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Report

**to the Albanian Government
on the visit to Albania
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 20 to 30 November 2018

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EXECUTIVE SUMMARY

The main objective of the visit was to review progress made as regards the implementation of recommendations made by the CPT after previous visits. Particular attention was paid to the treatment and conditions of detention of persons in police custody and of inmates in several prison establishments, as well as to the situation of forensic psychiatric patients and mentally-ill prisoners. In addition, the CPT's delegation carried out visits to civil psychiatric establishments and, for the first time in Albania, to an immigration detention facility.

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

Police custody

In the course of the visit, the delegation interviewed a large number of persons who were or had recently been in police custody. The majority of them indicated that they had been treated correctly by the police. However, the delegation received a significant number of allegations of recent physical ill-treatment of criminal suspects by police officers. Most of these allegations concerned use of excessive force at the time of or immediately following apprehension. A number of such allegations also related to ill-treatment inflicted during transportation and/or at the time of initial questioning on police premises, apparently with a view to extracting a confession or obtaining information or as a punishment. The alleged ill-treatment consisted essentially of slaps, punches, kicks, blows with a hard object (e.g. a chair leg) and excessively tight handcuffing.

Whilst acknowledging the progress made by the Albanian authorities in recent years in combating torture and other forms of ill-treatment by the police, the CPT recommends that the authorities redouble their efforts to this end. It also recommends that the necessary steps be taken to ensure that complaints and other information indicative of police ill-treatment are effectively investigated.

As regards the fundamental safeguards against ill-treatment (i.e. the right of notification of custody and the rights of access to a lawyer and doctor), most detained persons interviewed by the delegation indicated that a relative was informed of their situation shortly after apprehension and that they had access to a lawyer whilst in police custody. However, similar to the situation observed during previous visits, a number of detained persons claimed that, despite having requested an *ex officio* lawyer immediately after apprehension, the police had ignored their request (or granted it only after a considerable delay) in order to be able to informally question them about the suspected offence without the presence of a lawyer (prior to the taking of a formal statement). Further, the information gathered during the visit suggests that, despite the legal requirement, detained persons were not systematically subjected to a medical check-up at the outset of police custody and that such checks were usually limited to a few general questions by health-care staff in the presence of a police officer and did not entail a physical examination.

While noting that material conditions of detention were generally of a good standard in some of the police establishments visited, the CPT calls upon the Albanian authorities to ensure that cells at Burrel and Elbasan Police Stations are kept in a satisfactory state of repair and have adequate lighting and ventilation. Further, bearing in mind the very poor material conditions and the structural deficiencies in the detention facilities of Police Stations Nos. 1, 2, 3 and 5 in Tirana, the Committee recommends that a high priority be given to the implementation of the plan to construct a centralised police detention facility in Tirana. It also trusts that the Albanian authorities will pursue their efforts to put a definitive end to the practice of holding remand and sentenced prisoners in police detention facilities.

Karreç Detention Centre for Foreigners

The CPT welcomes the fact that unaccompanied minors may not be held at Karreç Detention Centre (but only in a social welfare institution for juveniles) and that, in recent years, families with children have not been detained in the Centre.

The delegation received a few isolated allegations of deliberate physical ill-treatment (such as slaps or punches) of foreign nationals by custodial police officers. Inter-detainee violence did not appear to pose a major problem, and no complaints were received in this regard from detainees.

As regards material conditions, the CPT notes positively that communal spaces and detention rooms were spacious and well lit, and it acknowledges that furnishings and equipment have recently been damaged to some extent by detainees during a violent protest. Further, many of the sanitary facilities were dilapidated and in appalling hygienic conditions. Moreover, many complaints were received from detainees about insufficient heating and the shortage of personal hygiene products. The CPT recommends that these shortcomings be remedied without delay.

Whilst acknowledging that foreign nationals benefited from an open-door regime within their detention unit throughout the day and that the Centre had a small library, the CPT is concerned that hardly any recreational activities were offered to foreign nationals. It is of all the more concern that allegations were received from detainees that access to the open air was limited to only a number of days per month. After the visit, the Albanian authorities confirmed that foreign nationals would henceforth be offered outdoor exercise every day. The CPT recommends that steps be taken as a matter of priority to ensure that every detention unit is equipped with a television set and that all foreign nationals are provided with a range of recreational activities (including sports).

As regards health care, the CPT welcomes the fact that a full-time assistant doctor was present in the Centre on working days and that medical treatment was provided without delay. That said, it is a matter of concern that newly-arrived foreign nationals were not systematically subjected to a comprehensive medical examination upon admission and that no individual medical files had been opened for detainees. The CPT emphasises that systematic and prompt screening is essential for the detection of transmissible diseases, as well as for the prevention of police ill-treatment by recording injuries and reporting allegations of ill-treatment to the relevant prosecutor. Further, the Committee stresses the need to provide professional interpretation whenever health-care staff are unable to make a proper diagnostic evaluation due to language problems.

The presence of custodial staff appeared to be adequate. That said, due to language barriers, officers were usually unable to communicate with foreign nationals, and they had received hardly any specific training for working with immigration detainees. The CPT recommends that custodial officers be provided with appropriate training (including in de-escalation techniques and interpersonal communication). It would also be desirable for some officers to have relevant language skills.

Karreç Detention Centre had several security (isolation) cells which were found to be in a very poor state of repair and in an appalling state of hygiene. The CPT expresses particular concern that foreign nationals were on occasion handcuffed to the bed inside a security cell. In at least one case, a foreign national had allegedly been hand- and ankle-cuffed to the bed in a stress position (spread-eagled) for 24 hours. In the CPT's view, this practice could easily be considered to amount to inhuman and degrading treatment and should be stopped immediately.

All foreign nationals interviewed by the delegation complained vigorously about the almost total lack of information about their rights and the legal procedures applied to them. The CPT recommends that the Albanian authorities ensure that all foreign nationals are expressly informed, without delay and in a language they understand, of their rights and the procedure applicable to them (including any legal remedies).

Prisons

The CPT notes that efforts continue to be made by the Albanian authorities to expand and modernise the prison estate. Reference is made to the newly-constructed accommodation blocks at Prison No. 313 in Tirana as well as to a new prison near Shkodra which has contributed significantly to addressing the problem of overcrowding throughout the prison system. The Committee encourages the Albanian authorities to pursue vigorously their efforts in this regard, by making increased use of alternatives to imprisonment (in particular to remand detention) and measures facilitating the reintegration of prisoners into society.

The CPT notes with concern that the Criminal Code was amended in 2017 to introduce whole life imprisonment for certain types of offences; it recalls the relevant case-law of the European Court of Human Rights and recommends that the criminal legislation be amended in order to make conditional release available to all life-sentenced prisoners (subject to a risk assessment).

The delegation received no allegations of recent physical ill-treatment of inmates by staff in any of the prisons visited. On the contrary, most of the inmates interviewed spoke positively about the manner in which they were treated by staff.

Material conditions of detention were generally satisfactory at Fier Prison where prisoner accommodation was provided in cells designed to hold a maximum of two persons. They were also generally adequate at Durres Prison.

However, at Prison No. 302, despite some improvements, most of the deficiencies observed in the past persisted, such as pervasive dampness in the cells, minimal ventilation and inadequate natural light. Further, at both Durres Prison and Prison No. 302, conditions remained cramped in many cells, although to a lesser extent than in the past.

At Burrel Prison, many of the multiple-occupancy cells accommodating sentenced prisoners were once again found to be in a poor state of repair. Clearly, the old and defective physical structure of the buildings and the penetrating dampness did not help matters. In addition, problems with heating persisted: the central heating was usually only turned on for a few hours per day.

On a more general note, it is a matter of concern that, in all the prisons visited, artificial lighting inside the cells had to remain switched on around the clock and could not be dimmed at night. Numerous complaints were received from inmates that this caused sleeping difficulties. The Committee emphasises that exposure to artificial light at night may affect the natural sleep patterns and cause negative health effects on psychological, cardiovascular and/or metabolic functions in individuals. Consequently, it recommends that this rule be abolished without delay.

As was the case during previous CPT visits, the great majority of the inmates in the prisons visited were not being offered any purposeful activities. The regime at Prison No. 302 and Burrel Prison was particularly underdeveloped, due to the lack of an appropriate infrastructure. The Committee stresses once again that such a state of affairs is all the more detrimental for long-term prisoners (including life-sentenced prisoners) and calls upon the Albanian authorities to improve substantially the regime of activities for all inmates in the prisons visited as well as in all other prisons in Albania where a similar situation prevails.

As regards the provision of health-care services to prisoners, recommendations are made regarding medical staffing levels at Durres and Fier Prisons and the nursing staff resources at Prison No. 313. Further, the CPT recommends that steps be taken to ensure that, throughout the prison system, prisoners are provided free of charge with the medication which their state of health requires and that every prison health-care service in the country is supplied with basic life-saving equipment (such as a defibrillator, oxygen and an ECG machine).

At Durres, Fier and Lezha Prisons, the delegation visited the special care units (so-called “SKV”) which are intended primarily to accommodate prisoners suffering from mental disorders. Whilst supporting the concept of SKV in prisons, the CPT stresses that, in order to make such units fully functional and to ensure that prisoners placed therein receive appropriate treatment, SKVs must be provided with qualified staff (e.g. psychiatrists, nurses, clinical psychologists, etc.) who should be present in sufficient numbers.

The delegation once again observed major shortcomings regarding the medical examination of newly-arrived prisoners and the recording and reporting of injuries and the continued lack of respect for medical confidentiality, despite the specific recommendations repeatedly made by the Committee in previous visit reports.

In the report, remarks and recommendations are also made concerning various other issues, notably prisoners’ contact with the outside world and discipline. In particular, the CPT recommends that the disciplinary sanction of solitary confinement be abolished in respect of juveniles and that prisoners are offered visits, as a rule, under open conditions (i.e. around a table).

Forensic psychiatry

The situation of forensic psychiatric patients has been the subject of a long-standing dialogue between the CPT and the Albanian authorities, given that the patients concerned have been held for many years under unacceptable conditions and with insufficient psychiatric care in the Prison Hospital in Tirana and Zaharia Special Facility in Kruja. During the 2018 visit, the delegation carried out a follow-up visit to the Prison Hospital, and it visited the premises within Lezha Prison where it was planned that forensic psychiatric patients would be temporarily accommodated, pending the creation of a proper forensic psychiatric facility in the country.

Whilst acknowledging the efforts made by the Albanian authorities to create a temporary forensic facility at Lezha, the CPT expresses concern that the opening of the latter facility has been significantly delayed and that there was still a striking lack of clarity regarding the precise role of the Ministry of Health and Social Protection, the future management and the deployment of staff. After the visit, the Albanian authorities informed the CPT that the temporary facility would be opened in 2019 and that treatment would then be provided to forensic patients by multi-disciplinary staff under the authority of the Ministry of Health and Social Protection. Notwithstanding that, the CPT underlines that the premises of the temporary facility are designed as a prison and that the refurbishment will not alter the carceral character and other structural deficiencies which render these premises unsuitable on a longer-term basis as a mental health-care facility.

As regards the Prison Hospital, the delegation was informed that most forensic patients had been temporarily transferred to other prisons. Thus, by contrast with the situation seen during the 2017 visit, no overcrowding was observed. The CPT expresses serious concern about the situation of one 15-year-old juvenile patient and several female psychiatric patients who were *de facto* held in solitary confinement and in material conditions (totally dilapidated, dark, damp and poorly ventilated cells)

which, in the CPT's view, could easily be considered to be inhuman and degrading. After the visit, the Albanian authorities informed the CPT that the entire Prison Hospital had been refurbished and that all female psychiatric patients and the only juvenile patient would be transferred to separate units at the 'Special Institution of Lezha' as soon as the latter facility was operational. The CPT requests detailed information on the care provided to the above-mentioned juvenile.

Involuntary hospitalisation of a civil nature

The delegation carried out a full visit to Elbasan Psychiatric Hospital. In addition, it paid a brief targeted visit to the Psychiatric Clinic of Tirana University Hospital (hereinafter: "Tirana Psychiatric Clinic"), in order to examine the procedures and safeguards related to the use of means of restraint.

At Elbasan Psychiatric Hospital, the delegation received no allegations of ill-treatment by staff. Some instances of violence between patients did occur in the hospital, but the delegation gained the impression that staff generally reacted in an appropriate manner.

At the time of the visit, the entire premises of Elbasan Psychiatric Hospital were impeccably clean and well-heated. That said, material conditions were generally rather poor. In particular, the sanitary facilities in several wards were dilapidated, and they were not adapted to the needs of patients with physical impairments. It is also a matter of concern that patients were usually offered only one shower per week. Further, in most wards, patients were accommodated in austere and depersonalised dormitories (with no furniture except for beds) and up to 50 patients were being held in an open space without being offered any privacy.

After the visit, the Albanian authorities informed the CPT that the Ministry of Health and Social Protection had recently allocated a total of some 2.2 million Euros in order to improve the living conditions for patients and to remedy various other shortcomings in the hospital. The CPT welcomes this decision and requests more detailed information on the implementation of the renovation plans. Further, the Committee emphasises that large-capacity dormitories are not compatible with current standards of accommodation for psychiatric patients, and it encourages the Albanian authorities to ensure that existing dormitories are transformed into accommodation structures based on smaller groups (i.e. no more than four beds in one room).

The CPT is particularly concerned that many patients did not benefit from outdoor exercise on a daily basis and that a number of them (in particular those suffering from physical impairments) had not been outside for months and in some cases even for years on end. The Committee recommends that steps be taken as a matter of priority to ensure that all patients at Elbasan Psychiatric Hospital are offered daily outdoor exercise.

The CPT appreciates the commitment and caring attitude of staff who were working under very difficult conditions, especially due to dramatic shortages in the number of health-care staff. In the CPT's view, the number of clinical staff (on average, one psychiatrist and one nurse per 60 patients) is clearly insufficient to provide adequate care, assistance and supervision and to ensure a safe environment for patients and staff. The CPT recommends that the Albanian authorities re-double their efforts to significantly increase the number of psychiatrists and nurses at Elbasan Psychiatric Hospital and, where appropriate, in other psychiatric hospitals.

The CPT acknowledges the efforts made by the hospital management to provide patients with psychosocial treatment and activities in two day-centres (painting, handicrafts, etc.). However, the provision of psychological services and occupational therapy remained limited, and, for most of the patients, treatment consisted solely of pharmacotherapy. Further, no individual treatment plans existed beyond the lists of prescribed medication. The CPT recommends that steps be taken to ensure that an individual treatment plan is drawn up for every patient and that patients benefit from a range of psychosocial rehabilitative activities. To this end, the staffing levels of psychologists, occupational therapists and other professionals should be increased accordingly.

At Elbasan Psychiatric Hospital and Tirana Psychiatric Clinic, means of restraint were generally applied in accordance with the legal requirements set out in the relevant legislation. That said, a number of shortcomings were observed by the delegation, and the CPT has formulated specific recommendations in this regard. In particular, patients subjected to means of mechanical restraint or seclusion should be continuously supervised by a member of the health-care staff, and all instances of restraint (including chemical restraint and seclusion) should be recorded in a dedicated restraint register (in addition to the patient's medical file). Further, the presence of ward-based staff should be increased at Elbasan Psychiatric Hospital and staff be provided with training on de-escalation and restraint techniques in order to avoid interventions by police officers in the hospital.

At the time of the visit, only two (out of 318) patients at Elbasan Psychiatric Hospital had undergone an involuntary placement procedure. Notwithstanding that, all the patients' wards were closed, and most patients who were formally classified as 'voluntary' were not allowed to leave the hospital on their own. Particular mention should also be made to the situation of legally incapacitated patients. When such patients were hospitalised with the consent of their court-appointed guardian, they were considered 'voluntary'. However, if they expressed a wish to leave the hospital they were usually not allowed to do so. Thus, many patients were de facto deprived of their liberty without benefiting from appropriate safeguards. The CPT has formulated specific recommendations to remedy this deficiency.

