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Albania: inhuman and degrading detention conditions in police stations

Albania

Albania: inhuman and degrading detention conditions in police stations - steps towards reform

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. (Article 10(1) of the International Covenant on Civil and Political Rights)

“From the moment of my arrest until I was sent to [prison] I spent three years and two months in preventive detention cells. During this period I endured inhuman and degrading conditions; I slept in a cell with up to eight people although the space was not enough for even two people. There were not even minimal conditions for the detention of prisoners on remand; for three years and two months I slept without a bed on a mattress which for years had not been changed or washed, which smelled of urine, and continually caused me headaches. Most of the time we carried out our personal needs, such as urinating and defecating, inside the cell, since permission to go to the toilet was limited to three times in 12 hours. So in the same cell, eight people slept, eight people ate, we slept in turns since there was no room to stretch out, we carried out our personal needs in the same room, - finally, I felt not like a detainee awaiting trial, but like an animal in a zoo.”¹

Introduction

Amnesty International is concerned about the conditions in which detainees in Albania are held in police stations, sometimes for prolonged periods of up to several years. The organization concludes - on the basis of official figures, foreign expertise, reports by Albanian and international non-governmental organizations, and visits in 2002 and 2003 by Amnesty International delegates to four police stations - that these conditions often amount to inhuman and degrading treatment. Amnesty International welcomes plans for reform and certain recent measures taken by the Albanian authorities to alleviate the situation of some detainees. However, the organization believes that much still remains to be done before detention conditions can be considered to conform to Albanian law and international standards. In particular, Amnesty International is concerned that pending the construction of new

¹ Extract from a suit filed with Mirditë district court by Artan Beleshi.

preventive detention centres – for which considerable time and resources are needed – there appear to be no immediate plans to make the changes urgently needed to bring existing preventive detention facilities in police stations up to even minimal standards.

The detainees in these police stations are primarily prisoners on remand – a court has ordered their preventive detention pending investigation and trial. In addition, a number of convicted prisoners are also held in police stations. Police stations also have cells where people are held in police custody before being brought before a court. Albania is one of the poorest countries in Europe, which is reflected in the cramped and dilapidated buildings, overcrowding, lack of hygiene, poor diet and other deficiencies characteristic of preventive detention facilities. These conditions not only adversely affect detainees, but also create stressful working conditions for the police officers in charge of them. They have given rise to repeated protests by detainees and by Albanian human rights organizations such as the Albanian Helsinki Committee (AHC).² Despite improved legislative provisions and despite urgent recommendations by the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT),³ the practical implementation of reforms has been slow.

The Albanian authorities have acknowledged these problems, and there have been some recent developments which are encouraging, such as the initiation of a long-delayed plan to gradually transfer preventive detention facilities from the authority of the Ministry of Public Order to that of the Ministry of Justice. Improvements introduced in early December 2003 in preventive detention quarters in Vlorë marked the first stage of a project to reform conditions for detainees in preventive custody throughout the country. Four preventive detention cells were included in a general renovation and equipment of Shkodër district court, jointly funded by the Albanian state and by USAID and completed at the end of January 2004.⁴ Further, legislative amendments have been drafted to secure the rights and protection of children in detention, in line with international standards. However, progress has often been hampered by bureaucratic as well as financial obstacles. In raising its continuing concerns Amnesty International wishes to add its voice to that of others – including police officers working in difficult conditions – who seek to ensure that further steps are urgently taken to remedy conditions which have been a source of sometimes prolonged suffering, and represent a flagrant violation of the human rights of detainees as provided for in domestic law and international human rights standards.

² The Albanian Helsinki Committee (AHC) carried out a systematic program monitoring detention conditions between 1998 and 2001. See its report *Pre-Detention and Prison Conditions in Albania*, Tirana 2002, to which the present report is indebted.

³ The European Committee for the Prevention of Torture was established under the terms of the European Convention against Torture (Article 1). It is mandated to visit centres of detention with a view to examining conditions and, if necessary, making recommendations to States. The secretariat of the CPT is located within the Council of Europe's Directorate General of Human Rights.

⁴ *Shekulli*, 29 January 2004.

Overcrowding, poor infrastructure and failure to implement relevant legislation

According to official statistics, in June 2002, 1,379 people - 410 of them convicted prisoners - were held in preventive detention cells with an official maximum capacity of 825 people, in 25 police stations.⁵ They were under the guard of an over-stretched police staff of 138 officers, with no specialized training. At the time overcrowding was particularly severe in Fier, Korçë, Lezhë, Shkodër and Vlorë police stations, all of which accommodated at least twice the officially declared maximum capacity for numbers of detainees. A further 347 remand prisoners were held in the capital, Tirana, in Prison 313.⁶ According to official figures for January 2003, there were 1,492 detainees, 272 of them convicted prisoners, held in preventive detention facilities.⁷ By January 2004 some changes had occurred: the preventive detention facilities in Vlorë had passed into the jurisdiction of the Ministry of Justice, while Tirana Prison 313, with 399 inmates, was now used exclusively for remand prisoners. However, overcrowding in the preventive detention facilities of the 24 police stations still under the authority of the Ministry of Public Order, though reduced, has not been solved: the official maximum capacity is now 783, but in January 2004 there were 1,187 detainees, including 151 convicted prisoners.

One of the main causes of overcrowding in preventive detention facilities lies in the tendency of courts to remand suspects in custody pending investigation and trial, rather than to apply other measures such as bail or house arrest. This factor is exacerbated by investigation and trial proceedings which are often lengthy and delayed. Overcrowding is also due to the presence of those convicted prisoners for whom there is no place available in prisons, which in their turn are also overcrowded. However, prison capacity has increased in recent years. The third floor of prison 302 in Tirana was renovated in 2001, creating an additional 80 places. A prison in Rogozhinë, built with European Union assistance and with capacity for 340 prisoners, opened in February 2002. Most recently, at the end of November 2003, a high security prison, built with Italian funding and with accommodation for 700 prisoners, was opened in Peqin. Soon afterwards some 60 prisoners convicted in final instance were transferred there from police stations. However, by mid-January 2004 Peqin prison too was reportedly over-crowded and 10 prisoners had to be moved from there to Tirana 325 prison.⁸

⁵ At the time 25 out of a total of 40 police stations had preventive detention facilities - the remaining having only police custody facilities (police custody is for a maximum of 48 hours following arrest). Police stations in the capital Tirana do not have preventive detention facilities: prisoners on remand are detained at Tirana Prison 313. Since January 2004 all persons detained in Tirana for more than 12 hours are supposed to be transferred to Prison 313.

⁶ Figures from the Ministry of Public Order cited in Albanian Helsinki Committee, *Op.Cit.*, (note 2) pp.19, 20 and 27.

⁷ *Annual report of the People's Advocate* [Ombudsperson] March 2003.

⁸ *Panorama*, 17 January 2004.

A new prison in Lezhë, designed to accommodate 750 prisoners, is reportedly expected to open in June 2004 after considerable delay due to shortage of funds. However, it cannot be assumed that this will solve the problem of overcrowding in preventive detention facilities and in other prisons, since it appears that a considerable proportion of the increased prison capacity will be needed to accommodate repatriated Albanians convicted in Italy and Greece, whose numbers are said to total approximately 5,000.

