

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CPT/Inf (2018) 18

## **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 2 to 9 February 2017**

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 (2018) 19.

Strasbourg, 24 May 2018

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## EXECUTIVE SUMMARY

The main objective of the ad hoc visit was to review the measures taken by the Albanian authorities to implement the recommendations made by the CPT in its report on the 2014 visit. In this context, particular attention was paid to the treatment and conditions of detention of persons in police custody and the situation of remand prisoners and forensic psychiatric patients.

Throughout the visit, the delegation received very good co-operation from both the national authorities and staff at the establishments visited.

### *Police custody*

The delegation visited a number of police establishments, pre-trial detention facilities and prisons in various parts of the country and interviewed scores of persons who were or had recently been in police custody. The vast majority of these persons indicated that they had been treated by the police in a correct manner, and the delegation received only a small number of allegations of recent physical ill-treatment by police officers (such as excessive use of force at the time of apprehension or slaps/punches during police questioning). Further, no allegations of physical ill-treatment were received in respect of police officers performing custodial tasks in police detention facilities. Overall, the information gathered during the visit suggests that a positive trend has emerged as compared to the situation found in 2014.

However, there was a striking exception to this state of affairs. In Durres, the delegation received from several persons allegations of recent physical ill-treatment by the police – notably of severe beatings combined with blows with a truncheon or baseball bat to the soles of the feet (so-called “*falaka*”) – which could easily be considered to amount to torture. In all these cases, the persons concerned had allegedly been ill-treated during questioning by officers of the crime investigation unit of Durres Police Station, including by one particular senior officer. Following an urgent request made by the delegation at the end of the visit, the Albanian authorities initiated criminal and disciplinary investigations into these allegations. In the report, the CPT requests detailed information on the outcome of the investigations. More generally, the Committee recommends that the Albanian authorities vigorously pursue their efforts to combat all forms of ill-treatment by the police.

As regards the fundamental safeguards against ill-treatment, namely the right of notification of custody and the rights of access to a lawyer and a doctor, the delegation gained a generally positive impression. That said, some specific recommendations have been made to further enhance their implementation in practice.

The CPT welcomes the continued efforts made by the Albanian authorities to improve material conditions of detention in police establishments. Indeed, in most of the detention facilities visited (namely, those at Tirana Regional Police Directorate and Durres, Gjirokastra, Korca and Vlora Police Stations), material conditions could be considered on the whole adequate. However, conditions remained very poor at Tirana Police Stations Nos. 1 and 3 and Saranda Police Station. Custody cells in these establishments were generally dilapidated, had extremely limited access to natural light and dim artificial lighting, and were poorly ventilated. Further, detained persons often had to sleep on soiled mattresses placed on the floor. The CPT calls upon the Albanian authorities to take urgent measures to remedy these shortcomings.

*Situation of forensic patients and prisoners with a mental disorder*

As in 2014, the delegation received no allegations of physical ill-treatment by staff at Zaharia Special Facility for Ill Inmates in Kruja and the Prison Hospital in Tirana.

That said, the CPT expresses its serious concern that, despite the specific recommendation repeatedly made since the 2000 visit and contrary to national legislation, forensic psychiatric patients continued to be held in these two establishments and that under conditions which, in the CPT's view, could easily be considered for many patients to be inhuman and degrading. In fact, the living conditions in both establishments had further deteriorated since the 2014 visit (in particular in terms of state of repair and overcrowding), there was an almost total lack of heating and limited access to hot water, and the level of psychiatric care remained clearly insufficient. Overall, the delegation once again gained the impression of 'therapeutic abandonment' of many forensic psychiatric patients. The CPT calls upon the Albanian authorities to provide without further delay a detailed plan for the creation of a forensic psychiatric facility and to take the necessary steps to ensure the speedy setting-up of such a facility.

*Situation of remand prisoners*

Hardly any allegations of physical ill-treatment of prisoners by staff were received in any of the prisons visited.

The CPT welcomes the extensive renovation of Prison No. 313 in Tirana, which had been repeatedly criticised by the Committee after previous visits on account of its poor material conditions of detention. At the time of the 2017 visit, a new prison building was under construction. Further, material conditions remained on the whole satisfactory at Durres Pre-Trial Detention Facility (PTDF) and Korca Prison. However, as had been the case during previous CPT visits, a considerable number of remand prisoners in these two establishments were being held under cramped conditions.

At Prison No. 302, material conditions were generally poor. In particular, most of the cells located on the ground floor were dilapidated and damp and had insufficient ventilation and weak artificial lighting. Further, access to natural light was problematic throughout the prison. In addition, most of the prisoner accommodation areas were affected by serious overcrowding, cells offering living space of only 2 to 2.5 m<sup>2</sup> per person, and many inmates were obliged to sleep on mattresses placed on the floor. The CPT expresses serious concern about the very poor conditions of detention at Saranda PTDF. As in 2014, most of the cells were found to be in a poor state of repair and too small for their intended occupancy. Further, in several cells, access to natural light remained very limited.

The CPT recommends that the Albanian authorities take steps to improve the conditions of detention in the prison establishments visited, including by reducing cell occupancy rates in order to provide for at least 4 m<sup>2</sup> of living space per person in multiple-occupancy cells. Further, the Committee urges the Albanian authorities to close down Saranda PTDF as soon as possible.

Whilst acknowledging the efforts being made in some of the establishments visited to organise out-of-cell activities, the CPT notes with concern that the vast majority of remand prisoners were not provided with any opportunities for employment or education/vocational training.

Finally, the CPT once again calls upon the Albanian authorities to improve the procedures in place regarding the medical screening of newly-arrived remand prisoners and the recording and reporting of injuries observed on prisoners.

## I. INTRODUCTION

### A. The visit, the report and follow-up

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 2 to 9 February 2017, which was one that appeared to the Committee “to be required in the circumstances”.<sup>1</sup>

The main objective of the visit was to review the measures taken by the Albanian authorities to implement the recommendations made by the Committee in its report on the 2014 visit. In this context, particular attention was paid to the treatment and conditions of detention of persons in police custody and the situation of remand prisoners and forensic psychiatric patients.

2. The delegation visited a number of police establishments, pre-trial detention facilities and prisons in different parts of the country and interviewed scores of persons who were or had recently been in police custody. In addition, it carried out follow-up visits to Zaharia Special Facility for Ill Inmates in Kruja (“Kruja Special Facility”) and the Prison Hospital in Tirana.

A list of all the establishments visited is set out in Appendix I.

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

- Mykola Gnatovskyy, President of the CPT (Head of Delegation)
- Julia Kozma
- Olivera Vulić.

They were supported by Michael Neurauter, Head of Division, and Elvin Aliyev of the CPT’s Secretariat, and assisted by:

- Marija Definis-Gojanović, Head of the Department of Forensic Medicine at the University Hospital in Split, Croatia (expert)
- Teuta Barbullushi (interpreter)
- Maksim Daiu (interpreter)
- Albana Lilaj (interpreter)
- Engjellushe Shqarri (interpreter)
- Rudina Xhillari (interpreter).

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<sup>1</sup> The CPT’s reports on previous visits to Albania and related Government responses are available on the Committee’s website: <http://www.coe.int/en/web/cpt/albania>

4. The visit report was adopted by the CPT at its 93<sup>rd</sup> meeting, held from 3 to 7 July 2017, and transmitted to the Albanian authorities on 31 July 2017.

The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Albanian authorities to provide within three months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report.

