



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

**Comments by the Government of Albania to the conclusions and
recommendations of the Committee against Torture (CAT/C/CR/34/ALB) ***

[14 August 2006]

* In accordance with the information transmitted to the 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 by the Albanian Government on its response to the recommendations contained in paragraph 8(c), (d), (i) and (l) of the CAT conclusions and recommendations (CAT/C/CR/34/ALB), in connection with the consideration of the initial report of Albania (CAT/C/28/Add. 6)

Paragraph 8(c)

1. Investigate all allegations of ill-treatment and torture by law enforcement personnel, carrying out prompt and impartial investigations to bring the perpetrators to justice in order to eliminate the fact impunity for law enforcement personnel who commit acts of torture and ill-treatment.
2. The Ministry of Justice has informed us that for the period 2005 onwards, 4 cases have been brought to evidence concerning the use of violence on the inmates, namely at the institutions in Lezha, Peqin, Vaqarr and the Pre-detention Center in “Jordan Misja” Street, in Tirana.
3. For the cases occurred in the prisons in Lezha, Pqin and the Pre-detention Center in “Jordan Misja” Street in Tirana, the convicted have filed suits of criminal proceedings against the policemen of the prisons, which afterwards have been dropped off by the Prosecution Office. For the same occurrences at the prison in Lezha and the Pre-detention Center in “Jordan Misja” Street in Tirana, the officers of these institutions have also lodged suits of criminal proceedings against the convicted. For the same period (the year 2005 onwards) the Directorate General of Prisons has taken the administrative measure of firing two officers (an officer and another senior employee from the Prison in Vaqarr) on the account of using violence against the convicted.
4. The complaints lodged to the Ombudsman in regard to mal-treatment of the citizens from the police have been better assessed because, when they have turned out to be true, they have constituted serious violations of Article 25 of the Constitution of the Republic of Albania which stipulates as follows:

“No one may be subject to torture, cruel, inhuman or humiliating punishment or treatment.” They constitute at the same time serious violations of Article 3 of the European Convention of Human Rights. According to the Ombudsman, particularly in the recent months they have increased as against the year 2004.
5. For the year 2005, 30 complaints have been lodged at the institution of the Ombudsman of account of maltreatment of citizens from the State Police, with 4 complaints judged as correct, 22 ungrounded and one complainant has withdrawn his complaint.
6. For the cases when the claims of the complainants of maltreatment from the Police have been proved, the Ombudsman has forwarded recommendations to the relevant bodies. During this year, only for maltreatment cases, 4 recommendations have been referred to the Prosecution Office for the initiation of criminal proceedings, out of which three have been accepted and one is under examination. Likewise, the Ombudsman has required from the bodies of internal inspection and Prosecution thorough and objective investigations for these kinds of complaints.

Paragraph 8(d)

7. Improve mechanisms to facilitate the submission of complaints by victims of ill-treatment and torture to public authorities, including obtaining medical evidence in support of their allegations.

8. The Pre-detention Regulation, adopted with the Ordinance No. 3705/1 of 11.05.2006 by the Minister of Justice and the Draft-Regulation of Prisons, forwarded for adoption to the Minister of Justice, stipulate the right of request/complaints of the convicted and the detainees, at all state and non-state instances. Likewise, there has been no obstacle to various NGOs to have access to the institutions of the execution of criminal decisions in order to observe the state, the living conditions, respect for the rights of the convicted and pre-detainees. In this context, two phone numbers have been placed free of charge at the disposal of the convicted and the detainees, respectively 04 233671 by the Albanian Helsinki Committee and the number 0800 2080 by the Directorate General of Prisons. This service provides the possibility for the inmates to communicate directly with this organization for the protection of legally recognized rights, by increasing the level of commitment from the prison and pre-detention administration and institutions from the strict implementation of the law in their treatment. The functioning of this line as a guarantee for the protection of imprisoned persons does also indicate the attitude of the Ministry of Justice for transparency and its will to improve the respect for these rights. In all cases when the detainees notice violence, the latter are reflected in the personal medical cards in support of their declarations when they ask for that, under the Order No. 3957 dated 25.05.2006.

