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**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 23 May to 3 June 2005

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 (2006) 25.

Strasbourg, 12 July 2006

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Copy of the letter transmitting the CPT's report

Strasbourg, 21 December 2005

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 Albanian Government 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 23 May to 3 June 2005. The report was adopted by the CPT at its 58th meeting, held from 7 to 11 November 2005.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix II. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Albanian authorities to provide **within six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Albanian authorities to provide, in the above-mentioned response, reactions to the comments formulated in this report which are summarised in Appendix II as well as replies to the requests for information made.

In respect of the issues raised in paragraphs 68, 70, 98, 131 and 156 of the report, the CPT requests the Albanian authorities to provide a response **within three months**.

The CPT would ask, in the event of the response being forwarded in Albanian, that it be accompanied by an English or French translation. It would also be most helpful if the Albanian authorities could provide a copy of the report in a computer-readable form.

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

Yours faithfully,

Silvia CASALE
President of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Albania from 23 May to 3 June 2005. The visit formed part of the CPT's programme of periodic visits for 2005, and was the sixth visit to Albania to be carried out by the CPT¹.

2. The visit was carried out by the following members of the CPT:

- Mauro PALMA (Head of delegation)
- Roger BEAUVOIS
- Mario BENEDETTINI
- Marija DEFINIS-GOJANOVIĆ
- Eric SVANIDZE.

They were supported by Michael NEURAUTER, Caterina BOLOGNESE and Marco LEIDEKKER of the CPT's Secretariat, and assisted by:

- Eric DURAND, medical doctor, former Head of the medical services at Fleury-Mérogis Prison, France (expert)
- Catherine PAULET, psychiatrist, Head of the regional medical and psychological service, Baumettes Prison, Marseilles, France (expert)
- Teuta BARBULLUSHI (interpreter)
- Mirela FURXHI-KUMBARO (interpreter)
- Arben LESKAJ (interpreter)
- Edmond TUPJA (interpreter)
- Dritan TOLA (interpreter)
- Rudina XHILLARI (interpreter).

¹ The CPT carried out two periodic visits (December 1997 and December 2001), as well as three ad hoc visits (December 1998, October 2001 and July 2003) to Albania. With the exception of the report on the 2003 visit (CPT (2003) 68), the visit reports and Government responses have been published under the following references: CPT/Inf (2003) 6 to 12.

B. Establishments visited

3. The delegation visited the following places of detention:

Establishments under the authority of the Ministry of the Interior

- Pre-trial detention facilities at Durres Police Directorate
- Pre-trial detention facilities at Gjirokastra Police Directorate
- Pre-trial detention facilities at Peshkopi Police Directorate
- Pre-trial detention facilities at Shkodra Police Directorate
- Pre-trial detention facilities at Tepelena Police Directorate
- Gjirokastra Police Station
- Peshkopi Police Station
- Police Station No. 2, Tirana
- Police Station No. 3, Tirana
- Police Station No. 4, Tirana
- Police Station No. 6, Tirana
- Shkodra Police Station
- Tepelena Police Station
- Vlora Police Station

Establishments under the authority of the Ministry of Justice

- Kruja Special Institute for Mentally Ill, Drug-Addicted and Elderly Prisoners
- Prison Hospital, Tirana
- Tepelena Prison
- Tirana-Vaqarr Prison
- Vlora Pre-trial Detention Centre

Establishments under the authority of the Ministry of Health

- Vlora Psychiatric Hospital.

Further, the delegation paid brief visits to Prisons Nos. 302 and 313 in Tirana, in order to interview remand prisoners, as well as to Lezha Prison, in order to examine the overall detention conditions of remand prisoners. Medical members of the delegation also went to the Military Hospital in Tirana, in order to consult the medical files of persons deprived of their liberty.

C. Consultations held by the delegation and co-operation

4. In the course of the visit, the delegation held consultations with the national authorities and with representatives of intergovernmental and non-governmental organisations active in areas of concern to the CPT. In addition, numerous meetings were held with local officials in charge of the places visited, as well as with various administrative and judicial authorities.

A list of the national authorities and organisations consulted by the delegation is set out in Appendix III to this report.

5. During the visit, the degree of co-operation received from the Albanian authorities at central level was, on the whole, very good. In the course of the visit, the delegation held meetings with Igli TOSKA, Minister of Public Order, Engjell BEJTAJ, Minister of Health, and Anastas DURO, Deputy Minister of Justice, as well as with Jorgo DHRAMI, Deputy People's Advocate ("Ombudsman"). In addition, it met several senior officials from the Ministries concerned (including the Ministry of Labour and Social Affairs).

The CPT is aware of the efforts made by the various services concerned to ensure that the delegation received the assistance required to carry out its work. In particular, the Committee would like to express its appreciation for the assistance provided before and during the visit by its liaison officer, Mr Sokol PUTO, from the Ministry of Foreign Affairs.

6. The reception received at most of the places visited, including those which had not been notified in advance, was very good. However, in some police establishments, there appeared to be a lack of awareness of the CPT's mandate, which led to considerable delays until the delegation was granted access to the detention facilities. In this connection, the CPT wishes to recall once again the obligations of the Albanian authorities under Article 3 (general principle of co-operation) and Article 8, paragraph 2.c, of the Convention (unlimited access to any place of deprivation of liberty). **The CPT requests the Albanian authorities to make further efforts to ensure that all police officers in Albania are fully aware of their obligations flowing from the Convention.**

7. The CPT also regrets that the management and senior staff of Vlora Psychiatric Hospital had not received a copy of the relevant section of the Committee's report on its visit in 2001. Full implementation of the CPT's recommendations would clearly require them to be distributed to the persons directly responsible for the management of the establishments visited. **The CPT trusts that the Albanian authorities will distribute the present report accordingly.**

8. Notwithstanding the generally very good co-operation received during the visit, the CPT must stress once again that the principle of co-operation as set out in the European Convention for the prevention of torture is not limited to facilitating the work of visiting delegations, but also requires that recommendations made by the Committee are implemented in practice. The authorities' efforts to comply with these recommendations are an essential indicator of the quality of the co-operation which underpins the relationship between the Committee and a State Party to the Convention.

Whilst acknowledging the fact that some positive steps had been taken in certain areas, the CPT cannot but conclude that, to date, the majority of its recommendations made after five visits to Albania have still not been implemented (in particular, as regards police and prison matters). It is equally worrying that, in its response to the report on the 2003 visit, the Ministry of Public Order failed to address most of the specific recommendations made by the Committee. The persistent refusal by the Albanian authorities to implement the 1996 Law on Mental Health, which includes a number of guarantees intended to safeguard the fundamental rights of psychiatric patients, is another matter of considerable concern (cf. paragraphs 155 and 156).

Further, the 2005 visit demonstrated that the information provided by the Albanian authorities in their responses to previous visit reports was repeatedly incorrect. Indeed, a number of recommendations had not been implemented, despite explicit assurances to the contrary given by the Albanian authorities. In this connection, particular reference is made to paragraphs 31, 96, 132, 143, 149 and 155 of this report.

The CPT must stress that if the Albanian authorities continue to fail to improve the situation in the light of the recommendations made, the Committee will have no choice but to set in motion the procedure provided for in Article 10, paragraph 2, of the Convention². The Committee trusts that the action taken in response to this report will render such a step unnecessary.

D. Immediate observations under Article 8, paragraph 5, of the Convention

9. At the end of the visit, on 3 June 2005, the CPT's delegation held final talks with the Albanian authorities, in order to acquaint them with the main facts found during the visit. On this occasion, in pursuance of Article 8, paragraph 5, of the Convention, the delegation made immediate observations and requested the Albanian authorities to take urgent steps to ensure that:

- all juveniles and the woman currently being held in the pre-trial detention facilities at Durres Police Headquarters are transferred to an appropriate prison establishment (deadline: two weeks);
- all detained persons held in pre-trial detention facilities are provided with a clean mattress and clean blankets (deadline: two months);
- all detained persons held in pre-trial detention facilities are allowed at least one hour of outdoor exercise per day, including on Sundays and public holidays (deadline: two months);
- the prohibition of in-cell activities and correspondence with the outside world are abolished (deadline: two months);
- the isolation cell without access to natural light at Kruja Special Institute is withdrawn from service (deadline: two weeks);
- the "aeration room" in the "isolation unit" at Tirana-Vaqarr Prison, which only had a ceiling consisting of a metal grille covered with a plastic sheet, is no longer used as prisoner accommodation (deadline: two weeks);
- a concrete plan for the creation of appropriate outdoor exercise facilities at Prison No. 313 in Tirana is transmitted to the CPT within two months and implemented within four months;

² Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

- all prisoners in all other prison establishments visited are allowed at least one hour of outdoor exercise per day (including on Sundays and public holidays) (deadline: two months);
- all involuntary admissions at Vlora Psychiatric Hospital (as well as in other psychiatric establishments in Albania) are notified to the competent courts (deadline: four months).

The above-mentioned immediate observations were subsequently confirmed by the President of the CPT in a letter of 27 June 2005, in which the Albanian authorities were requested to provide, within the deadlines indicated above, detailed information on the measures taken in response.

10. By letters dated 14 July, 2 and 5 November 2005, the Albanian authorities informed the CPT of the measures taken in response to the above-mentioned observations. These measures will be assessed later in the report.

E. Corruption in the context of deprivation of liberty

11. Before setting out the facts found by the delegation during the visit, the CPT must express its serious concern that many detained persons interviewed in the course of the visit not only expressed profound mistrust of the justice system, but also their perception that the rights of detained persons within police and prison establishments, which are based on law, can only be enjoyed in exchange for bribes. This concerned the provision of benefits ranging from daily commodities to such issues as obtaining a transfer to another cell or establishment or early conditional release. The vast majority of inmates interviewed in the pre-trial detention facilities visited (especially at Durres), as well as at Tepelena and Tirana-Vaqarr Prison, alleged that they had been requested by staff to pay money in exchange for services or that they actually had already paid bribes in the past. Even if it remains impossible to verify every single allegation, the widespread conviction alone of the existence of a pernicious culture of corruption in the context of deprivation of liberty is likely to undermine the credibility not only of the Ministries concerned but of State institutions as a whole.

The CPT recommends that the Albanian authorities take decisive action to combat the phenomenon of corruption, whether real or perceived, in all places of deprivation of liberty.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement establishments

1. Torture and other forms of ill-treatment

12. As in 2003, the majority of persons interviewed by the delegation alleged that they had been ill-treated whilst in police custody. Most of these allegations related to ill-treatment during police questioning and, more particularly, during interrogation by officers of the *criminal police*. The ill-treatment alleged consisted in the main of punches and kicks, and of striking the person concerned with batons or legs of chairs/tables. In some cases, the ill-treatment alleged - very severe beating, beatings on the feet (so-called "falaka") and/or on the palms and backs of hands - was such that it could be considered to amount to torture. It is all the more worrying that the vast majority of juveniles interviewed alleged that they had been ill-treated by the police.

In a number of cases, the medical examination of the persons concerned as well as the consultation of medical files by medical members of the delegation revealed injuries which, in the view of the delegation's doctors, were fully consistent with the persons' allegations of ill-treatment by the police. In this connection, the following cases have been selected for their illustrative value:

13. Case 1

A detained person met by the delegation in the pre-trial detention facilities at Shkodra Police Directorate claimed that, at the time of his apprehension some ten days earlier, he had repeatedly been beaten by officers of Shkodra Police Directorate. Subsequently, following his transfer to the Shkodra Police Directorate he alleged that he sustained multiple blows all over the body (head, stomach, hands and legs) with plastic sticks, batons and a chair leg.

Upon examination by a medical member of the delegation, the person concerned displayed the following injuries:

- a painful swelling, 4 cm in diameter, on the left parietal part of the head;
- a bruised area, green-yellow in colour, 8 cm x 6 cm, in the upper third part of the outer back side of the left upper arm;
- a bruised area, green-yellow to violet in colour, 15 cm x 10 cm, in the middle of the outer side of the right upper leg;
- a bruised area, green-yellow in colour, 10 cm x 8 cm, in the middle of the outer side of the left upper leg;
- a bruised area, greenish-yellow in colour, 5 cm x 3 cm, with unclear margins in the middle of the outer side of the left lower leg.

14. Case 2

Another person met by the delegation in the pre-trial detention facilities at Shkodra Police Directorate alleged that some ten days previously he had repeatedly been beaten by three officers of Shkodra Police Directorate, in order to make him confess to a criminal offence. He had allegedly been beaten on various parts of his body including his head, hands and feet, with batons and table legs.

Upon examination by a medical member of the delegation, the person concerned displayed the following injuries:

- a painful swelling, 5 cm in diameter, on the back part of the head;
- the first finger of the right hand swollen and dark yellowish-brown in colour;
- a bruised area, greenish-yellow in colour, 10 cm x 5 cm, in the middle of the outer side of the right upper leg;
- an abrasion with a partial scab, 3 cm x 1 cm, in the middle of the front side of the left lower leg;
- the first toe of the right foot and the upper part of the right foot swollen.

15. In the pre-trial detention facilities at Durres, Gjirokastra and Peshkopi Police Directorates, numerous allegations were heard about instances of ill-treatment by *custodial staff*. By way of example, one inmate claimed that, while handcuffed, and immediately following an interrogation by a prosecutor in the pre-trial detention facilities at Durres, he had been beaten by a police officer with a portable radio, allegedly because he had refused to answer the prosecutor's questions. Further, allegations were received about a violent incident in the course of which two inmates had been forced by police officers to beat another inmate.

In contrast, it should be emphasised that many other inmates interviewed, especially in the pre-trial detention facilities at Shkodra and Tepelena Police Directorates, expressed their appreciation regarding the manner in which they were treated by custodial staff.

16. In most of the pre-trial detention centres visited, allegations were heard regarding instances of excessive use of force and/or deliberate physical ill-treatment by members of the establishments' *special intervention groups*, in particular during cell searches, in the course of which the officers involved were wearing masks.

Violence against inmates appeared to be particularly widespread in the pre-trial detention facilities at Durres Police Directorate. Indeed, many inmates, interviewed separately, gave consistent accounts of the ill-treatment they had allegedly sustained. Allegedly, they had been handcuffed with their hands behind their back, and a helmet put on their head, before being severely beaten with hard objects in an office on the third floor, allegedly as "punishment" for their insistence on making requests of a varied nature (e.g. to see a doctor or to be given access to the toilet, especially at night time). They all described in the same way the very old design of the handcuffs, as well as the colour and the specific characteristics of the helmet. Both items were found by the delegation in a cupboard/drawer in an office used by staff on the third floor of the establishment.

17. It must be added that, in several of the pre-trial detention facilities visited, detained persons were being held in *conditions of detention* which could easily be considered as inhuman or degrading. The most striking example in this respect were the pre-trial detention facilities at Durres Police Directorate. Indeed, the accumulation of execrable material conditions (severely overcrowded cells, no mattresses/blankets, extremely high temperatures and humidity, appalling hygienic conditions, etc.), the legal prohibition of any purposeful activity inside the cell (i.e. no reading material, games, radios, not even a piece of paper or a pencil), the almost total absence of activities outside the cell (only access to the open air, in extremely small cubicles, not granted every day, and for less than one hour each time), and the prolonged duration of placements in the facilities concerned (i.e. up to four years) is, in the CPT's experience, unique in a European context (cf. paragraphs 56 to 71).

*

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18. In the light of the information gathered by the delegation during the 2005 visit, the CPT cannot but conclude that the ill-treatment of persons deprived of their liberty by the law enforcement agencies in Albania continues to be a serious problem, eight years after the first periodic visit when similar conclusions were reached.

In this connection, decisive action is required to address the phenomenon of impunity, which is capable of nullifying all efforts to eradicate torture and other forms of ill-treatment (cf. Section 2d. below).

2. Action to combat torture and ill-treatment

- a. clear instructions including from the highest political level

19. Given the large scale and persistence of the problem of ill-treatment by the police, **the CPT recommends that a clear message be delivered by the relevant political authority at the highest level, that is the Minister of the Interior himself, condemning police ill-treatment.**

Reference should also be made to the instructions issued by the Ministry of Public Order and the Director General of the State Police emphasising "the obligation of all police structures to fulfil their functional duties in conformity with the law, respecting and guaranteeing human rights and freedoms provided by law to all the citizens especially to those deprived of their liberty"³. **The CPT recommends that this message be repeated, at regular intervals, and channelled by senior staff to all levels of the police, in particular to police officers responsible for interrogations and to members of special intervention groups. It must be made clear that all forms of ill-treatment of detained persons (including verbal abuse) are not acceptable and will be punished accordingly⁴. Law enforcement officials should also be reminded that the force used when performing their duties should be no more than is strictly necessary and, once persons have been brought under control, there can be no justification for striking them.**

20. The CPT is against the practice of members of the special intervention groups in pre-trial detention centres wearing masks when conducting searches or dealing with disturbances; this will clearly hamper the identification of potential suspects if and when allegations of ill-treatment arise. No exceptional circumstances can justify such a practice in a custodial setting. Consequently, **the Committee recommends that members of special intervention groups in pre-trial detention facilities be prohibited from wearing masks on any occasion while exercising their duties.** Further, senior management should always be present during operations carried out by such groups.

³ Cf. page 4 of the Albanian authorities' response to the report on the 2003 visit (CPT (2004) 67).

⁴ Naturally, this extends to prohibiting police officers from forcing prisoners to withdraw complaints of ill-treatment, through the use of pressure, threats or other forms of ill-treatment against them or their families. The delegation again heard numerous allegations of this nature.

b. fundamental safeguards against ill-treatment

21. As already pointed out in previous visit reports, three fundamental rights should apply from the outset of a person's deprivation of liberty (the right of those concerned to inform a close relative or another third party of their choice of their situation, the right of access to a lawyer, and the right of access to a doctor). Furthermore, persons taken into police custody should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

These safeguards should apply not only to persons detained by the police in connection with a criminal offence, but also to persons detained under aliens legislation, and to persons who are obliged to remain with the police for other reasons (*e.g.* as a witness or for identification purposes).

22. The 2005 visit demonstrated that the situation remained unchanged as regards the above-mentioned fundamental safeguards against ill-treatment. In fact, none of the specific recommendations repeatedly made by the CPT had been implemented.

23. As in 2003, the right of notification of custody, although formally guaranteed by law⁵, was often not fully effective in practice. Many of the persons interviewed alleged that they had not been able to exercise this right promptly or, in some cases, at any time, whilst in police custody. It is of particular concern that, in a number of cases, notification of custody of juveniles was apparently delayed for several days.

The CPT calls upon the Albanian authorities to take immediate and effective steps to ensure that all persons deprived of their liberty by law enforcement agencies are granted the right to notify a close relative or third party of their choice of their situation, as from the very outset of their deprivation of liberty. This right should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend – and stay at – an establishment of a law enforcement agency.

24. The right of detained persons to have immediate access to a lawyer is embodied in Article 28, paragraph 1, of the Albanian Constitution as well as in Section 53, paragraph 1, of the Code of Criminal Procedure (CCP). Further, Section 52, paragraph 4, CCP stipulates that any conversation between detained persons and their lawyer must remain confidential.