## **B. Consultations held by the delegation and co-operation**

5. In the course of the visit, the delegation held consultations with Saimir Tahiri, Minister of the Interior, Petrit Vasili, Minister of Justice, and Miklovan Kopani, Director General of Prisons, as well as with other senior officials from the Ministries of the Interior, Justice and Health.

Discussions were also held with Igli Totozani, People's Advocate, and members of the National Preventive Mechanism (NPM) set up under the Optional Protocol to the United Nations Convention against Torture (OPCAT). In addition, the delegation met representatives of the OSCE Presence in Albania and of non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities, organisations and other bodies met by the delegation is set out in Appendix II.

6. Throughout the visit, the delegation received very good co-operation from both the national authorities and staff at the establishments visited. It enjoyed rapid access to all the places visited (including those which had not been notified in advance), was provided with the information necessary for carrying out its task and was able to speak in private with persons deprived of their liberty.

7. The CPT wishes to express its appreciation for the assistance provided before, during and after the visit by its liaison officer, Ms Fioralba Laska, from the Ministry of Foreign Affairs.

8. The CPT has repeatedly emphasised that the principle of co-operation as set out in Article 3 of the Convention is not limited to facilitating the work of visiting delegations, but also requires that recommendations made by the Committee are effectively implemented in practice.

In this regard, the delegation observed improvements in a number of areas, such as the treatment and conditions of detention of persons detained by the police and material conditions of detention in some prisons.

That said, it is a matter of grave concern that, despite the specific recommendation repeatedly made by the Committee since its 2000 visit and contrary to national legislation, psychiatric patients declared not to be criminally responsible continue to be held in prison establishments (namely, Kruja Special Facility and the Prison Hospital) and that under conditions which are totally unacceptable and can be described as ‘therapeutic abandonment’ (for further details, see paragraph 31).

Over almost two decades, various plans to create a specialised forensic psychiatric facility have been discussed and abandoned by the relevant authorities and, more particularly, the Ministries of Health and Justice. In the course of the 2017 visit, the delegation was informed that the plan to construct a forensic psychiatric facility in the vicinity of Tirana, which already existed at the time of the 2014 visit, was still the subject of consultations and negotiations between the Ministries of Health and Justice (see also paragraphs 31 and 32).

The CPT must stress that if the Albanian authorities continue to fail to implement the long-standing recommendation set out in paragraph 32 that all forensic psychiatric patients be transferred to a forensic psychiatric facility, it will have no choice but to set in motion the procedure provided for in Article 10, paragraph 2, of the Convention.<sup>2</sup>

### **C. Immediate observations under Article 8, paragraph 5, of the Convention**

9. During the end-of-visit talks with the Albanian authorities on 9 February 2017, the CPT’s delegation outlined the main facts found during the visit. On that occasion, it made three immediate observations under Article 8, paragraph 5, of the Convention.

The first immediate observation concerned the allegations of severe physical ill-treatment of detained persons by officers of the Crime Investigation Unit of Durres Police Station. The delegation requested the Albanian authorities to carry out without delay an effective inquiry into the methods used by criminal police officers at Durres Police Station when questioning detained persons and to provide an account of the measures taken in response to this immediate observation (deadline: two months).

The second immediate observation was made in respect of a mentally-ill prisoner who had been held for more than one month in a dark, extremely filthy and excessively narrow cell (No. 7) at Saranda Pre-Trial Detention Facility. The delegation requested the Albanian authorities to provide the prisoner concerned with suitable accommodation and to no longer use the aforementioned cell as prisoner accommodation (deadline: one month).

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<sup>2</sup> 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".

The third immediate observation was made concerning the situation of a 14-year-old patient (B.G.) at the Prison Hospital, who was suffering from epilepsy and a learning disability and who, as the sole juvenile psychiatric patient in the hospital, had *de facto* been held in solitary confinement for approximately one month, without appropriate care and human contact. The delegation requested the Albanian authorities to transfer the above-mentioned patient to a suitable health-care facility and to transmit information on the care provided to the patient concerned (deadline: one month).

10. The above-mentioned immediate observations were subsequently confirmed in a letter dated 20 February 2017 by the Executive Secretary of the CPT.

11. By letters of 22 March and 29 May 2017, the Albanian authorities provided information on various issues raised by the delegation during the end-of-visit talks, including on the measures taken in response to the above-mentioned immediate observations. These measures will be assessed later in the report.



## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police custody

#### 1. Preliminary remarks

12. Although a new Law on the State Police was enacted in 2014, the main legal provisions governing the deprivation of liberty of persons by the police remained unchanged since the February 2014 visit. It is recalled that a person suspected of having committed a criminal offence can be held by the police on their own authority for up to 24 hours. Within that period, the case must be referred to the prosecutor who shall bring it to the attention of the competent judge within 48 hours of apprehension. The judge then has a further 48 hours to hold a hearing in order to decide on whether to remand in custody the person concerned.<sup>3</sup>

Further, persons may also be deprived of their liberty by the police for identification purposes, for a period not exceeding twelve hours.<sup>4</sup> In addition, under the Law on the State Police,<sup>5</sup> the police can hold a person, for up to ten hours, in the following cases: for the supervision of a minor for the purposes of education or of escorting him/her to a competent body, or when a person is the carrier of a contagious disease or mentally incompetent and dangerous to society.

13. The information gathered during the 2017 visit revealed that, despite the specific recommendation repeatedly made by the CPT after previous visits, police detention facilities were still used – albeit apparently to a lesser extent than in the past – to accommodate persons who had been remanded in custody, pending their transfer to a prison. The period in question usually lasted several days, and occasionally even up to two weeks.

As the Committee has stressed in the past, the practice of holding remand prisoners in police custody cells for prolonged periods is not acceptable; such cells are not designed for lengthy stays. Moreover, continued detention on police premises, even after the person concerned has been brought before a judge, increases the risk of intimidation and physical ill-treatment. **The CPT calls upon the Albanian authorities to redouble their efforts to ensure that persons remanded in custody are always promptly transferred to a remand facility.**

#### 2. Ill-treatment

14. In the course of the visit, the delegation visited a number of police establishments, pre-trial detention facilities and prisons in various parts of the country and interviewed scores of persons who were or had recently been in police custody. The vast majority of these persons indicated that they had been treated by the police in a correct manner, and the delegation received only a small number of allegations of recent physical ill-treatment by police officers (such as excessive use of force at the time of apprehension or slaps/punches during police questioning). Further, no allegations of physical ill-treatment were received in respect of police officers performing custodial tasks in police detention facilities.

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<sup>3</sup> Sections 258 and 259 of the Code of Criminal Procedure (CCP).

<sup>4</sup> Section 295 (4), *ibid.*

<sup>5</sup> Sections 109 (2), 122 (3) and 123 (5).

Overall, the information gathered during the visit suggests that a positive trend has emerged as compared to the situation found in 2014.

15. However, there was a striking exception to this state of affairs. In Durres, the delegation received from several persons allegations of recent physical ill-treatment by the police – notably of severe beatings (such as multiple kicks and punches in the face or stomach and banging of the head against the wall) combined with blows with a truncheon or baseball bat to the soles of the feet (so-called “*falaka*”) – which could easily be considered to amount to torture. In all these cases, the persons concerned had allegedly been ill-treated during questioning by officers of the crime investigation unit of Durres Police Station, including by one particular senior officer, the aim apparently being to obtain confessions.

The above-mentioned persons were interviewed by the delegation in private and separately from each other and gave consistent accounts of the manner in which they had been subjected to such ill-treatment. In two recent cases, including the case of a person met by the delegation during its visit to the detention facility of Durres Police Station, injuries were directly observed by the delegation’s forensic doctor, which were compatible with the allegations of *falaka* (such as haematomas of a blue-violet colour in the middle of the plantar arch of both feet, painful on palpation).

