



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

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

Conclusions and recommendations of the Committee against Torture

Albania

1. The Committee considered the initial report of Albania (CAT/C/28/Add.6) at its 649th and 652nd meetings (CAT/C/SR.649 and 652), held on 10 and 11 May 2005, and adopted, at its 660th meeting (CAT/C/SR.660), the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the initial report of Albania and the opportunity to establish a dialogue with the State party, but it regrets that the report, due in June 1995, was submitted with an eight-year delay.

3. The Committee notes that the report does not fully conform to the Committee's guidelines for the preparation of initial reports and lacks information on practical aspects of the implementation of the Convention's provisions. The Committee acknowledges in this regard the difficulties encountered by the State party during its political and economic transition and the efforts made in this respect, and hopes that in the future it will comply fully with its obligations under article 19 of the Convention.

4. The Committee also welcomes the additional information provided in writing by the State party and by the delegation in the introductory remarks and in the answers to the questions raised, which demonstrates the State party's willingness to establish an open and fruitful dialogue with the Committee.

B. Positive aspects

5. The Committee notes with appreciation the ongoing efforts by the State party aimed at strengthening human rights in Albania. In particular, the Committee welcomes the following:

(a) The adoption of a democratic Constitution in 1998 that enhances protection of human rights, including the prohibition of torture, establishes a maximum 48-hour limit on detention before which a person must be brought before a judge, and the direct applicability of ratified international treaties and their superiority over domestic laws;

(b) The adoption of:

- (i) The Law “On Innocence, Amnesty and Rehabilitation of Ex-political Convicted and Persecuted Persons” in 1991, amended in 1993;
- (ii) The Law “On Migration” in 1995;
- (iii) The Criminal Military Code in 1995;
- (iv) The Law “On the Rights and Treatment of Prisoners” in 1998;
- (v) The Law “For the Ombudsman” in 1999;
- (vi) The Criminal Code in 1995, amended in 1996, 1997 and 2001;
- (vii) The Law “On the Organization and Functioning of the High Justice Council” in 2002;

(c) The ratification of:

- (i) The European Convention on Extradition and its additional Protocol in 1998 and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its two Protocols in 1996;
- (ii) The Rome Statute of the International Criminal Court in 2002 as well as of most of the United Nations conventions and protocols for the protection of human rights;
- (iii) The Optional Protocol to the Convention against Torture in 2003;

(d) Specific measures for law enforcement personnel:

- (i) The adoption of the “Code of Police Ethics” in 1998;
- (ii) The organization of training for the police through a project of education in the field of prevention of torture by the Ministry of Public Order in cooperation with non-government organizations (NGOs).

6. Furthermore, the Committee would like to commend:
- (a) The suspension since 1992 of the death penalty;
 - (b) The separation of juveniles from adults in all detention facilities;
 - (c) The publication of the reports of the four first visits of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to Albania (CPT/Inf (2003)11) and of the Government's response thereto (CPT/Inf (2003)12) as well as the assurance of the Government that it will soon authorize the publication of the report of the 2003 visit;
 - (d) The involvement of national NGOs in the preparation of the initial report of Albania.

C. Subjects of concern

7. The Committee expresses concern:
- (a) That the definition of torture in the Criminal Code does not cover all the elements contained in article 1 of the Convention, especially regarding persons acting in an official capacity;
 - (b) That the qualification of acts of torture by law enforcement personnel merely as "arbitrary acts" results in those acts being treated as less serious criminal offences;
 - (c) That climate of de facto impunity prevails for law enforcement personnel who commit acts of torture or ill-treatment, in view of:
 - (i) The numerous allegations of torture and ill-treatment by law enforcement personnel, especially at the moment of arrest and during interrogation;
 - (ii) The limited number of complaints regarding torture and ill-treatment, in particular to the Peoples' Advocate;
 - (iii) The lack of prompt and impartial investigation of allegations of torture and ill-treatment committed by law enforcement personnel; and
 - (iv) The absence of convictions in cases of torture under article 86 of the Criminal Code, and the limited number of convictions of torture with serious consequences under article 87 of the Criminal Code, all of which may indicate that there is a lack of awareness on the part of victims of their rights and that there is a lack of confidence in the police and judicial authorities;
 - (d) About the difficulties encountered by victims of torture and ill-treatment in filing a formal complaint with public authorities, obtaining medical evidence in support of their allegations and presenting that evidence;