That said, the information gathered by the delegation once again revealed a wide gap between law and practice. A significant amount of time could elapse before apprehended persons had any contact with a lawyer; in many cases - and nearly always, in cases of court-appointed lawyers - such contact first occurred during the initial court appearance (*i.e.*, up to 48 hours from the moment of apprehension). Further, it appeared to be common for members of the criminal police to question persons - including juveniles - without the presence of a lawyer; in any case involving a minor, such a practice constitutes a flagrant violation of the CCP⁶.

⁵ Cf. Section 255, paragraph 4, CCP.

⁶ Cf. Sections 35 and 49, paragraph 2, CCP.

25. The CPT has repeatedly stressed that, in its experience, the period immediately following deprivation of liberty is when the risk of intimidation and physical ill-treatment is greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during this period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect upon those minded to ill-treat detained persons; further, a lawyer is well placed to take appropriate action if ill-treatment actually occurs.

In their additional response to the report on the 2003 visit⁷, the Albanian authorities completely disregard the crucial role played by the right of access to a lawyer in the prevention of ill-treatment, stating simply that all detained or arrested persons are informed of their right not to make any declarations or to give explanations without the presence of their lawyer.

26. In the light of the above, **the CPT calls upon the Albanian authorities to take action without any further delay to ensure that the existing formal right of access to a lawyer for persons deprived of their liberty by the police is rendered fully effective in practice, as from the very outset of their deprivation of liberty. It should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend – and stay at – a police establishment.**

Further, **the Committee recommends that the existing system of legal aid to detained persons be reviewed, in order to ensure its effectiveness throughout the procedure, including at the initial stage of police custody.**

27. As regards the right of persons held in police custody to have access to a doctor, the situation had scarcely improved since the 2003 visit. Several detained persons interviewed by the delegation alleged that they had been refused access to a doctor, despite their explicit requests. It is also noteworthy that the current legislation does not contain a formal right of persons in police custody to have access to a doctor.

In their additional response to the report on the 2003 visit⁸, the Albanian authorities ignore the specific recommendation repeatedly made by the Committee regarding the right of access to a doctor, simply stating that "the medical service (...) is assured for all the *predetention places*⁹".

The CPT calls upon the Albanian authorities to take all necessary steps to ensure that the right of access to a doctor for persons held in police custody is formally granted by law and fully implemented in practice.

28. As in 2003, many of the detained persons met by the delegation alleged that they had received no information on their rights (not even orally) at the outset of their deprivation of liberty, despite the specific recommendations made by the CPT in previous visit reports. No information sheets on the rights of persons detained by the police were available in any of the police establishments visited.

⁷ Cf. CPT (2005) 12, page 2.

⁸ Cf. CPT (2005) 12, page 2.

⁹ Emphasis added.

The CPT calls upon the Albanian authorities to ensure without any further delay that a form setting out in a straightforward manner the rights of persons in police custody is systematically given to such persons at the very outset of their deprivation of liberty. This form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights.

29. The inspection of police detention facilities by an independent authority can make an important contribution towards the prevention of ill-treatment of persons held by the police, and more generally, help to ensure satisfactory conditions of detention. To be fully effective, visits by such an authority should be both frequent and unannounced, and the authority concerned should be empowered to interview detained persons in private. Further, it should examine all issues related to the treatment of detained persons: the recording of detention; information provided to detained persons on their rights and the actual exercise of those rights (in particular the three rights referred to in paragraphs 72 to 74); compliance with rules governing the questioning of criminal suspects; and material conditions of detention.

The 2005 visit brought to light that the specific recommendations made by the CPT in this respect after the 2003 visit had not been implemented in practice.¹⁰ As was the case in 2003, hardly any inspections were being carried out by prosecutors to detention facilities of the police.

The CPT calls upon the Albanian authorities to ensure that appropriate measures are adopted by the relevant authorities (the Prosecutor General) so that prosecutors carry out inspections to detention facilities of the police, in accordance with the above-mentioned criteria.

- c. medical examinations on admission to pre-trial detention facilities and prisons

30. The CPT has repeatedly emphasised the crucial role that medical examinations on admission to pre-trial detention facilities and prisons play in the prevention of ill-treatment by law enforcement officials (cf. also paragraph 124). In this context, the delegation examined the procedures followed on the admission of newly-arrived inmates in pre-trial detention facilities in various Police Directorates as well as at Prisons Nos. 302 and 313 in Tirana.

31. The 2005 visit brought to light that, in so far as *pre-trial detention facilities* are concerned, virtually none of the specific recommendations made by the CPT since its first visit to Albania have been implemented in practice, despite the explicit assurances given to the contrary by the Albanian authorities in their response to the report on the 2003 visit. Such a state of affairs is totally unacceptable. In particular, the delegation found that newly-arrived detainees were not subject to medical screening on admission (except in cases of emergency or upon request). Medical files had been opened only in a few cases and were usually accessible to non-medical staff. Further, medical examinations/consultations were frequently carried out in the presence of police officers.

¹⁰ The specific recommendations made by the CPT after the 2003 visit had been addressed by the Albanian authorities in their response to the visit report.

32. The situation appeared to be more favourable in the *prison establishments* visited. Nonetheless, a number of shortcomings have been identified. In particular, at Prisons Nos. 302 and 313 in Tirana, newly-arrived prisoners were not systematically subject to a medical screening upon admission and a medical file had not been opened for every prisoner. Even when newly-arrived prisoners were seen by the doctor, medical examinations were frequently carried out in a very perfunctory manner (i.e. limited to questions about health conditions without a proper physical examination of the person concerned). Further, a number of medical files were lacking the most elementary medical data. The delegation also observed that, in all the establishments visited, injuries had not always been recorded in detail and no conclusions been made concerning the consistency between the allegations made and the medical findings.

33. **The CPT calls upon the Albanian authorities to take immediate steps to ensure that in all pre-trial detention facilities in Police Directorates as well as in prison establishments in Albania:**

- **every newly-admitted person – whether sentenced or on remand – is properly interviewed and physically examined by a medical doctor as soon as possible after his/her admission; save in exceptional circumstances, the interview/examination should be carried out on the day of admission. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor;**
- **an individual medical file is opened for every inmate.**

Further, the CPT reiterates its recommendation that steps be taken in all pre-trial detention facilities in Police Directorates as well as in prison establishments throughout Albania to ensure that:

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

34. As regards the procedures followed when injuries have been recorded by a doctor (upon admission), the delegation, once again, observed that, in a number of cases where inmates had complained to the doctor about ill-treatment by the police and displayed injuries consistent with their allegations, no information was communicated to the competent prosecutor.

At Prison No. 313 in Tirana, only two such cases had been communicated to the Central Prison Administration since the beginning of 2004, and neither of them had subsequently been forwarded to the competent prosecutor.

The delegation also noted with concern that doctors, in particular at Military Hospital in Tirana, were still unaware of the legal obligation incumbent on medical staff to report within 48 hours allegations/signs of possible ill-treatment by law enforcement officials to the prosecutor or any officer of the criminal police.¹¹

The CPT calls upon the Albanian authorities to take effective steps to ensure that in all pre-trial detention facilities and prisons, whenever injuries are recorded by a doctor which are consistent with allegations of police ill-treatment made by an inmate, the record is immediately brought to the attention of the relevant prosecutor.

Further, **the Committee reiterates its recommendation that all medical staff working in police pre-trial detention facilities, prison establishments, and the Military Hospital be reminded of their obligations under Article 282 CCP.**

d. combating impunity

i. *introduction*

35. Acts ranging from torture to abuse of authority constitute specific criminal offences under the Albanian Criminal Code¹². Albanian legislation also provides for procedures which enable the relevant authorities to undertake diligent examinations of all relevant information regarding alleged ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint.¹³

Further, every public official is under a legal obligation to report in writing to the prosecutor or the criminal police any facts related to a criminal offence which may have come to his or her knowledge.¹⁴ Specific obligations to report facts which are indicative of a criminal offence are incumbent on police officers¹⁵ and medical personnel¹⁶.

The CPT welcomes the existence of the foregoing legal provisions.

¹¹ Article 282 CCP.

¹² Cf. Article 86 "Torture" and any other degrading or inhuman treatment (carry five to ten years' imprisonment); Article 87 "Torture with aggravated consequences", i.e. death, mutilation or permanent harm (ten to twenty years); Article 88 "Serious intentional injury" (three to ten years, or five to fifteen if committed against a group); Article 89 "Non-serious intentional injury" resulting in temporary work incapacity of up to nine days (carries a fine or up to two years' imprisonment); Article 314 "Use of violence during investigation" (three to ten years); and Article 250 "Committing arbitrary acts" (carries a fine or up to seven years' imprisonment). Of the foregoing articles, only Article 89 requires the victim's complaint for the prosecutor in order to proceed.

¹³ All persons arrested by the police must be brought before the competent prosecutor within 24 hours and the competent judge within 72 hours. Further, Article 24, paragraph 3, together with Article 284 CCP provide for the *ex officio* prosecution of most offences proscribed in the Criminal Code. It is also noteworthy that Article 291 obliges the prosecutor to render a reasoned decision not to initiate proceedings.

¹⁴ Article 281 CCP.

¹⁵ Article 293 CCP and Article 7 of the Law on the Service of Internal Control of the Ministry of Public Order.

¹⁶ Cf. paragraph 34.

36. The Internal Control Service of the Ministry of the Interior has judicial police competence, i.e. it is entitled to start criminal investigations under prosecutorial supervision and, since June 2005, its criminal investigation functions have been strengthened¹⁷. It refers the results of its inquiries to the prosecutor's office for further action, or makes recommendations for disciplinary measures, which may be subject to appeal before the Disciplinary Commission. Through its criminal investigation and disciplinary competences, the Service could have a great impact in combating impunity.

37. The credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. If the emergence of information indicative of ill-treatment is not followed by a prompt and effective response, those minded to ill-treat persons deprived of their liberty will quickly come to believe - and with very good reason - that they can do so with impunity. In failing to take effective action, the persons concerned colleagues, senior managers, investigating authorities - will ultimately contribute to the corrosion of the values which constitute the very foundations of a democratic society.¹⁸

38. The written responses given by the Albanian authorities concerning the issue of impunity have to date been inadequate. They are silent with regard to many of the issues raised, and they do not acknowledge that the situation is problematic.¹⁹ In particular, the Albanian authorities had not taken into account the remarks made by the CPT with regard to the inadequacy of the criminal investigations into the individual test cases presented in the report on the 2003 visit.

During the 2005 visit the Committee's delegation once again examined the functioning of the system of accountability for acts of ill-treatment by the police. The information gathered confirmed that no decisive follow-up action had been taken on the specific recommendations made by the CPT in the report on the 2003 visit.²⁰ The CPT's delegation found that the system of accountability still did not function properly and that an atmosphere of impunity still prevailed.

39. An illustrative sample of individual cases of alleged ill-treatment by law enforcement officials examined by the delegation follows (cf. section ii).²¹ The accountability system is subsequently assessed - particularly in terms of how it has operated in these and other cases - and action is recommended, aimed at improving the accountability system in general, combating impunity and preventing ill-treatment (cf. section iii).

¹⁷ By amendment, in April 2005, to the Law on the Internal Control Service of the Ministry of Public Order.

¹⁸ The CPT's standards on combating impunity were outlined in the substantive section of the 14th General Report on the CPT's activities [CPT/Inf (2004) 28].

¹⁹ Cf. 2004 Response of the Albanian authorities, at paragraphs 21 and 22.

²⁰ Cf. CPT (2003) 68, at paragraphs 40 to 44, as well as the response.

²¹ The CPT's delegation found only one case (No. 5) in which the authorities showed initiative.

ii. *individual cases*

Case 1²²

40. According to a complaint filed by G. F. (the victim's father) on 28 May 2003 and subsequently confirmed by M. F.'s own complaint, on 18 May 2003 at around 5 p.m. the latter was dragged on the ground and kicked by police officer A. N. of Kombinat Police Station of Tirana, and other officers intervening in a quarrel between neighbours. While being escorted to the police station, M. F. was allegedly punched in the face and stomach by A. N.. After his release on 19 May 2003, M. F. went to the Military Hospital, but was escorted from there by the Kombinat police emergency unit back to the station, where he alleged he was hit again and lost consciousness. It was on 20 May 2003 that he managed to apply to the hospital for treatment again.

A forensic examination, carried out on 17 June 2003 on the basis of medical documentation at the hospital, certified that M. F. had sustained "concussion resulting in temporary working disability for a period longer than 9 days". According to the Police Station's registers, M. F. was brought in at around 12 p.m. on 18 May 2003 and released at 10 a.m. on 19 May. There was no record of his return to the Police Station on 19 May 2003. The police officers questioned denied any violence or signs of it on 18 May 2003.

The investigation was terminated on 3 July 2003 on the grounds that no injuries were visible on the standard police file photograph taken on the victim's arrival at the police station on 18 May 2003. This photograph was of poor quality. No further investigation was made.

Case 2²³

41. On 4 November 2003 at around 12.45 p.m. A. D. (who was together with his friend, M. D.) was stopped in the street by police officers of Tirana Police Commissariat No. 2 and subsequently apprehended on charges of resistance and refusal to obey a police officer's request. On 7 November, A. D.'s brother complained to the Tirana Prosecutor's office that on 6 November he had seen A. D. with injuries (black eye, multiple haematomas) at the court which had issued the arrest warrant.

The forensic medical examination of A. D. certified on 17 November 2003 "multiple haematomas on the left arm (5x4 cm), an ecchymosis (2x4 cm) on the right shoulder, an ecchymosis (6x4 cm) on the left leg and a swollen and blackened left eye". According to A. D.'s testimony, he was stopped in the street by police officer A. K. and a second officer (whom he would be able to recognize), who insulted, hit, grabbed and handcuffed him and took him by car to the police station. In addition, he alleged he was subsequently beaten with a baseball bat. The officers claimed that A. D. had sustained injuries when they had tried to apprehend him and he had resisted. However, three other policemen questioned, as well as the chief of Kombinat Police station, denied any signs of violence on A. D. on his arrival at the police station, insisting that they did not admit injured persons.

The case was terminated without further investigation.

²² Criminal case file No. 1204 opened at Tirana Prosecutor's Office against police officers of Tirana Kombinat police station concerning the ill-treatment of M. F..

²³ Criminal case file No. 2151 opened at Tirana Prosecutor's Office against police officers of Tirana Police Station No. 2 concerning the ill-treatment of A. D..

Case 3²⁴

42. On 13 May 2004, at around 4 p.m., B. and A. K., suspected of stealing a mobile phone, were escorted to Diber District Police station and placed in custody. They alleged that at around 8 p.m., they were taken to the office of criminal police officer A. M.. While A. K. waited outside the office, B. K. was asked to confess to the theft, and was allegedly verbally abused and beaten with a baton on various parts of the body by officer M. and officer N. S.. Apart from hearing B.'s screams from inside the office, A. K. also alleged having received slaps from officer S.. They alleged that the incident lasted 30 to 40 minutes, after which they were returned to their cell.

At around 10 p.m. B. K. was taken again to A. M.'s office, where the same officers allegedly hit him again, demanding that he show them where he had dispensed with a knife. Subsequently, while being escorted to the place by car, he was allegedly handcuffed, placed on the floor and kicked by escorting policemen. Back at the police station, B. K. was allegedly beaten again. At around 2.30 a.m. he signed a written statement and was returned to his cell. Both A. and B. K. were allegedly released the following afternoon. According to the movements register, they were brought in at 4.45 p.m. on 13 May 2004 and released the next morning at 5 a.m. However, according to the daily event register and the police officers' testimonies, they were released at 12.45 p.m. on 14 May.

The injured party presented photographs of himself with linear injuries clearly indicative of beatings by batons. The forensic examination certificate of 18 May 2004, while confirming injuries, refers only to "haematomas and ecchymosis on the right shoulder, slight ecchymosis on the left shoulder, multiple ecchymosis on the right and the left legs". When questioned by the officer of the Internal Control Service on 18 May 2004, B. K. identified all the police officers involved in his alleged ill-treatment. On 24 June 2004 at Peshkopi Prosecutor's Office, while confirming the accounts made, he stated that he did not want to punish A. M., who had come to his family and apologized in accordance with the tradition. At the same time, he alleged that N. S., another police officer implicated in the ill-treatment, had threatened his father in order to make him withdraw his complaint. In a subsequent statement of 27 July 2004, which he later confirmed during the trial, B. K. denied all his allegations and re-iterated the version advanced by the police officers, that he injured himself by falling over.

Officers M. and S. were charged with arbitrary actions, under Criminal Code Article 250 and indicted before the Peshkopi Court. However, on 22 December 2004, the Court acquitted the officers on the grounds of lack of evidence. According to the verdict, the officers' guilt could not be considered as proven due to the withdrawal of the complaint, the superficiality of the forensic report and the fact that the photographs in the file were taken by the injured party.

²⁴ Criminal case file No. 86 opened at Peshkopi Prosecutor's Office against criminal police officer A. M. and police officer N. S. of Diber District Police Station concerning the ill-treatment of B. K..

Case 4²⁵

43. On 12 March 2005, officers of Tirana Police Station No. 2 conducted a search at the house of P. L., suspected of theft. At 10 p.m., after the house search, P. L. was accompanied to the Police Station and, according to the relevant register, was released at 7 a.m. the following day. Subsequent entries indicated that P. L. was re-accompanied to the Police Station and held there two more times: on 13 March from noon until 12 p.m. and on 14 March from 12 p.m. until 8 a.m. of 15 March. However, P. L. alleged he had been kept at the police station and subjected to ill-treatment until he was brought before a judge on 16 March 2005. The judge issued an arrest warrant.

At the court premises on the day of the hearing, P. L.'s lawyer took photographs that substantiated his client's allegations and reflected multiple haematomas on both legs and upper part of the left foot. On 21 March 2005, P. L.'s father, M. L., filed a complaint to the General Prosecutor's Office, stating that P. L. had been ill-treated (beaten) by criminal inspectors I. B. and S. H.. The complaint reached the competent prosecutor's office (Tirana Prosecutor) on 20 April 2005.

Meanwhile, the same complaint was filed to the People's Advocate's office, through which it was possible to obtain an opinion of the forensic institute on 4 April 2005. However, due to the time period which had elapsed, the forensic report was based on the above-mentioned photographs. At the time of the CPT's visit, the case was pending.

Case 5²⁶

44. G. S. was apprehended on suspicion of robbery, on 18 May 2005 at 5 pm in Malesia e Madhe, and subsequently transferred to the Shkodra Pre-trial Detention facility. On admission on 19 May 2005 he was found by custodial staff to display numerous injuries: multiple and large haematomas on the shoulders and the backs of his thighs, with swelling of the wrists, hands and soles, which were of a yellow-greyish colour²⁷.

Having seen these injuries, the officer in charge of the facility did not admit him but sent him to hospital for treatment, which G. S. confirmed he received, although there was no record of his visit to hospital in his file. He stated to the officer in charge of the detention facility that he had been ill-treated, upon which the officer reported this statement in writing to the Director of Shkodra Police Headquarters who, in turn, informed the Prosecutor's office.