16. During the end-of-visit talks, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention, requesting the Albanian authorities to carry out an effective inquiry into the methods used by criminal police officers at Durres Police Station when questioning detained persons and to provide the Committee with an account of the measures taken in due course.

On 29 May 2017, the CPT received the following information from the Albanian authorities: “[...] By decision No. 09, dated 10.02.2017, the Head of Durres Police Station started a disciplinary investigation against X.<sup>6</sup>, Head of the crime section and the Deputy Head of the police station. The materials have been forwarded to the Directorate of Professional Standards of the State Police, which has started the disciplinary proceedings as a structure charged by law to conduct disciplinary investigations into serious violations. During the conduct of the disciplinary proceedings, the Directorate of Professional Standards suspended X. from duty with decision No. 42, dated 15.02.2017. For the case in question, the first procedural/investigative actions were carried out by the Internal Affairs and Complaints Department of the Ministry of Internal Affairs and referred to the Judicial District Prosecutor’s Office of Durres. [...] The latter opened a criminal case on 10.02.2017 against X. under Section 250 of the Criminal Code (“Committing arbitrary acts”). [...] The investigation has not yet been completed. Upon completion of the investigation by the Prosecutor’s Office, the Directorate of Standards will decide on the disciplinary measure to be taken against the police officer concerned.”

The CPT takes note of this information; **it would like to receive detailed information on the outcome of the aforementioned criminal and disciplinary proceedings in due course.**

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<sup>6</sup> In accordance with with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

17. In the light of the above findings, **the CPT reiterates its recommendation that the Albanian authorities pursue vigorously their efforts to combat all forms of ill-treatment by the police. All police officers should be regularly reminded, including through appropriate training, that any form of ill-treatment of detained persons is illegal and will be punished accordingly. In the context of such training, it must be made clear that the precise aim of questioning criminal suspects should be to obtain accurate and reliable information in order to discover the truth about matters under investigation, not to secure a confession from someone already presumed, in the eyes of law enforcement officials, to be guilty. In addition, police officers should be regularly reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them.**

18. In order to obtain a comprehensive and up-to-date picture of the situation regarding the treatment of persons detained by the police, **the CPT would like to be provided with the following information, in respect of the period from 1 January 2015 to the present time:**

- (a) the number of complaints about ill-treatment by police officers and the number of criminal/disciplinary proceedings which have been instituted as a result;**
- (b) the number of criminal/disciplinary proceedings which have been instituted *ex officio* (i.e. without a formal complaint) into possible ill-treatment by police officers;**
- (c) the outcome of the proceedings referred to in (a) and (b), including an account of criminal/disciplinary sanctions imposed on the police officers concerned (with a breakdown according to the relevant sections of the Criminal Code<sup>7</sup>).**

### **3. Fundamental safeguards against ill-treatment**

19. The vast majority of detained persons met by the delegation confirmed that they had been placed in a position to exercise their right of notification of custody to a third person<sup>8</sup> shortly after apprehension. Nevertheless, in some cases, allegations were received of delays in the enjoyment of this right, as well as of absence of feedback to the detained person (as to whether notification had indeed been made by the police officer).

**The CPT trusts that the Albanian authorities will make further efforts to render fully effective in practice the right of persons deprived of their liberty by the police to inform a relative or another third party of their situation, as from the outset of their deprivation of liberty. Further, detained persons should always be provided with feedback on whether it has been possible to have the fact of their detention notified.**

20. From the information gathered during the visit, it transpired that the applicable norms regarding access to a lawyer were generally complied with in practice. The great majority of criminal suspects with whom the delegation spoke stated that they had been able to contact their own lawyer, or were offered an *ex officio* lawyer, and to have a lawyer present during police questioning.

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<sup>7</sup> I.e. Sections 86 (“Torture”), 87 (“Torture with serious consequences”) and 250 (“Committing arbitrary acts”).

<sup>8</sup> See Section 255 (4) of the CCP.

That said, the delegation heard a number of allegations that police officers delayed access to a lawyer, in order to informally question the person concerned without a lawyer being present, prior to the taking of a formal statement (in the lawyer's presence). Further, it appeared that in some cases detained persons, in respect of whom an *ex officio* lawyer had been appointed, only met that lawyer for the first time at the court hearing.

**The CPT reiterates its recommendation that the Albanian authorities recall to all police officers the legal obligation to grant access to a lawyer from the very outset of a person's deprivation of liberty.<sup>9</sup> Further, steps should be taken in consultation with the Bar Association to ensure that state-appointed lawyers perform their functions in a diligent and, more specifically, timely manner.**

21. As regards access to a doctor, it should be recalled that, according to the Manual on the Treatment of Persons in Police Custody ("Manual"), detained persons shall be subjected to a medical check-up by a doctor, as a rule prior to their placement in a custody cell, but in any case no later than twelve hours from the moment of apprehension.

It is positive that the regular presence of a health-care professional was ensured in all the police detention facilities visited. However, as was the case during the 2014 visit, entry examinations of detained persons were generally limited to asking questions about their state of health, without carrying out a physical examination. Further, a number of persons who had spent a few days in certain police detention facilities (e.g. Durres, Saranda) claimed that they had never seen health-care staff during their custody.

Moreover, the examination of medical records in various police establishments revealed that, whenever bodily injuries were recorded by health-care staff, the description of injuries was superficial and the person's account of how the injuries had been sustained was not recorded. In this connection, some health-care professionals stated that they believed that it was not part of their duty to ask the detained person to explain the circumstances under which the injury was sustained. There was also no apparent reporting procedure by which health-care staff could formally alert the competent authorities about any injuries which were indicative of ill-treatment.

**The CPT reiterates its recommendation that the Albanian authorities take the necessary measures to ensure that the provisions of the Manual dealing with the initial medical examination of detained persons are rigorously applied in practice, taking into account the above remarks.**

As regards the recording and reporting of injuries, **the Committee recommends that health-care staff working in police establishments receive appropriate training and clear instructions on the requirements set out in the relevant recommendations in paragraph 68.**

22. The delegation noted that the health-care professionals working in police detention facilities were employed by the Ministry of the Interior and also provided care for police officers. In the CPT's view, a situation of this kind is likely to give rise to an obvious conflict of interest; **it would therefore be preferable for health-care staff working in all police detention facilities to be independent of the police.**

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<sup>9</sup> See Sections 53 (1) and 255 (1), *ibid*.

23. Detained persons were usually given an information sheet on their rights upon their arrival at a police establishment. Further, there were posters (which contained information on detained persons' procedural rights) on the walls of corridors and/or cells in most of the establishments visited. This is positive.

However, it is a matter of concern that detained persons still did not usually receive any verbal information about their rights immediately after apprehension. **The CPT recommends that the Albanian authorities take steps to ensure that all persons detained by the police – for whatever reason – receive clear verbal information about their basic rights at the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police).**

#### **4. Conditions of detention**

24. The CPT was pleased to note that efforts continued to be made by the Albanian authorities to improve material conditions of detention in police establishments. Indeed, in most of the police detention facilities visited by the delegation during the 2017 visit (namely, those at Tirana Regional Police Directorate and Durres, Gjirokastra, Korca and Vlora Police Stations), material conditions could be considered on the whole adequate for the maximum period of police custody provided for by the law (i.e. 96 hours).