Overcrowding is not, however, the only cause of the often inhuman or degrading conditions in preventive detention cells in police stations. These premises are generally old and dilapidated; they reflect a legacy of poverty and repression dating from the Communist era when Albania was ruled by an authoritarian regime which routinely violated many basic international human rights standards.⁹ In addition, many police stations suffered considerable damage in 1997 when the country descended into virtual anarchy with widespread attacks on public buildings and institutions. Consequently, preventive detention facilities are generally characterized by severely inadequate hygiene, sanitary and food storage facilities; poor ventilation and light; and lack of heating in cells.¹⁰ In some police stations, preventive detention cells are located in basements and can be very damp.

Remand prisoners in police stations further suffer from limited access to fresh air and exercise, poor diet, inadequate medical care, and the denial of reading and writing materials and access to radio or television.

In addition, the conditions in which detainees are held in police custody, before being brought before a court, are also in general very poor. Following its visit to Albania in 2001, the CPT noted: "*The conditions of the police custody cells which the delegation visited in Tirana and Vlorë continued to be worrying. These cells generally lacked any furniture, had poor lighting and were cold and dirty. The fact that police custody theoretically lasts for a relatively short period in Albania (48 hours) cannot reasonably justify not carrying out the recommendations already formulated by the CPT on this matter*".¹¹ Rudi Erebara, an editor of the daily newspaper *Koha Jonë*, who was arrested on the night of 18 July 2003 and held for some 12 hours in Police Station No.3 in Tirana, before being released without charge, described being put into a cell stained with blood and urine.¹²

It should be emphasized, however, that since 1998 legislation based on international standards has been introduced dealing with prisons and detention facilities and the rights of detainees. Sadly, the many positive aspects of these laws have often been disregarded. As

⁹ See Amnesty International, *Albania: political imprisonment and the law* (AI Index: EUR 11/04/1984)

¹⁰ Average temperatures vary depending on location. In Tirana and towns in the coastal plain, the approximate annual temperatures range from as high as 40°C in summer to 0°C in winter, while in the inland mountainous regions the corresponding approximate temperatures range from 30°C in summer to - 10°C in winter.

¹¹ CPT/Inf (2003) 11, paragraph 26 (translation from the French by Amnesty International).

¹² *Koha Jonë*, 20 July 2003.

mentioned above, remand prisoners in police stations are still held alongside convicted prisoners, often in the same cells, although under Albanian law convicted prisoners whose sentences have been confirmed by a final court decision must be transferred to prisons, where conditions are better and prisoners have more rights.¹³ Children (aged 14 to 17), if cell space is insufficient to allow for separate accommodation, are held in police cells together with adults, which is also illegal under Albanian law. Female remand prisoners, though held in separate cells, are reportedly sometimes held alongside male detainees, at least for short periods, despite the fact that the guards are all male and conditions unsuitable for women – a further violation of Albanian law. In February 2002 the Albanian authorities informed the CPT that an agreement had been reached with the General Directorate of Prisons that all women and children held in preventive detention would be immediately transferred to Prison 313 in Tirana, but that in practice this agreement was often not adhered to, and children remained in cells with adults. In the case of female prisoners the main problem was the lack of female police staff.¹⁴ Other legislative provisions dealing with matters such as minimum space allocation per prisoner, diet, personal hygiene, etc., also continue to be ignored.¹⁵

Albanian law provides for the establishment of special medical institutions for detainees who are drug addicts, or suffer from physical or mental illnesses or disabilities. However, the two existing institutions – Tirana prison hospital and one in Fushë-Krujë – do not have sufficient capacity and reportedly suffer from a shortage of specialist trained staff. Consequently, such detainees are also detained in preventive detention facilities, together with other detainees, where no therapy is available and they may be ill-treated by other inmates or give rise to conflicts.¹⁶

All of the problems outlined above have been documented by domestic human rights organizations, including the Albanian Helsinki Committee (AHC), which carried out a systematic program of monitoring detention conditions between 1998 and 2001. These conditions have also been authoritatively documented by the CPT.¹⁷

Protests by detainees

These problems have given rise to repeated protests by detainees. For example, on 12 March 2003 a group of 11 convicted prisoners were transferred from Durrës police station to be taken, they allegedly believed, to Kosovë prison, in Lushnjë. However, on arrival they

¹³ Article 50 of Law 8331 “On the Execution of Penal Decisions” of 21 April 1998 stipulates that prisoners should be transferred to prisons or prison camps within 48 hours of being convicted in final instance.

¹⁴ Response of the Albanian government to the CPT, 18 February 2002 (text in Albanian), see: www.cpt.coe.int/documents/alb/2003-10-inf-sqi.pdf

¹⁵ Preventive detention detainees continue to receive the same food diet as laid down in 1976 during the Communist era, despite improved diet norms stipulated by law and regulation since 1998, according to the Albanian Helsinki Committee, *Op. Cit.*, (note 2) p 59.

¹⁶ Albanian Helsinki Committee, *Op. Cit.* (note 2) p.120.

¹⁷ See CPT/Inf (2003) Nos. 6,7,9 and 11.

discovered that instead they had been taken to preventive detention cells in Berat. They protested and asked for a meeting with the Director of the General Directorate of Prisons complaining that the conditions in Berat were worse than their previous conditions. They demanded transfer to prison. A few days later, at least nine of them went on hunger strike to press their demand. They finally ended their hunger strike on 24 March after a meeting with local police authorities, who explained that the order for their transfer to prisons had been issued, but that all prisons were full and could not accept them. However, they were promised transfer to prisons in a month's time, when places were expected to become available.¹⁸ In September 2003 there was another hunger strike by some 50 convicted and remand prisoners in Berat. It was called off after four days when the hunger strikers won minimal concessions, such as the right to use the toilets, to medicines and to doctor's visits. However, their demands for extended family visits and the transfer of convicted prisoners to prisons were not met.

There were reports of other similar protests during 2003 by detainees held at police stations in various towns, including Kukës, Shkodër and Vlorë.

Detainee wins court case against Rrëshen (Mirditë) police station

Legal history in Albania was made in August 2003 when Artan Beleshi, aged 30, represented by his lawyer Aleksandër Përlësi, won a court case against Rrëshen (Mirditë) police station and the General Directorate of Prisons for the inhuman and degrading conditions in which he was held in the police station, and the failure to transfer him, within the legal time limit, to a prison after conviction. The appalling conditions in Rrëshen police station had been highlighted previously by the Albanian Human Rights Group in an open letter of 10 May 2002 to the Albanian authorities, which spoke of 32 detainees in cells which, according to Ministry of Public Order figures for June 2002, had a maximum capacity of 12. Three days later the daily *Koha Jonë* reported that prisoners could only lie down to sleep in turns, and the air was so foul that fresh air had to be pumped into cells.