²⁵ Criminal case file No. 1410 opened at Tirana Prosecutor's Office against police officers of Tirana Police Station No. 2 concerning the ill-treatment of M. L..

²⁶ Criminal case file No. 273/1 opened at Shkodra Prosecutor's Office against officers of Malesia e Madhe Police Station concerning the ill-treatment of G. S..

²⁷ The injuries were also observed by the CPT's delegation on 24 May 2005.

Judicial police attempted to question him, but he refused to speak in the absence of a lawyer. On the initiative of investigators, a forensic medical examination was carried out²⁸. The prosecutor's decision to initiate an investigation was dated 20 May. The file number was not an individual one, but was derived from the case initiated against the detainee on the charges of theft²⁹. It contained the injury report of the chief of the Shkodra pre-trial detention facility, the decision (dated 20 May) to carry out a forensic medical report, a chart with photographs of the injuries taken on the investigator's initiative and a photocopy of the minutes of a court hearing of 25 May, with the lawyer's formal general statement on the ill-treatment of the defendant. The case was pending at the time of the CPT's visit.

45. The CPT would like to receive full information on the outcome of the investigations of the above-mentioned pending cases (Nos 4 and 5).

iii. assessment of accountability mechanisms on the basis of individual cases and action proposed

46. The existence of a suitable legal framework (cf. paragraph 35) is not of itself sufficient to guarantee that appropriate action will be taken in respect of cases of possible ill-treatment. Due attention must be given to sensitising the relevant authorities to the important obligations which are incumbent upon them. The CPT must, once again, stress the important role played by judges and prosecutors, but also by other competent authorities, in preventing ill-treatment by law enforcement officials through the diligent examination of all relevant information regarding alleged ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint.

47. The information gathered during the visit clearly indicated that, despite their *ex officio* powers³⁰, prosecutorial authorities rarely opened preliminary investigations at their own initiative when information related to possible ill-treatment of persons deprived of their liberty came to light. Indeed, the authorities could give only one example (Case 5, which was pending) in which the prosecutor had initiated criminal proceedings in the absence of a formal complaint³¹.

It should be noted in this context that numerous persons interviewed by the CPT's delegation alleged that they had been frightened to complain about ill-treatment, because they had been expressly discouraged from doing so, on the grounds that it would not be in their best interests. The CPT's delegation also met persons who stated that they had complained orally of ill-treatment to prosecutors and/or judges, but that their interlocutors had shown little interest in the matter, even when they had displayed injuries on visible parts of the body.

²⁸ However, this report was not available at the CPT delegation's meeting at the Prosecutor's Office of Shkodra, or when the delegation consulted the file, as it apparently had not yet been produced.

²⁹ File No. 273/1 was consulted by the CPT's delegation on 27 May 2005.

³⁰ Cf. footnote 2 *supra*.

³¹ No other instances were reported by the persons met by the delegation, including prosecutors and officials of the Central Prison Administration, nor were any observed in the files consulted.

48. Whenever criminal suspects brought before prosecutorial or judicial authorities allege ill-treatment, those allegations should be recorded in writing, a forensic medical examination (including, if appropriate, by a forensic psychiatrist) should be immediately ordered, and the necessary steps taken to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Indeed, certain types of ill-treatment do not leave obvious marks. Even blows to the body may leave only slight physical marks, difficult to observe and quick to fade. Consequently, when allegations of such forms of ill-treatment come to the notice of prosecutorial or judicial authorities, they should be especially careful not to accord undue importance to the absence of physical marks. The same applies *a fortiori* when the ill-treatment alleged is predominantly of a psychological nature (e.g. threats to the life or physical integrity of the person detained and/or his family). Further, even in the absence of an express allegation of ill-treatment, a forensic medical examination should be requested whenever there are other grounds to believe that a person could have been the victim of ill-treatment.

The CPT recommends that the Albanian authorities remind prosecutorial and judicial authorities to initiate preliminary investigations and to take resolute action within their powers when any information indicative of ill-treatment emerges and to conduct proceedings in such a way that the persons concerned have a real opportunity to make a statement about the manner in which they have been treated. Allegations and/or other information indicative of ill-treatment should be adequately assessed, in particular by taking evidence from all persons concerned and arranging in good time for on-site inspections and/or specialist medical examinations.

49. Needless to say, **in order to combat impunity effectively, forensic reports must be of the requisite quality.** By way of example, the superficiality of the forensic report in Case 3 clearly undermined the outcome of the proceedings in that case.

It is also important that no barriers should be placed between persons who allege ill-treatment and doctors who can provide forensic reports recognised by the prosecutorial and judicial authorities. Case 4 illustrates the drawbacks of making access to a forensic examination dependent on an authorisation by an investigating authority or the intervention of the People's Advocate's Office.

50. It is a well established principle that effective investigations, capable of leading to the identification and punishment of those responsible for ill-treatment, are essential to give practical meaning to the prohibition of torture and inhuman or degrading treatment or punishment.

For an investigation into possible ill-treatment to be effective, it is essential that the persons responsible for carrying it out are *independent* from those implicated in the events. Formally, this requirement of independence is met in the Albanian accountability system, as investigations are conducted or overseen by prosecutors or the Internal Control Service of the Ministry of the Interior. However, a conflict of interest may occur when an investigation into suspected ill-treatment is dealt with in the framework of the same criminal investigation of the person alleging ill-treatment. An example of insufficient separation between the two investigations is Case 5.

To be effective, an investigation into possible ill-treatment by public officials must also be *thorough* and *comprehensive*. It must be capable of leading to a determination of whether force or other methods used were or were not justified under the circumstances, and to the identification and, if appropriate, the punishment of those concerned. A thorough investigation requires that all reasonable steps be taken to secure evidence concerning the incident, including, inter alia, to identify and interview the alleged victims, suspects and eyewitnesses (e.g. police officers on duty, other detainees), to seize instruments which may have been used in ill-treatment, and to gather forensic evidence. Where applicable, there should be an autopsy which provides a complete and accurate record of injury and an objective analysis of clinical findings, including the cause of death.

In most of the cases examined by the CPT's delegation, including those described above, the scope of the investigation was unduly circumscribed, significant episodes and surrounding circumstances indicative of ill-treatment being disregarded. For example, in Case 1 no attempt was made to find an explanation for the injuries sustained by the victim, certified by the forensic examination of 17 June 2003. Further, in Case 2 no enquiry was made into the contradictory versions put forward by various persons questioned.

To be effective, the investigation must also be conducted in a *prompt* and reasonably *expeditious* manner. The CPT's delegation found cases where the necessary investigative activities were unjustifiably delayed. For example, in Case 4, although the complaint was lodged on 21 March 2005, no substantial investigative activities had been undertaken by 3 June 2005.

51. The Committee must, therefore, reiterate the recommendations and comments it made in the 2003 visit report on improving the effectiveness of investigations of ill-treatment, with a view to combating impunity. (The recommendations and comments are reproduced in Appendix I³²). Further, the adversarial nature of such proceedings should be ensured.

52. Great care should also be taken to ensure that persons who may have been the victims of ill-treatment by public officials are not dissuaded from lodging a complaint or are not intimidated or pressured into withdrawing a complaint which they have already lodged. As already indicated, numerous allegations of such behaviour were heard by the CPT's delegation. Of the test cases examined, there were clear indications in Case 3 that a victim of ill-treatment had withdrawn his complaint after some form of intervention by the alleged perpetrators.

Such a situation clearly tends to promote impunity rather than combat it. Indeed, when it comes to acts as serious as deliberate physical ill-treatment by the police, there can be no appropriate response to them other than accountability through the criminal justice system.

In this context, **the CPT recommends that the steps taken to combat impunity include awareness-raising measures which would target community attitudes towards ill-treatment and underline the necessity for such actions to be tried and punished through the criminal justice system.**

³² Cf. CPT (2003) 68, paragraphs 40 to 42, subparagraph 1.

53. It is also essential that the appropriate charge be brought against persons suspected of ill-treatment. The information gathered during the visit indicated that, when action *is* taken by prosecutors, they usually bring a case under Article 250 of the Criminal Code, for "arbitrary acts", the sentence for which can be, and often *is* a fine. Case 3 is but one example of where this was done, although the circumstances described in the indictment appear to suggest the requisite elements of Article 314, proscribing the use of violence during an investigation in order to force a statement, testimony or confession.

The CPT recommends that the Albanian authorities review current practice and, if necessary, provide prosecutors with guidance on the appropriate classification of charges within the category of ill-treatment offences.

Further, **the Committee wishes to receive information on the number and outcome of investigations initiated against law enforcement officials under Articles 86 to 89, 250 and 314 of the Criminal Code during 2004 and 2005.**

54. Information gathered during the visit shows that in the very low number of cases that *have* resulted in convictions, the sentences imposed were mostly fines or, in exceptional cases, a very short term of imprisonment.

No matter how effective an investigation may be, it will be of little avail if the sanctions imposed for ill-treatment are inadequate. When ill-treatment has been proven, the imposition of a suitable penalty should follow. This will have a very strong dissuasive effect. Conversely, the imposition of light sentences can only engender a climate of impunity.

The CPT recommends that the Albanian authorities take the necessary steps to ensure that at all levels of the criminal justice system – including at the sentencing stage – a firm attitude is adopted with regard to torture and other forms of ill-treatment. In the Committee's opinion, this result can be achieved without undermining the independence of the judiciary, for example by including in initial and continuous judicial professional curricula, practical training on the role of the judiciary in the fight against impunity for ill-treatment by the police.

55. Finally, no one must be left in any doubt concerning the commitment of the authorities to combating impunity. This will underpin the action being taken at all other levels. **The CPT recommends that the message referred to in paragraph 19 from the Minister of the Interior condemning ill-treatment by the police also explicitly indicate that it is government policy to end impunity for ill-treatment by the police.**

3. Pre-trial detention facilities

a. introduction

56. In previous visit reports, the CPT made a number of recommendations concerning urgent measures to be taken to improve the material conditions and the regime in police pre-trial detention facilities. However, from the facts found during the 2005 visit, it is evident that not a single one of these recommendations has been implemented in practice.

57. The CPT is particularly concerned about the limited progress made in implementing the long-standing plan to transfer the responsibility for pre-trial detention facilities from the then Ministry of Public Order [now Ministry of the Interior] to the Ministry of Justice, which was supposed to be completed by April 2004³³.

At the time of the visit, Vloora Pre-trial Detention Centre was the only pre-trial detention facility which had been formally placed under the authority of the Ministry of Justice (while the Ministry of the Interior remained responsible for the maintenance of the premises, food supply, health care, etc.). Further, all inmates (some 120 in total), who had previously been held in the pre-trial detention facilities at Koplik, Kurbin, Lezha and Puke Police Directorates, had been transferred to the new remand section at Lezha Prison. At Shkodra, the process of moving inmates from the pre-trial detention facilities to Lezha Prison was underway. The delegation was informed that the detention facilities at Shkodra Police Directorate would remain under the authority of the Ministry of Public Order and would be used for short-term detention only (e.g. police custody, transit detention in case of extraditions). However, in the event of the remand section at Lezha Prison becoming overcrowded, it was not ruled out that these detention facilities would be used again for accommodating remand detainees in future.

Overall, at the time of the visit, more than 1,000 inmates were still being held in pre-trial detention facilities under the direct responsibility of the Ministry of Public Order. It is also worrying that a number of sentenced prisoners were still being held in such establishments³⁴. Such a state of affairs constitutes a flagrant violation of the current Albanian legislation³⁵.

In several of the pre-trial detention facilities visited, the delegation was informed by senior police officers that the management of the establishments were frequently confronted with long delays in obtaining the approval from the Ministry of Justice to transfer to prison those inmates whose sentence had become final. **The CPT would like to receive the Albanian authorities' comments on this matter.**

58. As regards Vloora Pre-Trial Detention Centre, several interlocutors met by the delegation, both within the Ministry of Justice and the Ministry of the Interior, stated that the division of responsibilities between the two Ministries concerned (cf. paragraph 57) rendered the day-to-day management of the establishment extremely difficult, in particular with regard to the financial implications.

³³ Cf. Council of Ministers Decision No. 327 of 15 May 2003 and the Joint Orders by the Ministers of Justice and Public Order of 10 and 16 July 2003 respectively.

³⁴ In several of the establishments visited, sentenced and remand prisoners were being held in the same cell.

³⁵ Cf. Section 462 CCP and Section 6 of Law No. 8678 of 14 May 2001 on the Organisation and Functioning of the Ministry of Justice.

In the CPT's view, the current arrangements made at Vlora, cannot be considered a long-term solution. **Steps should be taken without delay to ensure that the management of the detention centre is placed under the exclusive responsibility of the Ministry of Justice.** Further, **the CPT wishes to stress that it is not sufficient simply to change the legal status of the establishment concerned for the situation to be rendered satisfactory. Instead, steps must be taken to improve material conditions in these facilities, the regime offered to inmates must be radically improved, and staff should receive appropriate training** (cf. paragraphs 61 to 65).

59. During the end-of-visit talks, the delegation requested the Albanian authorities to provide a precise timetable for the implementation of the plan to transfer all remand and sentenced prisoners from police pre-trial detention facilities to facilities under the authority of the Ministry of Justice.

In their letter of 5 November 2005, the Albanian authorities informed the CPT that "considering the changing of the government, actually is programmed to advance the cooperation with the Ministry of Justice in order to realise the passing process of the predetention system under the dependance of the Ministry of Justice" and that updated information would be provided continuously.

The CPT calls upon the Albanian authorities to implement without any further delay the long-standing plan to transfer all remand and sentenced prisoners from police pre-trial detention facilities to facilities under the authority of the Ministry of Justice. Further, the Committee wishes to receive a precise timetable for the implementation of the above-mentioned plan.

60. At the time of the visit, both the pre-trial detention facilities at Durres Police Directorate and Vlora Pre-Trial Detention Centre were severely overcrowded. With an official capacity of 80 places, Durres Police Directorate was accommodating 177 inmates, while 84 inmates were being held at Vlora, which had an official capacity of 45 places. At Shkodra, the problem of overcrowding had been alleviated during the month preceding the visit (the number of inmates had been reduced from 123 to 55, the official capacity being 50 places). All other establishments visited were operating below full capacity (Gjirokastra: 25 inmates, 30 places; Peshkopi: 28 inmates, 35 places; Tepelena: 14 inmates, 25 places). Both at Durres and Peshkopi, a significant proportion of the inmate population were already serving their sentence.

b. conditions of detention

61. Material conditions of detention were appalling in all the pre-trial detention facilities visited. Many detainees were being held in very cramped conditions (for example, up to seven persons in a cell of 5 m² at Vlora or up to ten persons in a cell of 8 m² at Durres). Cells were only equipped with foam mattresses and/or blankets. In addition, access to natural light was very limited and ventilation extremely poor.³⁶

The worst conditions were found at Durres, where inmates were not even provided with mattresses or bed sheets. Further, some inmates were being accommodated in two storage rooms, which were packed with food parcels of the entire inmate population. Some inmates were found to be in a state of torpidity, and the delegation was informed that, on occasion, inmates had even fainted, as a result of extremely high temperatures and a very high level of humidity. Further, hygienic conditions in most of the cells as well as in the sanitary facilities were appalling (infested with cockroaches, etc.). Not surprisingly, many inmates were suffering from skin diseases and/or breathing problems. It must also be stressed that some of the inmates met by the delegation had already been held in this establishment for several years.

With the exception of Vlora Detention Centre, in none of the establishments visited were inmates in a position to maintain an appropriate level of personal hygiene (no personal hygiene products provided, access to a shower only once every ten days; etc.). Further, there was no ready access to drinking water, nor were cells equipped with toilets. Detainees were usually allowed access to the sanitary facilities only at fixed times, two or three times a day. Many detainees claimed that at other times (especially at night) access to sanitary facilities was often considerably delayed or denied. As a consequence, they were compelled to resort to plastic bottles, in order to comply with the needs of nature.

62. The provision of food appeared to be totally inadequate (especially as regards young detainees) in all establishments visited. In accordance with existing regulations, inmates were provided every day with the following menu: bread and tea in the morning, a soup (potatoes, beans and 20 grams of meat per person) with bread for lunch, and beans with bread for supper. Fruit or fresh vegetables were never provided. As a consequence, many inmates relied heavily on the food supplied by their families.

63. The CPT is also very concerned about the quasi-total prohibition of any regime activities in all pre-trial detention facilities under the Ministry of the Interior (as was the case in 2003). Except for outdoor exercise, any activity - even within the cell - remained prohibited; consequently, there was no access to reading material, board games, radio, etc. The restrictions imposed went as far as denying detainees access to a pencil and a sheet of paper (as provided for by the relevant regulations issued by the then Minister of Public Order³⁷). Such a state of affairs is totally unacceptable.

³⁶ At Peshkopi, inmates claimed that, during the winter, the temperature in the cells had, on occasion, been below minus 10° C.

³⁷ Cf. Regulation No. 1075 dated 15 September 1999 on the security and treatment of pre-trial detainees.

Far from solving the problems identified, the new draft Regulation of the Ministry of the Interior Order on the Security of Arrested and Detained Persons still contains a number of unjustifiable provisions (e.g. obligation that inmates be locked in their cells during 23 hours per day; access to the toilet only three times per day; prohibition of having access to the toilet during the night; absolute prohibition of any work; requirement that official authorisation from the judicial authorities be requested in order to obtain paper and pencil - and then only for a specified period of time; etc.). More generally, the application to remand detainees of the same regime as that for persons who are still in police custody is totally inappropriate.

64. It is all the more unacceptable that, with the notable exception of the pre-trial detention facilities at Tepelena, in none of the Police Directorates visited were inmates offered a minimum of one hour of outdoor exercise every day. Exercise periods ranged from 30 to 40 minutes per day, and inmates had no access to outdoor exercise at all at weekends and public holidays (and, at Durres, on two additional days during the week, when visits took place).

Further, the existing outdoor exercise facilities were totally inadequate (even for a person exercising alone). In practice, up to six persons at a time were crammed into extremely small concrete "aeration" cubicles covered with a metal grille (e.g. up to six persons in cubicles measuring less than 3 m² at Gjirokastra or less than 4 m² at Shkodra).

65. At Vlora Pre-trial Detention Centre, the regime was regulated by the Ministry of Justice Regulation dated 23 July 2003. Thus, the restrictions on activities described in paragraph 63 did not apply to inmates in this establishment. Further, praiseworthy steps were taken by the management of the detention centre to alleviate the dreadful material conditions by keeping cell doors open during most of the day and by extending outdoor exercise periods. That said, the CPT must stress that there was no comprehensive regime of out-of-cell activities, as should be the case for persons who are detained on remand in prison. In this connection, **the recommendation made in paragraph 98 applies equally to Vlora Pre-trial Detention Centre.**

66. As regards contacts with the outside world, the general prohibition of correspondence (including with a lawyer) as well as the prohibition of having access to paper and a pencil in the pre-trial detention facilities under the Ministry of the Interior is inadmissible and, among other things, entail that inmates are in practice deprived of their fundamental right of petition. Further, the official visit entitlement for inmates (sentenced and on remand) remained insufficient (three closed visits of 15 minutes per month). In practice, the actual visiting time was even less (some 5-10 minutes per visit).