25. However, the Committee was concerned to note that conditions of detention remained very poor at Tirana Police Stations Nos. 1 and 3 and Saranda Police Station. Custody cells in these establishments were generally dilapidated, had extremely limited access to natural light and dim artificial lighting, and were poorly ventilated. Further, detained persons often had to sleep on soiled mattresses placed on the floor. Moreover, some of the custody cells at Tirana Police Stations Nos. 1 and 3, which were too small even for single occupancy (measuring only some 4.5 m<sup>2</sup>), were used for holding two persons.

At Elbasan Police Station, the delegation observed that the temporary holding cells had been refurbished and now offered satisfactory conditions of detention. However, the state of repair in the establishment's custody cells remained generally poor.

26. It is also a matter of concern that, in all the establishments visited including in the recently renovated detention facilities, the cells were not heated during winter months.

27. In the light of the above, **the CPT calls upon the Albanian authorities to take urgent measures at Tirana Police Stations Nos. 1 and 3 and Saranda and Elbasan Police Stations to ensure that custody cells are maintained in a satisfactory state of repair, have sufficient lighting (including access to natural light) and ventilation and are adequately heated during the cold season. Further, persons obliged to stay overnight in police custody should be provided with a clean mattress and clean blankets.**

**Steps should also be taken to ensure that the cells at Tirana Police Stations Nos. 1 and 3 which measure less than 5 m<sup>2</sup> are under no circumstances used as overnight accommodation;** such cells are only suitable for very short periods of detention (i.e. a few hours).

28. As had been the case during previous visits, detained persons had no possibility to go out into the open air in most of the police detention facilities visited.<sup>10</sup> **The CPT reiterates its recommendation that steps be taken to ensure that all persons who are detained by the police for 24 hours or more be offered at least one hour of outdoor exercise per day.**

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<sup>10</sup> At Elbasan Police Station, detained persons could go to a very small “airing space” (measuring some 7 m<sup>2</sup>).

## **B. Situation of forensic patients and prisoners with a mental disorder**

### **1. General remarks**

29. The delegation carried out follow-up visits to Kruja Special Facility and the Prison Hospital in Tirana, in order to review the situation of forensic psychiatric patients and prisoners with a mental disorder.

30. With an official capacity of 196 places, Kruja Special Facility was accommodating, at the time of the visit, a total of 211 male inmates, including 115 forensic patients subjected to a court-ordered treatment measure under Section 46 of the Criminal Code, 13 psychiatric patients subjected to a temporary placement order under Section 239 of the Code of Criminal Procedure (CCP), 33 prisoners suffering from a mental disorder and 50 prisoners in need of special care (including ten paraplegics). It should be noted that Kruja Special Facility is located on a cliff some 45 kilometres north of Tirana and that, due to hazardous road conditions, the establishment has become very difficult to access.

Since 2014, the official capacity of the Prison Hospital has been increased from 91 to 99 beds. At the time of the visit, the hospital was accommodating 90 psychiatric patients (including 38 subjected to a court-ordered treatment measure under Section 46 of the Criminal Code, 43 subjected to a temporary involuntary placement order under Section 46 of the CCP, six sentenced prisoners with a mental disorder and three persons undergoing forensic psychiatric assessment), as well as 24 prisoners suffering from somatic illnesses.

31. At the outset, the CPT must express its serious concern that, despite the specific recommendation repeatedly made by the Committee since the 2000 visit and contrary to national legislation, forensic psychiatric patients continued to be held in the Prison Hospital in Tirana and Kruja Special Facility and that in conditions which are unacceptable. In fact, the living conditions in these two establishments had further deteriorated since the 2014 visit (in particular in terms of state of repair and overcrowding), and the level of psychiatric care remained clearly insufficient. Regrettably, hardly any of the other specific recommendations made by the Committee after the 2014 visit have been implemented, in particular, as regards living conditions, staffing levels, treatment and means of restraint.<sup>11</sup> Overall, the delegation once again gained the impression of ‘therapeutic abandonment’ of many forensic psychiatric patients.<sup>12</sup>

32. In the course of the visit, the delegation held consultations with representatives of the Ministries of Health and Justice regarding the situation of forensic patients. Although various interlocutors affirmed to the delegation that the construction of a forensic psychiatric facility was a priority for the Albanian Government, it became clear that many key issues, including the arrangements for perimeter and internal security, staffing, infrastructure for activities, running costs, etc. still remained unclear. Therefore, it remained totally uncertain as to whether and when the construction of this facility would actually begin (see also paragraph 8). **The CPT calls upon the Albanian authorities to provide without further delay a detailed plan for the creation of a forensic psychiatric facility and to take the necessary steps to ensure the speedy setting-up of such a facility.**

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<sup>11</sup> For further details, see paragraphs 35 to 47.

<sup>12</sup> See also paragraph 41 of the report on the 2014 visit.

## 2. Ill-treatment

33. The CPT is pleased to note that, as in 2014, its delegation received no allegations of physical ill-treatment by staff at Kruja Special Facility and the Prison Hospital.

34. That said, in both establishments visited, many patients were being held under conditions which, in the CPT's view, could easily be considered inhuman and degrading treatment.<sup>13</sup>

## 3. Living conditions

35. Since the 2014 visit, material conditions had clearly deteriorated in terms of state of repair and hygiene at both Kruja Special Facility and the Prison Hospital.

In particular, at Kruja Special Facility, the unit accommodating patients with a mental disorder was in an advanced state of dilapidation, and the common sanitary facilities were quite simply appalling (with only one shower for some 70 patients).

Further, at the Prison Hospital, the delegation was struck by the level of overcrowding in several cells. For instance, a cell measuring some 14 m<sup>2</sup> and equipped with three beds was accommodating seven patients, including four who were compelled to sleep on mattresses placed on the floor. Moreover, in several rooms, the artificial lighting was clearly insufficient.

One of the main problems in both establishments was the almost total lack of heating and limited access to hot water. It beggars belief that, at the Prison Hospital, the supply of heating had been suspended by the adjacent University Hospital since 2014, due to an ongoing disagreement over financial matters between the management of the hospital and the prison administration,<sup>14</sup> the consequence being that, during the cold season, patients constantly had to wear winter clothes in their cells. The situation was slightly better at Kruja Special Facility where inmates were allowed to use private portable heating devices in the room, while, at the Prison Hospital, the use of such devices was prohibited.

Further, in both establishments, many of the mattresses were severely damaged and filthy (some consisting only of a piece of foam without any cover). Further, contrary to the situation observed in 2014, psychiatric patients at Kruja Special Facility were not allowed to use bed sheets (reportedly, due to a perceived risk of suicide).

Another shortcoming lies in the fact that, at Kruja Special Facility, inmates were usually only provided with soaps, while other hygiene items had to be provided by the families of the person concerned.

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<sup>13</sup> For further details, see paragraphs 35, 37 and 41.

<sup>14</sup> See also paragraph 75 of the report on the 2014 visit.



36. Pending the creation of a new forensic psychiatric facility, **the CPT calls upon the Albanian authorities to take urgent steps to ensure that at Kruja Special Facility and the Prison Hospital:**

- **every patient is provided with his/her own bed, as well as with a clean mattress and clean bedding;**
- **patients are regularly provided with personal hygiene products (including toothbrushes and toothpaste);**
- **sanitary facilities are kept in an acceptable state of repair;**
- **patients are provided with sufficient heating and hot water;**
- **all rooms have adequate access to artificial lighting;**
- **the entire premises are kept in an acceptable state of hygiene.**

Further, **the Committee recommends that occupancy levels be significantly reduced at the Prison Hospital and brought into line with the CPT's minimum standard of at least 4 m<sup>2</sup> per person in multiple-occupancy cells.**

37. As regards activities, the CPT welcomes the fact that, at Kruja Special Facility, the entitlement of psychiatric patients to take outdoor exercise has been increased from two to four hours per day (with an additional two hours per day in the summer). Further, during the period of outdoor exercise, patients could in principle spend some time every day in an "activity room" next to the outdoor exercise yard. That said, the latter room was only equipped with a few board games, and it is regrettable that, in contrast to 2014, there was no longer a television set in this room. In addition, the delegation received many complaints from patients that they were not allowed to have television sets in their cells.