Artan Beleshi had been arrested on 23 March 2000 and convicted on 30 October 2001; by law he should have been transferred to prison in March 2002. However, he remained in the preventive detention cells in Rrëshen police station until 24 May 2003 before finally being transferred to Rrogozhinë prison. In his suit for compensation he stated:

“Both during the investigation proceedings and during the trial period I was held in preventive detention at Rrëshen police station. On 30 October 2001 I was convicted (penal decision n.55) and sentenced to eight years’ imprisonment; this decision was confirmed by Tirana Court of Appeal on 4 February 2002 (decision no.30). After this decision became final the Prosecutor’s Office of Mirditë District issued an order for the execution [of the sentence], according to which after 24 hours I should have been sent to a special institution for serving

¹⁸ *Shekulli*, 16 March 2003; *Koha Jonë*, 25 March 2003.

sentences [a prison]. This order was sent to the Police Station (document no.851/1 of 21 March 2002). From the moment of my arrest until I was sent to [prison] I spent three years and two months in preventive detention cells. During this period I endured inhuman and degrading conditions; I slept in a cell with up to eight people although the space was not enough for even two people. There were not even minimal conditions for the detention of prisoners on remand; for three years and two months I slept without a bed on a mattress which for years had not been changed or washed, which smelled of urine, and continually caused me headaches. Most of the time we carried out our personal needs, such as urinating and defecating, inside the cell, since permission to go to the toilet was limited to three times in 12 hours. So in the same cell, eight people slept, eight people ate, we slept in turns since there was no room to stretch out, we carried out our personal needs in the same room, - finally, I felt not like a detainee awaiting trial, but like an animal in a zoo. For three years and two months, I was visited, examined and treated with various medicines because I fell ill due to the lack of hygienic conditions, such as fresh air, lighting, and general hygiene, I suffered infectious diseases such as scabies etc. I repeatedly complained to the competent institutions requesting improved conditions and an immediate end to this situation, but the reply from these institutions was that the State was not in a position to improve conditions because of its difficult financial situation. The fact that a state is experiencing difficult financial conditions does not justify treating detainees in an inhuman and degrading way.”

Artan Beleshi claimed 500,000 leks (about €3,660) compensation from Mirditë police station for the inhuman and degrading conditions he had suffered, and a further 500,000 leks compensation from the General Directorate of Prisons for the failure to transfer him within the legal time limit to a prison. The court’s Decision no.156, dated 4 August 2003, noted that it had ordered an expert survey of Mirditë police station. This survey found that the police station has six remand cells each measuring 11.24 cubic metres. Furthermore, on the basis of information provided by the police station, there were no beds for detainees, and the average number of detainees during the period when Artan Beleshi was there was four to five to a cell. The court noted that by [Albanian] law detainees were required to have individual beds and bed-linen and that the minimum space required for each prisoner was nine cubic metres and a surface space of four square metres.¹⁹ The court noted that the capacity of each remand cell – 11.24 cubic metres – was thus only enough for one person, and quite inadequate for four or five. The court ruled that the conditions **“truly do not meet the standards laid down in the laws and regulations.... They may truly be called degrading.”**

Furthermore, the court ruled that Artan Beleshi’s rights had been violated also by the failure to transfer him, within the time required by law, to a prison after his conviction. The court ruled in his favour and awarded him 700,000 leks (approximately €5,150) in compensation: 200,000 leks to be paid by Mirditë police station for the degrading conditions

¹⁹ Article 21 of the (Albanian) General Regulation of Prisons. The CPT’s recommendations for police cells intended for single occupancy for stays in excess of a few hours are: “in the order of 7 square metres, 2 metres or more between walls, 2.5 metres between floor and ceiling” (as a desirable level rather than a minimum standard). CPT/Inf 92 (3).

of detention, and 500,000 leks, to be paid by the General Directorate of Prisons, for failing to transfer him to a prison within the required time-limit. The court also ruled that Mirditë police station pay court expenses. Artan Beleshi reportedly intended to file an appeal claiming full compensation of 1,000,000 leks.

To Amnesty International's knowledge, this was the first case in which an Albanian court awarded compensation for degrading and inhuman conditions of detention, and may well be the first case in which such a suit was filed. However, the conditions to which Artan Beleshi was subjected were by no means unique. Most other detainees have experienced similar conditions and could potentially bring similar lawsuits.

Caught between two Ministries

A contributing factor to the failure to address these issues has been the long period of 'limbo' following the announcement that the responsibility for the administration of preventive detention facilities was to be transferred from the Ministry of Public Order to the General Directorate of Prisons within the Ministry of Justice. In October 2000 the Ministry of Public Order stated that this transfer had already been under discussion for several months.²⁰ The transfer was formally instituted in Article 6 of Law no.8678 of 2001 "On the organization and functioning of the Ministry of Justice", but its implementation was delayed. In the meantime, the Ministry of Public Order had little incentive to spend resources to deal with a problem which would soon not be within its remit, while the General Directorate of Prisons and the Ministry of Justice were reluctant to assume immediate responsibility for all preventive detention facilities and their inmates given the shortage of funds for infrastructure.²¹ As a result the situation in preventive detention facilities continued to deteriorate.

In this connection, it should be noted that in February 2002 the Ministry of Public Order, in a response to the CPT, stated: "*The Ministry of Public Order and the General Directorate of Police have secured funding to renovate all the police stations which have preventive detention cells, mainly in terms of hygienic and sanitary conditions, family meeting rooms, cold storage space for food stores, bed and bedding and other humanitarian conditions.*"²² It is not clear how - or if - this funding has been spent. At any rate, in the four police stations visited by Amnesty International in late 2002 and March and April 2003 there was no visible sign of any such renovation, and this seems to be the case elsewhere, with the exception of the preventive detention facilities at Vlorë, where some improvements have been made. In its response to the CPT the Ministry added that other problems, such as the need to extend cell space and exercise yards, could not be addressed, for technical and other reasons, and that even if provision were made for such expenses, they would be "wasted", since in the

²⁰ CPT/Inf (2003) 9.

²¹ Information from the Albanian Helsinki Committee, 23 April 2003.

²² Response of the Albanian government to the CPT, 18 February 2002 (translation from Albanian by Amnesty International) . www.cpt.coe.int/documents/alb/2003-10-inf-sqi.pdf

near future the system of preventive detention would pass into the charge of the Ministry of Justice.

From November 2002 onwards, the Parliamentary Commission on Public Order and the State Information Service on a number of occasions raised with the government the issue of preventive detention overcrowding, and the situation of the 400 or so convicts who were illegally held in police stations.²³ In May 2003 a government decision transferred responsibility, as from July, for the administration of preventive detention to the Ministry of Justice. Finally, in August 2003 the process of transfer – to be phased over two years – began when the Ministry of Justice took charge of the preventive detention premises at Vlorë police station.²⁴

Proposals for reform

At present it is reportedly proposed to replace the preventive detention facilities in 24 police stations with a much smaller number of preventive detention centres located in the main regional cities.²⁵ These centres are to be designed to conform to international standards for detention conditions; they will be under the authority of the Ministry of Justice. The sites and buildings proposed for these new centres are reportedly mostly owned by the Ministry of Defence, and their take-over by the Ministry of Justice will require negotiations between the two ministries.

August 2003 saw the start of a CARDS (Community Assistance for Reconstruction, Development and Stabilisation) Twinning Project, funded by the European Commission and supported by logistical aid and expertise from the Austrian Prison Service. This year-long project aims to improve the penitentiary system by establishing a national strategy and action plan related to preventive detention. Within this project joint Albanian-Austrian teams are working on four main topics: legal aspects, institutional and organizational matters, infrastructure and staff policy.²⁶

Funding remains a major problem, however, and Amnesty International is concerned that in the interim period, while the necessary financial resources are being found and new preventive detention centres are being planned and built, there may be little incentive to

²³ Interview with Professor Neritan Çeka, Chair of the Parliamentary Commission on Public Order and the State Information Service, 28 April 2003.