Further, due to the lack of visit rooms, visits had to take place in unacceptable conditions in most of the establishments visited. At Tepelena, relatives had to remain behind a gate outside the premises of the establishment, whilst the inmate was obliged to stand behind two additional gates in the corridor of the basement, at a distance of almost 6 m. Similar arrangements were found at Durres and Gjirokastra, where visitors and inmates were separated by two gates in the entrance area at a distance of some 2 m (with a police officer standing between the two gates). As a result, conversations were considerably impeded, and visitors could hardly see more than a silhouette of the inmate behind the bars.

67. During the end-of-visit talks, the delegation made immediate observations pursuant to Article 8, paragraph 5, of the Convention, and requested the Albanian authorities to take urgent steps to remedy the most serious deficiencies (cf. the detailed list of immediate observations in paragraph 9).

68. By letter of 5 November 2005, the Ministry of the Interior informed the CPT that it “[h]as been assured the renovation with clothing, blankets for all the detained and arrested persons especially in the cold areas with low temperatures like as: Tropoje, Kukes, Diber, Korce, as well have been improved the living conditions, hygiene, cleaning, meal, medical treatment etc. The meetings with family members and lawyers have been always correct, the detained and arrested juveniles are placed in separated rooms from the major persons, as well as the detained or arrested female are placed only in the prison 325 or prison 313 in Tirana separated from the males. Regarding the physical exercises on Sundays or on holidays in the actual pre-detention system under the dependence of the Interior Ministry is quite impossible to create such conditions. Considering the fact that the pre-detention system has gradually passed under the dependence of the Ministry of Justice with the necessary financial funds, thus the creation of these conditions can be realised only in the pre-detention system under the dependence of the Ministry of Justice. The general Department of the State Police is preparing the rules for the treatment of the detained and arrested people who will be kept in the places of the State Police where will be considered and fulfilled all the recommendations given from CPT.”

From the above-mentioned letter, the CPT can only conclude that hardly any improvements have been made as to the conditions of detention in the pre-trial detention facilities visited. Such a state of affairs is totally unacceptable.

The CPT calls upon the Albanian authorities to take immediate steps in all the pre-trial detention facilities visited (as well as, if necessary, in other establishments of this kind) to ensure that:

- **the material conditions of detention are significantly improved, in particular, as regards access to natural light, ventilation and hygiene;**
- **all detained persons are provided with a clean mattress and clean blankets;**
- **all detained persons are granted ready access to sanitary facilities;**
- **all detained persons are allowed at least one hour of outdoor exercise per day, including on Sundays and public holidays;**
- **the prohibition of in-cell activities (reading, games, radio, etc.) and correspondence with the outside world are abolished.**

Further, steps should be taken to:

- **improve the quality of the food provided;**
- **increase the visit entitlements for detained persons;**
- **to provide proper visiting facilities.**

c. vulnerable detainees

69. The CPT is very concerned about the placement of juveniles in pre-trial detention facilities in Police Directorates. These establishments are totally unsuitable for this particularly vulnerable group of detainees.

The conditions under which juveniles were being held at Durres Pre-Trial Detention Centre were appalling. All juveniles (11 at the time of the visit, some as young as 14 years) were cramped together in a cell of 9 m², which was devoid of any equipment. Like adult inmates, they were obliged to sleep on the wooded floor without being provided mattresses or blankets. Access to natural light was almost non-existent (due to the fact that the small window was covered with a metal shutter and the fact that the window opened to a yard with a high wall at a distance of some 2 m). Due to high temperatures and the very poor ventilation, the air in that cell was even more stifling than in the cells of adult inmates. Some of the juveniles had been held in that cell for more than a year.

70. During the end-of-visit talks, the delegation made an immediate observation pursuant to Article 8, paragraph 5, of the Convention, and requested the Albanian authorities to immediately transfer all juvenile inmates from Durres to an appropriate prison establishment.

In their letter of 14 July 2005, the Albanian authorities stated that "[f]or the juvenile pre-detainee there are no special institutions. They are accommodated in the same pre-detention places with the adults but in special rooms separated from them." The CPT can only deduce from this response that the Albanian authorities failed to meet the request made by the delegation in its immediate observation. **The CPT calls upon the Albanian authorities to take immediate steps to ensure that juveniles are no longer detained in the pre-trial detention facilities at Durres Police Directorate.**

As regards other pre-trial detention facilities, **the Committee recommends that particular efforts be made to ensure that juveniles are offered conditions of detention appropriate to their age.**

71. The delegation was also concerned about the situation of the only female detainee held in the pre-trial detention facilities at Durres Police Directorate³⁸. The woman concerned had been held in the establishment for ten days without ever having been allowed to go the open air or to take a shower. Further, she was not provided with personal hygiene products (such as sanitary towels).

In their letter of 14 July 2005, the Albanian authorities indicated that "[t]he female detainees not only in Durres, but in all the pre-detention centres under the administration of the Ministry of Public Order stay in the pre-detention rooms in the police commissariats just for the detention or arresting period till the decision of the securing measure by the Court. After this decision they transfer in Prison 313 under the administration of the Ministry of Justice where the conditions are much more convenient. Actually in the pre-detention centre in Durres there are no female pre-detainees".

³⁸ No female detainees were being held in the other pre-trial detention facilities visited.

The CPT must stress that, when female detainees are exceptionally held in such facilities for a short period of time, they must be placed in a position to maintain an appropriate level of personal hygiene and be offered at least one hour of outdoor exercise every day. **The CPT recommends that steps be taken to ensure that these requirements are met in future.**

d. health-care services

72. A number of issues related to the provision of health care in pre-trial detention facilities (such as the lack of systematic medical screening upon admission, lack of individual medical files, lack of medical confidentiality) have already been addressed earlier in this report in the context of prevention of ill-treatment (cf. paragraphs 30 to 33).

73. The quality of health care appeared to be very poor in all the establishments visited. Many complaints were received from inmates about delays in having access to the doctor and the quality of the health care provided. A number of inmates met by the delegation suffered from various diseases (e.g. skin diseases), without receiving any appropriate treatment.

More generally, the provision of health care was compromised by the fact that medical doctors attached to police establishments were, to a large extent, occupied with providing care to staff.

The situation was further exacerbated by the fact that no nursing staff was present in any of the establishments visited (except in Vlora). Thus, medicines had to be distributed by police officers. Further, no record was kept of the distributed medication.

74. The CPT is also concerned about long delays observed (especially at Durres and Vlora) in transferring inmates who were in urgent need of hospitalisation to a hospital. By way of example, an inmate had been held in the pre-trial detention facilities at Vlora for three months already, despite the fact that he was suffering from severe mental and behavioural disorders. Due to a lack of appropriate facilities to segregate the inmate concerned from other inmates, he was being held in the lawyers meeting room (with a mattress and a blanket), and, on occasion, he had to be physically restrained. 18 days before the CPT's visit, the establishment's doctor had recommended to the Director that the person concerned be transferred to the Prison Hospital, and an official request had immediately been transmitted to the public prosecutor. However, by the time of the visit, no decision had been taken in this regard. The delegation was struck by the statement of the establishment's doctor that he had not dared to try to accelerate the transfer by intervening with his superiors, despite the precarious health condition of the inmate³⁹.

75. On a more positive note, the CPT welcomes the recent employment of a nurse at Vlora Pre-Trial Detention Centre.

³⁹ The Albanian authorities subsequently informed the Committee that the inmate concerned had been released.

76. **The CPT recommends that steps be taken to significantly improve the provision of health care in all the pre-trial detention facilities visited, in the light of the above remarks. In particular, there should be a regular presence of qualified nursing staff in such facilities (on a full-time basis at Durres).**

Further, **inmates who need to be hospitalised should be transferred to an appropriate facility with the promptness and in the manner required by their state of health.**

4. Police custody

77. In most of the police stations visited, holding cells (to be used for detaining persons up to ten hours) were of a reasonable size and had good access to natural light and artificial lighting⁴⁰. However, with the notable exception of Gjirokastra Police Station, all holding cells were devoid of any equipment. The situation was further exacerbated by the fact that, on a number of occasions, persons were held in such cells overnight without being provided with a mattress and blankets.

At Tirana Police Station No. 4, the delegation found one holding cell measuring a mere 1.70 m². This cell was devoid of any equipment and had no access to natural light and only very poor artificial lighting. In addition, it was extremely dirty. The CPT must stress that, by virtue of its size alone, this cell is not suitable for holding a person for any time whatsoever.

78. Material conditions in police custody cells (to be used for detaining persons up to 48 hours) were appalling in all police stations visited in Tirana (Nos. 2, 3, 4 and 6). Most cells had no, or very limited, access to natural light and only very dim artificial lighting, and several cells were poorly ventilated and in an abominable state of squalor. At Tirana Police Station No. 2, the sanitary facilities were also found to be in a dreadful state of repair.

At Tirana Police Station No. 3, a juvenile had been kept in a cell for four days with two adult detainees. Upon request by the delegation, the juvenile concerned was immediately transferred to a prison.

At Vlora Police Station, two cells had no access to natural light, and two cells had no artificial lighting. Both ventilation and the state of hygiene also left a lot to be desired. Further, cells were not equipped with a call system, despite their remote location.

In none of the establishments visited were detained persons provided with any food during the initial period (48 hours) of police custody. The persons concerned had to rely solely on food supplied by their families. Further, they were allowed to go to the toilet only once or twice per day and were not provided with any personal hygiene products.

On a more positive note, the CPT welcomes the improvements made at Shkodra Police Station. The custody cells seen in 2003 had been taken out of use, and new cells created, which offered good conditions of detention (reasonable size, equipped with a bed and toilet, adequate access to natural light and artificial lighting).

⁴⁰ At Peshkopi, holding cells had no access to natural light.

79. **The CPT calls upon the Albanian authorities to take immediate steps to ensure that in all police establishments in Albania:**

- **detained persons have ready access to drinking water and are given food at appropriate times, including at least one full meal every day;**
- **persons obliged to stay overnight in custody are provided with a clean mattress and clean blankets.**

Further, **the Committee recommends that:**

- **the holding cells in all the police establishments visited be equipped with a means of rest (e.g. a chair or bench);**
- **the material conditions in the police custody cells at Tirana Police Stations Nos. 2, 3, 4 and 6 and Vlora Police Station be significantly improved. In particular, cells should have access to natural light, adequate artificial lighting and ventilation;**
- **the cell measuring 1.7 m² at Tirana Police Station No. 4 be withdrawn from service;**
- **the custody cells at Vlora Police Station be equipped with a call system;**
- **persons in police custody be allowed access to the toilet when necessary, in clean and decent conditions, and be offered adequate washing facilities;**
- **juveniles no longer be placed in the same cell as adult detainees at Tirana Police Station No. 3 (or in other police establishments).**

80. It should be added that the delegation found, especially in Tirana, that persons could be kept in police custody cells for prolonged periods (on occasion, for more than two months). Such a state of affairs is totally unacceptable. **The CPT calls upon the Albanian authorities to put an immediate end to this practice.**

81. In all police establishments visited, custody records were kept. However, these records were frequently found to be incomplete (for example, no indication of the precise time of apprehension and/or release and no recording at all of persons who had been held at the police station for less than ten hours). **The CPT reiterates its recommendation that steps be taken in all establishments visited to ensure that custody records are brought into line with the criteria set out in paragraph 86 of the report on the Committee's first periodic visit to Albania in 1997.**

B. Prisons

1. Preliminary remarks

82. The delegation carried out full visits to Tepelena Prison, Tirana-Vaqarr Prisons, and Kruja Special Institute for Mentally Ill, Drug-addicted and Elderly Prisoners, as well as a follow-up visit to the Prison Hospital in Tirana. Further, the delegation paid brief visits to Prisons Nos. 302 and 313 in Tirana, in order to interview remand prisoners, as well as to Lezha Prison, in order to examine the overall detention conditions of remand prisoners.

83. In previous visit reports, the CPT already indicated that, in its view, it is unlikely that the creation of additional accommodation will, in itself, provide a lasting solution to the problem of overcrowding. Indeed, a number of European States have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. By contrast, in those countries which enjoy relatively uncrowded prison systems, the existence of policies to limit and/or modulate the number of persons being sent to prison has tended to be an important element in maintaining the prison population at a manageable level⁴¹.

During the 2005 visit, the delegation was informed of existing plans to elaborate draft legislation on the use of non-custodial sanctions. This is a welcome development. **The CPT would like to receive more detailed information on this matter.**

More generally, **the Committee recommends that the Albanian authorities pursue their efforts to bring about a permanent end to overcrowding, in the light of the above remarks.**

84. **Tepelena Prison** was constructed in the 1960s as a high-security prison a few kilometres outside the town of Tepelena. It is one of only two prisons in Albania which exclusively accommodate prisoners in a high-security regime⁴². With an official capacity of 105 places, it was accommodating 111 inmates (including 29 life-sentenced prisoners) at the time of the visit. With the exception of six maintenance workers, all the prisoners had been classified as "high-security prisoners" by the criminal court. The vast majority of them were serving long-term sentences.

⁴¹ Reference should be made in this context to Recommendation N° R (80) 11 of the Committee of Ministers of the Council of Europe, concerning custody pending trial. The general principles set out in that recommendation deserve to be quoted: "1. Being presumed innocent until proved guilty, no person charged with an offence shall be placed in custody pending trial unless the circumstances make it strictly necessary. Custody pending trial shall therefore be regarded as an exceptional measure and it shall never be compulsory nor be used for punitive reasons." Reference should also be made to Recommendation R (92) 17 of the Committee of Ministers' concerning consistency in sentencing, and more particularly to recommendation B 5(i), according to which "custodial sentences should be regarded as a sentence of last resort, and should therefore be imposed in cases where, taking due account of other relevant circumstances, the seriousness of the crime would make any other sentence clearly inadequate". Further, in Recommendation N° R (99) 22, the Committee of Ministers has developed a whole series of principles designed to combat the problems of prison overcrowding and prison population inflation.

⁴² The other one is in Burrel, which was visited by the CPT in 1997 and 2000. Further, Prison No. 302 in Tirana and Peqin Prison have special high-security units (for remand and sentenced prisoners).

Tirana-Vaqarr Prison is located on the large premises of former military barracks on the outskirts of Tirana and was opened in 1999. It is a medium-security prison for male adult prisoners serving medium-term sentences. Further, it is the only establishment in Albania which accommodates male sentenced juveniles. With an official capacity of 150 places, the establishment was accommodating 196 prisoners⁴³ (including 10 juveniles) at the time of the visit.

Kruja Special Institute for Mentally Ill, Drug-Addicted and Elderly Prisoners was opened in 2002 as the country's sole institution for sentenced prisoners, who suffer from less severe mental disorders⁴⁴ or drug-addiction, or who, due to their age, are in need of specialised care. In practice, however, drug-addicted prisoners were usually not admitted, but transferred to the Military Hospital. With an official capacity of 200 places, the establishment was accommodating 220 inmates (including 50 mentally-ill, 40 elderly prisoners and 130 ordinary sentenced prisoners) at the time of the visit.

The **Prison Hospital in Tirana** had already been visited by the CPT in 1997, 1998 and 2000. The official capacity of the hospital (100 places) remained unchanged since the last visit. At the time of the 2005 visit, it was accommodating 78 patients. Out of a total of 59 psychiatric patients, 54 had been declared criminally irresponsible and were subject to an involuntary treatment order by the criminal court.

2. Ill-treatment

85. No allegations of physical ill-treatment by custodial staff were heard at Prison No. 313, Tepelena Prison or Tirana-Vaqarr Prison. Indeed, many inmates met by the delegation expressed their appreciation of the manner in which they were treated by the custodial staff in these establishments.

Further, at the Prison Hospital, the delegation noticed a significant improvement in the treatment of patients by staff.⁴⁵ However, once again, a number of patients complained about rude behaviour by staff.

Many allegations of deliberate physical ill-treatment by custodial staff, and even senior members of the management, were received at Kruja Special Institute. However, all these allegations referred to incidents which had allegedly occurred before 2005 (i.e. prior to the arrival of the new Director)⁴⁶.

Some recent allegations of physical ill-treatment (e.g. kicks and slaps) and verbal abuse of inmates by custodial staff were received at Lezha Prison (especially as regards juveniles). The atmosphere in the entire establishment at the time of the visit appeared to be very tense.

⁴³ Shortly before the visit, some 50 inmates had been transferred to Lezha Prison.

⁴⁴ Prisoners suffering from more severe mental disorders are placed in the Prison Hospital in Tirana.

⁴⁵ A number of patients met by the delegation stated that "for the past three years, patients have no longer been beaten by staff".

⁴⁶ Many inmates met by the delegation indicated that the new management had brought about a marked improvement in the treatment by staff.

Further, many allegations were heard about the use of excessive force and/or deliberate ill-treatment by members of the special intervention groups at Kruja Special Institute, Tirana Prison No. 302 and Tirana-Vaqarr Prison. The allegations received mainly concerned kicks, punches and blows with batons, even during minor or non-violent incidents (e.g. quarrels between inmates) or after recalcitrant prisoners had been brought under control (i.e. handcuffed).

86. The CPT recognises that prison staff will, on occasion, have to use force to control violent and/or recalcitrant prisoners. However, the force used should be no more than is strictly necessary and, once prisoners have been brought under control, there can be no justification for striking them. **The CPT recommends that the attention of prison officers and members of special intervention groups at Kruja Special Institute, Tirana Prison No. 302 and Tirana-Vaqarr Prison be drawn to these precepts.**

The Committee also recommends that the management in all the establishments visited remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be the subject of severe sanctions.

87. Ill-treatment, which is intolerable whatever the circumstances, becomes even more serious when it is committed personally by or with the explicit or tacit approval of the management of an establishment. Such behaviour on the part of a senior member of staff, such as a director, if confirmed, should lead to his or her removal from any function of high responsibility within the prison system.

In this connection, the CPT wishes to highlight one particular incident, which allegedly took place in December 2003 at Kruja Special Institute. The delegation received consistent accounts - from various sources - of the manner in which an intervention by the establishment's special intervention group was performed. In the course of a collective protest, organised by a group of prisoners, the inmates of a whole ward allegedly started to bang on their cell doors. Thereafter, members of the special intervention group allegedly entered into the cells and severely ill-treated the prisoners involved (kicks, punches and severe blows with batons on various parts of the body). It is claimed that the (former) Director of the establishment, as well as another senior member of non-custodial staff, personally participated in the ill-treatment of inmates.

