of Public Order has examined carefully each persons complain for ill treatment committed by the police officers. In cases where there have been violations, are taken the disciplinary measures for the responsible persons. In cases when the complainant has made penal denouncement, the administrative trial of the case is conditioned by the way the penal proceedings have ended.

The Office of the General Prosecutor and the district institutions structures, have initiated penal proceedings when they have taken notice for unlawful offences of the police officers including the cases of ill treatment of detained or convicted persons. For these cases have been made the objective investigations and the way of ending the proceedings has been conform to the gathered evidences. Some of the concrete cases submitted in the CPT report are reported in our previous responses.

The respect for human rights including the category of persons deprived from their liberty is an engagement for all institutions. Making the evidence and examination of ill treatment cases caused by abusing the duty and by exceeding the competences, the prevention of this phenomenon keeps being a permanent duty of Albanian authorities in all the levels.

Paragraphs 50-52

For all the detained and convicted persons, the police bodies take all the necessary steps to enable the notification of their families and relatives. This right is assured to all the detained and arrested persons. The notification is done by phone or verbally by the police officers and in case when the detained and arrested persons are resident in another city the notification is done through the police structures of their residence place.

In appliace of article 255 of the Penal Procedural Code, to make the notification of the families at first is taken in consideration the consent of the detained or the arrested person. While for the juveniles the notification is obligatory and by applying this rule have to be notified their parents or the person in charge for his custody.

Regarding to the right for a lawyer (paragraph 51), we emphasize that all detained or arrested persons are communicated for their right not to make any declarations or to give explanations without the presence of their lawyer. This right is guaranteed by law and is applied by the officers of the judicial police.

Relating to the medical service we inform that this service is assured for all the pre-detention places. In the large cities are recruited graduated surgeons, who offer for the detained or arrested persons except the periodical visits even the medical help when these persons require for it. In cases when is required a specialized medical service, the ill persons are treated in the hospital regional centers, in the university hospital Center "Mother Teresa" and in the military hospital in Tirana. While when is required a long timed medical treatment, these persons are sent in the prison hospital of Tirana.

Paragraph 54

The rights of the detained and arrested persons are communicated to them since the moment when they enter in the pre-detention places. In our practice is not applied the Rule for assignment in order to certificate the communications of the detainee rights. This element will be taken under consideration to enable its appliance in the future.

The rights for this category of persons are guaranteed by Law no. 8328 date on 16.04.1998 "For the rights and treatment of the detainees in prison" and are included even in the Rule no. 1075 date on 15.09.1999 "For the insurance and the treatment of the pre-detainees" like as in the Rule no. 3750 /2 date on 23.07.2003 "For the organization and the function of pre-detention system". The rules and fundamental rights of detained persons are postered in all the pre-detention rooms in the internal face of the door room. This form is applied only in the Albanian language.

For the detained or arrested persons with foreign citizenship, these rights are notified verbally in all cases only through the interpreter. For this category of persons immediately after their detention or their arrest, is notified the Consular Department in the Ministry of Foreign Affairs.

Paragraph 55

The General Department of the State Police has exercised controls in all the personnel work places of the police structures in order to eliminate and prevent the keeping of certain strong things in these places (sticks, lines, blackjacks) like as to asses the administration of the material evidences according to the requirements of the Penal Procedural Code and judicial decisions. The keeping of the above-cited things is not allowed not only in the Police Commissariat no. 2 in Tirana, nor in any office in all the commissariats and police departments.

Paragraph 56

The Ministry of Public Order and the General Department of the State Police has guaranteed and has facilitated all the foreign police missions which operate in Albania, the specialized international organizations, the Ombudsman, all the domestic or foreign NGO-s, etc which have supervised, inspected and verified special cases by interviewing pre-detainees etc. The District Prosecutor's Offices controls the securing and the treatment of the detained and arrested persons, as the authority in charge to exercise this function.

Paragraph 59

The recommendations provided in paragraph no. 59 are fulfilled because in all the pre-detention places under administration of Ministry of Public Order, in appliance of point 9 chapter IV of the Rule no.1075 date on 15.09.1999 there is a full documentation where are rendered the actions of all pre-detainees.