The CPT is very concerned that the situation has not improved at all at the Prison Hospital since the 2014 visit. Apart from two hours of outdoor exercise per day, psychiatric patients continued to be locked up in their rooms all day, the only occupation being playing board games and watching television (if patients could afford to purchase a television set). Further, there were no sports facilities, nor other common areas for recreational activities.

Pending the creation of a new forensic psychiatric facility, **the CPT reiterates its recommendation that the Albanian authorities provide a broader range of out-of-cell activities for long-term psychiatric patients at the Prison Hospital and Kruja Special Facility.**

38. The CPT must express its serious concern regarding the specific situation of a 14-year-old patient (B.G.) met by the delegation at the Prison Hospital. The patient was suffering from a learning disability and epilepsy and had been placed in the Prison Hospital by court order after having been detained by the police on suspicion of having committed a crime. As the sole juvenile patient in the hospital, he was at the time of the visit *de facto* being held in solitary confinement for approximately one month in a dark and dirty cell, without being offered appropriate care and human contact. 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 transfer the above-mentioned patient to a suitable health-care facility and to transmit to the Committee information on the care provided to the patient.

39. By letter of 22 March 2017, the Albanian authorities indicated that the above-mentioned prisoner was accommodated in a separate room because he was the only juvenile patient and that he was provided with health care and special psycho-social support.

By letter of 27 June 2017, the Albanian authorities provided the following additional information:

“Individual programs have been developed and psychological assistance as well health service has been provided to him. This assistance consists of individual counselling therapy, light therapy, occupational therapy and recreational activities. He has also been included in the programme dealing with juveniles in conflict with law and the programme of persons with mental health disorders. The patient currently presents a calm psycho-emotional state and has shown commitment to participate in certain therapies. He has shown a high level of cooperation during psychological assistance and medication therapy and has a good behaviour towards the staff of the institution. The juvenile has access to fresh air three times a day, but in some cases, as open spaces are limited to the institution, he does not prefer to go out that often. Meetings with family members are regular and the institution has made possible for the juvenile to meet his family members more than four times a month. The necessary measures have been taken by the multidisciplinary team at the Prison Hospital. The latter meets every Monday to discuss on the progress of the juvenile, as well as to set the objectives that are to be achieved during the week. The follow-up of these measures will be subject to constant monitoring and inspection by the Sector of Social Affairs and the Health Sector in the General Directorate of Prisons.”

40. Whilst acknowledging the measures taken by the management of the Prison, the CPT wishes to reiterate that the Prison Hospital is not a suitable facility to accommodate and care for the above-mentioned juvenile. Therefore, **the Committee urges the Albanian authorities to take the necessary steps, including at the judicial level, in order to transfer the patient concerned as soon as possible to a health-care facility outside the prison system. It would also like to receive updated information on the care provided to the patient.**

#### 4. Staff and treatment

41. As regards health-care staff, the CPT acknowledges the difficulties faced by the prison administration to recruit specialists in the field of psychiatry and the efforts made to arrange the presence of a psychiatrist twice a month at Kruja Special Facility.<sup>15</sup> However, the Committee must stress that this can only constitute a first step in the right direction. The current arrangement, which allows psychiatric patients (130 forensic psychiatric patients and 33 prisoners with a mental disorder) to be seen by a psychiatrist on average twice a year is far from adequate.

Further, it is a matter of concern that, despite the specific recommendation made by the Committee after the 2014 visit, the psychiatric cover in the Prison Hospital has not been increased. There was still only one psychiatrist for 84 forensic psychiatric patients (and six prisoners with a mental disorder).

**The CPT calls upon the Albanian authorities to take urgent steps to ensure that at Kruja Special Facility and the Prison Hospital the presence of psychiatrists is significantly increased.**

42. The CPT is pleased to note that, contrary to the situation observed in 2014, Kruja Special Facility and the Prison Hospital no longer encountered problems with the supply of psychotropic medication.

That said, it is regrettable that, in both establishments visited, psychiatric treatment provided to patients continued to consist almost exclusively of pharmacotherapy; as in 2014, there was an almost total lack of therapeutic activities (such as psychotherapy or occupational therapy).

**The Committee reiterates its recommendation that steps be taken at Kruja Special Facility and the Prison Hospital to ensure that occupational and other psycho-social therapeutic activities are developed, in particular, for patients who are subject to a court-ordered treatment measure.**

43. As regards consent to treatment, it remained the case that forensic patients who had been declared not to be criminally responsible and were subject to a court-imposed placement order (compulsory treatment measure) were not in the position to refuse their prescribed treatment. At the Prison Hospital and Kruja Special Facility, the delegation was informed that in the case of refusal of treatment by the patients concerned, recourse would be had to means of restraint (i.e. mechanical fixation) in order to forcibly administer the prescribed medication.

In this regard, the CPT wishes to stress once again that the admission of a person to a psychiatric establishment on an involuntary basis in the context of criminal proceedings should not preclude seeking informed consent to treatment. Therefore, every patient should be informed about the treatment which it is intended to prescribe. Further, every patient capable of discernment should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this principle should be based upon the law and only relate to clearly and strictly defined exceptional circumstances.

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<sup>15</sup> There was an alternating presence of the psychiatrists working in the Prison Hospital and Durres Pre-Trial Detention Facility.

**The CPT reiterates its recommendation that the Albanian authorities take steps to ensure that the above-mentioned precept is effectively implemented at the Prison Hospital and Kruja Special Facility and, where appropriate, in other psychiatric establishments in Albania. If necessary, the relevant legal provisions should be amended accordingly.**

## **5. Means of restraint**

44. In the report on the 2014 visit,<sup>16</sup> the CPT welcomed the fact that a number of important safeguards surrounding the use of means of restraint (such as manual control, mechanical restraint, chemical restraint and seclusion) had been introduced with the adoption of the 2012 Law on Mental Health<sup>17</sup> and the issuance of a detailed instruction (“Protocol”) by the Ministry of Health on 20 May 2013 to the directors of all psychiatric hospitals and the Prison Hospital.<sup>18</sup> In their response to the report on the 2014 visit, the Albanian authorities gave assurances that the aforementioned Protocol was effectively implemented at the Prison Hospital and Kruja Special Facility.

However, health-care staff at the Prison Hospital and Kruja Special Facility appeared to be unaware of the above-mentioned Protocol, and there was a striking discrepancy between theory and practice in both establishments visited regarding the use of means of restraint. The main shortcomings can be summarised as follows:

- patients subjected to mechanical restraint were usually not continuously and directly monitored by a member of staff. In practice, the patients concerned were only checked by a nurse at regular intervals (approximately every half-hour);
- instances of chemical restraint were usually not recorded in the restraint register, but only in the patient’s medical file;
- instances of seclusion (at Kruja Special Facility<sup>19</sup>) were not recorded at all.

45. The CPT notes that, at the Prison Hospital, mechanical restraint was used only infrequently and usually only for short periods.<sup>20</sup> That said, it is a matter of serious concern that, at the Prison Hospital, patients were usually subjected to mechanical restraint by attaching them to a bed with metal hand- and ankle-cuffs. At Kruja Special Facility, several patients claimed that they had been subjected to such type of restraint, while, according to the restraint register, there had been no instances of mechanical restraint in recent years.