As regards the procedures for civil involuntary placement, the legal requirements set out in the Law on Mental Health (LMH) were usually implemented in practice at Elbasan Psychiatric Hospital. However, it is regrettable that judges usually took decisions on the placement without ever having seen the patient concerned. Further, the CPT expresses concern that, despite various specific recommendations made by the Committee in previous visit reports, the relevant mental health legislation still suffers from fundamental flaws which severely undermine the legal protection of psychiatric patients. In particular, judicial placement orders, which are usually indefinite, are not subjected to a regular *ex officio* review, and the patients concerned are still not entitled to challenge their placement before a court themselves. Further, the LMH still does not make a clear distinction between consent to placement and consent to treatment and, in practice, a court decision on involuntary placement in a psychiatric establishment is considered to be a sufficient basis for any subsequent involuntary treatment. Moreover, the LMH does not provide for any procedure on involuntary treatment of psychiatric patients. The CPT recommends once again that the Albanian authorities take appropriate steps, including at the legislative level, to ensure that various precepts set out in the report are effectively implemented at Elbasan Psychiatric Hospital, as well as in all other psychiatric establishments in Albania.

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 periodic visit to Albania from 20 to 30 November 2018.¹

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

- Mykola Gnatovskyy, President of the CPT (Head of the delegation)
- Julia Kozma
- Ömer Müslümanoğlu
- Olga Noyanova
- Olivera Vulić
- Elisabetta Zamparutti

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

- Jean-Pierre Restellini, medical doctor, specialist in internal and forensic medicine, Switzerland (expert)
- Teuta Barbullushi (interpreter)
- Lorena Dedja (interpreter)
- Arben Leskaj (interpreter)
- Saverina Pasho (interpreter)
- Albana Qazimi (interpreter)
- Rudina Xhillari (interpreter)

3. A list of the establishments visited by the delegation is set out in the Appendix to the report.

4. The report on the visit was adopted by the CPT at its 99th meeting, held from 1 to 5 July 2019, and transmitted to the Albanian authorities on 18 July 2019. 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 six 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. As regards the requests for information in paragraph 108 and the recommendation in paragraph 118, the Committee wishes to receive a response within three months.

¹ The CPT has previously carried out five periodic visits (in 1997, 2000, 2005, 2010 and 2014) and seven ad hoc visits (in 1998, 2001, 2003, 2006, 2008, 2011 and 2017) to Albania. The reports on these visits and related Government responses are available on the CPT’s website: <https://www.coe.int/en/web/cpt/albania>

B. Consultations held by the delegation and co-operation encountered

5. In the course of the visit, the delegation had consultations with Etilda Gjonaj, Minister of Justice, Toni Gogu, Deputy Minister of Justice, Romina Kuko, Deputy Minister of the Interior, Adriana Jaku, Deputy Minister of Health and Social Protection, and Stefan Çipa, Director General of Prisons, as well as with other senior officials from the above-mentioned ministries.

Discussions were also held with representatives of the Office of the People's Advocate, including the Head of the National Preventive Mechanism set up under the Optional Protocol to the United Nations Convention against Torture (OPCAT). In addition, the delegation met representatives of the Tirana Office of the United Nations High Commissioner for Refugees (UNHCR) and of non-governmental organisations active in areas of concern to the CPT.

6. The co-operation received by the delegation throughout the visit, from both the national authorities and staff at the establishments visited, was very good. The delegation enjoyed rapid access to all the establishments it wished to visit (including those which had not been notified in advance), was able to interview in private persons deprived of their liberty and was provided with the information it needed to accomplish its task.

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

7. During the end-of-visit talks with the Albanian authorities on 30 November 2018, the delegation outlined the main facts found during the visit. On that occasion, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention, calling upon the Ministry of Justice to take all the necessary steps – in co-operation with the Ministry of Health and Social Protection and, if necessary, by involving the relevant judicial authorities – to accommodate all female and juvenile forensic psychiatric patients who were being held in the Prison Hospital in a suitable health-care facility and to transmit detailed information on the daily care and human contact provided to the patients concerned. The delegation also requested that steps be taken to ensure that the Prison Hospital was properly heated.

The above-mentioned immediate observation was subsequently confirmed in a letter of 20 December 2018 from the Executive Secretary of the CPT, in which the Albanian authorities were requested to provide a response within three months.

8. By letter of 16 April 2019, the Albanian authorities provided comments on various issues raised by the delegation during the end-of-visit talks, including the immediate observation referred to above. This information will be commented upon in the relevant sections of the present report.

D. National Preventive Mechanism

9. The Albanian National Preventive Mechanism (NPM) was established following the ratification by Albania of the OPCAT in 2003. It is a separate structure within the Ombudsman's Office, consisting of one Commissioner and four Assistant Commissioners. The NPM conducts frequent visits (both scheduled and unannounced) to various types of places of deprivation of liberty² and publishes annual reports. It is also noteworthy that the NPM has the authority to undertake ad hoc investigations into police misconduct, with eventual referral of the case material to the prosecutorial authorities.

10. The CPT has noted that, in addition to carrying out monitoring activities, the NPM staff are also involved in the processing of complaints lodged by persons deprived of their liberty³.

² For example, in 2017, the NPM carried out 26 visits to prisons, ten to mental health institutions, 61 to police stations, two to the immigration detention facility and one to a juvenile detention facility. It also monitored 16 return flights.

³ See, in this regard, paragraph 73 of the substantive section of the CPT's 27th General Report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police custody

1. Preliminary remarks

11. The general legal framework governing the deprivation of liberty of persons by the police has remained unchanged since the CPT's last 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 in which to hold a hearing to decide on whether to remand in custody the person concerned.⁴

Further, persons may also be deprived of their liberty by the police for identification purposes, for a period not exceeding twelve hours.⁵ In addition, under the Law on the State Police,⁶ the police may 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.

12. The CPT is pleased to note that, contrary to the situation found during previous visits, persons remanded in custody were now usually transferred to prison establishments without delay and the actual period of police custody generally did not exceed the aforementioned legal time-limits. That said, the delegation once again observed, in particular in Tirana, that some persons remanded in custody or already sentenced to imprisonment had been held in police detention facilities, on occasion for prolonged periods (of up to two weeks), pending their transfer to a prison. **The CPT trusts that the Albanian authorities will pursue their efforts to put a definitive end to the practice of holding remand and sentenced prisoners in police detention facilities.**

2. Ill-treatment

13. In the course of the visit, the delegation interviewed a large number of persons who were or had recently been in police custody. The majority of them indicated that they had been treated correctly by the police. Further, no allegations of physical ill-treatment were received in respect of police officers performing custodial tasks in police detention facilities.

However, the delegation received a significant number of allegations of recent physical ill-treatment of criminal suspects by police officers. Most of these allegations concerned use of excessive force at the time of or immediately following apprehension (e.g. after the person concerned had been handcuffed). A number of such allegations also related to ill-treatment inflicted during transportation and/or at the time of initial questioning on police premises, apparently with a view to extracting a confession or obtaining information or as a punishment. The alleged ill-treatment consisted essentially of slaps, punches, kicks, blows with a hard object (e.g. a chair leg) and excessively tight handcuffing. Further, several persons alleged ill-treatment of a psychological nature (such as threats of physical ill-treatment) as well as verbal abuse.

⁴ Sections 258 and 259 of the Code of Criminal Procedure.

⁵ Section 295 (4), *ibid.*

⁶ Sections 109 (2), 122 (3) and 123 (5).

In some cases, the medical examination of the persons concerned and/or the consultation of medical files by the delegation revealed injuries which were consistent with the allegations of ill-treatment made.

14. The CPT acknowledges the progress made by the Albanian authorities in recent years in combating torture and other forms of ill-treatment by the police. However, the delegation's findings during the 2018 visit underscore the need to reiterate the message of zero tolerance of ill-treatment of detained persons. It is essential to ensure that police officers at all levels are made aware – including by strengthening the accountability of the police and effectively investigating allegations of police ill-treatment – that the government is resolved to stamp out ill-treatment of persons deprived of their liberty.

The CPT recommends that the Albanian authorities redouble their efforts to combat ill-treatment by the police, in the light of the above remarks. In particular, it should be reiterated to police officers at regular intervals that all forms of ill-treatment (including verbal abuse) of detained persons are illegal and will be punished accordingly.

Police officers should also be regularly reminded, including through appropriate training programmes⁷, 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 their being struck. Further, where it is deemed essential to handcuff a person at the time of apprehension (or during the period of custody), the handcuffs should under no circumstances be excessively tight and should be applied only for as long as is strictly necessary.

15. The CPT recalls that an essential component of any strategy to prevent police ill-treatment lies in the diligent examination by the competent authorities of all complaints of ill-treatment brought before them and, where appropriate, the imposition of an adequate penalty. If the emergence of information indicative of ill-treatment is not followed by a prompt and effective response, those minded to ill-treat persons deprived of their liberty will quickly come to believe – and with very good reason – that they can do so with impunity. In order for investigations into possible police ill-treatment to be fully effective, the procedures involved must be – and be seen to be – independent and impartial. Further, such investigations must comply *inter alia* with the criteria of promptness, thoroughness and comprehensiveness. For further details, see paragraphs 25 to 42 of the CPT's 14th General Report.⁸

16. During its visit to Prison No. 313 in Tirana, the delegation was informed that, in the course of 2018, three cases of remand prisoners (A.Z., F.G. and L.X.), who had displayed injuries and made allegations of police ill-treatment during the medical examination upon admission, had been promptly notified by the management for further investigation to the Tirana District Prosecutor's Office (along with copies of extracts from the prisoners' medical files). The CPT welcomes this practice.

⁷ See paragraphs 73 to 81 of the CPT's 28th General Report on investigative interviewing and the Council of Europe's practitioner's guide on investigative interviewing ("A brief introduction to investigative interviewing – A practitioner's guide", Council of Europe, October 2018).

⁸ CPT/Inf (2004) 28.

However, from consultations which the delegation subsequently held with the district prosecutor responsible for the cases, it transpired that the correspondence from the prison management had been simply attached to the respective criminal investigation files regarding the criminal charges against the persons concerned, without any investigative action having been taken by the prosecutor in relation to the allegations of ill-treatment (such as taking a statement or requesting a forensic medical examination). When asked for an explanation about this state of affairs, the prosecutor indicated that, in her view, there had been insufficient evidence to open a (preliminary) criminal inquiry into the allegations of police ill-treatment.

In the CPT's view, the total lack of investigative action by the prosecutor in light of concrete allegations of police ill-treatment which were even supported by medical evidence is indefensible.

The CPT recommends that the Albanian authorities take the necessary steps – through appropriate channels and by providing training to relevant prosecutors – to ensure that:

- **complaints and other information indicative of police ill-treatment are effectively investigated, in the light of the remarks made in paragraph 15;**
- **whenever prosecutors receive complaints or other information indicative of police ill-treatment, a forensic medical examination is immediately ordered.**

17. More generally, the CPT has misgivings about the fact that the handling of the above-mentioned allegations of police ill-treatment was allocated to the same prosecutor who was in charge of the criminal investigations against the alleged victims of ill-treatment. According to the prosecutor met by the delegation, this was normal practice in the Albanian judicial system. In the CPT's view, such a dual responsibility may jeopardise the (perceived) impartiality of the prosecutor concerned. **The Committee therefore recommends that instances of possible police ill-treatment be investigated by prosecutors who are unconnected with the criminal investigations against the alleged victims of ill-treatment.**

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 2017 to the present time (including information regarding the cases handled by the Internal Affairs and Complaints Service and the Professional Standards Department of the Ministry of the Interior):**

- (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).**

19. The CPT welcomes the fact that the Criminal Code contains specific provisions (Sections 86 and 87)⁹ which define and penalise the crime of torture in a manner which is fully in line with relevant international standards¹⁰.

That said, the Committee is concerned and puzzled by the information which its delegation received during the visit from two prosecutors who were *inter alia* dealing with cases of alleged police ill-treatment. Both affirmed to the delegation that, in their view, the crime of torture could not be committed by police officers since the latter could not be considered “persons who exercise a public function” within the meaning of Section 86 of the Criminal Code. They further stated that this interpretation of the above-mentioned legal provisions was supported by judgments of the Albanian Supreme Court. **The CPT wishes to receive the comments of the Albanian authorities on this matter as well as copies of any Supreme Court judgments that may address this issue.**

20. In the course of the visit, the delegation had consultations with the Director and senior staff of the Institute of Forensic Medicine¹¹ in order to review the procedures for carrying out forensic medical examinations related to cases of possible police ill-treatment.

The delegation was informed that a forensic medical examination by the Institute may only be requested by the police, a public prosecutor or the People’s Advocate. Detained persons who claimed to have been subjected to police ill-treatment were not themselves entitled to request a medical examination by a doctor of the Institute but they would first have to report to the police or a prosecutor in order to obtain an official request.¹² The CPT must stress that such a state of affairs is not in line with established international standards (cf. paragraph 123 of the “Istanbul Protocol”¹³).

Further, the delegation was told that requests for medical examinations which the Institute received from the police or prosecutors in cases of possible police ill-treatment usually contained the same set of standardised questions, namely asking for a description of any visible injuries and an assessment as to the tools/mechanism which may have caused the injuries, the severity of the injuries and the time when the injuries may have been sustained.

⁹ Section 86 (Torture): Intentional commission of actions, as a result of which a person was subjected to severe physical or mental suffering, by a person who exercises a public function or incited or approved by him, openly or in silence, with the purpose of: (a) obtaining from him or from another person information or confessions; (b) punishing him for an action committed or suspected to have been committed by him or another person; (c) intimidating or pressuring him or another person; (ç) any other purpose based in any form of discrimination; (d) any other inhuman or degrading action; shall be punished from four up to ten years imprisonment.

Section 87 (Torture resulting in serious consequences): Torture, like any other inhuman treatment, as long as it has inflicted handicap, mutilation or any permanent harm to the health of a person, or his death, shall be punished from ten to twenty years of imprisonment.

¹⁰ See Articles 1 and 4 of the United Nations Convention against Torture.

¹¹ The Institute is the only public establishment of this type in the country (with detached units in five regions) and operates under the direct authority of the Minister of Justice.

¹² The persons concerned could in principle address themselves to a private forensic medical doctor but, according to one of the prosecutors met by the delegation, medical reports drawn up by private forensic doctors were not accepted by the courts as evidence.

¹³ “Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”.

That said, it is regrettable that forensic doctors were never requested to provide an assessment regarding the degree of consistency between any allegations made and the medical findings. This practice is equally not in line with established international standards¹⁴.

The CPT recommends that the Albanian authorities take the necessary steps – through appropriate channels and by amending the relevant legislation – to ensure that:

- **the report drawn up by forensic medical doctors in cases of possible police ill-treatment contains: (i) a full account of objective medical findings based on a thorough examination, (ii) an account of any allegations of ill-treatment or other statements made by the person concerned regarding the causes of the injuries, and (iii) the doctor's observations in the light of (i) and (ii), indicating the degree of consistency between any allegations/statements made and the objective medical findings;**
- **persons who claim to have been subjected to ill-treatment whilst in police custody are entitled (at their own expense) to a medical examination by the Institute of Forensic Medicine without prior authorisation by the police or a prosecutor.**

3. Safeguards against ill-treatment

a. notification of custody

21. According to Section 255 (4) of the Albanian Code of Criminal Procedure (CCP), the police shall notify *without delay* the family of the detained person about his/her custody, subject to his/her consent¹⁵.

The great majority of detained persons met by the delegation during the visit confirmed that they had been placed in a position to inform relatives of their situation, or that notification had been given by a police officer, shortly after apprehension. Nevertheless, some allegations were received that notification of custody had been delayed by police officers for several hours (e.g. until the taking of a formal statement or the first meeting with a lawyer). **The CPT recommends that the Albanian authorities make further efforts to ensure that the right of notification of custody is guaranteed in practice as from the very outset of deprivation of liberty.**

¹⁴ See paragraph 122 and Annexe IV (Guidelines for the medical evaluation of torture and ill-treatment) of the "Istanbul Protocol".

¹⁵ In the case of juveniles, such notification is mandatory.

b. access to a lawyer

22. Overall, the delegation gained a positive impression of the implementation in practice of the right of access to a lawyer. From the information gathered during the visit, it transpired that detained persons who wished to benefit from this right were in most cases offered the possibility to consult a lawyer (including an *ex officio* lawyer) and had him/her present during police questioning.