In the pre-detention places are kept and administered these documents and registers:

- The quires for the arrest and detention decisions and the record for individual control.
- The quires of the records of the pre-detainee deliverance, who are sent for trial or in hospitals, for different expertise etc.
- The register of the detained and arrested persons.
- The register of personal stuff of the pre-detained persons.
- The register of medical visits for the ill pre-detainees.
- The book of meetings with the lawyers, family etc.
- The register of rendered controls in the pre-detention placement.
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From the controls made by the part of Ministry of Public Order structures like as those made by the General Department of the State Police results that these documents are completed and administered conform the rules.

Other

Improvement of the conditions in the pre-detention places is a permanent obligation. Lastly the pre-detention places are entirely reconstructed in the police commissariat's Koplík and Kurbin. Continuously are being improved the living conditions and are being fulfilled the needs for clean blankets. The entire pre-detainees stand in fresh air an hour per day while the showers can be made once per week and the meals and clothes are brought by the familiars every ten days. Also the meetings with familiars are realized every ten days while the meetings can be done more often by the permission of the prosecutor.

In appliance of the Decision of the Council of Ministers no.327 date on 15.05.2003 "For the transfer of the pre-detention system under the dependence of the Ministry of Justice" and the common Ordinance of the Minister of the Public Order and of the Minister of Justice, respectively no. 1883 date on 16.07.03 and no. 3750/1 date on 10.07.03, is realized the transfer of the pre-detention places in the Police Commissariats in Vlora and by these days ends the transfer process in the Police Commissariats in Shkoder, Koplík, Puke, Lezhe, and Kurbin. The transfer process actually has involved about 120 pre-detainee. This process is being realized slowly because of entirely objective reasons which relates to the financial funds, infrastructure etc.

For as much as actually the pre-detention system is partly under the administration of the Ministry of Public Order and partly under the administration of the Ministry of Justice, it functions by two different Rules. In order to unify the administration of all the pre-detention system are being undertaken the necessary legal acts. For this aim will be abrogated the rules of the Ministry of Public Order no. 1075 date on 15.09.1999 "For the insurance and the treatment of the pre-detainee" and all the system will function based on the rules of the Ministry of Justice no.3750/2 date on 23.07.2003 "For the organization and the functioning of the pre-detainee system" including even that part of the system which continue to be under the administration of the Ministry of Public Order. This will bring changes even improvements in the way of treatment of the pre-detained persons.

The realization of different activities in the pre-detention places as games, readings, press, and different literature, listening of the radio etc. is impossible because of the improper infrastructure especially for the reasons relating to the overpopulation of these places. In the Police Commissariats in Durres, Korce, Elbasan, Fier, Lushnje etc in some cases the number of the pre-detainee persons has gone 2-3 times higher than the normal capacity.

The overpopulation of the pre-detention places is influenced by the non-transfer in time of detainees by final decision in the imprison institutions. This is the reason that in certain times the detainees have protested on strikes by final decision.

In order to eliminate this situation the prison capacities are being extended. The last days has begun functioning the new prison of Lezha, which will influence in improving the situation.

In the pre-detention places of the Police Department of Elbasan District, however the number of pre-detainees is over normal capacity, the police officers have undertaken measures for the realization and guaranteeing of the rights conform law. There are no cases of ill treatment in the pre-detention places like as during the accompanying and stay in accompanying places.

The pre-detention places in Police Commissariat in Shkoder have been overcrowded twice over normal capacity and this situation have brought as a consequence some problems in the treating conditions of the pre-detainee persons. In March from this police commissariat are transferred 60 convicted persons and the situation is normalized toward the improvement of living conditions like as fresh air, showering etc.

RESPONSES FROM THE MINISTRY OF HEALTH

-Regarding the supervising problems of the patients brought against their will in hospital actually there is established a working group which is working for the drafting of a new Rule in order to clarify the functions of the psychiatric hospitals which is under the duties of the structures of Ministry of Justice.

Also is being worked to secure the places and the necessary funds for the establishment of a new psychiatric hospital to enable the supervision of the patients brought against their will in the psychiatric hospitals.

-Regarding the recruitment of the psychologist and social officers in the psychiatric hospitals especially in the hospital of Elbasan, we inform as continues;

In the framework of the action plan strategy approved for the mental health, is provided the inclusion in structures of the established Center for the Mental Health in Elbasan the positions of the social officers and the psychologists. Also Ministry of Health has planed to add in the structures of the psychiatric hospitals necessary positions for psychologists and social officers.