²⁴ *Koha Jonë*, 19 August 2003.

²⁵ As noted earlier, at present Tirana Prison 313 has been allocated for the accommodation of remand prisoners. According to a report in *Gazeta Shqiptare* of 8 August 2003 preventive detention quarters are to be built within the premises of the Tirana Prosecutor's Office for those detained in the capital.

²⁶ Information about this project and related issues has been provided to Amnesty International by Adolf Herzer, an Austrian prison director and penitentiary specialist, the long-term consultant and coordinator of this project.

allocate resources for urgently required improvements to current conditions in preventive detention cells in police stations.

International standards and Albanian law on detention conditions

The minimum requirements relating to detention conditions are set out in international standards, and in particular in the UN Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules)²⁷. These require, among other things, that:

“8. The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

- (a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;
- (b) Untried prisoners shall be kept separate from convicted prisoners;
- (d) Young prisoners shall be kept separate from adults.

10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

11. In all places where prisoners are required to live or work, (a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation; (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

14. All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

²⁷ The following requirements apply to prisoners in preventive detention as well as to convicted prisoners.

15. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

17. (2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

20. (1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. (2) Drinking water shall be available to every prisoner whenever he needs it.

21. (1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

22. (1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry....

(2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals...

(3) The services of a qualified dental officer shall be available to every prisoner.

40. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.”

Section C of the Standard Minimum Rules deals specifically with the rights of prisoners under arrest or awaiting trial. In particular, Rule 84 (2) states: “Unconvicted prisoners are presumed to be innocent and shall be treated as such.” Other requirements set out in Section C include the provision that unconvicted prisoners should benefit by a special regime and in principle should sleep separately in single rooms, that they should be provided with the opportunity to do paid work – but not obliged to work – and that they should, if they wish, be able to obtain at their own expense food, books and newspapers.²⁸

Albania’s legal requirements concerning conditions for those in preventive detention are to be found in: Law 8328, “On the Rights and Treatment of Persons sentenced to imprisonment”, of 16 April 1998; Regulation 1075, “For the Security and Treatment of Persons in Preventive Detention”, of 15 September 1999; and Decision No 63 of the Council

²⁸ Other relevant standards include the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the UN Basic Principles for the Treatment of Prisoners, the Council of Europe’s European Prison Rules and standards set out by the CPT.

of Ministers, “General Regulations for Prisons”, of 9 March 2000.²⁹ These legal provisions are closely modelled on the Standard Minimum Rules, and provide for the conditions specified above (with the exception of those cited from Section C). In at least one respect they are more specific: Regulation 1075 states that single person preventive detention cells should be two and a half metres by five metres by three metres, and that cells accommodating more than one person should provide 10 cubic metres of space per person. The introduction of such legislation in Albania is in itself a significant advance. Unfortunately, the actual conditions in the police station cells described below – conditions which exist to a lesser or greater degree in other police stations where remand prisoners are held – demonstrate that its provisions have in practice been largely ignored.

Visits by Amnesty International delegates to four police stations

Amnesty International delegates visited preventive detention cells in police stations in Vlorë, Shkodër, Lezhë, Laç in 2002 and 2003, and observed conditions similar to those in Rrëshen so graphically described by Artan Beleshi. Throughout their visits Amnesty International delegates enjoyed the cooperation of officials, many of whom acknowledged the concerns and practical problems arising out of these conditions.

Vlorë police station – a new start

Background: inhuman and degrading conditions, scabies, protests by detainees

During its visit to Albania in October 2001, the CPT - the primary European body monitoring detention conditions - visited preventive detention cells in Vlorë police station. The conditions were so poor that the CPT delegates concluded that the premises were probably beyond repair and should be torn down:

“The CPT delegations also observed that the preventive detention premises of Vlorë Police Station were in an advanced state of dilapidation, as was confirmed by the establishment’s doctor, who considered the preventive detention cells unhealthy. The foundations of the building were attacked by rising damp, which had reached half-way up the walls. The source of this humidity was, it seems, a poorly designed drainage system. This dilapidation had made the walls unsound, resulting in frequent escapes by detainees. Because of these conditions, all the detainees had been transferred, some days before the delegation’s visit, to other establishments in the region. Even so, a score of convicted prisoners was still there during the visit, waiting transferral to prisons...”

“The Committee wishes to add that only major works – involving most probably the destruction of the present cell premises and the construction of new quarters – can offer

²⁹ Law 8328 and Decision No 63, while relating primarily to convicts serving sentences in prisons, both explicitly state, in respective Articles 75 and 92, that they also apply to those in preventive detention.

conditions providing satisfactory security and accommodation [emphasis as in original text].”³⁰

Amnesty International is informed that some reconstruction work was subsequently carried out but this was to make the facilities more secure rather than improve conditions for detainees.

Amnesty International visit in 2002

A representative of Amnesty International visited the preventive detention cells at Vlorë police station in October 2002 and noted severe overcrowding, minimal ventilation and natural light, extremely poor hygiene, poor food, and lack of any recreational or educational activities such as access to reading or writing materials, or radio. Some detainees held in Vlorë police station had been held there for up to two and a half years. According to official figures, the premises have a capacity of 42 detainees, but the guards on duty stated that there were normally 100 to 110 detainees.³¹ Six detainees were convicted prisoners; of these several had been convicted in final instance and should, by law, have been transferred to prisons. The remaining detainees were remand prisoners. At the time no women or minors were detained in these cells: the delegate was informed by the guards that when women or minors are detained, a cell is emptied so that they may be accommodated separately. According to other local sources, however, minors are sometimes held in the same cells as adult detainees.

One of the cells, seen by the delegate, measured roughly one metre by two and a half metres, which accommodated three men. There was no access to fresh air, apart from a small grill giving onto the corridor, and no natural light other than a small barred skylight. There were no beds or mattresses; detainees slept on the wooden floor on blankets brought by relatives. According to the guards, in winter detainees are provided with mattresses and families may provide extra blankets (there was no heating in the cells). Plastic bags with the remains of food, and plastic bottles of water, brought by relatives, were propped up against the walls. Prisoners were responsible for cleaning their own cells. The delegate also saw a larger cell, roughly six metres by four metres, accommodating 11 men which in other respects resembled the first.

Detainees were allowed to smoke. They were not permitted any reading or writing materials, radio or television. They were not allowed games (for example, cards). No education was provided for minors. Weather permitting, detainees were allowed one hour's exercise a day (except Sundays). The exercise yard, which lay at the end of the central corridor running between the two rows of cells, was about 20 metres by three metres; it was littered with cigarette butts. On one side of the yard there was a row of narrow, partitioned spaces where prisoners who were considered aggressive spent their exercise time.

³⁰ Report CPT/Inf (2003) 11 (translation from the French by Amnesty International).

³¹ Ministry of Public Order figures gave the number as 109 in March 2001 and 116 in June 2002.