Given the serious nature of the allegations made, **the CPT recommends that the above-mentioned incident at Kruja Special Institute be brought to the attention of the competent prosecutor. Further, the Committee would like to receive detailed information on the outcome of the preliminary criminal investigation and, as appropriate, on the action subsequently taken (also at disciplinary level).**

3. Conditions of detention of the general prison population

a. material conditions⁴⁷

88. Material conditions in the cells at Tepelena Prison were, on the whole, satisfactory. All cells had good access to natural light and artificial lighting, were well ventilated and properly equipped, including with a TV and a refrigerator (both purchased by the prisoners themselves). Further, cells had adjacent annexes (measuring some 3 m²) with a toilet and a small area for cooking.

At Tirana-Vaqarr Prison, cells also had good access to artificial lighting and were well equipped. However, access to natural light and ventilation were impeded, due to the fact that the windows were half covered with concrete walls erected to provide sanitary annexes within the cells.

89. In both establishments visited, a number of deficiencies were observed, which were the direct result of the high level of *overcrowding*. Many prisoners were held in very cramped conditions (e.g. up to seven prisoners in cells measuring some 10 m² at Tepelena or 15 m² at Vaqarr), and some prisoners did not have a bed of their own, but only a mattress, which was placed on the floor. Further, at Tirana-Vaqarr, two "aeration cubicles" in the "isolation unit", which only had a metal grilled roof covered with a plastic sheet, were being used as prisoner accommodation.

During the end-of-visit talks, the delegation made an immediate observation, in application of Article 8, paragraph 5, of the Convention, and requested the Albanian authorities to take steps to ensure that the two "aeration rooms" in the "isolation unit" at Tirana-Vaqarr Prison are no longer used as prisoner accommodation (cf. paragraph 131).

90. In both of the establishments visited, several of the showers and sanitary facilities were found to be in a poor state of repair, and the level of *hygiene* left much to be desired. Further, prisoners only received very limited personal hygiene products (toilet paper and soap). In neither establishment was cleaning material provided to inmates. The poor hygienic conditions were further exacerbated by frequent shortages of (hot) running water. A number of complaints were also received about insufficient heating during the winter.

91. The provision of *food* appeared to be totally inadequate in both establishments visited (and indeed throughout the entire prison system), especially as regards young detainees. The Albanian authorities themselves acknowledged the fact that the existing nutritional standards which had been established in 1975 were outdated and needed to be revised⁴⁸. The delegation also received many complaints from prisoners about the fact that the meals provided were nearly the same from day to day. In practice, the majority of prisoners chose to rely solely on the food provided by their families.

⁴⁷ Given the specific objectives of the visits to Prisons Nos. 302 and 313 in Tirana (interviews of newly-arrived prisoners), the delegation did not examine in detail the material conditions of detention offered to inmates.

⁴⁸ By way of example, according to the existing standards, a mere 26 grams of proteins have to be provided per prisoner every day.

92. As regards Lezha Prison, material conditions in the remand section were far from satisfactory, despite the fact that the establishment had recently been renovated. In particular, showers and sanitary facilities were found to be in a deplorable state of repair as well as hygiene, and access to water was limited to three times per day. Further, many cells were overcrowded.

93. **The CPT recommends that the Albanian authorities take steps to improve the material conditions in all the establishments visited, in the light of the above remarks.**

More specifically, **steps should be taken to:**

- **reduce the occupancy levels of cells. The aim should be to offer a living space of at least 4 m² per person in multi-occupancy cells;**
- **ensure that all prisoners are provided with their own bed;**
- **improve the heating and water supply;**
- **improve the condition of showers and sanitary facilities;**
- **ensure that all prisoners have adequate quantities of essential personal hygiene products as well as cleaning products for their cells.**

Further, **steps should be taken to review nutritional standards throughout the prison system.**

b. regime

94. The CPT is very concerned that in none of the remand prisons visited were remand prisoners offered any out-of-cell activities at all (except two hours of outdoor exercise per day at Lezha Prison and Prison No. 302 in Tirana). The situation was further exacerbated by restrictions, which are totally unjustified (e.g. no access to newspapers, and, at Lezha Prison, prohibition of the use of radios). As result, prisoners were confined to their cells in total idleness for 22 hours per day at Lezha Prison and Prison No. 302, and 23 hours per day at Prison No. 313, without being offered any purposeful activities.

95. The regime offered to sentenced prisoners at Tepelena Prison and Tirana-Vaqarr Prison was scarcely better. Indeed, the vast majority of them (including life-sentenced prisoners) were provided with no work or other activities (apart from three hours of outdoor exercise and occasional sports activities⁴⁹). In neither establishment were there communal rooms for inmates⁵⁰. Thus, most of the prisoners spent 21 hours per day in their cells, the only occupation being reading, playing board games and watching television.

⁴⁹ In both establishments, a few prisoners were able to attend an English language course.

⁵⁰ At Tirana-Vaqarr, (adult) sentenced prisoners had, on occasion, access to the communal room which was normally used by juvenile prisoners.

At Tepelena, the delegation was informed of existing plans to provide additional work opportunities (e.g. sorting herbs), in co-operation with an outside company. **The CPT would like to receive further information on this matter.**

96. The Albanian authorities have failed to implement the specific recommendation made by the CPT in the report on the 2003 visit that also adult prisoners be offered at least one hour of outdoor exercise per day at Prison No. 313 in Tirana. In fact, adult prisoners were denied any exercise in the open air⁵¹, despite the assurances given to the contrary by the Albanian authorities in a letter⁵² dated 21 October 2003.

Further, in none of the establishments visited was outdoor exercise granted on Sundays or public holidays.

97. During the end-of-visit talks, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention, and requested the Albanian authorities to take urgent steps to ensure that a concrete plan for the creation of appropriate outdoor exercise facilities at Prison No. 313 in Tirana is transmitted to the CPT within two months and implemented within four months, and that all prisoners in all the other prison establishments visited are granted at least one hour of outdoor exercise per day (including on Sundays and public holidays).

In their letter of 14 July 2005, the Albanian authorities informed the CPT that by Internal Order No. 3109 dated 15 June 2005 the "aeration time" had been extended by two hours and "that all institutions had been instructed to add different activities with the [aim] to prolong the staying time of the convicted and the pre detainees out of the rooms and the cells". This is a welcome development. However, no information was provided regarding the provision of outdoor exercise on Sundays and public holidays in the other prison establishments visited.

The CPT has taken note of the concerns expressed by the Albanian authorities during the visit and in their letter of 5 November 2005 about the structural problems faced by management of Prison No. 313 in providing secure outdoor exercise facilities. However, a solution to this problem must be found without any further delay.

98. The CPT calls upon the Albanian authorities to take immediate steps to ensure that adult prisoners at Prison No. 313 and all prisoners in all the other prison establishments visited are granted at least one hour of outdoor exercise per day (including on Sundays and public holidays).

Further, **the Committee reiterates its recommendation that the Albanian authorities devise and implement a comprehensive regime (including group association activities) for all prisoners, including those on remand, in all the prisons visited.**

⁵¹ As in 2003, prisoners had only access to so-called "aeration rooms" for one hour per day.

⁵² Cf. CPT (2003) 68, paragraph 74.

4. Life-sentenced prisoners at Tepelena Prison

99. *Material conditions* of detention for life-sentenced prisoners at Tepelena Prison were identical to those offered to the rest of the inmate population. In this connection, reference is made to the remarks and recommendations made in paragraph 93.

100. As regards the *regime*, the delegation observed that hardly any of the life-sentenced prisoners were provided with work or other out-of-cell activities apart from outdoor exercise (cf. paragraph 95).

The CPT would like to recall that long-term imprisonment can have a number of desocialising effects upon inmates. In addition to becoming institutionalised, long-term prisoners may experience a range of psychological problems (including loss of self-esteem and impairment of social skills) and have a tendency to become increasingly detached from society, to which almost all of them will eventually return. In the view of the CPT, the regimes which are offered to prisoners serving long sentences should seek to compensate for these effects in a positive and proactive way. The prisoners concerned should have access to a wide range of purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). Additional steps should be taken to lend meaning to their period of imprisonment; in particular, the provision of individualised custody plans and appropriate psychological⁵³ and social support are important elements in assisting such prisoners to come to terms with their period of incarceration and, when the time comes, to prepare for release. Moreover, the provision of such a regime to life-sentenced prisoners enhances the development of constructive staff/inmate relations and hence reinforces security within the prison.

The CPT recommends that the Albanian authorities redouble their efforts to provide life-sentenced prisoners with more opportunities for work and other purposeful activities outside their cells (sport, education, leisure, etc.).

More generally, steps should be taken to develop a long-term policy vis-à-vis life-sentenced prisoners (including the possibility for declassification to lower security regimes), in the light of the above remarks.

⁵³ Cf. also paragraph 122.

5. Conditions of detention of juvenile prisoners

101. The CPT welcomes the efforts made at Tirana-Vaqarr Prison⁵⁴ to separate juveniles from adult prisoners. All juveniles (10 at the time of the visit) were being accommodated in two cells (which also had a separate outdoor exercise yard).

However, their *material conditions* were very similar to those in the detention areas of the adult inmate population. In particular, the poor quality of the food provided was all the more detrimental to juveniles. In this connection, reference is made to the remarks and recommendations made in paragraph 93.

102. The situation as regards *activities* was clearly better than for adults. During work days, juveniles were able to spend seven hours per day outside their cells for educational activities, sports, access to a communal room and three hours of outdoor exercise. That said, no out-of-cell activities at all (not even outdoor exercise) were offered to juveniles on Sundays and public holidays. In this connection, reference is made to the remarks and recommendation made in paragraphs 96 to 98.

The CPT is nevertheless very concerned by the poor quality of educational activities available at Vaqarr. Indeed, formal education was almost non-existent. When the delegation visited the class-rooms, it became apparent that juveniles had been called in only after the delegation had indicated its intention to visit the school. Juveniles (including those who were totally illiterate), were given copybooks in chemistry and other subjects, in an attempt to simulate proper classes. When the delegation went back to the school the following day, it found out that various school activities were recorded in the school's daily activity book, despite the fact that none of the recorded activities had actually taken place on that day.

The CPT recommends that steps be taken as a matter of priority to improve the quality of educational activities at Tirana-Vaqarr Prison.

103. The custody and care of juveniles deprived of their liberty is a particularly challenging task. The *staff* called upon to fulfil that task should be carefully selected for their personal maturity and ability to cope with the challenges of working with - and safeguarding the welfare of - this age group. More particularly, they should be committed to working with young people, and be capable of guiding and motivating the juveniles in their charge. All such staff, including those with purely custodial duties, should receive appropriate training and benefit from appropriate external support and supervision in the exercise of their duties.

The information gathered during the 2005 visit indicated that the above criteria were not met at Tirana-Vaqarr Prison. **The CPT recommends that custodial staff assigned to the juvenile unit at Tirana-Vaqarr Prison receive specialised training.**

⁵⁴ Due to the specific objectives of the visit to Prison No. 313, the delegation did not examine in detail the conditions of detention of juvenile remand prisoners in that establishment.

104. More generally, the CPT is of the opinion that Tirana-Vaqarr Prison is not a suitable place for juveniles to serve their sentence. The delegation was informed that plans were afoot to set up a special establishment for juvenile offenders in Pogradec. **The CPT would like to receive more detailed information on this matter.**

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105. The conditions under which two juvenile offenders were held at Prison No. 302 in Tirana gave rise to particular concern. They were locked up in their cells for 22 ½ hours per day, without being offered any purposeful activities. The delegation was informed that the management had proposed to the Central Prison Administration to return them to Prison No. 313, but that, thus far, no decision had been taken on the matter.

During the end-of-visit talks, the delegation requested the Albanian authorities to take urgent steps to transfer the two prisoners concerned to Prison No. 313, which had a special unit for juvenile remand prisoners and also organised a range of educational and other activities for them.

In their letter of 14 July 2005, the Albanian authorities informed the CPT that one the two prisoners concerned had been transferred to Prison No. 313 and that the other prisoner remained at Prison No. 302, since he had come of age.

The CPT recommends that the Albanian authorities take steps to ensure that no juveniles are held in Prison No. 302 in the future.

6. Conditions of detention at Kruja Special Institute for Mentally Ill, Drug-addicted and Elderly Prisoners

106. *Material conditions* at Kruja Special Institute were, generally, satisfactory. All cells were of a reasonable size, had good access to natural light and artificial lighting and were well ventilated. Most of the cells were also equipped with a television set. Further, inmates were allowed to keep their own gas cookers and refrigerators in their cells.

That said, several cells accommodating prisoners with physical impairments were not suitable for the specific needs of the prisoners concerned. Further, showers and sanitary facilities were found to be in a deplorable state of repair and hygiene in many parts of the establishment, and inmates were not provided with any personal hygiene products. Many complaints were also received from prisoners about water shortages in the establishment.

The CPT recommends that steps be taken to remedy the above-mentioned deficiencies.

107. The *regime* offered to inmates was more favourable than in the other establishments visited. During mornings (3 ½ hours), inmates were able to take outdoor exercise or to go to the establishment's library, and in the afternoons (1 ½ hours), inmates were able to associate with fellow-inmates in communal rooms (which were equipped with table tennis, board games, television, etc.). Further, between 4 p.m. and 7 p.m. each day, prisoners were able to associate with fellow inmates in other cells (whilst the cell doors were locked).

However, as was the case in all the other establishments visited, no outdoor exercise at all was offered to inmates on Sundays and public holidays. In this respect, reference is made to the remarks and recommendation made in paragraphs 96 and 98.

Further, no sports activities at all were offered to prisoners held in Unit A. **Steps should be taken to remedy this shortcoming.**

Finally, in the light of the information gathered during the visit, **the CPT invites the Albanian authorities to make additional efforts to provide inmates with activities which are adapted and tailored to their special needs.**

7. Health care

a. Prison Hospital

108. During the follow-up visit to the Prison Hospital in Tirana, the delegation mainly focused on the situation of psychiatric patients. It also reviewed the measures taken by the Albanian authorities in the light of the recommendations made after the 2000 visit regarding the Prison Hospital as a whole.

109. The CPT is very concerned by the fact that, due to a lack of appropriate alternative facilities, persons who had been declared criminally irresponsible were still being held in a prison setting. The delegation was informed that the long-standing plan to create a forensic psychiatric institution in Kruja had been abandoned and a new location had been identified in Durres instead. However, it remained unclear as to when this institution would actually open. The current unsatisfactory situation was further exacerbated by the fact that the number of persons who had been declared criminally irresponsible had significantly increased in recent years (from 35 in 2000 to 54 in 2005)⁵⁵.

The CPT calls upon the Albanian authorities to take steps without any further delay to accommodate persons who have been declared criminally irresponsible in a more suitable facility. In this connection, the Committee would like to receive more detailed information on the planned forensic psychiatric institution in Durres, as well as a precise timetable for the construction of that institution.

⁵⁵ Due to lack of space in the psychiatric ward at the Prison Hospital, a number of persons who were criminally irresponsible had to be accommodated in somatic wards together with non-psychiatric patients.

110. Material conditions in the Prison Hospital had significantly improved since the 2000 visit. All cells were of a reasonable size, had good access to natural light and artificial lighting, and were well equipped (bed, bedside table, table, chair, radio). However, the sanitary facilities were found to be in a very poor state of repair and hygiene. **The CPT recommends that steps be taken to remedy these deficiencies.**

Further, many complaints were received from patients about the poor quality and quantity of the food provided. **Steps should be taken to review the arrangements for the provision of food at the Prison Hospital.**

111. The CPT remains very concerned about the almost total lack of out-of-cell activities for patients at the Prison Hospital.

As regards patients who had been declared criminally irresponsible, no out-of-cell activities were organised for them, and outdoor exercise was only provided on an irregular, less than weekly, basis, and for less than one hour each time. It is all the more worrying that many of the patients concerned had been staying at the Prison Hospital under such conditions for several years.

Further, no outdoor exercise at all, nor any other out-of-cell activities were offered to any of the other patients. Thus, except for access to sanitary facilities, patients were usually confined to their rooms 24 hours per day, the only occupation being reading and listening to the radio. The hospital also had no library.

Such a state of affairs is totally unacceptable and constitutes a flagrant failure on the part of the Albanian authorities to implement a recommendation which had already been made after the 1997 visit and reiterated after the subsequent visits to the Prison Hospital.

The CPT calls upon the Albanian authorities to take immediate steps to ensure that all patients whose state of health permits are offered at least one hour of outdoor exercise per day.

Further, **the Committee reiterates its recommendation that a wider range of activities be offered to long-term patients in the Prison Hospital and that special attention be paid to juveniles serving long-term sentences.**

112. The CPT welcomes the recent reinforcement of health-care staff (two additional doctors and one psychologist) at the Prison Hospital. The delegation was informed that plans were afoot to increase the number of nursing staff. **The CPT would like to receive updated information on this matter.**

113. As regards the treatment provided to patients, the situation remained, on the whole, unchanged. As in 2000, psychiatric treatment was based exclusively on pharmacotherapy. There were no individualised treatment plans or individual psychotherapy, occupational therapy or group therapy.

In this respect, the CPT wishes to stress once again that psychiatric treatment should be based on an individualised approach, which implies the drawing up of a treatment plan for each patient indicating the goals of treatment, the therapeutic means used and the staff member responsible. The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication. The treatment should involve a wide range of rehabilitative and therapeutic activities, including access to occupational therapy, group therapy, individual psychotherapy, and sports. In addition, patients should have regular access to suitably equipped leisure rooms; it is also desirable for them to be offered education and suitable work (cf. also paragraph 111).

The CPT reiterates its recommendation that the psychiatric treatment offered to patients at the Prison Hospital be reviewed, in the light of the above remarks.

114. As regards contact with the outside world, it is praiseworthy that patients now have regular access to a telephone (once per week). As regards visits, the entitlements of patients were identical to those of inmates held in prisons. In this connection, reference is made to the remarks and recommendation made in paragraph 136.

115. The CPT noted that, since the beginning of 2005, agitated patients were no longer shackled to their bed with hand- and ankle-cuffs. Further, no excessive recourse to means of restraint (leather straps; sedative medication) or seclusion was observed. However, there was no special register on the use of means of restraint/seclusion. **Steps should be taken to remedy this shortcoming.**

116. The confidentiality of medical examinations/consultations and data was not respected at all at the Prison Hospital. In this connection, reference is made to the remarks and recommendations made in paragraph 127.

117. Persons who had been declared criminally irresponsible were subject to an involuntary placement order for an indefinite period. In such cases, Section 46 of the Penal Code provides that the necessity of that placement be reviewed by the court *ex officio* after one year. However, the delegation was informed that such judicial reviews had never been carried out *ex officio*, but only upon request by the person concerned or his lawyer.

The CPT calls upon the Albanian authorities to take immediate steps to ensure that the review procedure under Section 46 of the Penal Code is carried out in respect of all persons who have been declared criminally irresponsible.

b. Kruja Special Institute for Mentally Ill, Drug-addicted and Elderly Prisoners

118. The number of medical staff was adequate in terms of posts available (two general practitioners, two psychiatrists and one “toxicologist”). However, no psychiatrist was *effectively* present in the establishment. The only psychiatrist in post had been absent, due to sick leave, for a considerable period of time, while the second post of psychiatrist was vacant at the time of the visit. This is all the more worrying, if one takes into account the large number of prisoners suffering from mental disorders (50 at the time of the visit). In addition, the post of toxicologist was vacant at the time of the visit; given the establishment’s policy not to accommodate drug-addicted prisoners (cf. paragraph 84), it would seem to be useful to modify the profile of the second vacant post of doctor.