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<sup>16</sup> See paragraph 118 of CPT/Inf (2016) 6.

<sup>17</sup> See Section 27.

<sup>18</sup> According to the Protocol, means of restraint may only be used as a last resort and must always be ordered by a doctor and endorsed by the director of the establishment. Patients may be subjected to means of mechanical restraint for a maximum period of 24 hours; any prolongation of the measure (for up to 24 hours) requires a review of the situation by a doctor. Further, patients subjected to means of mechanical restraint must always remain under constant supervision by a member of staff. In addition, every resort to means of restraint (including chemical restraint and seclusion) must be recorded in a central register (in addition to the patient’s file), and all members of staff involved in restraint procedures must receive special training on a regular basis.

<sup>19</sup> Due to the lack of designated seclusion rooms, patients were occasionally confined to an ordinary room on their own.

<sup>20</sup> According to the establishment’s restraint register, there were twelve instances of mechanical restraint in 2015 (for a maximum of 1 ½ hours), five in 2016 (for a maximum of one hour) and three in 2017 (for a maximum of 30 minutes).

46. **The CPT calls upon the Albanian authorities to take the necessary steps to ensure that at both the Prison Hospital and Kruja Special Facility:**

- **the requirements set out in Section 27 of the Law on Mental Health and the above-mentioned Protocol of the Ministry of Health regarding the use of means of restraint are effectively implemented in practice;**
- **hand- and ankle-cuffs are immediately withdrawn and replaced by professionally recognised restraint equipment (preferably, padded cloth straps) in order to minimise the risk of the patient sustaining injury and/or suffering pain.**

47. The CPT is particularly concerned about the situation of a patient met by the delegation at the Prison Hospital who, at the time of the visit, was being held alone in his cell for three days, whilst being continuously hand- and/or anklecuffed to his bed and apparently without being offered any psychological support.

In the CPT's view, such a response to a suicide attempt of a psychiatric patient is clearly inappropriate. Whilst acknowledging the endeavours of staff to prevent the patient concerned from further harming himself, the Committee wishes to stress that the patient should have been kept under a special observation scheme and provided with appropriate psychological support. Further, health-care staff should be trained in handling patients exhibiting strong suicidal tendencies. **The Committee recommends that steps be taken by the management of the Prison Hospital, as well as of other prison establishments, to develop a policy for managing suicidal patients, in the light of the preceding remarks.**

## **6. Review procedures**

48. According to Section 46 of the Criminal Code, the competent criminal courts are under a legal obligation to review at least once a year the need for continued placement of forensic patients who have been declared not to be criminally responsible for the offence committed and who have been subjected to a compulsory treatment measure.

As far as the delegation could ascertain, such reviews had usually been carried out in recent years on an annual basis *ex officio* (or upon the request of the patient concerned or his lawyer), following a psychiatric evaluation by a psychiatrist of the Forensic Institute. The CPT welcomes the initiative taken by the management of Kruja Special Facility and the Prison Hospital to remind courts proactively of the review deadlines. It is also praiseworthy that, in the context of the judicial review procedures, patients usually benefitted from the assistance of a lawyer (private or appointed *ex officio*).

However, in particular at Kruja Special Facility, the delegation met several patients whose placement had apparently been reviewed by the court only once or twice during the past seven years. Further, it is a matter of concern that, in the context of judicial review procedures, forensic patients (at both Kruja Special Facility and the Prison Hospital) were often not heard by the judge.

**The CPT reiterates its recommendation that the Albanian authorities take measures through the appropriate channels to ensure strict compliance by the competent judges with their obligations under Section 46 of the Criminal Code and to ensure that, in the context of judicial review procedures, the patients concerned are, as a rule, heard in person by the judge.**

49. Although no longer requiring involuntary placement, a patient may nevertheless still need treatment and/or a protected environment in the outside community. In this connection, the CPT was informed that several forensic patients at Kruja Special Facility whose mental state no longer required them to be detained were not discharged by the court, due to a lack of adequate care/accommodation in the outside community. In practice, such patients were only discharged if it was established that family members were able and willing to take care of them.

In this regard, the CPT wishes to place on record the significant improvements made by the Albanian authorities in recent years to integrate long-term civil psychiatric patients into community-based structures. That said, it is regrettable that forensic patients have not been able to benefit from such possibilities and thus remain deprived of their liberty as a result of the absence of appropriate external facilities.

**The Committee recommends that appropriate steps be taken by all relevant authorities to develop adequate post-release support and accommodation for forensic patients. To this end, it would be desirable for patients considered to be suitable for discharge to be given opportunities to demonstrate their ability and reliability to lead independent lives, by being granted periods of temporary (un)accompanied leave.**

**C. Situation of remand prisoners**

50. The CPT's delegation carried out targeted visits to Prisons Nos. 302 and 313 in Tirana, Korca Prison and Durres and Saranda Pre-Trial Detention Facilities (PTDF), focusing on the situation of remand prisoners.

**Prison No. 302** occupies a three-storey building built in 1928, which is situated in a densely populated neighbourhood in Tirana. The establishment had an official capacity of 166 places and, at the time of the visit, was accommodating 205 remand prisoners and five sentenced prisoners (all male adults).

**Prison No. 313** in Tirana had been visited by the CPT several times in the past, most recently in 2014. Due to an ongoing major reconstruction, only some parts of the prison were operational at the time of the visit, accommodating a total of 273 male adult prisoners<sup>21</sup> (see paragraph 53).

**Durres Pre-Trial Detention Facility** (PTDF) was first visited by the Committee in 2010. The establishment's official capacity had since been increased from 240 to 280.<sup>22</sup> At the time of the visit, it was holding 319 prisoners (all male adults), of whom 280 were on remand.

**Korca Prison** had been visited by the CPT in 2010 and 2014. The establishment's official capacity of 380 places was exceeded at the time of the visit; it was accommodating 415 male prisoners, of whom 176 were on remand.

**Saranda PTDF** was operating with a slightly increased capacity of 36 places and was holding 34 male adult remand prisoners at the time of the visit.

51. At the time of the 2017 visit, the prison population of Albania was similar to that at the time of the CPT's previous visit in 2014, amounting to a total of some 5,600. That said, the delegation was informed that there had been a significant increase in recent years, but that the total number of prisoners had been reduced by the release of some 800 prisoners by amnesty in January 2017.

The Albanian authorities informed the delegation of various measures taken to reduce the size of the prison population and to address the problem of overcrowding, which continued to affect a number of establishments. In this context, particular reference was made to greater use of alternatives to imprisonment, such as suspended sentences, home confinement and community work. Further, it was expected that the opening of a new 840-place prison in Shkodra in the first half of 2017 would alleviate the problem of overcrowding.

Whilst acknowledging the steps taken thus far to address the problem, **the CPT recommends that the Albanian authorities pursue vigorously their efforts to combat prison overcrowding. The Committee would like to be provided with updated information on the measures taken in this regard.**

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<sup>21</sup> The establishment's juvenile section had been closed down.

<sup>22</sup> The increase was achieved by installing additional beds in a number of cells.

52. The CPT is pleased to note that its delegation received hardly any allegations of physical ill-treatment of prisoners by staff in any of the establishments visited.