However, similar to the situation observed during previous visits to Albania, a number of detained persons indicated that, despite having requested an *ex officio* lawyer immediately after apprehension, the police had ignored their request (or granted it only after a considerable delay) in order to be able to informally question them about the suspected offence without the presence of a lawyer (prior to the taking of a formal statement). As already indicated above, some of them alleged to have been physically ill-treated or threatened with violence during such periods of informal questioning.

The delegation also heard complaints from detained persons, who were provided with *ex officio* lawyers, that they did not have – and the lawyers did not insist on having – a private consultation during police custody and that the lawyers' role was essentially limited to signing the police interview protocol. Moreover, it would appear that in some cases the detained persons' first contact with the *ex officio* lawyer only took place at the initial court appearance.

In the light of the above, **the CPT reiterates its recommendation that the Albanian authorities recall to all police officers the legal obligation to grant access to a lawyer (which includes the rights to speak with the lawyer in private and to have him/her present during questioning) from the very outset of a person's deprivation of liberty.**¹⁶

Further, **appropriate steps should be taken – in consultation with the Bar Association of Albania – to ensure that lawyers appointed to represent persons in police custody perform their functions in a diligent and timely manner. The Committee would like to be informed of the concrete steps taken by the Albanian authorities in this regard.**

¹⁶ See Sections 53 (1) and 255 (1) of the CCP.

c. access to a doctor

23. It should be recalled that, according to the police service's 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.¹⁷ Such screening can be beneficial, in particular, to ensure the timely provision of medical care to detained persons and, in principle, the prevention of police ill-treatment.

However, the information gathered during the visit suggested that this requirement was far from being respected in most of the police establishments visited. It became apparent that entry examinations were not systematically performed, including in the establishments which benefited from the regular presence of health-care staff (such as Durres and Elbasan Police Stations). It is also a matter of concern that, in general, such checks were still limited to a few questions of a general nature by health-care staff in the presence of a police officer and did not entail a physical examination.

Further, once again, the examination of medical records in various police establishments revealed that, in those rare cases where traumatic injuries were recorded by health-care staff, the description of injuries was superficial, the detained person's account of how the injuries had been sustained was not recorded and, as a consequence, no assessment was made of the consistency between the medical findings and any allegations made. Moreover, health-care staff working in some of the police establishments visited appeared to be unaware of their legal obligation under Section 282 of the CCP to report to the competent prosecutor any injuries indicative of police ill-treatment.

The CPT must therefore reiterate its recommendation that the Albanian authorities take the necessary steps 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. Steps should also be taken to ensure that all medical examinations of persons in police custody are conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of police officers.

As regards the recording and reporting of injuries, **the Committee once again recommends that health-care staff working in police detention facilities receive appropriate training and clear instructions on the requirements set out in the relevant recommendations in paragraph 41.**

¹⁷ In addition to the routine medical check at the outset of custody, the Manual also contains provisions guaranteeing detained persons' access to medical assistance while in police custody. It should also be recalled that persons detained by the police are entitled to a medical examination by a doctor of their choice (at their own expense).

d. information on rights

24. As observed during the CPT's most recent visits, detained persons were as a rule provided with an information sheet setting out their fundamental rights, which was available in a range of languages. Moreover, in all police detention facilities visited, information posters were on display containing excerpts from the relevant legislation.

That said, a number of detained persons claimed that they had been given the above-mentioned information sheet only towards the end of police custody, usually when signing the interview protocol. Further, although the delegation noted some progress, there were still many allegations to the effect that no verbal information on rights had been provided by the police at the outset of deprivation of liberty (e.g. during or immediately after apprehension).

The CPT calls upon the Albanian authorities to take steps to ensure that persons detained by the police are fully informed of their rights as from the very outset of deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the very outset, to be supplemented at the earliest opportunity (that is, immediately upon arrival at police premises) by provision of the above-mentioned information sheet. The persons concerned should be asked to sign a statement attesting that they have received a copy of the information sheet.

4. Conditions of detention

25. Material conditions of detention varied from one police detention facility to another. At the *Police Directorate of Tirana and Durrës, Fier and Kavaja Police Stations*, they were on the whole of a good standard, bearing in mind that detained persons usually stayed there for no more than a few days.

However, major deficiencies were observed in *the other establishments visited* (namely, Police Stations Nos. 1, 2, 3 and 5 in Tirana and Burrel and Elbasan Police Stations). Most custody cells in these establishments were in a poor state of repair and had little or no access to natural light, inadequate artificial lighting and insufficient ventilation. Further, the communal toilets were often unhygienic. Moreover, some of the custody cells seen by the delegation in Tirana were devoid of any furniture and detained persons were obliged to sleep on mattresses placed on a dirty floor.

It is also a matter of concern that cells in most of the police detention facilities visited were not heated during winter months. Further, as was the case during previous visits, detained persons were not provided with basic personal hygiene items.

26. In the light of the above, **the CPT calls upon the Albanian authorities to take urgent steps at Burrel and Elbasan Police Stations** (as regards Police Stations Nos. 1, 2, 3 and 5 in Tirana, see paragraph 27) **to ensure that:**

- **cells are maintained in a satisfactory state of repair and have adequate lighting (including access to natural light) and ventilation;**
- **communal sanitary facilities are kept in an acceptable state of hygiene.**

Further, **the Committee calls upon the Albanian authorities to ensure that cells in all police detention facilities are appropriately heated during the cold season. Steps should also be taken to ensure that persons held in police detention facilities be supplied with basic personal hygiene products (including, in the case of detained women, sanitary towels).**

27. The delegation was informed that plans were afoot to construct a centralised police detention facility to serve all police stations in the Tirana region. Bearing in mind the very poor material conditions and the structural deficiencies in the detention facilities of Police Stations Nos. 1, 2, 3 and 5 in Tirana, **the CPT recommends that the Albanian authorities attach a high priority to the implementation of these plans; it would like to receive the timeline of the opening of this centralised facility as well as a detailed floor plan.**

Pending the opening of the aforementioned facility, **urgent measures should be taken to ensure that all cells in Police Stations Nos. 1, 2, 3 and 5 in Tirana are returned to and maintained in an acceptable state of repair and cleanliness and are sufficiently lit.**

28. The CPT once again found that detained persons were often held under extremely cramped conditions. For example, at Elbasan Police Station, up to four persons were held in a cell of some 7 m². Similarly, at Police Station No. 3 in Tirana, three persons were held in cells measuring between some 6 and 8 m². Further, double-occupancy cells at Tirana Police Stations Nos. 1, 2 and 3 measured only some 4 m² and at Police Station No. 5 slightly less than 5 m².

The Committee wishes to stress that cells measuring less than 5 m² should under no circumstances be used as overnight accommodation. As regards cells measuring between 6 and 8 m², they should only be used for single occupancy. **The CPT recommends that steps be taken to comply with these precepts.**¹⁸

29. The CPT was concerned to note that detained persons still had no possibility to go out into the open air in most of the police establishments visited. **The CPT recommends that steps be taken to ensure that all persons held in a police establishment for 24 hours or more are, as far as possible, offered outdoor exercise on a daily basis.**

In this connection, **the Committee wishes to emphasise that the need for outdoor exercise areas for detained persons should also be taken into account in the design of any new police detention facilities.**

30. It is a matter of concern that the holding cell (intended for detaining persons for up to ten hours) at Burrel Police Station was not equipped with any means of rest (such as a chair or a bench). **The CPT recommends that steps be taken to remedy this shortcoming.**

¹⁸ The CPT considers that it would be desirable for police custody cells used as overnight accommodation to measure in the order of 7 m² (see paragraph 43 of the CPT's 2nd General Report).

B. Karreç Detention Centre for Foreigners

1. Preliminary remarks

31. For the first time, the delegation visited the country's sole detention centre for foreigners in Karreç. The Centre is located in the vicinity of Durres and was opened in 2010. With an official capacity of 125 places, it comprised three detention units (Nos. 1 and 3 for single males and No. 2 for families and single females). Since its opening, the actual number of detainees had usually been relatively low (with an exceptionally high number of more than 80 detainees in the autumn of 2018). At the time of the visit, it was accommodating a total of twelve detainees (ten single men,¹⁹ one married couple,²⁰ no minors), most of whom had been held in the Centre for several months.

32. According to the relevant legal provisions,²¹ foreign nationals may be detained by order of the immigration authority for up to six months. Under certain circumstances, the detention period may be extended to a maximum period of twelve months. Asylum-seekers may be detained if they have failed to apply for international protection within ten days upon entry into Albanian territory, if they have no ID or for reasons of national security.

33. The CPT wishes to recall its position that every effort should be made to avoid resorting to the deprivation of liberty of an irregular migrant who is a child. In this regard, it is noteworthy that unaccompanied minors may not be detained in the detention centre but shall be accommodated in a social welfare institution for juveniles. The delegation was informed that, in recent years, families with children had not been detained in the Centre. **The CPT welcomes this state of affairs and trusts that the Albanian authorities will continue to avoid placing parents with children in the Centre and ensure that when, in an exceptional case, minors are held there with their parents, their stay is limited to the shortest possible period of time.**

34. The CPT acknowledges that the handling of foreign nationals who are detained pending deportation is a particularly challenging task for both staff and the management. In establishments of this type, it is not uncommon for CPT delegations to observe tensions between immigration detainees and also between detainees and staff.

At Karreç Detention Centre, the delegation gained the impression that existing tensions were at least in part the result of a quasi-total lack of activities (see paragraph 39) and the apparent lack of information provided to foreign nationals about the procedures applied to them and the possible length of their detention (see paragraph 49), as well as of major language barriers and lack of interpretation (see paragraph 43).

¹⁹ One of them had served a prison sentence and was formally remanded in custody and placed under house arrest in the Centre, following the opening of a new criminal case against him.

²⁰ The couple was accommodated in the unit for families.

²¹ Sections 120 to 127 of the Law on Aliens, Section 11 of the Law on Asylum and Decision of the Council of Ministers on the Rules on the setting-up and functioning of the closed detention centre.

2. Ill-treatment

35. The delegation received a few isolated allegations of deliberate physical ill-treatment of foreign nationals by custodial police officers (such as slaps or punches).

The CPT recommends that it be reiterated to custodial staff at Karreç Detention Centre that all forms of ill-treatment of foreign nationals are illegal and will be punished accordingly.

36. Further, the CPT considers that the manner in which violent detainees were on occasion subjected to mechanical restraint in the establishment's security cell was unacceptable and could easily be considered to amount to inhuman and degrading treatment.

In this regard, reference is made to the remarks and recommendation in paragraph 46.

37. The information gathered during the visits suggests that inter-detainee violence did not pose a major problem, and no complaints were received in this regard from foreign nationals who had been interviewed by the delegation.

3. Conditions of detention

38. As regards material conditions, it is positive that communal spaces and detention rooms were spacious (30 m², including annexe with toilet and shower, with four beds) and well lit. The CPT acknowledges that furnishings and equipment had recently been damaged to some extent by detainees during a violent protest. Further, many of the sanitary facilities were found to be in a very poor state of repair as well as in appalling hygienic conditions. Moreover, many complaints were received about insufficient heating and the shortage of personal hygiene products. Several foreign nationals claimed that up to four persons had to share one bar of soap and one toothbrush.

The CPT recommends that the Albanian authorities take steps to ensure that the above-mentioned deficiencies at Karreç Detention Centre are remedied without delay. Steps should also be taken to ensure that all foreign nationals are provided with adequate supplies of personal hygiene products (including, in the case of female detainees, sanitary towels).

39. Whilst acknowledging that foreign nationals benefited from an open-door regime within their detention unit throughout the day²² and that the Centre had a small library (with books in English, French and Arabic),²³ the CPT is very concerned that hardly any recreational activities were offered to foreign nationals. It is of all the more concern that allegations were received from detainees that access to the open air was limited to only a number of days per month. The delegation was informed that television sets in communal spaces had recently been destroyed by detainees.

²² Detention rooms were locked from 11 p.m. until 6 a.m.

²³ It is noteworthy that the unit for families and single women was equipped with a table-tennis table and a playroom with toys for children.

During the end-of-visit talks, the delegation called upon the Albanian authorities to take urgent steps to ensure that all immigration detainees are offered at least two hours of outdoor exercise every day (including at weekends), as stipulated in the applicable legislation, and preferably more.

By letter dated 16 April 2019, the Albanian authorities informed the CPT that foreign nationals were allowed to go outdoors every day to have access to the open air. The authorities further indicated that “in the Centre there is an urgent need for building sport facilities, for providing the detainees with access to televisions and internet, so that they can be informed about the latest news”. In fact, there was sufficient green space on the premises of the Centres which could be used for sports activities.

The CPT fully concurs with the authorities’ assessment of the situation. **It recommends that steps be taken at Karreç Detention Centre as a matter of priority to ensure that every detention unit is equipped (again) with a television set and that all foreign nationals are provided with a range of recreational activities (including sports). To this end, the involvement of external service providers such as charity organisations and/or NGOs should be explored.**

Further, **the Committee wishes to receive confirmation that all foreign nationals are henceforth granted outdoor exercise for at least two hours per day (including at weekends).**

4. Health care

40. The CPT welcomes the fact that a full-time (qualified) assistant doctor was present in the Centre on working days (and on call outside working hours) and that medical treatment was provided without delay. In case of need, foreign nationals were transferred to the regional general hospital in Durres.

41. That said, a number of major shortcomings were observed by the delegation. First and foremost, newly-arrived foreign nationals were not systematically subjected to a comprehensive medical examination upon admission. Medical screening appeared to be limited to questions about acute or chronic diseases and the use of any medication as well as to an inspection of the skin. Moreover, there was no screening aimed at identifying traumatic experiences. It is also a matter of concern that no individual medical files had been opened for foreign nationals; medical examinations were only recorded in a logbook.

The CPT wishes to stress that systematic and prompt screening for transmissible diseases is crucial to avoid the spread of diseases among detainees and staff (and their families), as well as for the detection of persons who have had traumatic experiences and are in need of psychological support. In addition, the systematic carrying out of a proper physical examination is also important for the prevention of police ill-treatment by recording injuries and reporting allegations of ill-treatment to the relevant prosecutor.

The CPT recommends that the Albanian authorities take the necessary steps to ensure that at Karreç Detention Centre:

- all newly-arrived foreign nationals benefit from a comprehensive medical examination (including screening for transmissible diseases) by a doctor or a fully-qualified nurse reporting to a doctor as soon as possible after their admission. In this connection, particular attention should also be paid to the possible existence of mental disorders and other vulnerabilities (such as traumatic experiences);
- the record drawn up after a medical examination of a detainee, whether newly-arrived or not, contains: (i) a full account of objective medical findings based on a thorough examination (supported by a “body chart” for marking traumatic injuries and, preferably, photographs of injuries); (ii) an account of statements made by the person concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him/her; (iii) the doctor's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings. In addition, the results of every examination, including the above-mentioned statements and the doctor’s observations, should be made available to the detainee and his/her lawyer;
- an individual medical file is opened without delay – and properly kept – for every newly-arrived foreign national;
- whenever injuries are recorded which are consistent with allegations of ill-treatment by the foreign national (or which, even in the absence of the allegations, are indicative of ill-treatment), the information is systematically brought to the attention of the competent prosecutor, regardless of the wishes of the person concerned. The health-care staff should advise detainees of the existence of the reporting obligation and that the forwarding of the report to the relevant authorities is not a substitute for the lodging of a formal complaint;
- the health-care professional working in the Centre is reminded of his obligation under Section 282 of the CCP to report, within 48 hours, any injuries indicative of ill-treatment by law enforcement officials to the competent prosecutor.

42. As regards the provision of mental health care, the CPT welcomes the fact that a psychologist was employed by the Centre on a full-time basis. The delegation was informed that foreign nationals suffering from a mental disorder were transferred to the psychiatric service of Durres Regional Hospital.

43. Finally, due to language barriers, the assistant doctor was frequently unable to communicate with foreign nationals during medical examinations. It is a matter of concern that in such cases no interpretation was provided or a fellow-detainee speaking the same language was called upon to act as interpreter.

The CPT wishes to stress that, whenever a health-care professional is unable to make a proper diagnostic evaluation due to language problems, foreign nationals should be able to benefit without delay from the services of a qualified interpreter. Save for exceptional circumstances, interpretation by a fellow-detainee should be avoided.

5. Other issues

44. As already mentioned in paragraph 34, the handling of foreign nationals who are detained pending deportation is a particularly challenging task for both staff and the management.