On the other hand, nursing staffing levels (15 full-time nurses) were on the whole adequate. However, given the large number of inmates with special needs, **the long-term objective should be to increase the number of nursing staff in the establishment.**

Many members of staff (in particular, custodial staff) met by the delegation complained about the fact that they had received no special training in dealing with inmates suffering from mental disorders.

The CPT recommends that the Albanian authorities take immediate steps to ensure that two psychiatrists are effectively present on a full-time basis at Kruja Special Institute.

Further, **steps should be taken at Kruja Special Institute to ensure that:**

- **the second vacant post of doctor is filled;**
- **the psychological services are reinforced;**
- **the staff receive special training in dealing with inmates suffering from mental disorders.**

119. As regards the health-care facilities, the CPT would like to emphasise that, given the increased morbidity of the inmate population (e.g. the majority of elderly prisoners suffering from cardiac diseases, several patients suffering from tuberculosis, etc.), **Kruja Special Institute should have the necessary equipment to carry out basic paraclinical tests.**

120. Newly arrived prisoners were not systematically subject to a medical screening upon admission. In this connection, reference is made to the remarks and recommendations made in paragraphs 30 to 33 and 124.

121. The delegation also observed a number of important shortcomings in the treatment offered to prisoners at Kruja Special Institute. The supply of medicines appeared to pose a particular problem. The delegation was informed that the establishment frequently ran out of medicines for prolonged periods. As regards psychiatric care, the delegation observed a lack of individualised treatment plans for inmates suffering from mental disorders. Further, inmates with physical impairments did not always receive the necessary assistance and equipment (e.g. wheel chairs, etc.).

The CPT recommends that steps be taken to remedy the above-mentioned shortcomings.

c. health-care services in the prisons visited⁵⁶

122. As regards health-care staff, the number of *doctors* (general medicine, dental care) can be considered adequate in all the establishments visited. That said, none of the establishments visited was attended by a psychiatrist. Thus, prisoners in need of psychiatric care had to be transferred to a general hospital or the Prison Hospital.

Nursing staff levels were, on the whole, adequate at Tirana-Vaqarr Prison (four full-time nurses who worked on rotation 24 hours per day). As regards Tepelena Prison, the CPT is concerned by the fact that the existing nursing staff levels (two full-time nurses) did not allow the presence of nursing staff at night, despite the remote location of the establishment. Further, given the size⁵⁷ and type of establishment (remand institution), the complement of qualified nursing staff (four nurses) was clearly insufficient at Prison No. 313 in Tirana.

Further, with the notable exception of Tirana-Vaqarr Prison, in none of the establishments visited was there a *psychologist* present to support the establishment's health-care team. This shortcoming was particularly problematic as regards Tepelena Prison, where the majority of prisoners were sentenced to life or were serving long-term sentences⁵⁸, and Tirana-Vaqarr Prison, where juvenile prisoners were also held.

The CPT recommends that steps be taken to ensure that:

- **a psychiatrist and a psychologist are present, on a regular basis, in all the prisons visited, particularly in those accommodating prisoners serving long sentences and juveniles;**
- **a qualified nurse is always present, including at night, at Tepelena Prison;**
- **nursing staff levels are significantly increased at Prison No. 313 in Tirana.**

123. The health-care facilities were of a very poor quality in all the establishments visited. For instance, a piece of equipment as basic as weighing scales was absent everywhere. Needless to say, such a state of affairs also hampers the adequate oversight of the nutrition provided in the establishment, as well as the supervision of hunger strikes which occurred from time to time. It is also of concern that no running water was available in the dentist's surgery at Tirana-Vaqarr Prison. Further, both at Tepelena Prison and Tirana-Prison No. 313, the state of cleanliness and hygiene in the doctors' consultation rooms left much to be desired.

The CPT recommends that steps be taken to remedy the above-mentioned deficiencies.

⁵⁶ Due to the specific objectives of the visit to Prison No. 302 in Tirana, the delegation did not examine in detail the health-care services. At Prison No. 313, the health-care services were assessed in the context of a follow-up visit to that establishment.

⁵⁷ At the time of the visit, Prison No. 313 was accommodating 420 remand prisoners.

⁵⁸ Indeed, many of the life-sentenced prisoners met by the delegation complained about the lack of psychological support.

124. In paragraph 32, the CPT already identified a number of serious shortcomings as regards the medical screening upon admission in the prisons visited (in particular, examinations not being carried out systematically or only in a very perfunctory manner) and has made a number of specific recommendations in this respect.

The Committee is also concerned by the fact that newly arrived remand prisoners were not systematically screened for transmissible diseases (such as hepatitis B and C, HIV, syphilis and tuberculosis), and that no information was being provided to inmates regarding the prevention of such diseases.

The CPT recommends that immediate steps be taken in all the prisons visited (as well as in the entire prison system in Albania) to ensure that all newly arrived remand prisoners are subject to a comprehensive medical examination on admission (including screening for transmissible diseases) and that all prisoners are provided with information regarding the prevention of transmissible diseases.

125. With the exception of Prisons Nos. 302 and 313 in Tirana, medical files existed for every prisoner in all the establishments visited, and the files were, on the whole, well kept (cf., however, paragraphs 32 and 33).

At Prison No. 302, for a number of recently admitted prisoners no medical files were available. After a waiting period of some 20 minutes, the missing files were "found". It became apparent that these files had been opened by the doctor in the meantime. He had simply inserted in each of the files the name of the person concerned and the laconic conclusion that the persons was "in good health", without mentioning any additional information. The delegation subsequently found that in one of these cases, significant injuries (a large left per orbital haematoma, a swelling in the region of the left cheekbone and a long gash on the neck, below the right ear) were visible on the prisoner's photo in the administrative file. Most of these injuries were still visible when the prisoner was seen by medical members of the delegation.

Similarly, at Prison No. 313, a number of medical files were missing at the time of the delegation's arrival, but "found" on the following day. These files contained nothing other than the names of the prisoners concerned.

The CPT calls upon the Albanian authorities to take immediate steps at Prisons Nos. 302 and 313 in Tirana to ensure that an individual medical file is opened and properly kept for every prisoner.

126. A number of individual cases illustrate alarming shortcomings in some of the establishments, in particular, as regards the treatment of patients with serious medical conditions.

At Tepelena Prison and Tirana-Vaqarr Prison, the delegation met two prisoners who, due to their health condition (severe psychosis and an advanced stage of cancer, respectively), were in urgent need of specialised treatment in a hospital setting. However, no initiatives had been taken to transfer the prisoners concerned to the Prison Hospital. During the end-of-visit talks, the delegation requested the Albanian authorities to take urgent measures in respect of the two above-mentioned cases. In their letter of 14 July 2005, the Albanian authorities confirmed that both prisoners had been transferred to the Prison Hospital.

At Tirana-Vaqarr Prison, the delegation met a prisoner suffering from diabetes who was not receiving a special diet. The CPT must stress that such a state of affairs amounts to a denial of treatment. Further, in the case of another prisoner at Tirana-Vaqarr, who was suffering from tuberculosis, the delegation observed that there had been a considerable delay in transferring the prisoner concerned to the Prison Hospital. Further, no protective measures had been taken during his transfers to the hospital, in order to avoid other prisoners or members of staff becoming infected with the disease.

The CPT recommends that the Albanian authorities review the provision of health care in the establishments visited, in the light of the preceding remarks.

127. The confidentiality of medical examinations/consultations as well as of medical data was not fully respected in any of the establishments visited. Prison officers were usually present during medical examinations/consultations and, in some establishments, medical files were accessible to non-medical staff.

The CPT acknowledges that special security measures may be required during medical examinations in a particular case, when a security threat is perceived by the medical staff. However, there can be no justification for prison officers being *systematically* present during such examinations; their presence is usually unnecessary from a security standpoint and detrimental for the establishment of a proper doctor - patient relationship. Alternative solutions can and must be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be the installation of a call system, whereby a doctor would be in a position to rapidly alert prison officers in those exceptional cases when a prisoner becomes agitated or threatening during a medical examination.

The CPT recommends that steps be taken in all the prisons visited (as well as in the entire prison system in Albania) to ensure that all medical examinations of prisoners (whether on arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers.

Further, **the Committee recommends that steps be taken to ensure that medical data are no longer accessible to non-medical staff.**

d. professional independence

128. The health-care staff in any prison is potentially a staff at risk. Their duty to care for their patients (sick prisoners) may often enter into conflict with considerations of prison management and security. This can give rise to difficult ethical questions and choices. Whatever the formal position under which a prison doctor carries out his activity, it is essential that prison doctors' clinical decisions should be governed only by medical criteria.

129. In the light of the delegation's findings, **the CPT recommends that the management of all the prisons visited (as well as of other prisons in Albania) be reminded of the above-mentioned precept.**

8. Other issues

a. discipline

130. As in 2000, disciplinary sanctions ranged from reprimand to the imposition of solitary confinement (a maximum of 20 days for adults, 10 days for juveniles).

In none of the establishments visited was there frequent recourse to the sanction of solitary confinement. That said, the CPT has misgivings about the practice observed at Tepelena and Tirana-Vaqarr Prisons of periods spent temporarily by prisoners in solitary confinement, pending the outcome of a disciplinary procedure, not being counted towards the serving of any sanction of solitary confinement subsequently imposed⁵⁹. **Steps should be taken to put an end to this practice.**

131. Material conditions in disciplinary cells varied considerably from one establishment to another.

At *Tepelena Prison*, prisoners subject to the sanction of solitary confinement were placed in an ordinary cell.

At *Tirana-Vaqarr Prison*, one of the two "aeration cubicles", which only had a roof in the form of a metal grille covered with a plastic sheet, was being used for disciplinary purposes. In their response to the immediate observation made by the delegation at the end of the visit (cf. paragraph 9), the Albanian authorities informed the CPT that the cubicles were "out of use for the accommodation of the convicted persons" (cf. letter dated 14 July 2005). **The CPT would like to receive confirmation that the "aeration cubicles" are no longer used as prisoner accommodation, including for disciplinary reasons.**

At *Kruja Special Institute*, the conditions in most of the disciplinary cells were acceptable. However, one cell, measuring a mere 5.40 m², had no access to natural light and only very poor artificial lighting. During the end-of-visit talks, the delegation made an immediate observation and requested the Albanian authorities to take steps to ensure that this cell was withdrawn from service (cf. paragraph 9). In their letter of 14 July 2005, the Albanian authorities informed the CPT that "in the isolation cells of the Special Institute in Kruja the windows are opened with normal dimensions and natural light". **The CPT would like to receive confirmation that the above-mentioned cell now has adequate access to natural light and artificial lighting.**

132. Prisoners subject to solitary confinement for disciplinary reasons were still not being offered one hour of outdoor exercise per day (only half an hour per day at Tepelena Prison and no outdoor exercise at all at Tirana-Vaqarr Prison), despite the assurances given to the contrary by the Albanian authorities in their response⁶⁰ to the 2000 report. Further, in none of the establishments visited were prisoners subject to solitary confinement allowed to keep reading material in their cell.

⁵⁹ By way of example, at Tepelena Prison, a prisoner had been kept in solitary confinement for a period of 25 days for the same disciplinary offence.

⁶⁰ Cf. CPT/Inf (2003) 10, page 24.

The CPT calls upon the Albanian authorities to ensure that all prisoners subject to the disciplinary sanction of solitary confinement are offered at least one hour of outdoor exercise per day.

Further, **the CPT reiterates its recommendation that such prisoners be allowed access to reading matter.**

133. As regards disciplinary procedures, the delegation noted that prisoners were informed of the disciplinary offence of which they had been accused, and had the right to make statements. However, a number of prisoners indicated that they had not been informed of the modalities of lodging an appeal. **The CPT recommends that steps be taken to ensure that the prisoners concerned are given a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues/deadlines for lodging an appeal.**

b. security measures

134. At both Tepelena Prison and Tirana-Vaqarr Prison, special means of restraint (handcuffs and batons) were only being used by the establishments' special intervention groups. Although all security incidents were recorded in a special register, no record was kept of the use of special means of restraint⁶¹. **The CPT recommends that this shortcoming be remedied.**

c. contact with the outside world

135. The CPT welcomes the fact that, in all the establishments visited, sentenced and (upon authorisation by the judicial authorities) remand prisoners had regular access to a telephone (usually one five-minute call per week).

136. In all the establishments visited, sentenced prisoners were allowed to receive four 30-minute visits per month. Further, married prisoners were able to have one unsupervised extended visit of 17 hours per month (instead of one of the short visits).

According to the current legislation, remand prisoners were entitled to three visits of *up to* 30 minutes per month. The delegation observed that the actual duration of visits was considerably shorter (10 to 15 minutes per visit). **The CPT recommends that steps be taken to ensure that remand prisoners are accorded the full visit entitlement of 30 minutes per visit.** Further, **in the same way as sentenced prisoners, they should be entitled to one visit per week.**

137. No complaints were heard from prisoners during the visit about any restrictions on prisoners' correspondence with the outside world. That said, the CPT received some allegations after the visit that, on occasion, the correspondence of prisoners with the European Court of Human Rights had been opened by the prison administration. **The CPT trusts that the Albanian authorities will take steps to ensure the confidentiality of the correspondence of prisoners with outside judicial/complaints bodies (including the European Court of Human Rights).**

⁶¹ The delegation found medical evidence of the recent use of batons, without their use having been recorded.

C. Vlora Psychiatric Hospital

1. Preliminary remarks

138. The CPT visited Vlora Psychiatric Hospital for the third time. On its first visit in December 2000⁶², the Committee had found cause for such grave concern that it had called for an independent, in-depth enquiry into the functioning of the Hospital. After its second visit in October 2001⁶³, it had noted some signs of improvement at the Hospital: in particular, the decrease in the number of allegations of deliberate ill-treatment by staff, although it had still found it necessary to reiterate many recommendations concerning material conditions, patient treatment and staff matters.

In 2005, the development of community mental health care in Albania, together with the establishment, at the Hospital, of psychosocial rehabilitation programmes and of an admissions ward which filtered admissions according to refined clinical criteria, had resulted in a decrease in the Hospital's capacity and in the number of beds. From an official capacity of 280 patients in 2001, this number had been reduced to 240, with the Hospital accommodating 197 patients (112 men and 85 women) at the time of the visit.

The previous eighteen months under new management had seen extensive reforms, which brought about a significant transformation at the Hospital. Most notably, an open door policy was introduced (cf. paragraph 141), patients were no longer secluded or physically restrained to their beds (cf. paragraph 153), and measures were taken to combat the high level of staff absenteeism which was reported in previous visits (cf. paragraph 151). However, a number of important deficiencies remained in 2005, and these are highlighted in the present report.

2. Ill-treatment

139. Significant improvements had clearly been made since 2001⁶⁴ in combating the problem of ill-treatment of patients by staff. Indeed the patient-staff relationship at the Hospital was no longer charged with aggression and tension, the atmosphere throughout the Hospital being generally positive.

However, the CPT's delegation did receive allegations of ill-treatment by one male orderly (on acute male Ward 6-7), consisting mainly of slaps and punches, and verbal abuse. Efforts must, therefore, continue to be made in order to eliminate ill-treatment practices entirely.

The CPT recommends that the management of Vlora Psychiatric Hospital regularly remind staff that any ill-treatment of patients (including verbal abuse) is unacceptable and will be punished accordingly.

62 Cf. CPT/Inf (2003) 9. The essential characteristics and layout of Vlora Psychiatric Hospital may be found at paragraph 103 of the report on the 2000 visit.

63 Cf. CPT/Inf (2003) 11, paragraphs 30 to 51.

64 Cf. CPT/Inf (2003) 11, paragraph 31, and also the more alarming situation found during the first visit in 2000 (CPT/ Inf (2003) 9, paragraph 107).

140. Already at this stage, the CPT wishes to highlight that, despite the significant progress noted above (cf. paragraph 139), certain behaviour and practices observed during the visit indicated that there was still room for improvement in this respect. Particular mention should be made of the persistent practice of administering liquid medication orally by syringe and needle (cf. paragraph 149) and the lack of sufficient seating in the refectories of Wards 1-2 and 6-7, resulting in patients taking their meals while seated on the floor (cf. paragraph 144).

Further, all the patients of Ward 1-2 were herded together and locked up in a small room devoid of furniture during the daily cleaning of the ward. **The Committee recommends that alternative arrangements be made, which are respectful of patients' dignity.**

3. Patients' living conditions and treatment

a. living conditions

141. The CPT welcomes not only the fact that its long-standing recommendation regarding access for all patients to outdoor exercise⁶⁵ has now been fully implemented, but also the significant improvement in patients' living conditions, compared to the situation observed in 2001. This improvement was noted, to some extent in terms of material conditions, but particularly with regard to the open door policy introduced by the new management of the Hospital. Essentially, patients were free to move around the hospital grounds, and were frequently accompanied on walks in small groups outside the premises.

142. Since the CPT's previous visit in 2001, some restructuring and renovation had taken place at the Hospital. Most notably, a new admissions ward had been built, which could accommodate a maximum of four female and four male patients, and the seclusion rooms on each ward had been renovated and transformed into personalised rooms for patients participating in a rehabilitation project.

That said, the state of repair and hygiene in the dormitory of Ward 1 and the sanitary facilities of Ward 1-2 (for chronic male patients) still left much to be desired. Further, both staff and patients complained of frequent power and water supply cuts and insufficient heating in the entire establishment.

The CPT recommends that these shortcomings be remedied.

65 Cf. reports on visits in 2001 (CPT/Inf (2003) 11, paragraph 39) and 2000 (CPT/Inf (2003) 9, paragraph 122).

143. Despite assurances by the Albanian authorities⁶⁶ that the wards for chronic patients were no longer short of beds, during the visit in 2005 some beds were still insufficient in number in Ward 4-5 for female chronic patients. However, the delegation was informed by the Hospital's Director that this problem would be solved immediately. **The CPT wishes to receive confirmation that this is now the case.**

Moreover, mattresses, sheets and blankets were not always clean and were seldom in good condition.

The CPT calls upon the authorities to take immediate steps to implement once and for all the Committee's long-standing recommendation that each ward be equipped with adequate sleeping facilities that are in a good state of hygiene and repair.