The detainees were given three meals a day: generally tea and bread in the morning; bean soup at mid-day; some more soup for the evening meal. In practice most detainees relied on food (bread, cheese, salami etc.) brought in by relatives. There was no suitable storage for this food in refrigerators or cupboards – in disregard for hygiene it was left on open shelves, together with detainees' bags containing clothes. In the same room there was a barred window through which detainees could communicate, across a gap of some two metres, with visiting relatives. There was a separate small room where detainees could speak with their lawyers. There was one "washroom" with a toilet for all the detainees and no running water. The washroom was dirty and at the time of the delegate's visit the drains were blocked. Detainees were allowed to go to the toilet three times a day, and only exceptionally, also at other times. Detainees were reportedly permitted a shower three times a month; their clothes were mostly washed by their families.

On the occasion of this visit, the service doctor was in a small room examining a detainee who was seated on a chair; there was no examination bed, and there were guards present in the room. The doctor voiced his frustration at the lack of suitable working conditions and nursing assistance, the long working hours and repeated visits by foreign delegations which had not led to concrete improvements. He warned that the unsanitary conditions and blocked drains risked provoking an epidemic (see below). He spoke eloquently of the need for the construction of more cells and washing facilities and the allocation of a suitable room and equipment for examining and treating patients.

The detention of the mentally ill

In February 2003 the press reported that conditions in the preventive detention cells in Vlorë were at breaking point; 110 detainees were being held in cells designed to accommodate 42 persons. Among them was a mentally ill man, detained for a stabbing. He was no longer in control of himself, and was excreting in his bedding, exacerbating the already intolerable conditions and placing further strain on other detainees and on police staff. A court had ordered his transfer to a prison psychiatric hospital, but no such placement was available.³²

Scabies epidemic and protest in 2003

The earlier warnings that overcrowding and extremely unhygienic conditions would lead to epidemics proved true. In April 2003 there was an outbreak of scabies amongst detainees in Vlorë police station. Although police sources claimed to have improved hygiene, by June about 80 per cent of detainees - who by then reportedly numbered 125 - were infected, according to *Gazeta Shqiptare*.³³ In mid-July eight of the detainees, all convicted prisoners, went on hunger strike in protest at conditions in the station: all requested transferral to prisons. Three were hospitalized after refusing all water as well as food. Eventually the eight, together with six other convicts whose sentences had been confirmed, were transferred to prisons.

³² *Gazeta Shqiptare*, 20 February 2003.

³³ *Gazeta Shqiptare*, 7 June 2003.

The General Directorate of Prisons and Ministry of Justice take charge; conditions start to improve

In February 2003 it was reported that 80 million leks had been assigned from the state budget for the reconstruction of Vlorë police station.³⁴ Finally, in August 2003 Vlorë police station preventive detention facilities were transferred to the General Directorate of Prisons within the Ministry of Justice.³⁵ On 6 December 2003 *Koha Jonë* reported: “*Conditions in Vlorë preventive detention cells are improving... Detainees are sleeping...on bunk beds...and have the right to read newspapers, books, to listen to radio and watch television. The number of inmates per room has been reduced - it used to be about 10 or 15 inmates – [due to] the transfer of those who have been convicted in final instance. The day after the final court decision is received, a car arrives to take them to the prisons. According to the director, there are now daily meetings with the family, which makes it possible for cell mates to eat homemade food every day... Apart from conditions inside the cells, funds have also been earmarked for the reconstruction of the cells, and installing showers and wash-rooms, and exercise yards in proper conditions.*” It appears, however, that this account was not entirely accurate: in January 2004 some detainees still did not have beds, and while prisoners could, at their own expense, obtain books, newspapers and radio, there was no television available yet. Although visits could be scheduled every day, each detainee had the right to only one visit a week, and could then receive five kilograms of food. Security had been improved: gates to the entrance to the preventive detention quarters and to the cells had been replaced and video-monitoring installed. A room for medical examinations had been equipped, but the planned works for washrooms, showers and exercise yard had not yet been carried out.³⁶

The improvements which have been made are to be welcomed; nonetheless, pending the proposed reconstruction work, conditions for remand prisoners held in Vlorë police station still fail in many respects to meet the minimum requirements set out in Albanian law and international standards.

Amnesty International visits to Shkodër, Lezhë and Laç in 2003

In April 2003 Amnesty International delegates visited Shkodër, Lezhë and Laç police stations and found that conditions were very similar to those observed in Vlorë police station in October 2002. In **Shkodër** police station, with a maximum capacity of some 50 detainees,³⁷ there were 98 detainees including convicted prisoners, some of whom had been held there

³⁴ *Gazeta Shqiptare*, 25 February 2003 – this report refers to the reconstruction of the police station, and offices, but does not specifically mention the preventive detention premises.

³⁵ *Koha Jonë*, 19 August 2003.

³⁶ Information provided by Adolf Herzer, Austrian coordinator of the CARDS Twinning Project.

³⁷ The Amnesty International delegates were informed by the chief of the Police in Shkodër that the official capacity was 46, while figures provided by the Ministry of Public Order to the Albanian Helsinki Committee put the capacity at 50.

since 2000. Minors shared cells with adults. In some cells the overcrowding was so acute that the inmates had to sleep in turns. In all there were 14 cells of three different sizes: one large, seven medium and six small. None of the cells had any heating facilities for the winter (this was also the case at the other police stations visited). All the cells were approximately four metres high. The small cells were approximately three metres wide by three metres long; the medium-sized cells were approximately three metres wide and seven metres long, while the large cell was approximately seven metres long by seven metres wide. The Amnesty International delegation was informed by police officers that the small cells were designed to accommodate up to two detainees, the medium up to three, and the big cell up to five.³⁸ At the time of the visit the delegation found that there were up to six people held in the small cells, making it virtually impossible for all the inmates to sleep at the same time. The delegates were informed that the inmates in one such cell, which accommodated six people aged from 14 years old to 28 years old, either slept in turns or “simply managed” as best they could. The medium sized cells contained up to eight inmates, again with convicted prisoners sharing cells with remand prisoners, while in the big cell there were 19 detainees, including one 14-year-old and five convicted prisoners. None of the cells had windows or natural light and all the cells were ventilated by rectangular grills – the big cell having two such – measuring approximately 40cm by 6cm. Here as in Vlorë, Lezhë and Laç, the cells were either side of a corridor and the only source of fresh air for the cells came from the end of the corridor which led into the exercise yard. The ventilation and light in the big cell were especially poor and it was noticeable that many of the inmates of this cell were drowsy or actually asleep when Amnesty International visited in mid-morning.

There were six ‘exercise’ rooms of approximately three metres by one and a half metres and open to the elements with a wire-netting roof, where inmates of a particular cell were officially allowed one hour a day. These exercise rooms were in effect little more than cells; such cramped conditions could hardly offer detainees the possibility of any real exercise, and at the time of the visit the cells were full of detainees standing around and smoking. However, the Amnesty delegates were informed that detainees were often allowed more time in these open air rooms as some compensation for the acute overcrowding in their cells.