Given the generally low number of detainees, the presence of custodial staff (four to five officers around the clock) appeared to be adequate. Notwithstanding that, the delegation gained the impression that custodial officers were over-stretched. On the one hand, due to language barriers, they were usually unable to communicate with any of the foreign nationals, and, on the other hand, they had received hardly any specific training for working with immigration detainees (apart from a short induction provided by a foreign consultant contracted by the Ministry of the Interior).

The CPT recommends that the Albanian authorities take the necessary steps to ensure that custodial officers at Karreç Detention Centre are provided with appropriate training (including in de-escalation techniques, interpersonal communication and cultural sensitivity). It would also be desirable for some officers to have relevant language skills.

45. Karreç Detention Centre had a total of four security (isolation) cells, measuring some 9 m² each. The cells were equipped with a bed, toilet and a sink and had good access to natural light and artificial lighting.

That said, at the time of the visit, several cells were in a very poor state of repair and in an appalling state of hygiene (in one cell, some faeces were found on the floor). The delegation was informed that the cells had been vandalised by particularly violent detainees who had *inter alia* torn off the wall the sink and toilet. Moreover, it is a matter of concern that none of the cells was equipped with a call system. **The CPT recommends that immediate steps be taken to remedy these shortcomings.**

46. Due to the lack of a specific register, the delegation was not in the position to obtain a clear picture of the frequency of the use of the security (isolation) cells. It is a matter of particular concern that foreign nationals were on occasion handcuffed to the bed inside a security cell. According to staff, there had been around five instances in 2018 and particularly violent/agitated detainees had been additionally immobilised with a rope. In at least one case, a foreign national had allegedly been hand- and ankle-cuffed to the bed in a stress position (spread-eagled) for 24 hours. In the CPT's view, this practice could easily be considered to amount to inhuman and degrading treatment and should be discontinued immediately.

The CPT acknowledges that, in the event of a foreign national acting in a violent manner, the use of handcuffs may be justified *for a short time*. However, the person concerned should not be shackled to fixed objects (such as a bed) but instead be kept under close supervision in a secure setting and, if necessary, medical assistance should be sought. Further, every placement of a foreign national in a security cell, as well as any resort to handcuffs, should be recorded in a specific register (indicating *inter alia* the time of the beginning and end of the measure).

The Committee recommends that the Albanian authorities take the necessary steps to ensure that the above-mentioned precepts are effectively implemented in practice at Karreç Detention Centre.

47. According to the relevant legislation,²⁴ foreign nationals who have violated the house rules may be subjected to one of the following disciplinary measures: warning, imposition (for up to ten days) of tasks related to the maintenance and cleanliness of the centre, exclusion (for up to ten days) from recreational activities (if the disciplinary offence is related to such activities) or solitary confinement (for up to 24 hours). Solitary confinement may only be imposed by the Director (or his/her Deputy).

In this regard, the CPT notes with concern that the relevant legislation does not provide for a formal procedure and that any sanctions imposed were not recorded in a specific register.

The Committee recommends that the Albanian authorities take the necessary steps, including at the legislative level, to ensure that formal disciplinary procedures for detention centres for foreigners are established and implemented in practice. In this connection, the foreign nationals should be entitled to be informed in writing of the charges against them, to be heard in person by the decision-making authority, to call witnesses on their own behalf, to receive a copy of the decision and to appeal to an independent authority against any sanctions imposed. Further, all disciplinary sanctions should be recorded in a specific register.

48. As regards contact with the outside world, foreign nationals could send and receive letters without any restrictions, and they were in principle allowed to receive visits every day.

That said, it is regrettable that the Centre was not equipped with a telephone booth, and foreign nationals were not allowed to keep their mobile phones. Instead, detainees were occasionally given the opportunity to either make a phone call with a telephone provided by staff or to use their mobile phone for a few minutes.

Whilst acknowledging the recent initiative of the management to request the Ministry of the Interior to install a telephone for detainees in the Centre, **the CPT recommends that the Albanian authorities take the necessary steps to ensure that foreign nationals have access to a (pay) telephone every day.**

Further, given that foreign nationals usually received no visits,²⁵ the Committee invites the Albanian authorities to consider extending the possibilities for foreign nationals to have contact with the outside world by allowing them to keep their mobile phones, as is increasingly the practice in various other European countries and/or by developing low-cost internet-based communication channels (such as Voice-over-Internet-Protocol).

49. According to Section 121, paragraph 4, of the Law on Aliens, foreign nationals held in detention pending deportation shall be informed in writing in a language they understand or at least in English of the detention order, which shall indicate the reasons for the detention and the detention period, as well as the rights to be provided legal assistance by a lawyer of their choice or an ex officio lawyer and to communicate with their relatives.

²⁴ See Part 6, Chapter IV, of the Decision of the Council of Ministers on the Rules on the setting-up and functioning of the Closed Detention Centre.

²⁵ According to staff, not a single visit had taken place in recent years.

That said, the information gathered during the visit indicates that there was a striking difference between theory and practice. From the consultation of the individual administrative files of all foreign nationals present at the time of the visit, it transpired that, in the majority of cases, the detention order issued by the immigration authority did not contain any reasoning and that, in some cases, the detention order did not specify the detention period. Further, not a single detention order contained a reference to the right of access to a lawyer (including one appointed *ex officio*). Moreover, all detention orders simply referred to the existence of a legal remedy by stating: “This order may be appealed pursuant to Article 122 of Law No. 108/2013 on Foreigners”, without providing any specific information about the modalities to lodge an appeal.

All foreign nationals interviewed by the delegation complained vigorously about an almost total lack of information about the legal procedures applied to them. In addition, they appeared to be unaware of the rights of immigration detainees.

The CPT acknowledges that all detention orders seen by the delegation contained a statement “I was informed” which had been signed by the foreign national concerned. However, most detainees interviewed by the delegation claimed that they were not aware of the contents of the documents they had had to sign upon admission.

In the light of the above, **the Committee recommends that the Albanian authorities take the necessary steps to ensure that:**

- **all foreign nationals detained at Karreç Detention Centre are expressly informed, without delay and in a language they understand, of their rights and the procedure applicable to them, including any legal remedies. To this end, all newly-admitted detainees should be systematically provided with an information sheet/brochure setting out this information; the information sheet/brochure should be available in the languages most commonly spoken by those concerned and, if necessary, the services of an interpreter should be made available. The persons concerned should confirm in writing that they have been informed of their rights, in a language they can understand;**
- **detention orders are issued in conformity with the legal requirements set out above;**
- **all detainees are provided with a copy of the detention order.**

50. Foreign nationals could in principle lodge complaints to the competent district court²⁶ as well as to the People’s Advocate. However, none of the foreign nationals interviewed by the delegation appeared to be aware of the existence of any such possibility. **The CPT recommends that the complaints procedures be specified in the information sheet/brochure referred to in paragraph 49.**

²⁶ Pursuant to Section 127, paragraph 4, of the Law on Aliens, foreign nationals have the right to lodge an appeal with the competent district court against any violation of his/her fundamental rights in the Centre.

C. Prisons

1. Preliminary remarks

51. The CPT's delegation visited Fier Prison for the first time and carried out follow-up visits to Prisons Nos. 302 and 313 in Tirana as well as to Burrel and Durres Prisons.²⁷ It also paid a targeted follow-up visit to the Prison Hospital in Tirana, focusing on the situation of forensic psychiatric patients (see Section D). In addition, the delegation went to Lezha Prison to interview recently-arrived remand prisoners (see also paragraph 102) and to Fushe Kruja Prison to examine the conditions of detention of prisoners considered to have been radicalised.

52. *Burrel Prison* had an official capacity of 195 places and was accommodating 110 sentenced and 58 remand prisoners at the time of the visit, all of whom were adult men. Among the sentenced prisoners, 29 were under a high-security regime (including twelve life-sentenced prisoners) and were mainly held in single-occupancy cells; the rest were under an ordinary security regime.

Durres Prison was operating at almost full capacity at the time of the visit, accommodating 278 inmates (all male adults), of whom 199 were on remand.

Fier Prison entered into service in 2015. Prisoner accommodation is provided in four interconnected three-storey buildings, three for sentenced prisoners (Blocks A, B and C) and one for remand prisoners. For an official capacity of 860 places, the establishment was holding 846 prisoners (all male adults) at the time of the visit. Of them, 707 were sentenced prisoners, all of whom were serving their sentences under an ordinary security regime.

Prison No. 302 in Tirana had an official capacity of 167 places and was accommodating 181 inmates (all male adults) at the time of the visit, including two sentenced prisoners.

Prison No. 313 in Tirana was holding 364 prisoners (all male adults on remand) at the time of the visit, for an official capacity of 390 places. Two new accommodation blocks, with a total capacity of 264 places, had been constructed on the site of the prison and were expected to enter into service in the coming months.

53. The prison population of Albania has remained more or less stable since the CPT's last periodic visit in 2014.²⁸ At the outset of the 2018 visit, the delegation was informed by the authorities that the total number of prisoners in the country was 5,725 (for an official capacity of 6,238 places), of whom some 40% were on remand.²⁹

²⁷ Each of these prisons had been visited by the CPT several times in the past. Prisons Nos. 302 and 313 and Durres Prison were last visited in 2017, and Burrel Prison in 2010.

²⁸ The total number of prisoners in Albania stood at some 5,700 at the time of the CPT's 2014 periodic visit and some 5,600 at the time of the 2017 ad hoc visit.

²⁹ This represents an incarceration rate of some 195 per 100,000 inhabitants, which puts Albania among the Council of Europe member States with particularly high imprisonment rates.

As observed by the delegation during the visit, overcrowding continued to affect some prisons (see paragraphs 61 and 63), albeit to a lesser extent than at the time of the CPT's 2014 and 2017 visits. In this regard, it is noteworthy that efforts continue to be made by the Albanian authorities to expand and modernise the prison estate. The CPT learned that a new prison with a capacity of 780 places had recently been opened near Shkodra, which contributed significantly to addressing the problem of overcrowding throughout the prison system. Further, as already mentioned above, the delegation noted the newly accomplished construction work on the site of Prison No. 313 in Tirana (see also paragraph 60).

Whilst acknowledging the steps taken thus far to address the phenomenon of prison overcrowding, **the CPT encourages the Albanian authorities to pursue vigorously their efforts in this regard, by making increased use of alternatives to imprisonment (in particular to remand detention) and measures facilitating the reintegration of prisoners into society.**³⁰

54. The CPT noted with concern that Article 65 of the Albanian Criminal Code had been amended in 2017 to exclude the possibility of conditional release (parole) for persons sentenced to life imprisonment for certain types of offences, thereby introducing whole life imprisonment.³¹

In this regard, the Committee wishes to recall the relevant case-law of the European Court of Human Rights³², according to which “for a life sentence to remain compatible with Article 3 [of the European Convention on Human Rights], there must be both a prospect of release and a possibility of review.” **The CPT recommends that the Albanian authorities amend the criminal legislation with a view to making conditional release available to all life-sentenced prisoners, subject to a review of the threat to society posed by them on the basis of an individual risk assessment.**³³

55. The CPT also learned that, shortly after the visit, amendments had been made to the Law on the Rights and Treatment of Prisoners, introducing a special detention regime for persons accused or convicted of certain offences related to terrorism or organised crime. According to the new Section 13/1 of the aforementioned law, such persons may be placed in special units within high-security prisons³⁴ with a view to maintaining order and security in prison and/or preventing their contacts/communication with members of criminal organisations. It is *inter alia* provided that such prisoners are only entitled to one family visit per month (which should be subject to audio- and video-recording). Prisoners not receiving any family visits are, in principle, allowed to make one ten-minute phone call per month (cf. paragraph 98).

³⁰ In this context, the authorities should be guided by the relevant Recommendations of the Committee of Ministers of the Council of Europe: Recommendation R (99)22 concerning prison overcrowding and prison population inflation, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, Recommendation Rec(2010)1 on the Council of Europe Probation Rules, and Recommendation Rec(2017)3 on the European Rules on community sanctions and measures.

³¹ Those specified in Articles 78/a (murder for blood feud), 79/a (murder of a public official), 79/b (murder of a State police officer), 79/c (murder due to family relations) and 100 (3) (sexual relationship with a minor, when the act involved the death or suicide of the minor).

³² See the Grand Chamber judgment in *Vinter and Others v. the UK* (nos. 66069/09, 130/10 and 3896/10, 9 July 2013).

³³ See also paragraph 73 of the CPT's 25th General Report.

³⁴ The decision to this effect shall be taken by the Minister of Justice after consulting with relevant state agencies, for a renewable period of one year. An appeal can be lodged with the court against any such placement (or extension thereof), which does not have suspensive effect.

In the CPT's view, **the visiting entitlement of the above-mentioned category of prisoner is too restrictive and should be increased significantly. Further, these prisoners should be allowed to make telephone calls every month, irrespective of whether they receive a visit during the same month.**

The Committee would also like to receive detailed information on the practical implementation of the detention regime under Section 13/1, in particular as regards the number of prisoners who are currently subject to this regime, out-of-cell activities available to them and the possibilities for the prisoners concerned to associate with other inmates of the same unit.

2. Ill-treatment

56. The delegation received no allegations of recent physical ill-treatment of inmates by staff in any of the prisons visited. On the contrary, staff-inmate relations appeared to be reasonably relaxed, and most of the inmates interviewed spoke positively about the manner in which they were treated by staff.

57. The CPT learned that members of the Internal Control Service (ICS) of the Ministry of Justice were now present in every prison establishment in the country. The delegation was told that they may *inter alia* carry out criminal investigations into allegations of ill-treatment (including excessive use of force) by staff of the same prison. Such practices may undermine the (perceived) independence of the investigations. In the Committee's view, **investigations into allegations of ill-treatment by prison staff should be conducted by a body which is totally independent of the prison system.**

58. The information gathered during the visit suggested that inter-prisoner violence was not a frequent occurrence in the establishments visited; steps were being taken by staff to prevent such incidents and to address them adequately if and when they did occur.

3. Conditions of detention

a. material conditions

59. At *Fier Prison*, which is of relatively recent construction, material conditions of detention were generally satisfactory. It is particularly noteworthy that prisoner accommodation in this establishment is provided in cells designed to hold a maximum of two persons. The bulk of the prisoner population was accommodated in double-occupancy cells which measured some 12 m² (excluding the in-cell sanitary annexe). Cells had good access to natural light and ventilation, and were generally clean and well-heated.

That said, a number of cells showed signs of wear and tear (e.g. peeling paint and crumbling plaster, rusted-through doors in sanitary annexes, etc.). Further, the shower room in the observation/isolation section was dilapidated and dirty. The delegation also observed that many cells were infested by insects. **The CPT recommends that steps be taken to remedy these shortcomings.**

60. The delegation was pleased to note that, at *Prison No. 313*, the construction of two accommodation blocks, which offered conditions of a high standard, had been completed. According to information provided to the delegation, the transfer of prisoners to the new blocks was planned for early 2019, to be followed by a major reconstruction of the existing buildings. **The CPT would like to receive updated information in this regard.**

61. At *Durres Prison*, material conditions of detention remained generally adequate.³⁵ Moreover, the delegation observed that, throughout the establishment, cells had been freshly whitewashed and some particularly dilapidated ones thoroughly refurbished. **The Committee trusts that such work will be carried out on a regular basis in order to prevent material conditions from deteriorating.**

It is also noteworthy that overcrowding was less severe compared to the situation observed during the CPT's 2017 visit, due to the decrease of the prisoner population (from some 320 to 278). That being said, conditions remained cramped in many cells, with four persons in a space of some 12 m² (not counting the toilet area).³⁶ **The CPT recommends that the Albanian authorities take appropriate measures to address this shortcoming;** the minimum standard of 4 m² of living space per person in multiple-occupancy cells (not counting the area taken up by in-cell sanitary annexes) should be fully respected in practice.³⁷

62. At *Durres Prison*, the cells on the upper floor of Building B offered the most favourable conditions, notably in terms of living space. At the time of the visit, eleven cells located on this floor – which were of the same layout as those being used to accommodate up to four persons in other parts of the prison – were occupied by a total of some 20 prisoners. No reasonable explanation could be provided by staff for this state of affairs. **The CPT would like to receive the Albanian authorities' comments on this matter.**

63. At *Prison No. 302*, some improvement was observed in material conditions of detention in the cells, as compared with the Committee's 2017 visit. Most notably, the level of overcrowding had decreased and, as a result, every prisoner now had his own bed.³⁸ The delegation also noted that the cells had recently been whitewashed/painted.