53. The CPT welcomes the extensive reconstruction of *Prison No. 313* in Tirana, which had been repeatedly criticised by the Committee after previous visits on account of its poor material conditions of detention. At the time of the 2017 visit, a new prison building was under construction. **The Committee would like receive detailed information on the general layout of the new prison building, including on any facilities for out-of-cell association activities (e.g. areas for educational and vocational training, workshops, facilities for outdoor exercise and sport, etc.).**

54. Material conditions of detention varied considerably from one establishment to another. They remained on the whole satisfactory at *Durres PTDF* and *Korca Prison*.<sup>23</sup>

However, as had been the case during previous visits, a considerable number of remand prisoners in these establishments were being held under cramped conditions. For example, in both establishments, cells with four beds only measured some 14 m<sup>2</sup> (including the toilet area of some 2 m<sup>2</sup>). Moreover, some of these cells in each establishment were holding more inmates than the number of beds available, prisoners having thus to sleep on mattresses placed on the floor.<sup>24</sup>

In addition, the entire premises of Durres PTDF displayed clear signs of wear and tear (e.g. peeling paint, damp walls, etc.) and were in need of repair. Further, in both establishments, the delegation received many complaints from prisoners that they had no possibility to take a hot shower and therefore had to wash themselves with water collected in buckets.

55. At *Prison No. 302*, material conditions were generally poor.<sup>25</sup> In particular, most of the cells located on the ground floor were dilapidated and damp and had insufficient ventilation and weak artificial lighting. Further, access to natural light was problematic throughout the prison due to the small cell windows covered by wire mesh. Moreover, some cells on the upper floors had no access whatsoever to daylight, the only cell window being located inside the fully partitioned sanitary annexe.

The situation was exacerbated by the fact that most of the prisoner accommodation areas were affected by serious overcrowding, cells offering living space of a mere 2 to 2.5 m<sup>2</sup> per person.<sup>26</sup> Further, as at Durres and Korca, many inmates, who had no bed of their own, were obliged to sleep on mattresses placed on the floor.

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<sup>23</sup> Both establishments entered into service in 2008.

<sup>24</sup> For example, at Durres PTDF, four-bed cells held five or even six prisoners (i.e. less than 2 m<sup>2</sup> of living space per person). Moreover, the delegation saw a four-bed cell with five persons, where no extra mattress had been provided, and, as a result, two of the inmates had to share a bed.

<sup>25</sup> The delegation was told by the management that no major renovation had been carried out in the prison for a long time.

<sup>26</sup> For example, four-bed cells measured between some 11 and 13 m<sup>2</sup> (including the in-cell sanitary annexe of approximately 1 m<sup>2</sup>) and often held five prisoners. Further, a six-bed cell measuring some 15 m<sup>2</sup> was accommodating seven prisoners.



56. The CPT is particularly concerned about the very poor conditions of detention at *Saranda PTDF*; as in 2014, most of the cells were found to be in a poor state of repair and too small for their intended occupancy<sup>27</sup>. As regards access to natural light, the delegation noted that, since the Committee's previous visit, the windows in half of the establishment's twelve cells (situated on the right side of the corridor) had been enlarged. However, the other half of the cells were still fitted with very small windows set into the thick wall and covered with metal shutters, which reduced access to natural light to a minimum. Further, all the cells were lacking efficient ventilation, obliging the administration to keep the wooden cell doors open during the day in order to allow in some fresh air.<sup>28</sup> Moreover, the communal sanitary facility (containing a shower and two toilets) was decrepit and damp.

57. The absence of a functioning heating system was a common feature of all the prison establishments visited.<sup>29</sup> In this connection, the Committee was concerned to note that, unlike the other establishments, inmates at Prison No. 302 and Saranda PTDF were not allowed to keep an electric heater in their cells and, as a result, cells were very cold.

**58. The CPT recommends that the Albanian authorities take steps to improve the conditions of detention in the prison establishments visited, in the light of the remarks in paragraphs 54 to 57. In particular, immediate measures should be taken to ensure that:**

- **cell occupancy rates are reduced in order to provide for at least 4 m<sup>2</sup> of living space per person in multiple-occupancy cells (not counting the area taken up by in-cell toilets) and that every prisoner is provided with his own bed;**
- **all prisoner accommodation areas are kept in an acceptable state of repair and hygiene;**
- **cells have sufficient lighting (including access to natural light) and ventilation and are adequately heated during the cold season.**

Further, steps should be taken at Durres PTDF and Korca Prison to ensure that prisoners are able to take a hot shower at least twice a week.

As regards Saranda PTDF, given its major structural deficiencies (see also paragraph 60), the CPT urges the Albanian authorities to close down this establishment as soon as possible.

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<sup>27</sup> Four-bed cells measured between some 11 and 14 m<sup>2</sup>. Another cell with six beds (which was fully occupied at the time of the visit) only measured some 16.5 m<sup>2</sup> (i.e. some 2.75 m<sup>2</sup> per person).

<sup>28</sup> Each cell was secured by bars and a wooden door.

<sup>29</sup> At Prison No. 302, there was a central heating system in place, which, according to inmates, was switched on only on rare occasions, when the outside temperature fell well below 0°C.

59. The delegation was particularly concerned by the situation of a prisoner with intellectual disability who, at the time of the visit, had already been held for more than one month in a dark, extremely filthy and excessively narrow (some 1.6 m wide) cell at Saranda Pre-Trial Detention Facility.<sup>30</sup> During the end-of-visit talks, the delegation made an immediate observation pursuant to Article 8, paragraph 5, of the Convention, requesting the Albanian authorities to provide the prisoner concerned with suitable accommodation and to no longer use the aforementioned cell as prisoner accommodation.

By their letter of 22 March 2017, the Albanian authorities informed the Committee that the prisoner concerned had been transferred to another cell where he was being held with two other inmates and that he was regularly monitored by the establishment's doctor and education specialist. The CPT takes note of this information; **it would like to receive confirmation that the cell described above has been withdrawn from service as prisoner accommodation.**

60. As regards the regime for remand prisoners, the CPT acknowledges the efforts being made in some of the establishments visited to organise out-of-cell activities for remand prisoners.

In every prison, a small number of inmates were employed in the establishments' general services. Further, at Durres PTDF, some 25 inmates were enrolled in elementary school or English language classes. The delegation was also informed that 57 remand prisoners had been involved in educational or vocational courses at Prison No. 302, which had ended shortly before the visit; at the time of the visit, no such activities were being offered.

As regards sports activities and outdoor exercise, the most favourable situation was observed at Durres PTDF where the great majority of prisoners had access to a large yard for two to three hours per day, where they could exercise and play football. In addition, several indoor gyms were accessible to inmates for one hour every day. At Korca Prison, the only regular out-of-cell activity available to remand prisoners was daily outdoor exercise of three hours (although efforts were being made to offer sentenced prisoners some educational activities and vocational training).

At Prison No. 302, apart from daily outdoor exercise of at least two hours<sup>31</sup>, inmates could play football or volleyball every two weeks in a relatively large courtyard. Further, prisoners had the possibility to play table tennis in the prison library once a week for one hour. However, the delegation noted that inmates were obliged to take their outdoor exercise in concrete cubicles which were very small (some 15 m<sup>2</sup>). Moreover, the establishment only possessed six such cubicles and, as a result, each of them often had to be used by 10 to 15 prisoners at the same time.

At Saranda PTDF, outdoor exercise was offered for three hours every day (two hours in the morning and one hour in the afternoon); however, the area where it was taken only measured some 20 m<sup>2</sup>. It is also a matter of concern that the establishment had no sports facility.

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<sup>30</sup> The cell door (including the bars) was apparently left open during the day.

<sup>31</sup> Three hours in the summer.