- (e) About allegations of lack of independence of the judiciary;
- (f) That there is no universal jurisdiction of the Albanian courts in cases involving torture;
- (g) That there is no clear legal provision prohibiting the use as evidence of any statement obtained under torture as well as no clear legal provision stating that an order from a superior may not be invoked as justification of torture;
- (h) At the failure to ensure fair and adequate compensation, including rehabilitation, for all victims of torture, including ex-political convicted and persecuted persons;
- (i) At the lack of implementation of the fundamental legal safeguards for persons detained by the police, including guaranteeing the right to inform a relative, access to a lawyer and a doctor of their own choice, the provision of information about their rights and, for juveniles, the presence of their legal guardians during interrogation;
- (j) At the poor conditions of detention and long pre-trial detention periods of up to three years;
- (k) At the existence of an additional 10-hour administrative detention period for interrogation before the maximum 48-hour period within which a detainee must be brought before a judge begins;
- (l) About the lack of regular and unannounced visits to police stations by the Office of the Ombudsman;
- (m) About the lack of systematic medical examination of detainees within 24 hours of their admission to prison, the poor medical care in detention facilities, and the lack of training for medical personnel and prison medical personnel, not under the authority of the Ministry of Public Health;
- (n) About the legal possibility of refoulement of persons without any legal procedures in cases affecting public order or national security;
- (o) At the reported prevalence of violence against women and girls, including sexual and domestic violence, and the reluctance on the part of the authorities to, inter alia, adopt legislative and other measures to counter this phenomenon.

D. Recommendations

8. The Committee recommends that the State party:
- (a) Amend the Criminal Code in order to adopt a definition of torture that covers all the elements contained in article 1 of the Convention;
 - (b) Ensure strict application of the provisions against torture and ill-treatment, criminalizing acts of torture and prosecuting and punishing perpetrators in a manner proportionate to the seriousness of the crimes committed;

- (c) Investigate all allegations of ill-treatment and torture by law enforcement personnel, carrying out prompt and impartial investigations to bring the perpetrators to justice in order to eliminate the de facto impunity for law enforcement personnel who commit acts of torture and ill-treatment;
- (d) Improve mechanisms to facilitate the submission of complaints by victims of ill-treatment and torture to public authorities, including obtaining medical evidence in support of their allegations;
- (e) Take all appropriate measures to strengthen the independence of the judiciary and to provide adequate training on the prohibition of torture to judges and prosecutors;
- (f) Amend domestic legislation to ensure that acts of torture are considered universal crimes;
- (g) Adopt clear legal provisions prohibiting the use as evidence of any statement obtained under torture and establishing that orders from a superior may not be invoked as a justification of torture;
- (h) Implement the established legal mechanisms enabling victims of torture to obtain redress and fair and adequate compensation;
- (i) Implement the fundamental legal safeguards for persons detained by the police, guaranteeing their rights to inform a relative, to have access to a lawyer and a doctor of their own choice and to be provided with information about their rights and, for juveniles, to have their legal guardians present during interrogation;
- (j) Improve conditions in places of detention, ensuring that they conform to international minimum standards, adopt necessary measures to reduce the pre-trial detention period and continue to address overcrowding in places of detention;
- (k) Take the necessary measures to abolish the 10-hour administrative detention period for interrogation prior to the 48-hour period within which a suspect must be brought before a judge;
- (l) Allow regular and unannounced visits to police stations by the Office of the Ombudsman, as well as by other independent bodies;
- (m) Provide systematic medical examination of detainees within 24 hours of their admission to prison, improve medical care in detention facilities, establish training for medical personnel and transfer all prison medical personnel to the authority of the Ministry of Public Health;
- (n) Amend its legislation in order to prohibit the refoulement of persons without a legal procedure and to provide all required guarantees;
- (o) Adopt measures to combat sexual violence and violence against women, including domestic violence, and promptly and impartially investigate all allegations of torture or ill-treatment with a view to prosecuting those responsible;

(p) Transfer the responsibility for all pre-trial detainees to the authority of the Ministry of Justice;

(q) Take all necessary measures to ensure the effective implementation of the provisions of the Convention and of the adopted legislation, disseminate the relevant legislation to detainees and law enforcement personnel and provide adequate training to the latter;

(r) Provide in the next periodic report detailed statistical data, disaggregated by age, gender and origin, on complaints related to torture and other ill-treatment allegedly committed by law enforcement personnel, as well as on related investigations, prosecutions, and penal and disciplinary sentences;

(s) Consider making the declarations under articles 21 and 22 of the Convention.

9. The Committee also recommends that the State party disseminate widely the Committee's conclusions and recommendations, in all appropriate languages, through official web sites, the media and non-governmental organizations.

10. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraph 8 (c), (d), (i) and (l) above.

11. The State party is invited to submit its next periodic report, which will be considered as the second, by 9 June 2007.