However, most of the deficiencies that had been observed in the past persisted, such as pervasive dampness in the cells, minimal ventilation and inadequate natural light.³⁹ Further, some cells had broken window panes. It is also a matter of concern that, as at *Durres Prison*, many prisoners continued to be held in cramped conditions. For example, most of the eleven cells located on the establishment's ground floor offered less than 3 m² of living space per person.⁴⁰

³⁵ See CPT/Inf (2018) 18, paragraph 54.

³⁶ By comparison, at the time of the 2017 visit, four-bed cells often held five to six prisoners.

³⁷ See also Section 22 (1) of the General Prison Regulations, which stipulates that every prisoner shall be provided with a living space of at least 4 m².

³⁸ As already mentioned, the prison was accommodating 181 inmates, compared to 210 at the time of the 2017 visit. During that visit, most of the prisoner accommodation areas in this establishment were found to be seriously overcrowded and many inmates were obliged to sleep on mattresses placed on the floor (see CPT/Inf (2018) 18, paragraph 55).

³⁹ As in 2017, access to natural light in cells was problematic throughout the establishment, due to the small cell windows covered by wire mesh.

⁴⁰ I.e. four prisoners in cells measuring between 11.5 and 12 m² (not counting the area taken up by the in-cell toilet).

In this connection, the CPT has taken note of the information provided by the Albanian authorities in their letter of 16 April 2019 that it has been possible to further reduce the number of inmates at Prison No. 302 to some 170. It is also indicated that refurbishment works are planned in the establishment in the course of 2020, which will include a redesign of the cell windows.

The CPT would like to receive confirmation that cell occupancy rates at Prison No. 302 have been reduced in order to provide for at least 4 m² of living space per person in multiple-occupancy cells (not counting the area taken up by in-cell toilets). It is self-evident that the cells located on the ground floor of the prison should not be used to accommodate more than three persons. Further, the CPT reiterates its recommendation that measures be taken to ensure that cells at Prison No. 302 are adequately ventilated.

The Committee would also like to be provided with a timetable for the implementation of the above-mentioned refurbishment plan for Prison No. 302. Pending such refurbishment, the broken window panes in prisoner accommodation areas should be replaced.

64. *Burrel Prison* had benefited from some repairs since the CPT's 2010 visit⁴¹: cells had been repainted, a major part of the roof surface had been replaced and electric installations had been upgraded. The delegation observed that most cells located in Section C (housing the establishment's remand prisoners) generally offered adequate conditions of detention and – unlike in the other sections – all of them were equipped with a fully-partitioned sanitary annexe, comprising a toilet and a shower. That said, access to natural light was extremely limited in some of the cells in this section.

As in 2010, many of the multiple-occupancy cells accommodating sentenced prisoners, in particular in Section B, were found to be in a poor state of repair. Clearly, the old and defective physical structure of the buildings and the penetrating dampness did not help matters. In addition, problems with heating persisted: the central heating was usually only turned on for a few hours per day.⁴² On a positive note, cells generally offered adequate living space and had sufficient lighting (including access to natural light).

The CPT recommends that steps be taken by the Albanian authorities at Burrel Prison to bring the general conditions of detention in the accommodation blocks for sentenced prisoners to an acceptable standard. This will require carrying out substantial renovation work which should also include measures to reduce the dampness in the cells (e.g. by improving cell ventilation, putting in place a fully functional heating system, etc.).

Further, the Committee reiterates its recommendation that steps be taken in Section C to ensure that all cells have adequate access to natural light.

65. The conditions in Cell No. 10 in Section C of Burrel Prison were among the worst in the entire establishment. The cell, which was accommodating eight prisoners at the time of the visit, was in a poor state of repair (e.g. broken or missing tiles on the floor, dirty and mouldy walls, a dilapidated sanitary annexe, etc.), had hardly any access to natural light and was badly ventilated and malodorous. **The CPT recommends that urgent steps be taken to remedy these deficiencies; until that work has been completed, the cell should be taken out of service.**

⁴¹ See CPT/Inf (2012) 11, paragraph 51.

⁴² The central heating only served the accommodation sections for sentenced prisoners. In Section C, remand prisoners used electric heaters.

66. The CPT noted with concern that, in all the prisons visited, artificial lighting inside cells had to remain switched on around the clock and could not be dimmed at night. Numerous complaints were received from inmates that this caused sleeping difficulties. The delegation was told by the management in the prisons visited that this was a requirement recently imposed by an instruction of the Director General of Prisons (apparently for the purpose of preventing suicides and violence), and that a failure by prisoners to comply with this rule could lead to a (severe) disciplinary sanction (e.g. up to 20 days of solitary confinement at Fier Prison).

During the end-of-visit talks with the Albanian authorities, the delegation requested that the existing rules regarding nocturnal cell lighting in prisons be reviewed and that it be made possible, at the very least, to dim artificial lighting during sleeping periods. In their letter of 16 April 2019, the Albanian authorities indicated that they were considering different options, including “reducing night-time lighting in all prisons by [installing dimmers] to reduce light to an acceptable voltage that does not give rise to concern and, on the other hand, offers a partial view to ensure safety”.

The CPT recommends that the above-mentioned rule be abolished without delay. It would like to stress that exposure to artificial light at night may affect the natural sleep patterns and cause negative health effects on psychological, cardiovascular and/or metabolic functions in individuals. Therefore, lights should not be fully switched on at night except when necessary in particular cases (e.g. based on an individual risk assessment).

67. In the report on its 2017 visit,⁴³ the CPT had expressed serious concern about the very poor material conditions at *Saranda Prison*, which was not visited by the delegation during the 2018 visit. Regrettably, in their response to the aforementioned report, the Albanian authorities had failed to address this matter. At the end-of-visit talks with the relevant authorities, the delegation recalled that, due to various major structural deficiencies, the Committee had urged the Albanian authorities to close down Saranda Prison as soon as possible. The delegation requested updated information on the action taken by the authorities in the light of the remarks and recommendations made in the report on the 2017 visit regarding this establishment.

By letter of 16 April 2019, the Albanian authorities provided the following information:

“Regarding the recommendation for the reconstruction of the existing building of this institution we have taken progressive measures to improve the conditions:

- a fund of 5,000,000 Lek is planned by the state budget, in order to intervene in the next 8 months with partial investment to eliminate the problem of moisture, window space enlargement, and expanding the ventilation space – problematic issues identified in the reports;
- related to this process, a public procurement process has been undertaken to solve these problems.

We note that this measure to improve the living conditions of the pre-trial detainees in the penitentiary in Saranda is a temporary measure to address the issues, because referring to the order of the Minister of Justice for the transfer to the conservation of this institution, in the near future this institution will [be] closed.”

The CPT would like to receive updated information regarding the implementation of the above-mentioned temporary measures to improve conditions of detention at Saranda Prison and the precise timeline for its planned closure.

⁴³ See CPT/Inf (2018) 18, paragraphs 56 to 58.

b. regime

68. In the course of the visit, the delegation examined the regime activities offered at Fier Prison, Prison No. 302 and Burrel Prison. It should be noted at the outset that, in the latter two establishments, the management's efforts to provide inmates with some form of organised activity were seriously hampered by the lack of an appropriate infrastructure.

69. At *Fier Prison*, 85 prisoners worked in the establishment's general services (laundry, kitchen, food distribution, cleaning, etc.). Further, it is encouraging that negotiations were underway with a private company to set up a workshop for the production of clothes, which was expected to provide work for a significant number of inmates. In addition, prisoners were offered vocational training in plumbing/hydraulics as well as courses on literacy, English language and cooking, which involved a total of some 115 inmates.

As regards other activities, both remand and sentenced prisoners had daily access for two hours⁴⁴ to outdoor exercise during which they could also play football or volleyball.⁴⁵ Further, some of the accommodation sections⁴⁶ were equipped with a small fitness room which was accessible to prisoners on a daily basis. In addition, each section had a designated room where educators regularly organised discussion groups on various subjects.

Nevertheless, there was a very large number of prisoners who were not engaged in any kind of purposeful out-of-cell activity. It is also a matter of concern that remand prisoners were not allowed to benefit from educational activities or vocational training (although some of them did have work).

70. The situation was far less favourable at Prison No. 302 and Burrel Prison.

The CPT was concerned to note that the situation in respect of regime activities offered to remand prisoners at *Prison No. 302* had not improved since the 2017 visit. Thus, with the exception of a small number of working prisoners, all inmates held in this prison continued to be confined to their cells for up to 22 hours a day, with hardly any out-of-cell activities available apart from daily outdoor exercise of two hours taken in small (some 15 m²) concrete cubicles⁴⁷ and weekly visits to the library to participate in group sessions with a psychologist or educator. It is of all the more concern that many prisoners had been held under these conditions for months or even years.

At *Burrel Prison*, 18 sentenced prisoners were said to be involved in work (maintenance, cleaning, kitchen, etc.) and some 15 in language courses. There were no other work or training opportunities available, and, as in 2010, the majority of the inmates spent their days watching television or walking in a courtyard. On the positive side, sentenced prisoners had ample opportunity during the day to associate with fellow inmates in their accommodation block; in particular, prisoners under an ordinary security regime (i.e. about half of the prisoner population) were allowed to stay outdoors for eight hours a day (where they could exercise and play football).

⁴⁴ Three hours in the summer months.

⁴⁵ Each accommodation building had a spacious yard fitted with some equipment for physical exercise. In addition, the prison had two football fields and an indoor basketball court.

⁴⁶ Each section accommodated some 30 to 40 inmates.

⁴⁷ Moreover, due to the limited number of such cubicles, each of them had to be used by up to ten prisoners at a time.

As regards life-sentenced prisoners, while it is positive that they could associate with other sentenced prisoners and were allowed, like other prisoners under a high-security regime, to go out to the yard for four hours every day, hardly any of them was provided with out-of-cell activities other than outdoor exercise.

The situation was even worse for the establishment's remand prisoners; they were confined to their cells for a large part of the day, only being allowed two hours of outdoor exercise per day.

71. To sum up, as had been the case during previous CPT visits, the great majority of the prisoners in the establishments visited were not being offered any purposeful activities. The regime at Prison No. 302 and Burrel Prison was particularly underdeveloped. As the Committee has stressed in the past, such a state of affairs is all the more detrimental for long-term prisoners (including life-sentenced prisoners), bearing also in mind the de-socialising effects of long-term imprisonment.

The CPT calls upon the Albanian authorities to improve substantially the regime of activities for all inmates in the prisons visited (and in all other prisons in Albania where a similar situation prevails). The aim should be to ensure that all 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 and sport).

72. As regards Prison No. 313, the CPT would like to receive detailed information on the possibilities for organised out-of-cell activities for remand prisoners in the new accommodation blocks.

73. The CPT was concerned to note that, by order of the Director General of Prisons, the open-door regime in prisons, whereby inmates could freely associate with other prisoners within their unit throughout the day, had been abolished as of 1 October 2018. Admittedly, inmates in some of the establishments visited were still generally permitted to visit other cells within their unit to play board games or chat, for up to several hours per day; however, it was no longer allowed to keep the cell doors open. **The CPT would like to receive the comments of the Albanian authorities on this matter.**

74. As already indicated, in the course of the visit, the delegation went to Fushe Kruja Prison in order to examine the conditions of detention of prisoners considered to have been radicalised. The delegation was informed that a special unit had been opened in 2016 within the high-security section of the prison to accommodate such prisoners. At the time of the visit, the unit in question was holding seven prisoners who had been convicted for terrorism- or extremism-related crimes and were serving long-term sentences (of up to 18 years' imprisonment).⁴⁸ In addition, it was accommodating another eleven prisoners who had been placed there at their own request.

⁴⁸ Most of them had been accommodated in this unit since January 2017.

Material conditions in the cells of the unit were on the whole satisfactory, including in terms of living space,⁴⁹ state of repair, access to natural light and artificial lighting, heating and hygiene. As regards regime, the delegation noted that prisoners were allowed to associate in each other's cells within their unit during the day. It is also noteworthy that they could have contact with inmates from other accommodation units (subject to a high-security regime) during out-of-cell activities which included two to three hours of daily outdoor exercise and one-hour football sessions twice a week. Further, group prayers were organised every Friday in a mosque, which were attended by an imam who reportedly initiated discussion groups. The delegation was also informed that language courses were offered to the inmates concerned and that two of them were employed (one in the prison library and one as a cleaner).

4. Health care

75. In the course of the visit, the delegation conducted an evaluation of the health-care services at Burrel and Fier Prisons. It also examined certain health care-related issues at Prisons Nos. 302 and 313 in Tirana and Durres and Lezha Prisons, in particular as regards staffing levels and medical screening upon admission. Further, particular attention was paid to the situation of prisoners suffering from mental disorders at Durres, Fier and Lezha Prisons.

76. Health-care staffing levels were, on the whole, adequate at *Burrel Prison* and *Prison No. 302*; each establishment employed one full-time general practitioner and four nurses (for an inmate population of 170 to 180). They could also be considered as generally acceptable at *Lezha Prison* which employed one full-time and one part-time (40%) general practitioner, eight nurses and a pharmacist (for an inmate population of 420). In addition, Burrel and Lezha Prisons each had a full-time dentist. It is noteworthy that the nursing teams in these establishments – as well as in the other prisons visited – provided 24-hour cover seven days a week.

Fier Prison employed one full-time general practitioner and a half-time internist. The health-care team also included a dentist, ten nurses and a pharmacist. In the Committee's view, the staffing levels for doctors are insufficient for this prison, which has a population of some 850 inmates.

At *Durres Prison*, the provision of health-care services for some 280 (mostly remand) prisoners was ensured by a full-time psychiatrist, assisted by a team of ten nurses. That said, the prison had no general practitioner.

At *Prison No. 313*, which was accommodating some 360 inmates at the time of the visit, health-care staff consisted of a full-time general practitioner, a dentist, four nurses⁵⁰ and a pharmacist. In this connection, the CPT notes with concern that, despite the specific recommendation repeatedly made by the Committee, nursing staff levels have not been increased. Notwithstanding the recent decrease in the inmate population,⁵¹ the complement of four nurses remains clearly insufficient.

The CPT recommends that steps be taken to ensure the regular presence of a general practitioner at Durres Prison and to recruit at least one additional half-time general practitioner at Fier Prison. Further, the Committee once again calls upon the Albanian authorities to increase nursing staff resources at Prison No. 313.

⁴⁹ For example, cells measuring some 15 m² (including the toilet area of some 2.5 m²) held up to three persons.

⁵⁰ A fifth nurse had been assigned temporarily by the Directorate General of Prisons, whose main task was to escort prisoners to external consultations.

⁵¹ The establishment held 487 prisoners at the time of the CPT's 2014 visit.

77. The CPT has noted with interest the information provided by the Albanian authorities in their letter of 16 April 2019 that a number of health-care professionals had recently been recruited by the Directorate General of Prisons, after having completed specialised training in prison health care. That said, it remained unclear to what extent prison doctors already in service benefited from ongoing training. **The CPT would like to receive detailed information on this subject.**

78. As had been the case during previous visits, the health-care units of the prisons visited were poorly equipped. In particular, they lacked essential equipment, such as a defibrillator, oxygen and an ECG machine. **The CPT recommends that steps be taken to supply every prison health-care service in the country with such basic life-saving equipment. Further, the outdated and very noisy dental equipment at Burrel Prison should be replaced.**

79. The delegation noted that, in principle, the supply of basic medication did not pose particular problems in the establishments visited. However, it appeared that many inmates with chronic conditions depended on their families for the acquisition of the prescribed medication. This is not acceptable. **The CPT recommends that the Albanian authorities take the necessary steps to ensure that prisoners are provided free of charge with the medication which their state of health requires.**⁵²

80. At Prison No. 302, the delegation observed that the overall prescription of benzodiazepines was rather high. In particular, it was noted that, in recent months, the prison doctor frequently prescribed diazepam through intravenous injections. Moreover, it appeared that a nurse could, without the doctor's prescription, administer or distribute to prisoners a wide range of medicines, including diazepam. **The CPT would like to receive the comments of the Albanian authorities on these matters.**

81. As regards the provision of psychiatric care, the situation varied from one establishment to another. The most favourable situation was observed at Durres Prison which, as already mentioned, employed a full-time psychiatrist. Further, Fier Prison was attended by an outside psychiatrist several times per month and Prisons Nos. 302 and 313 on a monthly basis. Whilst acknowledging that transfers could be organised to the Tirana Prison Hospital in acute cases, it is a matter of concern that Burrel and Lezha Prisons were not visited by a psychiatrist.

