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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

ALBANIA*

Addendum

**Comments by the Government of Albania on the concluding observations
of the Human Rights Committee**

[19 January 2007]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

**Information and comments of the Albanian Government on the implementation of
recommendations contained in paragraphs 13 and 16 of the Concluding Observations
([CCPR/CO/82/ALB](#))**

Paragraph 13

The Committee is concerned about allegations of arbitrary arrests and detention, the excessive use of force by law enforcement officials, ill-treatment of detainees in police custody and use of torture to extract confession from suspects. It regrets that acts of torture by law enforcement officials are considered as “arbitrary acts” only and treated accordingly. It is also concerned that despite several cases of investigations and punishment of those responsible for ill-treatment, many cases have not been investigated properly and compensation to victims has not been provided (art.7).

The State party should take firm measures to eradicate all forms of ill-treatment by law enforcement officials and ensure prompt, through, independent and impartial investigations into all allegations of torture and ill-treatment. It should prosecute perpetrators and ensure that they are punished in a manner proportionate to the seriousness of the crimes committed, and grant effective remedies including compensation to the victims.

The Ministry of Interior and the General Directorate of State Police have undertaken measures for the elimination of violence and maltreatments or any sort of torture exercised by the police officers towards the citizens deprived of liberty (detained, pre-detained, sentenced and those brought to Police Station).

To this end, several orders and instructions of the Minister of Interior, official demands and service orders of the General Director of the State Police on the introduction, implementation and the safeguard of fundamental constitutional rights of individuals, and to those deprived of liberty in particular have been drafted and forwarded to all the local structures of the State Police.

In order to monitor the observance and safeguard the rights sanctioned by law for the pre-detained individuals, many representatives of international organizations have been issued permits and have been allowed to conduct visits and inspections at the pre-detention facilities of

the Ministry of Interior. Such representatives were from Albanian Helsinki Committee, the commissioners of the Ombudsman, members of the Committee for Torture Prevention and Inhuman Treatments of the Council of Europe, etc.

The prosecutors of the district courts and of the General Prosecutors Office have the legal authority to control the pre-detention premises, living conditions, nourishment, treatment and the safeguard of the rights for the pre-detained individuals and to take the necessary measures against any police officer responsible.

The pre-detained are offered medical service by high and medium medical personnel, who make medical visits at the very early moments of their detention or arrest, periodical visits at any time, according to the needs of the pre-detained individuals. This staff is legally obliged to denounce any violation and maltreatment act conducted towards the pre-detained, by drawing up the respective reports and documentation.

Right from the very first moments of arrest/detention, the citizens have been provided with the right of having their own defense counsel, to notify their relatives and be acquainted with the reasons of their arrest, etc.

The police officers, who have abused, maltreated or violated the rights of individuals deprived of liberty, have been subject of criminal prosecution and legal accountability.

In view of this recommendation, the Ministry of Justice has informed us that for the period 2005 onwards, 4 cases of the use of force against the imprisoned individuals have been evidenced, in concrete terms, at the penitentiary institutions in Lezhë, Peqin, Vaqarr and Pre-detention Institution in Tirana (Jordan Misja Street) For the cases in the prisons in Lezha, Peqin and at the pre-detention center in the “Jordan Misja” Street, the convicted have referred the policemen of the prisons for criminal proceedings, which afterwards have been dropped by the Prosecution. For the same events occurred in the institutions in Lezha and at the “Jordan Misja” street in Tirana, even the officers of these institutions have asked for the criminal prosecution against the convicted. For the same period,(2005 onwards) the Directorate General of Prisons has taken the disciplinary measure of removing from office two employees, (an officer and a primary employee in the Prison of Vaqarr) on account of using violence against the convicted.

The complaints lodged to the institution of the People’s Advocate

(Ombudsman) concerning the cases of maltreatment have been better assessed, since when they have turned out to be true, they have proved to be serious violations of Article 25 of the Constitution of the Republic of Albania, which stipulates as follows: “ No one may be subject to the torture and to the cruel, inhuman or humiliating treatment” They constitute, at the same time, serious violations of Article 3 of the European Convention of Human Rights. According to the Ombudsman, in 2005, they have increased as against the year 2004 and the most recent months, in particular.