Washing facilities consisted of one shower in a corridor, and there were two squat toilets. Inmates were not allowed to go to the toilet facilities at night (between 10pm and 7am) and in those periods were obliged to make do with plastic bags and other receptacles - a practice also observed in the other police stations subsequently visited by the Amnesty International delegation. Mattresses and some blankets were supplied by the authorities and, as elsewhere, could be supplemented by additional bedding from family or friends. The detainees’ clothes were washed by family members who brought in clean clothes during visits. Those without such outside assistance washed their clothes themselves and dried them in the station. Food was provided as per standard prison norms and consisted of tea and bread for breakfast, soup and bread at mid-day, and beans (approximately 90 grams) and bread for the

³⁸ Once again there is a problem with the figures. This makes a total of 38, and it is not clear what the basis is for the official maximum capacity - whether this be 46 or 50.

evening meal. This meagre diet could be supplemented by up to five kilos of food brought in by relatives or friends every ten days. All food was consumed in the cells. Detainees were not allowed reading or writing materials or any other such recreational aids: this was the case in all places visited by Amnesty International, and the organization was informed that, unlike facilities afforded to convicts in prisons, this was a uniform practice throughout the country.

As mentioned earlier, the renovated Shkodër district court building, inaugurated at the end of January 2004, reportedly now includes four cells for remand prisoners. Amnesty International has as yet no further details about the conditions these provide for detainees.

The Amnesty International delegation found similar overcrowding and poor conditions in Lezhë and Laç police stations. In **Lezhë** police station, visited by Amnesty International delegates on 26 April 2003, there were 40 inmates in the preventive detention cells although the official maximum capacity was 20. The delegates were informed that in September 2002 there had been 79 inmates but many were transferred due to the station being flooded by rising waters from the nearby river – apparently a common occurrence.³⁹ The delegates were informed that some of the inmates had been detained there for two and a half years or even longer. Four convicted prisoners, including one person recently sentenced to life imprisonment and another to 15 years, were sharing cells with remand prisoners. The delegates were informed that minors were also normally detained in cells together with adults, but at the time of the visit no minors happened to be detained. The degree of overcrowding was similar to that in Shkodër. In one cell approximately three metres long by one and a half metres wide and three metres high (all the cells were of the same height and again ventilated by small grills) there were three people, one of whom had already been detained there for 14 months, while the other two had been there for two months. Another cell approximately three metres long by four metres wide accommodated five detainees. In a third cell some two metres by three metres there were three people, one of whom had already been detained for two and half years. This pattern of overcrowding was repeated in all cells. A slight improvement in the conditions compared with those in Shkodër were the four exercise yards which were each approximately eight metres by three metres, allowing more scope for genuine exercise.

In **Laç** police station, with official capacity for 24, there were 55 inmates when Amnesty International delegates visited the police station on 26 April 2003. The delegation was informed by the head of the police station that by chance there were no convicted prisoners being detained at the time in the station. There were about six detained minors who, the delegation was told, would if possible be held separately from adults, although this was usually not possible in practice. In fact minors were again mixed with adults. In one cell measuring approximately three metres wide by two and a half metres long by two and half metres high, with the apparently standard small ventilation grill, there were three minors and two adults. Of the three minors, one 16-year-old had been there for one month, while the

³⁹ At the time of the visit by Amnesty International delegates new wooden floors were in evidence in the cell blocks to replace the previous floor damaged by the flooding.

other two, aged 16 and 17, had been detained there for six months. The two adults in the cell were aged 20 and 24. Two of the 10 cells in Laç were very small and acutely overcrowded. The delegates found four detainees in one of the small cells measuring approximately one and a half metres by two and half metres, while in another similarly sized cell four people had reportedly been detained in the previous week although two had in the meantime been released. Overall, the light was very poor in the whole detention block, and there was a general prevalence of unsanitary and dirty conditions, with half-finished plates of food lying on the floors of cells, and standards of cleanliness below that of Shkodër and Lezhë.⁴⁰ The three ‘exercise’ cells were similar to those in Shkodër: approximately one and half metres by two metres.

Conditions in preventive detention facilities in other police stations

Amnesty International believes that the conditions described above are not exceptional; to a greater or lesser extent they are similar to the conditions described by the Albanian Helsinki Committee in its report *Pre-Detention and Prison Conditions in Albania*. It appears that in general detention conditions have not improved since then, except in Vlorë. Visits to eight of the larger preventive detention facilities carried out in the latter half of 2003, in the context of the CARDS Twinning Project referred to earlier, reportedly revealed the following problems:

- Overcrowding – sometimes amounting to more than 100 per cent of normal capacity; the regulations on minimum space per prisoner disregarded
- Most cells lack real windows, and have only small openings which allow minimal fresh air and light to penetrate the cell
- No furniture (table, bed, wardrobe, armchair) in cells
- No running water, washing facilities or toilets in cells; latrines in communal sanitary areas do not allow for privacy
- Because of overcrowding there is a shortage of blankets in some facilities during the winter season; no heating in cells
- Detainees allowed to exercise at most for an hour a day, in cramped exercise yards
- Prisoners complain of hunger; the daily ration officially amounts to 1900 calories, but they complain of small portions
- No radio or television
- There is no work for detainees, who spend 23 hours a day in their cells
- Relatives are allowed to visit only once in 10 days
- Lengthy detention – often up to two years

⁴⁰ It is possible that the dirty plates were in evidence due to a recent meal but none of the inmates were eating and there appeared to be no urgency in cleaning the cells even though Amnesty International was officially visiting and had warned the authorities in advance of their arrival.

- Unconvicted and convicted detainees are not held separately; minors are at best held in a separate cell; except in Tirana prison 313 there is no separate section for women detainees
- Dilapidated buildings; lack of modern technical security systems

Other deficiencies noted by the CARDS Twinning Project team were the lack of educational provision for detainees, and the lack of kitchens and laundries. There was a need for improvements in the organization and management of staff in charge of these facilities, as well as better education, training and pay. It was observed that a greater use of modern security technology would lessen the burden on staff and enable them to give more attention to the treatment of prisoners.⁴¹

The detention of children ⁴²

The detention of children should be seen as a last resort and not a routine policy. In Albania penal responsibility starts at 14 years, and the age of majority is 18 years. While all detainees should be afforded at least the minimum required by international standards governing conditions of detention, children in custody are especially vulnerable and need special conditions. The international standards as laid out in international treaties to which Albania is party oblige Albania to provide children in detention with conditions and procedural guarantees geared to their special needs. These include procedures which must take account of children's age [International Covenant on Civil and Political Rights (ICCPR), article 14(4)], the treatment of children in a manner consistent with the promotion of their sense of dignity and worth [Article 40(1) of the UN Convention on the Rights of the Child (CRC)], and the right to have legal or other appropriate assistance [CRC, Article 40(2) (b) (iii)]. Albania is also under an obligation to "promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law" [CRC, Article 40(3)]. These safeguards are all the more essential given that Albanian human rights organizations defending children have reported that minors are almost routinely ill-treated by police following arrest and in police custody.⁴³

In October 2002 monitors from the non-governmental organization Children's Human Rights Centre of Albania (CRCA) visited a number of police stations, including those in Shkodër, Vlorë, Sarandë and Korçë. They found that children were sometimes detained in

⁴¹ Information provided by Adolf Herzer, Austrian coordinator of the CARDS Twinning Project.

⁴² Under Article 1 of the Convention on the Rights of the Child: "For the purposes of the Convention, a child means every human being below the age of 18 unless under the law applicable to the child, majority is attained earlier."