144. The quantity and quality of food provided to patients was found to be satisfactory, with some welcome effort being made to supervise the nutritional value of meals. However, at the time of the visit, the patients' weight was still not being regularly monitored. **Steps should be taken to remedy this shortcoming.**

As in 2001, the manner in which patients in Wards 1-2 and 6-7 (for chronic and acute male patients, respectively) took their meals was unsatisfactory. As a result of the insufficient number of chairs and tables in the refectories, several patients habitually ate on the floor. The CPT wishes to emphasise once again that ensuring that all patients may eat seated at a table is a sign of respect for their dignity. **The Committee reiterates its recommendation that measures be adopted to enable all patients to take their meals in decent conditions (either by providing sufficient furniture or by organising two sittings).**

145. The CPT must also reiterate its concern for the particular situation of patients with multiple disabilities, as they still were not receiving sufficient assistance from staff (e.g. help with taking their meals) to overcome the effects of their disabilities. **Measures should be taken to ensure that patients with multiple disabilities receive adequate care and assistance.**

146. The facilities necessary to meet the needs of incontinent patients were again found to be inadequate. **The CPT reiterates its recommendation that immediate steps be taken to ensure that the relevant wards are supplied with appropriate material in sufficient quantities (undersheets to protect the mattresses, incontinence pads and an increased stock of sheets and blankets).**

147. With the exception of the patients (4 or 5 in each ward) benefiting from a recently instituted psychosocial rehabilitation programme (cf. paragraph 148), the majority of patients in the hospital still lacked a lockable space to store their personal belongings. Such a space would do much to improve patients' surroundings. **Steps should be taken to remedy this shortcoming.**

66 Cf. response to the report on the 2001 visit (CPT/Inf(2003) 12, page 5).

b. treatment of patients

148. The CPT welcomes the fact that an individualised treatment plan had been established for each patient. This included the development of activities concerned with patients' rehabilitation. Thus, in addition to the positive open-door policy adopted, patients and staff were involved in activities such as outings and social events. However, occupational therapy was still underdeveloped, in terms of the variety of activities and the number of patients participating in them. The very notable exception concerned the patients (4 or 5 per ward) benefiting from a rehabilitation programme introduced with the support of the United Nations Office for Project Services (UNOPS), which had been instrumental in the discharge of several patients (especially long-term) and their return to the community. Both patients and staff found the programme to be motivating.

The CPT commends the authorities for the very important and encouraging development of a rehabilitation programme at the Hospital. **Timely steps should be taken to ensure the sustainability of such beneficial rehabilitation programmes, in the event that outside support for them were to come to an end.** More generally, **the Committee recommends that occupational therapy be developed further and be made accessible to the maximum number of patients, especially chronic ones.**

149. Patients were not found to be overmedicated. New generation neuroleptics were in use at the Hospital. However, once again the delegation observed a method of administering liquid treatments in Ward 1-2, for male chronic patients, which involved using a syringe (with a needle), the content of which was emptied into the mouths of waiting patients⁶⁷. It is a matter of grave concern that, despite assurances to the contrary⁶⁸, this degrading, potentially dangerous method of administering liquid medicines had not been abandoned.

To the management's credit, immediate steps were taken during the visit to replace this method with an appropriate one. **The CPT trusts that this new method continues to be used.**

150. Information gathered during the visit indicated that certain practical problems existed in relation to securing somatic treatment for psychiatric patients at Vlora's General Hospital. **The CPT invites the authorities to take steps to ensure full co-operation between the two hospitals.**

⁶⁷ Cf. CPT/Inf (2003) 11, paragraph 40.

⁶⁸ CPT/Inf (2003) 12, page 5.

4. Staff

151. The CPT welcomes a number of positive developments in staff matters. In particular, the significant drop in staff absenteeism may be ascribed to the very serious approach taken by the new Director towards this issue.

A generally more responsible, respectful and professional attitude among staff was apparent, and was confirmed to the delegation in discussions with patients and staff alike (cf., however, paragraph 139).

Further, the delegation identified greater professionalism in the co-ordination between the hospital management and the various head doctors of Wards, as well as within each care unit, in particular through weekly meetings of care teams.

152. That said, staffing levels were still insufficient, in terms both of medical and paramedical personnel, and regarding numbers and type of qualifications. Since the Committee's previous visit to the Hospital in 2001, staffing levels had not increased. Although the number of patients had decreased, staff had also been assigned additional duties outside the Hospital, in the context of the development of community mental health care.

Of the five psychiatrists' posts provided for, one was filled temporarily by a nurse. However, the problem lay more with low staffing levels than with difficulty in filling vacant posts.

The CPT reiterates its recommendation that the Hospital's staff be reinforced by an adequate number of qualified psychiatrists, psychiatric nurses, clinical psychologists and occupational therapists. Steps should also be taken to include social workers on the Hospital's staff.

Further, for the many positive trends at the Hospital to continue, **priority should be given to strengthening the professionalism of medical and nursing staff, continuing to set aside sufficient time for basic and in-service training and ensuring that orderlies and other staff in direct contact with patients are properly selected and trained.**

5. Means of restraint and seclusion

153. The CPT welcomes the fact that the use of seclusion had been abandoned (cf. paragraph 142) and clear written instructions on the use of means of restraint had been issued and posted in each ward, requiring, in particular, the authorisation of a doctor. Means of restraint - consisting of a sedative administered by injection to the patient, who might also be strapped to a bed - were not found to be used excessively.

6. Safeguards in the context of involuntary placement

154. On account of their vulnerability, the mentally ill and mentally handicapped warrant much attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment (from the initial placement decision, to the decision to discharge a patient) should always be surrounded by appropriate safeguards⁶⁹.

a. initial placement and discharge procedures

155. The initial placement procedure should offer guarantees of independence and impartiality as well as of objective medical expertise. Substantial safeguards are provided for in the Mental Health Act of 1996⁷⁰.

However, it is a matter of grave concern that none of the procedural safeguards laid down in the Mental Health Act, regarding involuntary placement of a civil nature, were effectively enjoyed in practice. Doctors did appear to abide by the clinical criteria for involuntary placements, but none of the subsequent procedures provided for by the Mental Health Act were actually followed. Internal regulations for psychiatric departments", issued in March 2000, informing health-care staff of the procedures for implementing the 1996 Mental Health Act appeared to have had no effect⁷¹.

To sum up, the visit revealed that the Mental Health Act of 1996 was still not being implemented, despite the specific recommendation repeatedly made by the CPT in all previous visit reports and despite the assurances given by the Albanian authorities in their response⁷² to the 2003 visit report. Such a state of affairs is totally unacceptable (cf. paragraph 8).

Consultations with senior judges revealed that the courts were prepared to assume the role assigned to them by the law, but they simply did not receive placement notifications from the hospitals and they themselves were not in a position to initiate placement or review procedures.

⁶⁹ The substantive section of the 8th General Report on the CPT's activities (cf. CPT/Inf (98) 12, paragraphs 51 to 57) contains an overview of the Committee's standards in this area.

⁷⁰ Cf. Sections 25 and 27 to 29 of the 1996 Mental Health Act. An (immediate) involuntary placement can be ordered by a psychiatrist who has personally carried out an examination of the patient (Section 25), and only if the mentally disordered patient poses a direct threat to his life or health or to that of others (Section 27). The psychiatrist must, within 24 hours, notify the chief physician of the establishment, who then must validate the involuntary hospitalisation or discharge the patient. In the event of a validation, the chief physician must notify the case to the district court within 48 hours (Section 28). Subsequently, the district court judge must summons the patient, his or her legal tutor (representative), the physician who made the initial decision, the chief physician, family members and other interested parties within 3 days, in order to hear them and decide on the involuntary placement (Article 29).

⁷¹ A circular had also been sent by the Ministry of Health on 18 July 2003 to all psychiatric establishments, instructing them to notify involuntary admissions to the competent courts. The CPT had received assurances from the authorities (by letter of 21 October 2003), that each new involuntary admission would be notified to the court and that, at the same time, "shall be discussed the way of proceeding for the patients that are recovered for a long time".

⁷² Cf. pages 12 and 13 of the response.

156. In its immediate observations at the end of the visit, the delegation deplored the flagrant disregard of the above-mentioned, repeated recommendation of the CPT and called upon the Albanian authorities, in particular through the concerted action of the Ministries of Health and Justice, to take the necessary steps to ensure that all involuntary admissions to Vlora Psychiatric Hospital (as well as to other psychiatric establishments in Albania) are notified to the competent courts. It requested to be provided, within four months, with a detailed account of the measures taken in this respect.

By letter dated 2 November 2005 and delivered to the Secretariat of the CPT on 9 November 2005, the Albanian authorities informed the Committee that the Ministry of Health had recently issued a formal instruction to all psychiatric hospitals that they must notify the competent courts within 48 hours of all new cases of involuntary admissions. Further, the Albanian authorities indicated that they were working on a solution regarding the situation of patients who had previously been admitted to the hospital against their will.

The CPT welcomes these first steps and **wishes to receive confirmation that all new involuntary admissions to Vlora Psychiatric Hospital (as well as to other psychiatric hospitals in Albania) are now indeed notified to and reviewed by the competent courts.**

Further, **the Committee calls upon the Albanian authorities to take steps without any further delay to ensure that at Vlora Psychiatric Hospital (as well as in other psychiatric hospitals in Albania), all involuntary admissions which took place prior to the issuance of the above-mentioned circular are notified to and reviewed by the competent courts.**

157. Turning to the subject of discharge procedures, involuntary placement in a psychiatric establishment should cease as soon as it is no longer required by the patient's mental state. Consequently, the need for such a placement should be reviewed at regular intervals. This is all the more necessary where involuntary placement is decided for an indefinite duration. In addition, the patient himself or herself should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.

Although Article 36 of the 1996 Mental Health Act provides for a review procedure, appealable to a judge, such a procedure must be prompted by the family or legal tutor (representative) of the patient. The review procedure is, therefore, neither periodic nor can the patient himself or herself initiate it. These gaps in the safeguards afforded to persons subject to involuntary placement are all the more serious given the fact that the Mental Health Act does not require placement decisions to specify the duration of the placement.

The CPT recommends that the 1996 Mental Health Act be revised, in the light of the above remarks.

b. safeguards during placement

158. An introductory brochure setting out the establishment's routine and patients' rights – including information about complaints bodies and procedures – should be issued to each patient, as well as to their families, on admission to the establishment. Any patients unable to understand this brochure should receive appropriate assistance.

No such information brochure was provided to patients at Vlora Psychiatric Hospital or to their families. **The CPT recommends that this shortcoming be rectified.**

159. An effective complaints procedure is another basic safeguard against ill-treatment in psychiatric establishments. Specific arrangements should exist, enabling patients to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment. Patients at Vlora Psychiatric Hospital had the possibility to address complaints to various outside bodies, including the People's Advocate.

160. As regards external supervision, the CPT also attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body which is responsible for the inspection of patients' care.

No such visits or inspections were carried out at the Hospital. **The CPT recommends that steps be taken to ensure that Vlora Psychiatric Hospital (and indeed all psychiatric establishments in Albania) are visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.**

161. The existing arrangements for contacts with the outside world (i.e. patients' access to correspondence, telephone and visits from family members) were, on the whole, satisfactory at Vlora Psychiatric Hospital. That said, **the CPT invites the Albanian authorities to explore the possibility of setting aside a room for family visits.**

APPENDIX I

EXCERPT FROM THE REPORT ON THE VISIT TO ALBANIA CARRIED OUT IN 2003, PARAGRAPHS 40 TO 42 (SUBPARAGRAPH 1)

40. In the CPT's opinion, for a criminal investigation into possible ill-treatment by law enforcement officials to be effective:⁷³

- the persons responsible for, and carrying out, investigations into possible cases of ill-treatment by law enforcement officials should be *independent* from those implicated in the events;

In this regard, it is, in principle, a positive feature of the Albanian legal system that it is a prosecutor - and not a senior police officer - who determines whether or not a preliminary investigation should be opened. However, from the moment a prosecutor instructs that a preliminary investigation be opened, day-to-day responsibility for the operational conduct of that investigation reverts to police officers (usually from the criminal police);

In almost all preliminary investigations reviewed by the delegation, the involvement of prosecutors had been limited to instructing the criminal police to carry out investigations, acknowledge receipt of the result, and provide an opinion as to whether or not criminal charges should be brought;

Moreover, even if the prosecutors formally responsible for preliminary investigations into allegations of police ill-treatment can be said to be independent from the police officers dealing with such complaints, the same cannot be said of the police officers who actually conduct those investigations. In a number of cases examined by the delegation, the investigating criminal police officers were employed at the same police establishment as the police officers who were subject of the investigation. In the CPT's view, it is axiomatic that such investigations should at least be conducted by police officers who are not attached to the same police establishment (for example, police officers attached to a general police inspectorate or an internal affairs department);

- the investigation must be capable of leading to a *determination of whether force used was or was not justified* under the circumstances and to the identification and, if appropriate, the punishment of those responsible; this is not an obligation of result, but of means;

⁷³ Cf. also the following judgments of the European Court of Human Rights: *McShane v. the United Kingdom*, No. 43290/98; *Kelly and Others v. the United Kingdom*, No. 30054/96; *Hugh Jordan v. the United Kingdom*, No. 24746/94; *McKerr v. the United Kingdom*, No. 28883/95; *Sevtap Veznedaroğlu v. Turkey*, No. 32357/96; *Assenov and Others v. Bulgaria*, No. 90/1997/874/1086; *Labita v. Italy*, No. 26772/95; *Finucane v. the United Kingdom*, No. 29178/95.

- *all reasonable steps* should be taken to *secure evidence* concerning the incident, including *inter alia* eyewitness testimony, forensic evidence, and, where appropriate, an autopsy which provides a complete and accurate record of injury and an objective analysis of clinical findings including the cause of the death;
- the investigation must be conducted in a *prompt* and reasonably *expeditious* manner;
- a sufficient element of *public scrutiny* of the investigation or its results should be required, to secure accountability in practice as well as in theory.

41. In addition, the CPT wishes to highlight the importance of two additional criteria:

- in the context of *criminal* investigations, all pieces of information which may be indicative of the commission of other criminal offences should be fully taken into account;
- *disciplinary* culpability of law enforcement officials involved in instances of ill-treatment should be systematically examined, irrespective of whether the misconduct of the officers concerned constitutes a criminal offence.

42. With a view to enhancing the global effectiveness of the investigation procedure into possible ill-treatment by law enforcement officials, **the CPT recommends that immediate measures be adopted to ensure that the precepts set out in paragraphs 40 and 41 are systematically applied in practice. Prosecutors should in particular be provided with clear instructions from the Prosecutor General as to the manner in which they are expected to lead and supervise criminal investigations involving possible ill-treatment by law enforcement officials.**

APPENDIX II

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

Co-operation

comments

- the CPT requests the Albanian authorities to make further efforts to ensure that all police officers in Albania are fully aware of their obligations flowing from the Convention (paragraph 6);
- the CPT trusts that the Albanian authorities will distribute the present report to the persons directly responsible for the management of the establishments visited (paragraph 7).

Corruption in the context of deprivation of liberty

recommendations

- decisive action to be taken to combat the phenomenon of corruption, whether real or perceived, in all places of deprivation of liberty (paragraph 11).

Law enforcement establishments

Action to combat torture and ill-treatment

recommendations

- a clear message to be delivered by the relevant political authority at the highest level, that is the Minister of the Interior himself, condemning police ill-treatment (paragraph 19);
- the message that all police structures are obliged "to fulfil their functional duties in conformity with the law, respecting and guaranteeing human rights and freedoms provided by law to all the citizens especially to those deprived of their liberty" to be repeated, at regular intervals, and channelled by senior staff to all levels of the police, in particular to police officers responsible for interrogations and to members of special intervention groups. It must be made clear that all forms of ill-treatment of detained persons (including verbal abuse) are not acceptable and will be punished accordingly. Law enforcement officials should also be reminded that the force used when performing their duties should be no more than is strictly necessary and, once persons have been brought under control, there can be no justification for striking them (paragraph 19);

- members of special intervention groups in pre-trial detention facilities to be prohibited from wearing masks on any occasion while exercising their duties. Further, senior management should always be present during operations carried out by such groups (paragraph 20);
- immediate and effective steps to be taken to ensure that all persons deprived of their liberty by law enforcement agencies are granted the right to notify a close relative or third party of their choice of their situation, as from the very outset of their deprivation of liberty. This right should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend – and stay at – an establishment of a law enforcement agency (paragraph 23);
- action to be taken without any further delay to ensure that the existing formal right of access to a lawyer for persons deprived of their liberty by the police is rendered fully effective in practice, as from the very outset of their deprivation of liberty. It should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend – and stay at – a police establishment (paragraph 26);
- the existing system of legal aid to detained persons to be reviewed, in order to ensure its effectiveness throughout the procedure, including at the initial stage of police custody (paragraph 26);
- all necessary steps to be taken to ensure that the right of access to a doctor for persons held in police custody is formally granted by law and fully implemented in practice (paragraph 27);
- the Albanian authorities to ensure without any further delay that a form setting out in a straightforward manner the rights of persons in police custody is systematically given to such persons at the very outset of their deprivation of liberty. This form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights (paragraph 28);
- appropriate measures to be adopted by the relevant authorities (the Prosecutor General) so that prosecutors carry out inspections to detention facilities of the police, in accordance with the criteria set out in paragraph 29 (paragraph 29);
- immediate steps to be taken to ensure that in all pre-trial detention facilities in Police Directorates as well as in prison establishments in Albania:
 - every newly-admitted person – whether sentenced or on remand – is properly interviewed and physically examined by a medical doctor as soon as possible after his/her admission; save in exceptional circumstances, the interview/examination should be carried out on the day of admission. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor;
 - an individual medical file is opened for every inmate (paragraph 33);

- steps to be taken in all pre-trial detention facilities in Police Directorates as well as in prison establishments throughout Albania to ensure that:
 - the file drawn up after a medical examination of an inmate contains (i) an account of statements made by the detainee which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), (ii) an account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of i) and ii); upon request, the doctor's conclusions should be made available to the inmate and his/her lawyer;
 - all medical examinations of inmates take place out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;
 - the confidentiality of medical data is fully respected (paragraph 33);
- effective steps to be taken to ensure that in all pre-trial detention facilities and prisons, whenever injuries are recorded by a doctor which are consistent with allegations of police ill-treatment made by an inmate, the record is immediately brought to the attention of the relevant prosecutor (paragraph 34);
- all medical staff working in police pre-trial detention facilities, prison establishments and the Military Hospital to be reminded of their obligations under Article 282 of the Code of Criminal Procedure (paragraph 34);
- the Albanian authorities to remind prosecutorial and judicial authorities to initiate preliminary investigations and to take resolute action within their powers when any information indicative of ill-treatment emerges and to conduct proceedings in such a way that the persons concerned have a real opportunity to make a statement about the manner in which they have been treated. Allegations and/or other information indicative of ill-treatment should be adequately assessed, in particular by taking evidence from all persons concerned and arranging in good time for on-site inspections and/or specialist medical examinations (paragraph 48);
- immediate measures be adopted to ensure that the precepts set out in paragraphs 40 and 41 of the report on the 2003 visit (CPT (2003) 68) are systematically applied in practice (cf. also Appendix I to the present report). Prosecutors should in particular be provided with clear instructions from the Prosecutor General as to the manner in which they are expected to lead and supervise criminal investigations involving possible ill-treatment by law enforcement officials. Further, the adversarial nature of such proceedings should be ensured (paragraph 51);
- the steps taken to combat impunity to include awareness-raising measures which would target community attitudes towards ill-treatment and to underline the necessity for such actions to be tried and punished through the criminal justice system (paragraph 52);

- the Albanian authorities to review current practice and, if necessary, provide prosecutors with guidance on the appropriate classification of charges within the category of ill-treatment offences (paragraph 53);
- the necessary steps to be taken to ensure that at all levels of the criminal justice system – including at the sentencing stage – a firm attitude is adopted with regard to torture and other forms of ill-treatment (paragraph 54);
- the message referred to in paragraph 19 from the Minister of the Interior condemning ill-treatment by the police to explicitly indicate that it is government policy to end impunity for ill-treatment by the police (paragraph 55).

comments

- in order to combat impunity effectively, forensic reports must be of the requisite quality (paragraph 49);
- it is important that no barriers be placed between persons who allege ill-treatment and doctors who can provide forensic reports recognised by the prosecutorial and judicial authorities (paragraph 49).

requests for information

- full information on the outcome of the investigations of the pending cases Nos 4 and 5 referred to in paragraphs 43 and 44 (paragraph 45);
- information on the number and outcome of investigations initiated against law enforcement officials under Articles 86 to 89, 250 and 314 of the Criminal Code during 2004 and 2005 (paragraph 53).