The CPT recommends that steps be taken to arrange for regular visits by a psychiatrist at Burrel and Lezha Prisons. As the CPT has stated in the past, the regular presence of a psychiatrist in prison will enable prisoners with mental health problems to be identified in good time and given appropriate treatment. In many cases this may well make it possible to avoid any subsequent need for their transfer to an outside facility.

⁵² See also Rule 24 (1) of the United Nations Standard Minimum Rules on the Treatment of Prisoners (*Nelson Mandela Rules*).

82. At the outset of the visit, the delegation was informed about the setting up of special care units (so-called “SKV”) in various prison establishments, which were intended primarily to accommodate prisoners suffering from mental disorders.⁵³ The delegation visited such units at Durres, Fier and Lezha Prisons.⁵⁴

The delegation gained a generally favourable impression of the care and treatment provided to inmates held in the SKV of *Durres Prison*. The unit in question was holding 22 inmates (both sentenced and on remand) at the time of the visit, accommodated in nine rooms (located on the ground floor of Building B).⁵⁵ The inmates’ situation was regularly monitored by the prison doctor (psychiatrist); besides, the unit benefited from the round-the-clock presence of a nurse and the presence of a psychologist during the day.

At *Fier Prison*, there were two separate SKVs accommodating a total of some 45 inmates at the time of the visit. As regards *Lezha Prison*, it possessed a six-bed SKV which was holding three inmates. In both prisons, the units in question received frequent visits from the prison doctors, and there appeared to be round-the-clock nursing presence. However, the quality of the treatment offered to inmates at Lezha Prison was seriously undermined by the absence of a psychiatrist (see paragraph 81).

83. More generally, the CPT is in favour of the application of the concept of SKV in prisons, bearing in mind the generally high proportion of persons suffering from mental disorders in prison setting. However, in order to make such units fully functional and to ensure that prisoners placed therein receive appropriate treatment (including non-pharmacological therapies), SKVs must be provided with qualified staff (e.g. psychiatrists, nurses, clinical psychologists, etc.) who should be present in sufficient numbers.

The CPT recommends that the Albanian authorities review the health-care staff resources in all prisons which have an SKV, in the light of the above remarks. It would also like to receive a copy of the protocol concerning the functioning of SKVs in prisons.

84. The CPT is very concerned to note that, despite the specific recommendation repeatedly made by the Committee in previous visit reports, medical examination on admission remains a particularly problematic area in the Albanian prison system. With the notable exception of Prison No. 313 where newly-admitted prisoners were, as a rule, physically examined by a doctor shortly after admission, prisoners were still not systematically subjected to a comprehensive medical screening by health-care staff in any of the establishments visited. As the CPT has repeatedly stressed in previous reports, the practice of questioning newly-arrived prisoners about their state of health during the admission procedure cannot be a substitute for proper medical screening. This also contravenes existing regulations.⁵⁶

⁵³ According to Section 39 (2) of the General Prison Regulations, “depending on the material conditions and infrastructure, the institution and prison system in general shall take the necessary measures for the treatment of prisoners, who are considered to suffer from mental illnesses, in specialised sections within the prison system, or for their treatment in psychiatric and medical institutions specialised for this purpose.”

⁵⁴ The main diagnoses were paranoid schizophrenia, bipolar and depressive disorders. Most of the patients had been held in the SKVs for months.

⁵⁵ The delegation was told that the decision on the placement of an inmate in the SKV was taken by the prison doctor; that said, the inmate concerned may refuse to be transferred to this unit or to take the prescribed medication.

⁵⁶ 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”.

The delegation observed that medical screening on admission was either largely non-existent (as in Burrel Prison) or more usually limited to a few general questions by a doctor or nurse about the person's state of health (as in Prison No. 302 and Durres, Fier and Lezha Prisons). Once again, it became apparent that, unless the prisoner concerned complained of a somatic condition, such screening generally did not entail a physical examination. It is also a matter of concern that, with the exception of Prison No. 313 and Durres Prison, medical examinations in the establishments visited were still usually carried out in the presence of prison officers.

Further, as had been the case during previous visits, in none of the prisons visited was screening/testing on transmissible diseases performed upon admission, owing primarily to a lack of resources (see, however, paragraph 87).

85. Regrettably, the delegation once again found a number of deficiencies in the establishments visited regarding the recording and reporting of injuries, despite the specific recommendations repeatedly made by the Committee after all its previous visits to Albania. In particular, the descriptions of the injuries were usually only cursory (i.e. lacking detail as to the precise location, size, colour, etc.)⁵⁷ and, with the exception of Prison No. 313 and Durres Prison, it was rare for prisoners' statements as to the causes of their injuries to be recorded. Further, no conclusions were drawn by the doctor on the consistency of any recorded statements with the injuries.

Moreover, as in the past, injuries indicative of ill-treatment were not systematically reported to the competent prosecutor.

86. 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 as well as 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;**
- **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 (supported by a “body chart” for marking traumatic injuries and, preferably, photographs of injuries), (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 doctor'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 his/her lawyer;**

⁵⁷ In this connection, it should be noted that health-care staff in the prisons visited did not use special templates or “body charts” for the recording of injuries.

- **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;**
- **a special trauma register is kept, in which all types of injury observed are recorded;**
- **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. The health-care staff should advise prisoners of the existence of the reporting obligation and that the forwarding of the report to the relevant prosecutor is not a substitute for the lodging of a formal complaint;**
- **all medical staff working in prison establishments are reminded of their legal obligations⁵⁸ to report, within 48 hours, any injuries indicative of ill-treatment to the competent prosecutor.**

87. By letter of 16 April 2019, the Albanian authorities informed the CPT that, in co-operation with the NGO “Stop AIDS”, 430 prisoners had undergone voluntary screening for transmissible diseases (such as syphilis, HIV and hepatitis B/C) at the end of 2018 and health-care staff had received training in transmissible diseases and screening techniques. The CPT welcomes this development; **it would like to know if such screening was offered to all newly-arrived inmates and in which prisons and if any treatment was offered to those who were tested positive.**

5. Other issues

a. prison staff

88. The CPT has repeatedly emphasised the importance of ensuring that all new prison officers benefit from appropriate initial training and that on-going training is organised for all prison officers already working in the prison system. Particular attention should also be paid at the recruitment stage to the selection of persons with the appropriate personal qualities. To obtain personnel of the right calibre, the authorities must also be prepared to offer adequate salaries.

89. The delegation was informed that prison officers’ recruitment and initial training was carried out in co-operation with the Security Academy.⁵⁹ That said, it appeared that little or no ongoing training was offered to prison officers already in service. **The Committee would like to receive detailed information on both the initial and in-service training received by prison officers.**

⁵⁸ See Section 282 of the CCP and Section 16 (4) of the General Prison Regulations.

⁵⁹ The Security Academy is a public institution responsible for the training of employees of the State Police and other law enforcement agencies.

90. In most of the prisons visited, the delegation received complaints from custodial officers that they were not allowed to have any breaks for taking a meal during their eight-hour shifts. The same concern was raised by prison officer trade union representatives met by the delegation, who also indicated that staff were frequently required to work overtime without any compensation. In the CPT's view, it is axiomatic that failing to respect the basic employment rights of prison officers undermines their professionalism, with potentially negative consequences for the prisoners in their charge. **The Committee would like to receive the Albanian authorities' observations on these matters.**

91. The delegation was informed that, within the framework of a pilot project, custodial officers in certain prisons would start using body-worn cameras. The CPT considers that the use of portable video equipment may, if properly regulated, constitute an important safeguard against abusive use of force by prison staff. **The Committee would like to receive up-to-date information on this matter.**

b. discipline

92. It is recalled that disciplinary sanctions which may be imposed on adult prisoners include placement in a disciplinary cell for up to 20 days.⁶⁰ As for juvenile prisoners, the maximum possible period of disciplinary confinement is 10 days.

The CPT must reiterate its view that the maximum possible period of disciplinary isolation of 20 days for adult prisoners is excessive. Given the potentially very damaging effects of solitary confinement on the mental and/or physical well-being of the prisoners concerned, this period should be no more than 14 days for a given offence, and preferably shorter.⁶¹

Further, the CPT wishes to stress that any form of isolation may have an even more detrimental effect on the physical and/or mental well-being of juveniles. In this regard, the Committee observes an increasing trend at the international level to promote the abolition of solitary confinement as a disciplinary sanction in respect of juveniles. Particular reference should be made to the revised United Nations Standard Minimum Rules for the Treatment of Prisoners (*Nelson Mandela Rules*) which were adopted in 2015 by a unanimous Resolution of the General Assembly and which stipulate in Rule 45 (2) that solitary confinement shall not be imposed on juveniles as disciplinary sanction.⁶² The CPT fully endorses this approach.

The CPT recommends that the relevant legislation be revised in the light of the above remarks.

93. In the course of the visit, the delegation examined disciplinary procedures at Burrel and Fier Prisons. From the consultation of disciplinary files, as well as from interviews with prisoners and staff, it gained the impression that such procedures were generally carried out in accordance with the legal framework.⁶³

⁶⁰ The other disciplinary sanctions are reprimand, exclusion from collective outdoor exercise (for up to 20 days) and deprivation of home leave for six months (Section 51 of the General Prison Regulations).

⁶¹ See paragraph 56(b) of the CPT's 21st General Report.

⁶² See also Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly Resolution A/RES/45/113, Annex).

⁶³ See Section 52 of the General Prison Regulations.

However, some prisoners claimed that they had not been given a copy of the disciplinary decision (which contained information on the reasons for the decision, as well as on the avenues for lodging an appeal). **The CPT recommends that steps be taken at Burrel and Fier Prison (and, where appropriate, in other prison establishments in Albania) to ensure that prisoners subjected to a disciplinary sanction are systematically given a copy of the decision, as required by law.**⁶⁴

94. The CPT was concerned to note that, despite the specific recommendation made by the CPT after previous visits, prison doctors continue to take part in the meetings of disciplinary commissions and issue attestations that prisoners are fit to sustain the punishment of disciplinary confinement.

The Committee must stress once again that medical practitioners in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Against this background, the practice of prison doctors certifying that a prisoner is fit to undergo punishment is scarcely likely to promote that relationship. As a matter of principle, medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement in a prison environment, except where the measure is applied for medical reasons.

On the other hand, health-care staff should be very attentive to the situation of prisoners placed in solitary confinement. The health-care staff should immediately be informed of every such placement and should visit the prisoner without delay after placement and thereafter on a regular basis, at least once per day, and provide him/her with prompt medical assistance and treatment as required. They should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in solitary confinement.

The CPT reiterates its recommendation that the role of health-care staff in relation to disciplinary confinement be reviewed, in the light of the above remarks. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 21st General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28).

95. Material conditions in the disciplinary cells in the prisons visited were on the whole adequate and do not call for any particular comment.

⁶⁴ See Section 52 (7) of the General Prison Regulations.

c. contact with the outside world

96. The legal provisions concerning prisoners' visiting and telephone entitlements remained unchanged since the CPT's 2014 periodic visit.⁶⁵ It is recalled that adult remand and sentenced prisoners are allowed to receive 4 short-term visits per month from their relatives and friends (one of which may be replaced by a conjugal visit of up to five hours for sentenced prisoners).⁶⁶

97. As regards visits, the CPT was concerned to note that its previous recommendations on this subject had not been implemented. In almost all the establishments visited, visiting time was limited to 30 minutes or less. Moreover, with the exception of sentenced prisoners under a high-security regime, visits as a rule still took place under closed conditions, with prisoners and their visitors separated by metal bars or a glass partition.⁶⁷

The CPT wishes to emphasise that contacts with the outside world, in particular visits from families and other relatives, are of crucial importance for the social rehabilitation of prisoners and for counteracting the damaging effects of imprisonment. In the Committee's view, all prisoners should benefit from a visiting entitlement of at least one hour every week. Further, whilst acknowledging that in certain cases it may be justified, for security-related reasons, to have closed visiting arrangements, the CPT considers that this approach should constitute the exception, not the rule.

The Committee reiterates its recommendations that the Albanian authorities review the visiting arrangements in prisons in order to ensure that short-term visits last at least one hour and that they take place, as a rule, under open conditions (e.g. with prisoners and their visitors sitting around a table).

98. As regards phone calls, the CPT is pleased to note that, as observed during previous visits, prisoners were generally allowed to use the telephone more frequently than they were entitled to by law (i.e. eight calls per month).

⁶⁵ See Sections 57 and 61 of the General Prison Regulations.

⁶⁶ The director of the prison may authorise additional family visits.

⁶⁷ That said, in most of the prisons visited, in practice it was usually possible to have an open visit if there were small children among the visitors. This was in particular the case at Fier Prison, where a separate room and a garden for open visits had been set up, which offered a child-friendly environment.

D. Situation of forensic psychiatric patients

99. The situation of forensic psychiatric patients in Albania has been the subject of a long-standing dialogue between the CPT and the Albanian authorities. In the report⁶⁸ on the February 2017 visit, the CPT expressed 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 Zaharia Special Facility in Kruja and in unacceptable conditions. 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. Overall, the Committee gained the impression of ‘therapeutic abandonment’ of many forensic psychiatric patients.

100. On 11 December 2017, the CPT held high-level talks regarding the situation of forensic psychiatric patients with the Secretary General of the Council of Ministers representing the Prime Minister, the Minister of Health and Social Protection, the Minister of Justice and the Director General of Prisons. During these talks, the President of the CPT recalled that if the Albanian authorities continued to fail to implement the long-standing recommendation that all forensic psychiatric patients be transferred to a forensic psychiatric facility, it would have no choice but to set in motion the procedure set out in Article 10 (2) of the Convention. The Ministers of Health and Justice indicated that the Government was fully committed to creating a forensic psychiatric facility as a matter of priority and that consultations were ongoing with potential donors regarding the co-financing of its construction in the vicinity of Tirana. They also stated that a new prison with a capacity of around 800 places would soon be opened in Shkodra and that all prisoners currently held at Lezha Prison would be transferred to Shkodra. Subsequently, it was planned to transfer as an interim measure all forensic psychiatric patients from Kruja Special Facility and the Prison Hospital to the premises of Lezha Prison. In addition, the authorities indicated that they would substantially revise the existing concept of the future forensic psychiatric institution in the vicinity of Tirana.

101. On 1 March 2018, the Albanian authorities provided further information about the creation of a forensic psychiatric facility and the implementation of the above-mentioned interim measures.

102. During the 2018 visit, the delegation carried out a follow-up visit to the Prison Hospital in Tirana, and it visited the premises within Lezha Prison where forensic psychiatric patients would be temporarily accommodated, pending the creation of a proper forensic psychiatric facility.

103. The CPT acknowledges the efforts made by the Albanian authorities to refurbish two detention blocks at Lezha Prison in order to accommodate there forensic psychiatric patients from Zaharia Special Facility in Kruja and the Prison Hospital.⁶⁹ That said, it notes with concern that the opening of the temporary facility at Lezha Prison had been significantly delayed and that there was still a striking lack of clarity regarding the precise role of the Ministry of Health and Social Protection, the future management and staff of the facility. It goes without saying that the renovated premises will offer much better living conditions than the Prison Hospital and Kruja Special Facility. However, it is also clear that the premises at Lezha Prison are designed as a prison and that the refurbishment will not alter the carceral character and other structural deficiencies which render these premises unsuitable on a longer-term basis as a mental health-care facility.

⁶⁸ See paragraph 31 of CPT (2018) 18.

⁶⁹ According to the Albanian authorities, the expenses for the refurbishment and adjustments of the two buildings amounted to 95 Million ALL.