⁴³ See previous Amnesty International publications on Albania especially *Concerns in Europe and Central Asia July – December 2002: Albania*, (AI Index: EUR 01/002/2003) which also details the CRCA findings of October 2002 concerning allegations of torture and ill-treatment of children in police custody. See also *A report on the situation of children in Albanian police stations and pre-trial detention centres*, CRCA, May 2000.

preventive detention for long periods even if accused of petty crimes; they reportedly encountered cases in which children had been kept in detention for up to a year before being acquitted of all charges. During detention the children's access to their families was restricted, they were deprived of education and even of any reading or writing materials, and were given food which did not meet their nutritional requirements.⁴⁴

In this connection Amnesty International notes that the UN Rules for the Protection of Juveniles Deprived of their Liberty (Rule 2) state that deprivation of liberty of juveniles should be "*limited to exceptional cases*"(emphasis added). This principle is reinforced by the UN Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") which state that:

"13.1 Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time.

13.2 Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home."

In the police stations which the CRCA monitors visited (with the exception of Korçë police station), they found that children were routinely placed in cells together with adult detainees. These findings were confirmed by the AHC and by the observations of Amnesty International delegates on their visits to Shkodër and Laç police stations. By detaining children, and sometimes detaining them for long periods, together with adult detainees, the Albanian authorities not only flout national and international law but also expose child detainees to serious risk of harm, including sexual abuse. The CRCA reported that its monitors encountered three cases in which child detainees had allegedly been sexually abused by adult detainees in Vlorë and Sarandë police stations.

There have been other allegations of abuses: on 25 April 2003 the daily *Shekulli* reported that at a court hearing a 16-year-old defendant, B.S., alleged that minors held on remand at Prison 313 in Tirana, although they did not share cells with adult prisoners were held on the same floor, and risked assault by adult prisoners when they left their cells to go to the toilet or shower. He alleged that he had been punched, burned with cigars, and stabbed with a sharp object made from electrodes, by three older prisoners while being held for six months in preventive detention quarters in this prison. In support of these allegations he showed the court marks of his injuries. On 6 May 2003 *Shekulli* reported that the judge had reduced his sentence by a month, in consideration of the fact that he had spoken out publicly about his ill-treatment. In view of the time he had already spent in pre-trial detention, this reduction resulted in his immediate release.

In August 2003 the Ministry of Justice announced that it was drafting amendments to laws on "The Rights and Treatment of the Prisoners", "The Execution of Sentences" and "The Organization and Functioning of the Judicial Police". These amendments were reportedly

⁴⁴ *Korrieri*, 19 November 2002.

intended to bring the laws into line with international standards, with the aim of preparing a special program for the protection and treatment of children serving sentences both in the Vaqarr penal institution where convicted minors serve their sentences, and in preventive detention.⁴⁵ The amendments have not yet been adopted.

Medical care

A feature common to all the police stations visited by Amnesty International and reportedly confirmed in other stations was the very limited medical facilities for detainees. In response to concerns about medical care raised by the CPT the government replied that in some police stations there was no permanent doctor because this job was not attractive; as a result the head of the police station was obliged to request the assistance of doctors from outside, who often refused to visit preventive detention premises since they were not legally required to do this work. In such cases detainees were treated in civilian hospitals, creating security problems.⁴⁶ There are no regular visits by qualified dentists, although at Lezhë police station, for example, Amnesty International delegates were informed that, if necessary, acute dental care was available at the nearby polyclinic.

Unlike their professional colleagues, the doctors working at police stations are employees of the Ministry of Public Order, rather than the Ministry of Health.⁴⁷ Some Albanian human rights groups consider that this can undermine their independence. Furthermore, service doctors allegedly tend to be reluctant to send detainees to hospital for treatment unless they are very dangerously ill. As mentioned earlier, the only prison hospital is Tirana prison hospital, apart from an institution in Fushë-Krujë intended for the elderly, mentally disturbed and drug addicts, with very limited capacity and a shortage of professionally trained staff. A recent press report highlighted the lack of provision for those mentally ill prisoners who represent a high security risk.⁴⁸

A further point was raised by the CPT in a report on its visit to Albania in December 2000 when it specifically recommended that each detainee should undergo a medical examination in conditions of confidentiality within 24 hours of arrival at a preventive detention centre.⁴⁹ In view of the fact that torture and ill-treatment by police most commonly take place immediately following arrest and in police custody such an examination would not only allow for appropriate treatment, as necessary, but would also help to ensure that medical evidence was recorded before injuries, such as bruising, disappear with the passage of time.⁵⁰

⁴⁵ *Shekulli*, 2 August 2003.

⁴⁶ CPT/Inf (2003) 12.

⁴⁷ With the transfer of preventive detention facilities to the Ministry of Justice, it appears likely that in due course doctors will be employed by this Ministry.

⁴⁸ *Koha Jonë*, 3 February 2004

⁴⁹ CPT/Inf (2003) 9.

⁵⁰ See Amnesty International reports: *Concerns in Europe and Central Asia, January to June 2003*, AI Index: EUR 01/016/2003; *Albania: Alleged ill-treatment of detainees by police*, AI Index: EUR 11/004/2002; *Albania: Torture and ill-treatment – an end to impunity?* AI Index: EUR 11/001/2001

Solutions to overcrowding

Overcrowding in preventive detention facilities has been to some extent lessened by creating additional prison capacity, and the subsequent transfer of a number of convicted prisoners to prisons. Various factors, however, including the likely repatriation of considerable numbers of Albanians convicted in Italy and Greece, indicate that this may not be a lasting solution.

Prison overcrowding in Albania has reflected the significant increase in organized crime, and in the incidence of violent crimes against the person, that followed the break-down of law and order in 1997, and which has led to a corresponding increase in the number of long-term prisoners.⁵¹ Prison overcrowding is also, however, partly due to legal provisions designed to sharply deter not only violent crime against persons, but also crimes against property. For example, under Article 134(2) of the Criminal Code non-violent theft even of a relatively petty order, if committed by more than one person, carries a minimum sentence of five years' imprisonment.⁵² In addition, courts rely heavily on the penalty of imprisonment - as opposed to non-custodial penalties - partly because the necessary administrative structures for enforcing alternative penalties are lacking.

Experience has shown, however, that overcrowding is not necessarily solved, at least in the long term, by increased prison capacity.

“To address the problem of overcrowding, some countries have taken the route of increasing the number of prison places. For its part, the CPT is far from convinced that providing additional accommodation will alone offer a lasting solution. Indeed, a number of European States have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. By contrast, the existence of policies to limit or modulate the number of persons being sent to prison has in certain States made an important contribution to maintaining the prison population at a manageable level.”⁵³

Another factor contributing to overcrowding in preventive detention facilities is the general tendency for courts to remand suspects in custody pending investigation and trial. The UN Human Rights Committee has stated that "pre-trial detention should be an exception and as short as possible."⁵⁴ In Albania, however, although some people are released on bail or

⁵¹ In 2002 the largest group of convicts - 743 out of a total of 1,399 - serving sentences in prisons was made up of people convicted of murder or attempted murder while the second largest group - 353 - was of those convicted of theft with violence, Albanian Helsinki Committee, *Op. Cit.*, p 27.