Pre-trial detention facilities

recommendations

- the Albanian authorities to implement without any further delay the long-standing plan to transfer all remand and sentenced prisoners from police pre-trial detention facilities to facilities under the authority of the Ministry of Justice (paragraph 59);
- a comprehensive regime (including group association activities) to be devised and implemented for all inmates at Vlora Pre-Trial Detention Centre (paragraph 65);

- immediate steps to be taken in all the pre-trial detention facilities visited (as well as, if necessary, in other establishments of this kind) to ensure that:
 - the material conditions of detention are significantly improved, in particular, as regards access to natural light, ventilation and hygiene;
 - all detained persons are provided with a clean mattress and clean blankets;
 - all detained persons are granted ready access to sanitary facilities;
 - all detained persons are allowed at least one hour of outdoor exercise per day, including on Sundays and public holidays;
 - the prohibition of in-cell activities (reading, games, radio, etc.) and correspondence with the outside world are abolished (paragraph 68);
- steps also to be taken in the above-mentioned establishments to:
 - improve the quality of the food provided;
 - increase the visit entitlements for detained persons;
 - provide proper visiting facilities (paragraph 68);
- immediate steps to be taken to ensure that juveniles are no longer detained in the pre-trial detention facilities at Durrës Police Directorate (paragraph 70);
- particular efforts be made to ensure that juveniles held in other pre-trial detention facilities are offered conditions of detention appropriate to their age (paragraph 70);
- steps to be taken to ensure that, when female detainees are exceptionally held in police pre-trial detention facilities for a short period of time, they are placed in a position to maintain an appropriate level of personal hygiene and are offered at least one hour of outdoor exercise every day (paragraph 71);
- steps to be taken to significantly improve the provision of health care in all the pre-trial detention facilities visited, in the light of the remarks made in paragraphs 73 to 74. In particular, there should be a regular presence of qualified nursing staff in such facilities (on a full-time basis at Durrës) (paragraph 76).

comments

- steps should be taken without delay to ensure that the management of Vlora Pre-trial Detention Centre is placed under the exclusive responsibility of the Ministry of Justice. Further, it is not sufficient simply to change the legal status of the establishment concerned for the situation to be rendered satisfactory. Instead, steps must be taken to improve material conditions in all pre-trial detention facilities, the regime offered to inmates must be radically improved, and staff should receive appropriate training (cf. paragraphs 61 to 65) (paragraph 58);
- inmates who need to be hospitalised should be transferred to an appropriate facility with the promptness and in the manner required by their state of health (paragraph 76).

requests for information

- the Albanian authorities' comments on the statements made by senior police officers in several of the pre-trial detention facilities visited that the management of the establishments were frequently confronted with long delays in obtaining the approval from the Ministry of Justice to transfer to prison those inmates whose sentence had become final (paragraph 57);
- a precise timetable for the implementation of the plan to transfer all remand and sentenced prisoners from police pre-trial detention facilities to facilities under the authority of the Ministry of Justice (paragraph 59).

Police custody

recommendations

- the Albanian authorities to take immediate steps to ensure that in all police establishments in Albania:
 - detained persons have ready access to drinking water and are given food at appropriate times, including at least one full meal every day;
 - persons obliged to stay overnight in custody are provided with a clean mattress and clean blankets(paragraph 79);
- steps to be taken to ensure that:
 - the holding cells in all the police establishments visited are equipped with a means of rest (e.g. a chair or bench);
 - the material conditions in the police custody cells at Tirana Police Stations Nos. 2, 3, 4 and 6 and Vlora Police Station are significantly improved. In particular, cells should have access to natural light, adequate artificial lighting and ventilation;
 - the cell measuring 1.7 m² at Tirana Police Station No. 4 is withdrawn from service;

- the custody cells at Vlora Police Station are equipped with a call system;
 - persons in police custody are allowed access to the toilet when necessary, in clean and decent conditions, and are offered adequate washing facilities;
 - juveniles are no longer placed in the same cell as adult detainees at Tirana Police Station No. 3 (or in other police establishments)
(paragraph 79);
- an immediate end to be put to the practise of keeping persons in police custody cells for prolonged periods (paragraph 80);
 - steps to be taken in all the police establishments visited to ensure that custody records are brought into line with the criteria set out in paragraph 86 of the report on the Committee's first periodic visit to Albania in 1997.

Prisons

Preliminary remarks

recommendations

- the Albanian authorities to pursue their efforts to bring about a permanent end to overcrowding, in the light of the remarks made in paragraph 83 (paragraph 83).

requests for information

- detailed information on plans to elaborate draft legislation on the use of non-custodial sanctions (paragraph 83).

Ill-treatment

recommendations

- the attention of prison officers and members of special intervention groups at Kruja Special Institute, Tirana Prison No. 302 and Tirana-Vaqarr Prison to be drawn to the precepts that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that, once prisoners have been brought under control, there can be no justification for striking them (paragraph 86);
- the management in all the establishments visited to remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be the subject of severe sanctions (paragraph 86);

- the incident at Kruja Special Institute referred to in paragraph 87 to be brought to the attention of the competent prosecutor (paragraph 87).

requests for information

- detailed information on the outcome of the preliminary criminal investigation into the incident at Kruja Special Institute referred to in paragraph 87 and, as appropriate, on the action subsequently taken (also at disciplinary level) (paragraph 87).

Conditions of detention of the general prison population

recommendations

- steps to be taken to improve the material conditions in all the establishments visited, in the light of the remarks made in paragraphs 89 to 92. More specifically, steps should be taken to:
 - reduce the occupancy levels of cells. The aim should be to offer a living space of at least 4 m² per person in multi-occupancy cells;
 - ensure that all prisoners are provided with their own bed;
 - improve the heating and water supply;
 - improve the condition of showers and sanitary facilities;
 - ensure that all prisoners have adequate quantities of essential personal hygiene products as well as cleaning products for their cells (paragraph 93);
- steps to be taken to review nutritional standards throughout the prison system (paragraph 93);
- immediate steps to be taken to ensure that adult prisoners at Prison No. 313 and all prisoners in all the other prison establishments visited are granted at least one hour of outdoor exercise per day (including on Sundays and public holidays) (paragraph 98);
- the Albanian authorities to devise and implement a comprehensive regime (including group association activities) for all prisoners, including those on remand, in all the prisons visited (paragraph 98).

requests for information

- information on plans at Tepelena Prison to provide additional work opportunities for prisoners (paragraph 95).

Life-sentenced prisoners at Tepelena Prison

recommendations

- the Albanian authorities to redouble their efforts to provide life-sentenced prisoners with more opportunities for work and other purposeful activities outside their cells (sport, education, leisure, etc.) (paragraph 100).

comments

- steps should be taken to develop a long-term policy vis-à-vis life-sentenced prisoners (including the possibility for declassification to lower security regimes), in the light of the remarks made in paragraph 100 (paragraph 100).

Conditions of detention of juvenile prisoners

recommendations

- steps to be taken as a matter of priority to improve the quality of educational activities at Tirana-Vaqarr Prison (paragraph 102);
- custodial staff assigned to the juvenile unit at Tirana-Vaqarr Prison to receive specialised training (paragraph 103);
- steps to be taken to ensure that no juveniles are held in Prison No. 302 in Tirana in the future (paragraph 105).

request for information

- detailed information on plans to set up a special establishment for juvenile offenders in Pogradec (paragraph 104).

Conditions of detention at Kruja Special Institute for Mentally Ill, Drug-addicted and Elderly Prisoners

recommendations

- steps to be taken to remedy the deficiencies identified in paragraph 106 regarding the material conditions of detention at Kruja Special Institute (paragraph 106).

comments

- steps should be taken to offer sports activities to prisoners held in Unit A at Kruja Special Institute (paragraph 107);
- the Albanian authorities are invited to make additional efforts to provide inmates with activities which are adapted and tailored to their special needs (paragraph 107).

Health care

recommendations

- the Albanian authorities to take steps without any further delay to accommodate persons who have been declared criminally irresponsible in a more suitable facility (paragraph 109);
- steps to be taken to:
 - improve the state of repair and the level of hygiene of the sanitary facilities in the Prison Hospital;
 - review the arrangements for the provision of food at the Prison Hospital (paragraph 110);
- immediate steps to be taken to ensure that all patients at the Prison Hospital whose state of health permits are offered at least one hour of outdoor exercise per day (paragraph 111);
- a wider range of activities to be offered to long-term patients in the Prison Hospital and special attention to be paid to juveniles serving long-term sentences (paragraph 111);
- the psychiatric treatment offered to patients at the Prison Hospital to be reviewed, in the light of the remarks made in paragraph 113 (paragraph 113);
- immediate steps to be taken to ensure that the review procedure under Section 46 of the Penal Code is carried out in respect of all persons who have been declared criminally irresponsible (paragraph 117);
- immediate steps to be taken to ensure that two psychiatrists are effectively present on a full-time basis at Kruja Special Institute (paragraph 118);
- steps to be taken at Kruja Special Institute to ensure that:
 - the second vacant post of doctor is filled;
 - the psychological services are reinforced;
 - the staff receive special training in dealing with inmates suffering from mental disorders (paragraph 118);

- steps to be taken to remedy the shortcomings identified in paragraph 121 regarding the treatment offered to prisoners at Kruja Special Institute (paragraph 121);
- steps to be taken to ensure that:
 - a psychiatrist and a psychologist are present, on a regular basis, in all the prisons visited, particularly in those accommodating prisoners serving long sentences and juveniles;
 - a qualified nurse is always present, including at night, at Tepelena Prison;
 - nursing staffing levels are significantly increased at Prison No. 313 in Tirana (paragraph 122);
- steps to be taken to remedy the deficiencies identified in paragraph 123 regarding the quality of the health-care facilities in the establishments visited (paragraph 123);
- immediate steps to be taken in all the prisons visited (as well as in the entire prison system in Albania) to ensure that all newly arrived remand prisoners are subject to a comprehensive medical examination on admission (including a screening for transmissible diseases) and that all prisoners are provided with information regarding the prevention of transmissible diseases (paragraph 124);
- immediate steps to be taken at Prisons Nos. 302 and 313 in Tirana to ensure that an individual and confidential medical file is opened and properly kept for every prisoner (paragraph 125);
- the Albanian authorities to review the provision of health care in the establishments visited, in the light of the remarks made in paragraph 126 (paragraph 126);
- steps to be taken in all the prisons visited (as well as in the entire prison system in Albania) to ensure that all medical examinations of prisoners (whether on arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers (paragraph 127);
- steps to be taken to ensure that medical data are no longer accessible to non-medical staff (paragraph 127);
- the management of all the prisons visited (as well as of other prisons in Albania) to be reminded that prison doctors' clinical decisions should only be governed by medical criteria (paragraph 129).

comments

- the use of means of restraint/seclusion at the Prison Hospital should be recorded in a special register (paragraph 115);
- the long-term objective should be to increase the number of nursing staff at Kruja Special Institute (paragraph 118);

- Kruja Special Institute should have the necessary equipment to carry out basic paraclinical tests (paragraph 119).

requests for information

- detailed information on the planned forensic psychiatric institution in Durres, as well as a precise timetable for the construction of that institution (paragraph 109);
- updated information on the plans to increase the number of nursing staff at the Prison Hospital in Tirana (paragraph 112).

Other issues

recommendations

- steps to be taken to ensure that all prisoners subject to the disciplinary sanction of solitary confinement are offered at least one hour of outdoor exercise per day (paragraph 132);
- prisoners subject to the disciplinary sanction of solitary confinement to be allowed access to reading matter (paragraph 132);
- steps to be taken to ensure that prisoners subject to a disciplinary sanction are given a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues/deadlines for lodging an appeal (paragraph 133);
- the use of special means of restraint to be recorded at Tepelena and Tirana-Vaqarr Prisons (paragraph 134);
- steps to be taken to ensure that remand prisoners are accorded the full visit entitlement of 30 minutes per visit. Further, in the same way as sentenced prisoners, they should be entitled to one visit per week (paragraph 136).

comments

- steps should be taken to ensure that periods temporarily spent by prisoners in solitary confinement pending the outcome of a disciplinary procedure are counted towards the serving of any sanction of solitary confinement subsequently imposed (paragraph 130);
- the CPT trusts that the Albanian authorities will take steps to ensure the confidentiality of the correspondence of prisoners with outside judicial/complaints bodies (including the European Court of Human Rights) (paragraph 137).

requests for information

- confirmation that the "aeration cubicles" at Tirana-Vaqarr Prison are no longer used as prisoner accommodation, including for disciplinary reasons (paragraph 131);

- confirmation that the disciplinary cell measuring 5.40 m² at Kruja Special Institute now has adequate access to natural light and artificial lighting (paragraph 131).

Vlora Psychiatric Hospital

Ill-treatment

recommendations

- the management of Vlora Psychiatric Hospital to regularly remind staff that any ill-treatment of patients (including verbal abuse) is unacceptable and will be punished accordingly (paragraph 139);
- alternative arrangements to be made which are respectful of patients' dignity during the daily cleaning of Ward 1-2 (paragraph 140).

Patients' living conditions and treatment

recommendations

- to remedy the shortcomings identified regarding the state of repair and hygiene in the dormitory of Ward 1 and the sanitary facilities of Ward 1-2, as well as the power and water supply and the heating in the entire establishment (paragraph 142);
- immediate steps to be taken to implement the Committee's long-standing recommendation that each ward be equipped with adequate sleeping facilities that are in a good state of hygiene and repair (paragraph 143);
- measures to be adopted to enable all patients to take their meals in decent conditions (either by providing sufficient furniture or by organising two sittings) (paragraph 144);
- measures to be taken to ensure that patients with multiple disabilities receive adequate care and assistance (paragraph 145);
- immediate steps to be taken to ensure that the wards accommodating incontinent patients are supplied with appropriate material in sufficient quantities (undersheets to protect the mattresses, incontinence pads and an increased stock of sheets and blankets) (paragraph 146);
- occupational therapy to be developed further and to be made accessible to the maximum number of patients, especially chronic ones (paragraph 148).

comments

- steps should be taken to regularly monitor the patients' weight (paragraph 144);
- patients should be provided with a lockable space to store their personal belongings (paragraph 147);
- timely steps should be taken to ensure the sustainability of beneficial rehabilitation programmes such as those referred to in paragraph 148, in the event that outside support for them were to come to an end (paragraph 148);
- the CPT trusts that the new method of administering liquid medicines in Ward 1-2 for male chronic patients, as introduced by the management during the visit, continues to be used (paragraph 149);
- the Albanian authorities are invited to take steps to ensure full co-operation between Vlora Psychiatric Hospital and Vlora's General Hospital (paragraph 150).

requests for information

- confirmation that the problem of insufficient beds in Ward 4-5 for female chronic patients is now solved (paragraph 143).

Staff

recommendations

- the Hospital's staff to be reinforced by an adequate number of qualified psychiatrists, psychiatric nurses, clinical psychologists and occupational therapists. Steps should also be taken to include social workers on the Hospital's staff (paragraph 152).

comments

- priority should be given to strengthening the professionalism of medical and nursing staff, continuing to set aside sufficient time for basic and in-service training and ensuring that orderlies and other staff in direct contact with patients are properly selected and trained (paragraph 152).

Safeguards in the context of involuntary placement

recommendations

- the Albanian authorities to take steps without any further delay to ensure that at Vlora Psychiatric Hospital (as well as in other psychiatric hospitals in Albania), all involuntary admissions which took place prior to the issuance of the circular referred to in paragraph 156 are notified to and reviewed by the competent courts (paragraph 156);
- the 1996 Mental Health Act to be revised, in the light of the remarks made in paragraph 157 (paragraph 157);
- an introductory brochure setting out the establishment's routine and patients' rights – including information about complaints bodies and procedures – to be issued on admission to each patient as well as to their families at Vlora Psychiatric Hospital. Any patients unable to understand this brochure should receive appropriate assistance (paragraph 158);
- steps to be taken to ensure that Vlora Psychiatric Hospital (and indeed all psychiatric establishments in Albania) are visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations (paragraph 160).

comments

- the Albanian authorities are invited to explore the possibility of setting aside a room for family visits at Vlora Psychiatric Hospital (paragraph 161).

requests for information

- confirmation that all new involuntary admissions to Vlora Psychiatric Hospital (as well as to other psychiatric hospitals in Albania) are notified to and reviewed by the competent courts (paragraph 156).

APPENDIX III

LIST OF THE NATIONAL AUTHORITIES, OTHER BODIES AND ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

National authorities

Ministry of the Interior

- Mr Igli TOSKA Minister
- Mr Dashnor KAJA Deputy Head of the State Police
- Mr Z. BEME Deputy Head of the Internal Control Service

Ministry of Justice

- Mr Anastas DURO Deputy Minister
- Mr Engjell HYSI Director General of the Central Prison Administration

Ministry of Foreign Affairs

- Mr Sokol PUTO Legal Representative to International Human Rights Organisations, Liaison Officer

Ministry of Health

- Mr Engjell BEJTAJ Minister
- Mr Fatmir IBRAHIMI Head of Department

Ministry of Labour and Social Affairs

- Ms Natasha HODAJ Director General of Social Affairs

Other bodies

- Mr Jorgo DHRAMI Deputy People's Advocate
- Mr A. GOGA Director of the Investigative Department of the General Prosecutor's Office
- Mr Q. LLULI Head of the Analytical Unit of the General Prosecutor's Office
- Mr Maksim HAXHIA President of the National Chamber of Advocates
- Mr Anastas SULI Chairperson of the National Steering Committee for Mental Health

International Organisations

- OSCE Presence, Tirana
- World Health Organisation (WHO), Tirana Office

Non-governmental Organisations

- Albanian Association of Psychiatrists
- Albanian Helsinki Committee (AHC)
- Albanian Human Rights Centre (AHRC)
- Albanian Human Rights Group (ACHR)
- Albanian Rehabilitation Centre for Trauma and Torture Victims (ARCT)
- Children's Human Rights Centre of Albania (CHRCA)