30 complaints have been lodged to the Ombudsman for the year 2005, for maltreatment of citizens from the State Police, out of which 4 have been assessed as correct, 22 ungrounded and one complainant has withdrawn.

For the cases when the claims of the complainants on account of maltreatment on the part of police officers have been proved, the Ombudsman has forwarded recommendations to the relevant bodies. During this year, only for the maltreatment cases, 4 recommendations have been forwarded to the Prosecution office for the initiation of criminal proceedings, out of which three have been accepted and one is under consideration. Likewise, the Ombudsman has demanded from the bodies of internal auditing and Prosecution thorough and objective investigations for these kinds of complaints.

As to the compensation of the victims, the Ministry of Justice has informed us that it is cooperating with other institutions to develop the legal mechanisms which would enable the victims of tortures to benefit correct and adequate compensation; however, one should take into account the fact that such a mechanism implies high financial costs.

Paragraph 16

The Committee is concerned about inhuman conditions of detention, e.g. in police custody, about the number of persons on remand and conditions of detention, the condition of juvenile and female detainees as well as the lack of compensation of juvenile and female detainees as well as the lack of compensation for unlawful arrest or detention(arts. 9 and 10)

The State party is urged to improve the conditions of detention for those held on remand and for convicted persons. Individuals held in remand detention should be segregated from convicted persons. The state party should also provide the necessary measures for victims of unlawful arrest or detention to claim compensation. The State party is reminded that, under article 9, paragraph 3, it shall not be general rule that suspected persons are detained while awaiting trial. The State party should develop an effective system of bail.

Although the infrastructure of the pre-detention surroundings of the Ministry of Interior is outdated and almost obsolete, continuous operations have been made to improve the living conditions and the hygiene. In this regard, the outworn mattresses and blankets have been replaced; the interiors of the building are whitewashed not less than twice a year, measures have been taken to receive and handle a certain number of inmates in the pre-detention chambers, according to their capacities.

Pursuant to the Decision of the Council of Ministers No. 327, Dated 15.05.2000 On shifting the pre-detention system under the subordination of the Ministry of Justice”, the Ministry of Interior and the Directorate General of State Police, through their cooperation with the Ministry of Justice and the Directorate General of Prisons are making efforts for the acceleration of the process of shifting the pre-detention system under the subordination of the Ministry of Justice.

Currently, near 1/3 of the pre-detention system of the Ministry of Interior has been shifted to the Ministry of Justice.

The Minor detainees are ensured and handled in rooms of their own, separate from the adult inmates. There is still no special pre-detention institution in place in our country for ensuring and handling all the minors.

The female detainees are held in the pre-detention chambers from the moment of detention or arrest up to the point when the Court decides on the measure

“arrest in custody” and afterwards they are transferred and handled in one of the pre-detention institutions of the Ministry of Justice.

During the time they are secured and handled in the pre-detention rooms,

they stay in separate rooms, secured with two keys; any action with them is performed upon the presence of not less than two persons and, in many cases with policewomen. They have also been provided with the facilities for their personal hygiene.

For the convicts in the pre-detention rooms, after the final decision of the court comes and after compiling the relevant documentation, their removal to serve the sentence terms in one of the prison institutions of the Ministry of Justice is demanded.

In regard to the “unfair pre-detentions” we inform you as follows:

the detentions and arrests made from the officers of the Judiciary Police are monitored by the prosecutors attached to the courts of judiciary districts and the Prosecution of Serious Crimes and afterwards, there are the judiciary bodies that assess and judge one of the security measures foreseen in the Code of Criminal Proceedings.

It is the prerogative and competence of the judiciary bodies to decide, with a reasonable judgment, whether a detainee or arrested person will be criminally proceeded through “arrest in custody” (pre-detention) or while being free.

The Albanian legislation has stipulated and ensured an effective defense through lawyers for all the detainees and arrested persons, through all stages, from the moment of detention or arrest, to investigation and judgment.

The local structures of State Police have been ordered to permit the access of the defense lawyers in the police premises, in order to contact and offer their counsel to their client’s right from the very first moments of detention.

For the cases of unfair detention of citizens, it is the Court that decides for the indemnification and its size.