61. Notwithstanding the above, it remained the reality for the vast majority of the remand prisoners concerned in all the establishments visited not to be provided with any opportunities for employment or education/vocational training. **The CPT therefore reiterates its recommendation that the Albanian authorities take the necessary measures to improve substantially the regime of activities for remand prisoners in the establishments visited, as well as in other remand prisons. The aim should be to ensure that such prisoners are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cell, engaged in purposeful activities of a varied nature (such as work, preferably with vocational value, education, sports and recreational activities). As regards more particularly outdoor exercise areas, they should be made sufficiently large to allow prisoners to exert themselves physically.**

62. The delegation noted that inmates held in the “observation cells” for protection purposes at Prisons Nos. 302 and 313 and Korca Prison were not allowed any outdoor exercise for prolonged periods of time. This is not acceptable. **The CPT recommends that such prisoners be offered outdoor exercise for at least two hours every day (as required by law<sup>32</sup>).**

63. In most of the establishments visited, the delegation received numerous allegations of corruption among prison staff; in particular, many prisoners claimed that one had to pay a certain amount of money to senior staff for a place in a cell with better material conditions. **The CPT would like to receive the Albanian authorities’ comments on this matter.**

64. As regards health care, the delegation mainly focused on the medical screening of newly-arrived remand prisoners.

65. The delegation noted that, at Prison No. 313 and Saranda PTDF, newly-arrived prisoners were, as a rule, physically examined by a doctor within 24 hours of admission, under conditions guaranteeing medical confidentiality.

That said, it is a matter of serious concern that, in all the other establishments visited, newly-arrived prisoners were usually not subjected to a thorough medical examination by health-care staff, despite the specific recommendation repeatedly made by the Committee on this subject. The medical screening appeared to be usually limited to a few general questions by a doctor (or nurse) about their state of health in the context of the administrative procedure of handover from police custody in the presence of custodial staff and – unless the prisoner concerned complained of a somatic disease – did not entail a physical examination. Clearly, such a practice cannot be a substitute for proper medical screening of prisoners on admission; this is also contrary to the existing regulations<sup>33</sup>.

It is also regrettable that no systematic screening for transmissible diseases (such as tuberculosis, hepatitis B/C and HIV) was performed in any of the establishments visited.

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<sup>32</sup> See Section 28 of the Law on the Rights and Treatment of Prisoners.

<sup>33</sup> See Section 16 (1) of the General Prison Regulations, which stipulates that “[t]he prisoner shall be examined properly by the doctor within the first 24 hours of admission to the institution”.

66. As had been the case during previous visits, the description of injuries in the medical records consulted by the delegation in the establishments visited was usually superficial and lacked detail. At Prison No. 302 and Korca Prison, the delegation noted that injuries observed were often not described in the prisoners' personal medical file, despite being (scantily) recorded in the admission register. It should also be noted that health-care staff did not have special templates or "body charts" for the recording of injuries in any of the establishments visited.

Furthermore, as a rule, no record was kept of statements made by the prisoner concerned as to the origin of the injuries. In this regard, several prisoners who had arrived in prison with visible facial injuries claimed that the doctor had not asked any questions about the cause of their injuries.

67. As the CPT has repeatedly stressed in previous visit reports, in order for the procedure for recording injuries on arrival to play a key role in combating ill-treatment, all indications of ill-treatment must be systematically reported to the competent authorities. This is also a legal requirement under Albanian law<sup>34</sup>. In this context, it is a matter of serious concern that, in all the establishments visited, there was still no procedure in place for the reporting of traumatic injuries which are indicative of ill-treatment. Moreover, as was the case during previous visits, health-care staff in most of the prisons visited appeared to be unaware of their legal obligation to report, within 48 hours, any injuries indicative of possible ill-treatment by law enforcement officials to the competent prosecutor.

68. In the light of the above, **the CPT once again calls upon the Albanian authorities to take the necessary steps – including through the issuance of instructions and the provision of training to relevant staff – to ensure that in all the establishments visited and, as appropriate, in other prisons in Albania:**

- **all newly-arrived prisoners are subject to a comprehensive medical examination (including systematic TB screening and voluntary testing for HIV and hepatitis B/C) by a doctor (or a qualified nurse reporting to a doctor) within 24 hours of admission;**
- **all medical examinations of prisoners are conducted out of the hearing and – unless the health-care professional concerned requests otherwise in a particular case – out of the sight of non-medical staff;**
- **the record drawn up after the medical examination of a prisoner contains: (i) a full account of objective medical findings based on a thorough examination, (ii) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings. The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed. Further, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the prisoner and, upon request, to his/her lawyer;**

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<sup>34</sup> See Sections 281 and 282 of the CCP as well as Section 16 (4) of the General Prison Regulations.

- whenever injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by the prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. To this end, all medical staff working in prison establishments should be reminded of their obligations under Sections 281 and 282 of the CCP and the relevant prison regulations.

Further, the Committee reiterates its previous recommendation that recording of the medical examination in cases of traumatic lesions be made on a special form provided for this purpose, with “body charts” for marking traumatic lesions that will be kept in the medical file of the prisoner. It would be desirable for photographs to be taken of the injuries; these photographs should also be placed in the medical file. In addition, a special trauma register should be kept in every prison establishment, in which all types of injury observed should be recorded.

**APPENDIX I**

**List of the establishments visited by the CPT's delegation**

**Police establishments**

Tirana Regional Police Directorate  
Police Station No. 1, Tirana  
Police Station No. 3, Tirana  
Durrës Police Station

Elbasan Police Station  
Gjirokastra Police Station  
Korça Police Station  
Saranda Police Station  
Vlora Police Station

**Prison establishments**

Prison No. 302, Tirana  
Prison No. 313, Tirana  
Prison Hospital, Tirana  
Korça Prison  
Durrës Pre-Trial Detention Facility  
Saranda Pre-Trial Detention Facility  
Zaharia Special Facility for Ill Inmates, Kruja

**APPENDIX II**

**List of the national authorities, organisations and other bodies  
with which the CPT's delegation held consultations**

**National authorities**

**Ministry of the Interior**

Saimir Tahiri	Minister of the Interior
Rebani Jaupi	Deputy Director of the State Police
Altin Qato	Director General of Public Security
Ardian Cipa	Director General for Combating Organized and Serious Crimes
Genci Merepeza	Director General for Borders and Migration
Theodhori Gravani	Director of the Economic Department at the Directorate General of Support Services
Dilaves Shima	Director of Professional Standards
Gjovalin Loka	Director of Public Order, General Directorate of Public Security
Silvana Alimadhi	Head of the Department for Juvenile and Domestic Violence, Department of Crimes
Fred Agastra	Advisor, Office of the Assistant Director of the State Police
Artan Shëmbi	Security Academy
Lavdim Durbaku	Specialist of Public Order, Department of Public Order

**Ministry of Justice**

Petrit Vasili	Minister of Justice
Miklovan Kopani	Director General of Prisons
Petrit Koshaj	Director of the Prison Police

### **Ministry of Health**

Erol Como	Director of Public Health
Romeo Zegali	Director of European Integration and IPA
Silva Bino	Head of the Unit of Hospital Standards
Eljesa Harapi	Senior Specialist on Mental Health and Drug Addiction
Xhulia Zyli	Specialist on European Integration

### **Office of the People's Advocate (Ombudsman)**

Igli Totozani	People's Advocate
Alfred Koçobashi	Torture Prevention Unit (National Preventive Mechanism)

### **International Organisations**

OSCE Presence in Albania

### **Non-governmental organisations**

Albanian Helsinki Committee

Albanian Rehabilitation Centre for Trauma and Torture