104. By letter of 16 April 2019, the Albanian authorities provided the following information:

“The health service in the new hospital premises for forensic psychiatric patients at the IECD Lezha will pass on the administration of the Ministry of Health. The aspects of mutual engagement in addressing this category in the new hospital premises at the IECD Lezha will be defined in a Cooperation Agreement between the Ministry of Justice and the Ministry of Health. The administration of new hospital facilities in the Lezha prison by the Ministry of Health will enable the provision of specialized services for this category according to MoH protocols to create access for these patients to meaningful activities outside the cell, the necessary human care and contact with specialists (psychiatrists, psychologists, caregivers, etc).

As regards to the situation of forensic psychiatric patients, we confirm the commitment of both Ministry of Health and Social Protection for improvement of their conditions and treatment, by introducing within this year the temporary measures offered with the reconstructed structures of Lezha Prisons by Ministry of Justice and a multidisciplinary treatment that will be offered by Ministry of Health and Social Protection.”

105. The CPT takes note of this information. **It would like to receive:**

- **detailed information on the opening of the temporary forensic psychiatric facility at Lezha Prison (including the management structure, number of health-care and other specialised staff, training of staff, security arrangements, provision of therapeutic and recreational activities, arrangements for outdoor exercise, etc.);**
- **confirmation that all forensic psychiatric patients have been transferred to Lezha;**
- **a copy of the revised concept of the future forensic psychiatric institution in Tirana.**

106. As regards the Prison Hospital, the delegation was informed that most forensic patients had been temporarily transferred to other prison establishments (in particular to Kruja Special Facility). Thus, by contrast with the situation seen during the 2017 visit, no overcrowding was observed. At the time of the 2018 visit, renovation works were still ongoing. During the end-of-visit talks, the delegation pointed out that the entire establishment would require a complete overhaul in order to transform it into a hospital-like facility which offers adequate living conditions for patients and adequate working conditions for staff.

It is a matter of grave concern that, at the time of the visit, no sustainable solution had yet been found regarding the situation of juvenile forensic psychiatric patients and female forensic psychiatric patients. The material conditions (totally dilapidated, dark, damp and poorly ventilated cells) and the solitary confinement regime under which female psychiatric patients were being held in the Prison Hospital were unacceptable and could, in the CPT’s view, easily be considered to be inhuman and degrading.

The CPT is also very concerned about the situation of the 15-year-old juvenile (B. G.) who, as the only juvenile forensic psychiatric patient in the country, had been held in solitary confinement in the Prison Hospital at the time of the February 2017 visit. Whilst acknowledging the fact that the juvenile concerned had been released for several months for the purpose of undergoing compulsory outpatient treatment⁷⁰, he was once again found in *de facto* solitary confinement, being locked up in a dilapidated and dark cell for 23 hours per day and without being offered regular meaningful human contact and any purposeful activities. Clearly, all the commitments made by the Albanian authorities in the aftermath of the 2017 visit to provide the juvenile with therapeutic activities and human contact had not materialised. In the CPT's view, the situation of the juvenile remained unacceptable and could easily be considered to be inhuman and degrading.

107. During the end-of-visit talks, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention and called upon the Ministry of Justice to take all the necessary steps – in co-operation with the Ministry of Health and Social Protection and, if necessary, by involving the relevant judicial authorities – to accommodate all female forensic psychiatric patients and the only juvenile patient who were being held in the Prison Hospital in a suitable health-care facility and to transmit detailed information on the daily care and human contact provided to the patients concerned. The delegation also stressed the urgent need to ensure that the Prison Hospital was properly heated.

108. By letter of 16 April 2019, the Albanian authorities informed the CPT that the refurbishment of the psychiatric ward (as well as of other wards) of the Prison Hospital had been completed with an investment of 28.8 Million ALL⁷¹ and that the long-standing problem of heating had been resolved. Further, the authorities indicated that the female and juvenile forensic psychiatric patients were accommodated in the prison hospital only temporarily and that they would be transferred to separate units at the 'Special Institution of Lezha' as soon as the latter facility was operational.

The CPT takes note of this information. **It would like to receive, within three months:**

- **detailed information on the measures taken to improve the living conditions of patients at the Prison Hospital;**
- **confirmation that the above-mentioned female psychiatric patients and the only juvenile patient have been transferred from the Prison Hospital to Lezha;**
- **detailed information on the treatment, psycho-social activities and daily human contact provided to the above-mentioned juvenile patient.**

⁷⁰ The out-patient treatment was terminated and transformed into in-patient treatment by court order after the juvenile had not respected conditions imposed by the court.

⁷¹ <https://www.drejtesia.gov.al/newsroom/lajme/rikonstruktohet-spitali-i-burgjeve-kushte-dinjitoze-per-sherbimin-shendetesor-per-te-denuarit/>

E. Involuntary hospitalisation of a civil nature

1. Preliminary remarks

109. The delegation carried out a full visit to Elbasan Psychiatric Hospital.⁷² In addition, it paid a brief targeted visit to the Psychiatric Clinic of Tirana University Hospital (hereinafter: “Tirana Psychiatric Clinic”), in order to examine the procedures and safeguards related to the use of means of restraint.

110. Elbasan Psychiatric Hospital is a psychiatric establishment for adult civil patients, comprising eight wards, four for chronic patients (two for men, two for women), three for acute patients (two for men, one for women) and one admission ward (for both sexes). Further, two detached ‘supported homes’ were administratively affiliated to the hospital; they were not visited by the delegation.⁷³ With an official capacity of 310 beds, it is the largest psychiatric establishment in Albania. At the time of the visit, it was accommodating a total of 318 patients of whom only two had been admitted on an involuntary basis under Section 20⁷⁴ of the Law on Mental Health (LMH).⁷⁵

That said, the delegation was informed that virtually all patients (whether formally involuntary or voluntary) were not allowed to leave the hospital on their own. Thus, many patients were *de facto* deprived of their liberty without benefiting from the safeguards provided for by law for involuntary patients (for further details, see paragraph 130).

111. More generally, the CPT must express its concern that, despite various specific recommendations made by the Committee in previous visit reports, the relevant mental health legislation still suffers from fundamental flaws which severely undermine the legal protection of persons with mental disorders who are deprived of their liberty. In this regard, reference is made to the remarks and recommendations in paragraphs 133 to 136.

112. The CPT acknowledges the efforts continuously made by the Albanian authorities to implement a comprehensive programme of de-institutionalisation of long-stay psychiatric patients by creating supported homes and community mental-health centres in different parts of the country.

⁷² The hospital had previously been visited by the CPT in 1997 and 1998.

⁷³ One of the two supported homes was visited by the CPT in 2010.

⁷⁴ Section 20 reads as follows:

“1. Subject of an involuntary detention is a person, who is involuntary admitted to a specialised mental health inpatient service, or after being admitted voluntarily he is detained against his will, as defined by the specialist physician.

2. A person with mental health disorders is treated involuntarily, when the following conditions are met simultaneously: (a) when there is a severe mental disorder that restricts his ability to understand or control his behaviour, and (b) without the involuntary treatment a person puts his life, health or safety of himself or others in danger, and (c) the existing options for a health treatment in the community are exhausted and the necessary medication is administered only when admitted to a specialised mental health inpatient service, in accordance with the principles of the least restrictive alternative.”

⁷⁵ In addition, 23 patients were accommodated in the two ‘supported homes’.

At Elbasan Psychiatric Hospital, the delegation was informed that twelve patients had been transferred to a supported home in Korca three years ago and that eight patients who did not (or no longer) require in-patient treatment would soon be transferred to a newly-opened mental health centre in Kavaja. That said, 55 more persons with intellectual disabilities, who had been held in the hospital for years or even decades, were still on a waiting list to be discharged, due to a nationwide shortage of appropriate community-based facilities and the lack of family support.

The CPT encourages the Albanian authorities to pursue their efforts to further develop the provision of community-based mental health care services, with a view to de-institutionalising persons with a mental disorder/intellectual disability at Elbasan Psychiatric Hospital, and where appropriate, in other psychiatric establishments in the country. The Committee would like to receive more detailed information on the measures taken/envisaged to this end.

2. Ill-treatment

113. At Elbasan Psychiatric Hospital, the delegation received no allegations of ill-treatment by staff. On the contrary, many patients spoke positively about staff, and the delegation itself was impressed by the commitment and caring attitude displayed by staff towards patients.

114. Some instances of violence between patients occurred at Elbasan Psychiatric Hospital but the delegation gained the impression that staff generally reacted in an appropriate manner.

3. Patients' living conditions

115. At the time of the visit, the entire premises of Elbasan Psychiatric Hospital were impeccably clean and well-heated. That said, material conditions were generally rather poor. In particular, the sanitary facilities in several wards were dilapidated, and they were not adapted to the needs of patients with physical impairments. It is also a matter of concern that patients were usually offered only one shower per week.⁷⁶

Further, in most wards, patients were accommodated in austere and depersonalised dormitories (with no furniture except for beds). These dormitories (measuring around 50 m²) were equipped with up to twelve beds each, and they had either only a waist-level saloon door to the corridor or no door at all. As a result, up to 50 patients were being held in an open space without being offered any privacy.

The CPT wishes to stress that large-capacity dormitories are not compatible with current standards of accommodation for psychiatric patients. Provision of accommodation structures based on small groups is a crucial factor in preserving/restoring patients' dignity, and is also a key element in any policy for the psychological and social rehabilitation of patients.

⁷⁶ The delegation was told that patients would be offered a second shower per week in the summer.

116. In their letter of 16 April 2019, the Albanian authorities informed the CPT that the Ministry of Health and Social Protection had recently allocated a total of some 2.2 million Euros to the hospital in order to improve the living conditions for patients and to remedy various other shortcomings.

The CPT welcomes this decision and would like to receive more detailed information on the implementation of the above-mentioned renovation plans.

Further, the CPT recommends that steps be taken at Elbasan Psychiatric Hospital to ensure that:

- **sanitary facilities are adjusted to the needs of patients with physical impairments;**
- **all patients have access to a shower at least twice a week throughout the year. Preferably, they should have unrestricted access to a shower;**
- **patients are provided with a more personalised environment (including lockable space for personal belongings).**

Finally, the Committee encourages the Albanian authorities to take the necessary steps to ensure that existing large-capacity dormitories are transformed into accommodation structures based on smaller groups (i.e. no more than four beds in one room) and that patients' rooms are equipped with a door.

117. The CPT is particularly concerned that many patients did not benefit from outdoor exercise on a daily basis. It became apparent that a number of patients (in particular those suffering from physical impairments) had not been outside for months and in some cases even for years on end. Such a state of affairs is unacceptable.

During the end-of-visit talks, the delegation urged the Albanian authorities to take urgent steps to ensure that all patients are offered outdoor exercise every day.

118. By letter dated 16 April 2019, the Albanian authorities informed the CPT that “as regards the providing of day-to-day outdoor activities for all patients in the Psychiatric Hospital of Elbasan, the Ministry of Health and Social Protection has requested the development and implementation of an activity plan, ensuring the engagement in different daily activities of all patients accommodated in this institution”.

Regrettably, the above-mentioned letter does not contain any specific information on the action taken to arrange outdoor exercise for patients. **The CPT recommends that the Albanian authorities take steps as a matter of priority to ensure that all patients at Elbasan Psychiatric Hospital are offered daily access to outdoor exercise (with appropriate supervision if required). The Committee wishes to receive, within three months, an account of the concrete measures taken to this end.**

4. Staff and treatment

119. The CPT wishes to place on record the commitment and caring attitude of staff that had to work under very difficult conditions, especially due to dramatic shortages in the number of health-care staff. That said, it is matter of serious concern that there were, on average, only one psychiatrist⁷⁷ and one nurse per 60 patients. The ward-based staff worked in three shifts. During the early day shift (7 a.m. to 2 p.m.), two nurses, one orderly and one cleaning staff (*sanitar*) were usually present in every ward, while during the late day shift (2 p.m. to 9 p.m.) and the night shift (9 p.m. to 7 a.m.), every ward was only staffed with one nurse, one orderly and one *sanitar*.

In the CPT's view, the number of ward-based clinical staff is clearly insufficient to provide adequate care, assistance and supervision and to ensure a safe environment for patients and staff (see also paragraph 128).

At the outset of the visit, the delegation was informed by the Ministry of Health and Social Protection about the general shortage of psychiatrists and other health-care staff in the country and the difficulties encountered by the management of psychiatric hospitals in recruiting psychiatrists. The nationwide average number of psychiatrists was a mere 1.3 posts per 100,000 inhabitants, and the ratio of psychiatrist/population was said to be significantly lower in the Elbasan region. Further, it is regrettable that to date no specific educational programme for mental health nurses is available in the country.

The CPT recommends that the Albanian authorities re-double their efforts to significantly increase the number of psychiatrists and nurses at Elbasan Psychiatric Hospital and, where appropriate, in other psychiatric hospitals. Further, steps should be taken to ensure that nurses working in psychiatric establishments undergo specialised (initial and ongoing) training programmes in mental health care.

120. The hospital also employed a number of other professional staff such as four psychologists, four occupational therapists (ergotherapists) and three social workers. The CPT acknowledges the efforts made by the management to provide patients with psychosocial treatment and activities in two day-centres (painting, handicrafts, etc.). However, the provision of psychological services and occupational therapy remained limited, and most patients did not benefit from such services. Thus, for most of the patients, treatment consisted solely of pharmacotherapy and no individual treatment plans existed beyond the lists of prescribed medication.

The CPT recommends that steps be taken at Elbasan Psychiatric Hospital and, where appropriate, in other psychiatric hospitals to ensure that an individual treatment plan is drawn up for every patient (taking into account the special needs of acute and long-term patients), comprising the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be informed of their individual treatment plans and progress; further, they should be involved in the drafting and implementation of these plans.

⁷⁷ The hospital employed four psychiatrists (in addition to the Director who was exclusively engaged in managerial tasks). Along with three psychiatrists who worked in the community mental health centre, the aforementioned psychiatrists ensured the 24-hour presence of a psychiatrist on the hospital premises.

Further, **the Committee recommends that the management of Elbasan Psychiatric Hospital strive to expand the range of therapeutic options and involve a greater number of patients in psychosocial rehabilitative activities, preparing them for a more autonomous life or return to their families; occupational therapy should be an important part of a patient's long-term treatment programme, providing for motivation, development of learning and relational skills, acquisition of specific competences and an improved self-image. To this end, the staffing levels of psychologists, occupational therapists and other professionals should be increased accordingly.**

121. As regards pharmacotherapy, a range of relevant medication was available and the dosage of neuroleptic medication in use appeared to be appropriate.

That said, certain medicines (e.g. risperidone for treatment of schizophrenia) which were prescribed by mental health centres free-of-charge were not available in the hospital's pharmacy, and that patients who had received that medication prior to their admission could only continue the treatment if the family purchased the medication in an outside pharmacy. **The CPT would like to receive the Albanian authorities' comments on this matter.**

122. The provision of somatic care appeared to be generally satisfactory. The hospital employed one dentist and one physiotherapist, and a general practitioner visited the hospital several times per month and remained otherwise on call. Whenever needed, specialist care was provided in the nearby regional general hospital. It is also noteworthy that all newly-arrived patients benefited from a comprehensive physical examination (including blood pressure, blood tests, urine tests, neurological examination and electro-cardiogramme). In addition, chronic patients were examined in the general hospital once every six months or more often in case of need.

5. Means of restraint

123. According to Section 27 of the Law on Mental Health and Instruction ('Protocol') No. 586 issued on 30 October 2013 by the Minister of Health, agitated and/or violent patients may be subjected to one or more of the following restraint measures: physical restraint (manual control), mechanical restraint, chemical restraint (i.e. forcible administration of medication) and seclusion. Means of restraint may only be used as a last resort and must always be ordered by a psychiatrist. Patients may be subjected to means of mechanical restraint/seclusion 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 psychiatrist. Further, patients subjected to means of mechanical restraint/seclusion must always remain under constant supervision by a member of staff. In addition, every resort to means of restraint must be recorded in a special 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. The supervising staff member is obliged to maintain a journal in which the condition of the patient is noted down every two hours. With the consent of the patient concerned, a family member (or the legal representative) shall be informed as soon as possible. Further, upon completion of the restraint measure, the patient concerned shall as soon as possible be given the opportunity to discuss the episode with the multidisciplinary team involved in his/her treatment ('debriefing').

124. At Elbasan Psychiatric Hospital, only physical restraint and chemical restraint were applied in practice. The delegation was informed that the use of mechanical restraint had been discontinued more than a year ago. The hospital did not have a seclusion room. However, at the time of the visit, one patient room was in the process of being transformed into such a room.