9. The Institution of Ombudsman has informed us that in the context of this recommendation, for the purpose of improving the mechanism of facilitating the submission of requests from the victims of maltreatment, the Ombudsman has noticed that the persons, whom the police deprive of their freedom, are not provided with forms for reflecting and updating their rights. These forms should be available even in a foreign language. Moreover, the interested persons should be invited to sign a declaration that they have been informed about their rights.

10. The Ombudsman underlines that the Instructions (Code of Conduct) in the case of police interrogation has not been issued yet.

Paragraph 8(i)

11. Implement the fundamental legal safeguards for persons detained by the police, guaranteed their rights to inform a relative, to have access to a lawyer and a doctor of their own choice and to be provided with information about their rights and, for juveniles, to have their legal guardians present during interrogation.

12. The Ministry of Justice has informed us that the new detention and pre-detention regulations provide the right of information for the relatives of the pre-detainees through phone, post correspondence, meetings on the part of the Management of the Institution for the cases when this is not possible from the inmates themselves. In every case, it has been provided the right of selecting a doctor from them according to the relevant profile. No hindrance has been produced in practice from our institutions for the fulfillment of the right for defense through a lawyer. As to the Minors, we inform you that Article 49 of the Code of Penal Code clearly stipulates that, when the defendant is under 18 years, then the assistance from a defense lawyer

is obligatory. Pursuant to this Article, the Minors in conflict with the law, at every stage of criminal proceedings (interrogation, judgement, execution of the criminal verdict) are assisted from their legal defendant. Even in the cases when for the Minors in conflict with the law or their family members it is not possible to cover the financial costs related to their defense, this is done freely by the State. In this regard, a significant role has been played by the Legal Clinic for Minors, which offers free legal assistance for this age-group. Likewise, the Ministry of Justice, through its Minors Department, has distributed in January 2006 some questioners, which have been filled by the minors in the Pre-detention Center "Jordan Misja" in Tirana and in the Institution of Serving the Sentence in Vaqarr; from the latter it has turned out that all these minors have been provided with the assistance of a defense lawyer, right from the moment of their detention.

Paragraph 8(l)

13. Allow regular and unannounced visits to police stations by the Office of the Ombudsman, as well as by other independent bodies.

14. This recommendation which is directly linked with the Ombudsman has been fully implemented. The Law No. 8454, dated 02.04.1999 on the Ombudsman has been changed to the Law No. 9398 dated 05.12.2005 and now by Article 19/1 as follows: "The Ombudsman or the persons authorized from him have the right to enter at any time and without prior authorization, but by informing the head of the institutions, to all the institutions of the public administration, in prisons, in places where the police and prosecution keep the detainees or the arrested people, in state institutions, hospitals, asylums, orphanages or any other places where there are proofs of the violation of human rights.

15. The entry in all above-mentioned institutions can be done on account of investigating a complaint, a particular request or a certain notification and on inspection or survey grounds, upon the Ombudsman's initiative. In such cases, the Ombudsman may contact or discuss the matter confidentially with any of the detainees, without the presence of the officials.

16. "All the correspondence of the Ombudsman with the detainees should never be hindered or checked." This paragraph is the added recommendation to the Ombudsman's competences.

17. Pursuant to the implementation of these competences and based upon a detailed plan, during the period 13.04-10.06.2004, some working groups assigned by the Ombudsman, inspected some of the local State Police stations, as the General Police Directorate in Tirana, and some of its divisions like those no. 3, 4, 5, 6 in Tirana and in Kavaja, the Directorate of State Police in Durrës, in Krujë as well as in Fier, Mallakastër, Elbasan, Librazhd, Pogradec, Korce, Devoll, Erseke, Përmet, Gjakovë, and Tepelenë.

18. During the inspection they met all the detainees or arrested people at the police detention center and took notice of every case of law violation.

19. We are informed from the Ministry of Justice that there have been no obstacles various NGOs to enter into the Institutions of Execution of Penal Decisions to closely observe the state, the living conditions and the respect for their human rights.