⁵² *Gazeta Shqiptare*, 30 January 2003, reported that two young men, Gramoz Metani and Elton Mehmeti, were sentenced under Article 134 (2) to six and five years' imprisonment respectively for stealing a mobile telephone; their sentences were confirmed on appeal.

⁵³ *The CPT Standards*, CPT/Inf/E (2003) 1.

⁵⁴ Human Rights Committee General Comment 8, para. 3.

placed under a security measure such as house arrest pending investigation and trial, this is not the general rule. Albania is not alone in this respect: it is reported that remand prisoners form a large percentage of total prisoners in many Council of Europe member States. However, Albania, where remand prisoners are said to account for 47.8 per cent of all detainees, does feature as one of the Council of Europe member states with a particularly high percentage of remand prisoners.⁵⁵

Overcrowding is also exacerbated by lengthy investigation and trial proceedings. The AHC has commented that judges tend not to make use of legal provisions which in certain cases allow for accelerated trial proceedings, fearing that public opinion will suspect them of corruption.⁵⁶ Further, trial proceedings are often protracted for reasons such as the non-attendance in court of the prosecutor, defence lawyer or witnesses, or because police officers are not available to escort the defendant to court. The AHC has reported that it “*has observed simple cases which have been procrastinated to the maximum limits allowed by Albanian law. A considerable number of trials have lasted for months, even years, and this has led to an increased number of persons arrested in pre-detention sites [ie. held in preventive detention].*”⁵⁷

The effects of such delay and prolonged detention can be devastating for the detainee. In June 2003 it was reported that Elton File, aged 23, had twice attempted to commit suicide while in preventive detention cells in Tirana prison 313 where he had been held for three years awaiting trial for possession of half a gram of heroine. His trial had recently been postponed because the prosecutor failed to appear in court and Elton File's court file had gone astray in the archives.⁵⁸

Amnesty International considers – and this appears to be the general consensus – that increased prison capacity must be accompanied by a combination of other measures, as summed up by the Albanian People's Advocate (Ombudsperson):

“In our view, the problem of overcrowding in prisons cannot be solved simply by building new prisons. Above all, more importance should firstly be given to the preventive measures which society and the Albanian state should undertake; secondly prosecutors and courts

⁵⁵ In Georgia and Italy remand prisoners form 30.1 per cent of the total prison population; in Portugal and Switzerland each they form 30.3 per cent, Malta 30.7 per cent, Montenegro 31.6 per cent, Croatia 31.7 per cent, UK 34.8 per cent, Netherlands 36.9 per cent, Latvia 37.4 per cent, France 38.3 per cent, Luxembourg 39.2 per cent, Turkey 49.2 per cent, while in Kosovo remand prisoners currently form 71.8 per cent of all prisoners. See *Europe – Prison Brief* (last updated 18 September 2003), International Centre for Prison Studies, available at www.prisonstudies.org.

⁵⁶ Albanian Helsinki Committee, *Op.cit.*; p.81.

⁵⁷ Albanian Helsinki Committee, *Op. Cit.*, p. 83. The Code of Criminal Procedure lays down the criteria for determining the maximum periods for each stage of the investigative and court procedures, and, under Article 263, the maximum period of preventive detention (which refers to those accused of crimes punishable by a minimum of 10 years' imprisonment) is 36 months.

⁵⁸ *Koha Jonë*, 8 June 2003.

should apply a better policy in imposing other security measures. They should apply more frequently measures such as bail, or house arrest, and other forms of penalty, not only the penalty of imprisonment. The deprivation of liberty is an extreme measure, and should be used only when alternative measures would be inappropriate due to the extreme danger posed by the crime and its perpetrator.”⁵⁹

Recommendations by the CPT

Since 1997 the CPT has made five visits to Albania to visit places of detention (including police stations, prisons and psychiatric hospitals) to monitor the treatment and conditions of people deprived of their liberty, and to make appropriate recommendations. The most recent visit was in July 2003 but the CPT report on this visit has not yet been made public.

Following its first visit to Albania in December 1997, the CPT made a number of recommendations concerning preventive detention, many of which it has repeated following subsequent visits. The CPT recommendations included the following:

- minors be separated from adults;
- all detainees be provided with: mattresses and blankets, cleaned at appropriate intervals; personal hygiene kit (soap, toothbrush, etc.); materials to clean their cells;
- all detainees be allowed to visit toilets without delay and have a hot shower at least once a week;
- improvements to: quantity and quality of food (with particular attention to detainees without family or resources); hygiene and cleaning of toilet/shower areas; lighting; access to visits;
- the ventilation and heating areas to be checked to see if adequate;
- a supply of reading materials for detainees;
- medical care be reviewed;
- an end to the use of police establishments for detainees held pending trial;
- places of detention be properly equipped and have an appropriate program of activities.⁶⁰

These recommendations were deliberately intended not to be too exacting: “*Aware that it was not possible to transform conditions radically overnight, the CPT set out a number of measures which did not involve major expenses and which could – and should – be taken without delay.*”⁶¹ Six years later, as has been seen, many of these recommendations still await implementation.

⁵⁹ *Annual Report of the People’s Advocate*, March 2003.

⁶⁰ CPT/Inf (2003) 6 (translation from the French by Amnesty International).

⁶¹ CPT/Inf (2003) 9 (translation from the French by Amnesty International).

Amnesty International's recommendations:

To the Albanian government

- as a matter of *urgency*, pending the establishment of new preventive detention centres, to allocate the necessary resources to ensure that all persons held in preventive detention are guaranteed conditions in conformity with the minimum CPT recommendations referred to above;
- to ensure that all detainees undergo a medical examination in conditions of confidentiality within 24 hours of arrival at preventive detention facilities, that the findings of this examination are recorded and any signs of ill-treatment reported to the relevant authorities who should in such cases initiate an investigation and arrange for a medical forensic examination;
- to establish a mechanism for the independent supervision of detention facilities, both for remand and for convicted prisoners;
- in accordance with international standards, the detention of children in police custody and on remand should be strictly limited to clearly defined "exceptional cases" and they should always be held separately from adults;
- to take into careful account recommendations for reform made by relevant national institutions, including those of the AHC, the CRCA and the People's Advocate, as well as participants in the CARDS Twinning Project. Amnesty International acknowledges that the work prison officers perform is stressful, at times dangerous and often goes unrecognized. Amnesty International believes that it is vital that the needs of prison officers are not overlooked in plans to reform;
- having established an appropriate action plan, to proceed without delay to secure conditions for both remand and convicted prisoners which meet the requirements set by Albanian legislation and international standards;
- to reduce the number of remand prisoners by the use, where feasible, of security measures other than preventive detention;
- to reduce the length of preventive detention by eliminating delays in court proceedings through improved coordination of the court system to ensure that time is not lost by the failure of prosecutors, lawyers, witnesses or defendants to attend court at the prescribed times;
- consideration should be given to the possibility of a greater application of non-custodial sentences, particularly for non-violent, first-time offences.

Further, Amnesty International recognizes the general economic problems faced by the Albanian state. In light of this, the organization welcomes European Commission funding and assistance given by a number of countries to promote the reform of the prison and preventive detention system. It urges that where necessary this assistance be supplemented so that the renovation, construction, staffing and administration of detention facilities in Albania in accordance with international standards may proceed without undue delay.