At Tirana Psychiatric Clinic, patients were subjected to physical restraint, mechanical restraint (straps or straightjacket), chemical restraint and/or placement in one of two seclusion rooms (in the male acute ward).

125. The information gathered by the delegation suggests that, in both establishments, means of restraint were generally applied in accordance with the legal requirements set out in paragraph 123.

At Tirana Psychiatric Clinic, instruments of mechanical restraint were used only infrequently and usually for short periods.⁷⁸ In addition, patients were sometimes placed in a seclusion room for short periods.

126. That said, in both establishments visited, a number of shortcomings were observed by the delegation. Firstly, instances of physical holding of a violent patient and chemical restraint were usually only recorded in the patient's medical file but not in the restraint register (contrary to the legal requirement under Section 27, paragraph 6, of the Law on Mental Health and Section 3.10.1 of the Order of the Minister of Health).⁷⁹ Further, at Tirana Psychiatric Clinic, placements in seclusion rooms were not recorded in the restraint, since, according to staff, the doors were usually not locked. In this regard, the CPT must stress that, as long as patients are not allowed to leave the room, their placement should be considered as 'seclusion' irrespective of whether the door is locked or not.

Secondly, it is a matter of concern that patients subjected to means of mechanical restraint or seclusion were not continuously supervised by a member of staff.

Thirdly, patients who had been subjected to means of mechanical restraint or seclusion did usually not benefit from a debriefing with a member of the health-care staff (as required under Section 3.9.2 of the Order of the Minister of Health).⁸⁰

Fourthly, the CPT has misgivings about the practice observed at Tirana Psychiatric Clinic of sometimes applying straightjackets in full view of other patients.

⁷⁸ According to the restraint register in the female acute ward, mechanical restraint had been applied ten times on five patients during the period 24.12.2016 to 22.10.2018, with the duration varying between ten minutes and one hour. In the male acute ward, 29 instances of mechanical restraint were recorded in the restraint register during the period 13.10.2017 to 27.11.2018 for periods ranging from 1½ to 3½ hours.

⁷⁹ As a result, existing restraint registers in various wards were blank at the time of the visit.

⁸⁰ According to Section 4.3 of the Order of the Minister of Health, a nurse is required to monitor the patient "directly and continuously" during the first hour; then at least two nurses shall directly observe the patient every two hours; every 15 minutes, nursing staff shall keep a record of the patient's condition; a medical examination shall be carried out at least every four hours).

127. In the light of the above, **the CPT recommends that the Albanian authorities take steps – including by amending the above-mentioned Order of the Minister of Health and providing training to relevant staff – to ensure that, at Elbasan Psychiatric Hospital and Tirana Psychiatric Clinic, as well as in all other psychiatric establishments in the country:**

- every patient who is subjected to mechanical restraint or seclusion benefits from continuous supervision by a qualified member of the health-care staff. In the case of mechanical restraint, the staff member should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance. If patients are held in seclusion, the staff member may be outside the patient's room (or in an adjacent room with a connecting window), provided that the patient can fully see the staff member and the latter can continuously observe and hear the patient. Clearly, video surveillance cannot replace continuous staff presence;
- patients are not subjected to means of mechanical restraint in view of other patients (unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient);
- once means of restraint have been removed, a debriefing with the patient takes place. For the patient, such a debriefing is an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour. For the health-care staff, this will provide an opportunity to explain the rationale behind the measure, and thus reduce the psychological stress of the experience as well as restore the therapeutic relationship;
- all instances of restraint – including physical holding, seclusion and chemical restraint – are recorded in a dedicated restraint register. The entries in the register should include the time at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, the time at which the patient had a debriefing, and an account of any injuries sustained by patients or staff. The keeping of such a register will allow hospital management to monitor the extent of recourse to means of restraint and enable measures to be taken, where appropriate, to reduce their use.

128. Further, the CPT must express its concern that it was not uncommon at Elbasan Psychiatric Hospital for police officers to be called upon to assist staff in physically restraining agitated/violent patient in order to apply chemical restraint. According to the management, such interventions were rather rare. On the other hand, medical staff in one of the wards indicated that the police was called in up to ten times per month. Given the extremely low number of ward-based staff (see paragraph 119), such a high incidence is scarcely surprising.

The CPT acknowledges that, in highly exceptional situations (e.g. when weapons are involved), the assistance of the police may be unavoidable. However, in the CPT's view, hospital staff should generally be sufficient in number and able to handle violent situations without recourse to the police, including at night. **The Committee recommends that the Albanian authorities take the necessary steps to ensure that the presence of ward-based staff is increased at Elbasan Psychiatric Hospital during all shifts and that they provide training on de-escalation and restraint techniques to all members of staff concerned in order to avoid interventions by police officers in the hospital.**

129. According to Section 3.11.6 of the Minister of Health Order of 30 October 2013, the Ministry of Health and Social Protection is required to carry out every three months a review of all instances of restraint in psychiatric establishments. **The CPT would like to receive an account of all such reviews carried out since 1 January 2019.**

6. Safeguards

a. legal status of patients

130. As already mentioned in paragraph 110, only two patients at Elbasan Psychiatric Hospital were formally classified as ‘involuntary’ (i.e. had been subjected to an involuntary placement order under Section 20 of the LMH). At the same time, all the patients’ wards were closed, and most patients who were formally classified as ‘voluntary’ were not allowed to leave the hospital on their own. They were generally only allowed to leave the hospital premises when accompanied by a member of staff or family member. The delegation was informed that, in case of absconding, the police would be called and the patients would be searched for and returned to the hospital. Quite a number of ‘voluntary’ patients affirmed to the delegation that they had objected to their placement ever since their admission and that they wished to leave the hospital. Further, some of them stated that they had been placed in the hospital against their will by a family member (who was not a court-appointed guardian).

Thus, many patients who had been classified as ‘voluntary’ were *de facto* deprived of their liberty, without benefiting from the safeguards provided for by law for involuntary patients. In this regard, the CPT wishes to stress that consent to hospitalisation should always be sought from the patient him/herself and if the latter does not give his/her consent (or withdraws his/her consent), the criteria for involuntary placement should be assessed and, where appropriate, the case should be reported to the competent court.

The Committee recommends that the Albanian authorities take steps to ensure that, at Elbasan Psychiatric Hospital, and, where appropriate, in other psychiatric establishments in Albania, the legal status of all patients who are classified as ‘voluntary’ is reviewed, in the light of the preceding remarks.

131. Particular mention should also be made to the situation of legally incapacitated patients. The delegation was informed that, when such patients were hospitalised with the consent of their court-appointed guardian, they were considered ‘voluntary’.⁸¹ However, if they expressed a wish to leave the hospital they were usually not allowed to do so. Thus, they were *de facto* deprived of their liberty without benefitting from appropriate safeguards.⁸²

⁸¹ See Section 19, paragraph 1, of the LMH.

⁸² The CPT notes in this context that the European Court of Human Rights has concluded in several cases concerning the placement in a closed establishment of a legally incapacitated person under guardianship from whose conduct it was obvious that he or she did not consent to his or her placement that he/she must be regarded as being “deprived of his or her liberty” within the meaning of Article 5, paragraph 1, of the European Convention on Human Rights, despite the approval of the guardian (see, for example, the Grand Chamber judgment in the case of *Stanev v. Bulgaria*, no. 36760/06, § 132, 17 January 2012, and the judgment *Červenka v. the Czech Republic*, no. 62507/12, §§ 103-104, 13 October 2016).

In the CPT's view, legally incapacitated patients (whether or not they have a guardian) from whose conduct it is obvious that they are opposed to their placement should benefit from the same procedural safeguards as patients with full legal capacity; in other words, the involuntary civil placement procedure provided by the law should equally be applied to both categories of patient (see also paragraphs 133 and 134).

The CPT recommends that the Albanian authorities take the necessary steps – including at the legislative level – to ensure that this precept is effectively implemented at Elbasan Psychiatric Hospital, as well as in all other psychiatric establishments in the country.

132. The CPT is surprised that, at Elbasan Psychiatric Hospital, neither the management nor staff were in a position to provide any information whatsoever as to which patients had been deprived of their legal capacity and thus had a court-appointed guardian. The delegation was told by the management that in some cases a request to initiate the procedure for appointing a guardian had been sent to the competent court but that no reply had subsequently been received from the court.

By letter dated 16 April 2019, the Albanian authorities informed the CPT that “the Psychiatric Hospital of Elbasan, as well as all other inpatient mental health services are requested to submit to the Court the lists of chronic patients, accommodated in their service, for clarifying which patients have a court-appointed guardian.”

The CPT welcomes this development.

b. involuntary placement, review and discharge procedures

133. According to Sections 20 to 24 of the LMH, the initial decision on the involuntary placement of a psychiatric patient taken by a specialist doctor must be reassessed within 24 hours by another member of the medical staff who has not been involved in the initial admission. Following this reassessment, a decision must be taken by the Head of Service to discharge the patient or to continue the involuntary placement. In the latter case, the Director of the psychiatric institution is under a legal obligation to notify within the following 48 hours the case to the competent district court. Subsequently, a judge must review the involuntary placement within 48 hours. The patients concerned have in principle the right to participate in person in all proceedings related to the involuntary placement and they are also entitled to lodge an appeal against the involuntary placement order by the court.

The information gathered during the visit suggests that the above-mentioned legal requirements were usually implemented in practice at Elbasan Psychiatric Hospital. Further, patients usually received a copy of the court decision and were informed of the possibility to lodge an appeal against that decision.

However, it is a matter of concern that judges usually took decisions without ever having seen the patient concerned. Further, it is regrettable that judges never requested an opinion from a psychiatrist outside the hospital concerned during placement procedures.

The CPT recommends that the Albanian authorities take the necessary steps, through appropriate channels, to ensure that every patient who is admitted on an involuntary basis to Elbasan Psychiatric Hospital or any other psychiatric establishment in Albania is heard in person by the judge (at the court house or on the premises of the hospital) before a decision on placement is taken.

Further, the CPT considers that the commissioning by the court of **a second psychiatric opinion from a doctor who is independent of the establishment in which the patient is placed (as opposed to an opinion from a non-treating doctor who may be from the same establishment) would offer an additional, important safeguard in the context of involuntary placement (or its review).**

Finally, the Committee would like to receive information as to the professional training provided to judges responsible for involuntary placement procedures to ensure meaningful judicial assessment with a real possibility of release when the criteria for involuntary placement are not met.

134. In accordance with the relevant legislation, court decisions on civil involuntary placement were usually indefinite. In this regard, the CPT notes with concern that the LMH still suffers from fundamental flaws. In particular, such placements are not subjected to a regular *ex officio* review, and the patients concerned are still not entitled to challenge their placement before a court themselves.⁸³ In practice, involuntary placement decisions were only terminated with the approval of the hospital (upon the recommendation of the treating doctor).

The CPT reiterates its recommendation that the Albanian authorities take steps – including at the legislative level – to ensure that in all psychiatric hospitals in Albania:

- **involuntary civil placements are subjected to an automatic court review at regular intervals;**
- **patients themselves are entitled to request a judicial review of their placement and that they are informed of this right upon admission to the hospital;**
- **in the context of the above-mentioned judicial review procedures, the patients concerned are heard in person by the judge.**

⁸³ See Section 24, paragraph 3, of the LMH, which reads as follows: “At any time, when the health grounds that led to involuntary admission are no longer in place, the institution where the specialised mental health inpatient service is provided, family members or the Legal Representative will submit to the competent court the request to revoke the court order.”

c. consent to treatment

135. Regrettably, despite the specific recommendation repeatedly made by the Committee after previous visits, the relevant legislation⁸⁴ still does not make a clear distinction between consent to placement and consent to treatment and, in practice, a court decision on involuntary placement in a psychiatric establishment is considered to be a sufficient basis for any involuntary treatment regarded to be appropriate by the treating doctor. Moreover, the LMH does not provide for any procedure on involuntary treatment of (psychiatric) patients.

At Elbasan Psychiatric Hospital, the delegation was informed by medical staff that patients who had been admitted on an involuntary basis were generally not in a position to refuse any treatment proposed by the treating doctor.

Further, as regards voluntary patients, the ambiguous approach taken by the legislation was also reflected on the consent forms which the patients were given to sign upon admission; in both establishments visited, by signing the forms, patients agreed to hospitalisation and, at the same time, gave a blanket consent to undergo any treatment as regarded appropriate by the treating doctor.

136. The CPT wishes to stress once again that consent to hospitalisation and consent to treatment are two separate issues and patients should be requested to express their position on both of these issues separately. Every psychiatric patient should, as a matter of principle, be placed in a position to give his/her *free and informed consent to treatment*. The admission of a person to a psychiatric establishment on an involuntary basis – be it in the context of civil or criminal proceedings – should not preclude seeking informed consent to treatment. Of course, consent to treatment can only be qualified as free and informed if it is based on full and accurate information about the patient's condition, the intended treatment and possible side effects. In this connection, it is also essential that all patients who have given their consent to treatment are continuously informed about their condition and the treatment applied to them and that they are placed in a position to withdraw their consent at any time.

Further, every patient capable of discernment – whether voluntary or involuntary and whether civil or forensic – should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances and should be accompanied by appropriate safeguards.

The relevant legislation should require a second psychiatric opinion (i.e. from a psychiatrist not involved in the treatment of the patient concerned) in any case where a patient does not agree with the treatment proposed by the establishment's doctors (even if his/her guardian consents to the treatment); further, patients should be able to challenge a compulsory treatment decision (or the consent provided by the guardian)⁸⁵ before an independent outside authority and should be informed in writing of this right.

Whenever consent to treatment is given by a patient upon admission, the patient concerned should be continuously kept informed of the treatment applied to him/her and placed in a position to withdraw his/her consent at any time.

⁸⁴ Sections 20 to 25 of the LMH.

⁸⁵ According to Section 19, paragraph 1, of the LMH, the consent of persons with limited capacity to act is substituted by the consent given by their guardian.

The CPT reiterates its recommendation that the Albanian authorities take appropriate steps to ensure that the above-mentioned precepts are effectively implemented at Elbasan Psychiatric Hospital, as well as in all other psychiatric establishments in Albania. To this end, the relevant legal provisions should be amended accordingly.

7. Other issues

137. At Elbasan Psychiatric Hospital, newly-admitted patients usually received information on the rights of patients and the house rules orally.

That said, a number of patients claimed that they had not received any such information. **The CPT recommends that steps be taken in all psychiatric hospitals in Albania to ensure that a brochure or information sheet is systematically provided to newly-admitted patients (and their families) and that patients unable to understand the brochure/information sheets receive appropriate assistance.**

138. As regards patients' contact with the outside world, the situation in all the psychiatric hospitals visited was generally satisfactory. They were able to send and receive correspondence, to have access to the telephone, and to receive visits from their families.

139. Patients could lodge complaints with various outside bodies, including the Ministry of Health, the Health Inspectorate and the People's Advocate, all of which also carried out inspections on a regular basis.

However, a number of patients interviewed by the delegation appeared to be generally unaware of the existing avenues of complaints. An effective complaints procedure is a basic safeguard against ill-treatment in psychiatric establishments. To this end, **the CPT recommends that steps be taken in all psychiatric hospitals to ensure that psychiatric patients are systematically informed of existing avenues to lodge complaints (including in the above-mentioned brochure/information sheet).**

APPENDIX

List of the establishments visited by the CPT's delegation

Establishments under the Ministry of the Interior

Police Directorate of Tirana
Police Station No. 1, Tirana
Police Station No. 2, Tirana
Police Station No. 3, Tirana
Police Station No. 5, Tirana
Burrel (Mat) Police Station
Durrës Police Station
Elbasan Police Station
Fier Police Station
Kavaja Police Station

Detention Centre for Foreigners, Karreç

Establishments under the Ministry of Justice

Prison No. 302, Tirana
Prison No. 313, Tirana
Prison Hospital, Tirana
Burrel Prison
Durrës Prison
Fier Prison
Lezha Prison (recently-arrived remand prisoners)
Fushe Kruja Prison (unit for 'radicalised prisoners')

Establishments under the Ministry Health and Social Protection

Elbasan Psychiatric Hospital
Psychiatric Service of the University Hospital Centre "Mother Teresa", Tirana.