



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

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**Written replies of Albania to the list of issues
(CAT/C/ALB/Q/2) to be taken up in connection
with the consideration of the second periodic
report of Albania (CAT/C/C/ALB/2)***

[16 March 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

Article 1 and 4

Question 1

1. Having regard to Question 1, statistical information show that no penal proceeding is recorded as penal offence prescribed under Article 86 of the Penal Code in charge of persons acting in the capacity of an official (employee).

Question 2

2. Amendment to Article 50 of the Penal Code aims at increasing sentence prescribed under specific articles of this Code. Concretely, torture is specified in Article 86. Connection between articles consists in the fact that if a person is convicted of crimes prescribed under two articles, then punishment amount prescribed in the concrete article (Article 86 in case of torture) is increased; if only the crime prescribed in the concrete article is committed, in our case only Article 86, the sentence specified under the latter is imposed.

Article 2

Question 3

3. During 2009-2010, the role of the Ombudsman, as the National Mechanism for the Prevention of Torture (NMPT), has become a functional and consolidated responsibility. Over a span of three years, the Institution of the People Advocate (Ombudsman) has managed to set up and put into operation an effective structure responding professionally to any official phenomenon which might hold within itself violation of human rights, torture and inhuman or degrading treatment. Such activity has increasingly developed qualitatively over years for prevention of above-mentioned phenomenon, promotion of positive practices and strengthening the dialogue between relevant authorities.

4. Taking into account the provision of the Optional Protocol on Convention against Torture and other Inhumane and Degrading Treatment(OPCAT) for establishing a national structure for prevention of torture attached by the Ombudsman and on the proposal of the latter, the National Mechanism for the Prevention of Torture (NMPT) was set up in 2008, which represents an appropriate institutional profile completed with necessary human capacities and financial resources for achieving the activities of this structure. In addition, Article 19/1 of Law no. 8454, dated 04.02.199, "On Ombudsman", revised, authorises carrying out independent, comprehensive and complete monitoring and investigating activities for any case of torture, inhumane and degrading treatment and ensuring higher access to any premises or offices, against any official without immunity and to any kind of documentation, even classified, of public administrative organs.

5. Also, in March 2010, amendments made to Law no. 8328, dated 04.02.1998, "For the rights and treatment of convicts to imprisonment and pre-trial detainees", allow the use to a larger extent of the National Mechanism for Prevention of Torture (NMPT) for carrying out its duties during the control of penitentiary services. Article 74 in this law recognizes the Ombudsman, in the role of NMPT, the right as a separate subject for supervising the execution and enforcement of the law on convicts and pre-trial detainees. It employs all competences to observe regularly the treatment of individuals deprived of liberty, arrested or jailed in order to strengthen, as necessary, the protection of individuals against torture and cruel, inhumane and degrading treatment or punishment. Likewise, this provision entitles this Institution to submit specific reports or recommendations to relevant organs in order to improve the treatment and conditions of individuals deprived of liberty and to prevent torture and cruel, inhumane and degrading treatment or punishment.

6. Inspections, visits and any other kind of control carried out in the Institutions of the State Police, in the Institutions of Penal Decision Execution, in Psychiatric and Infective Hospitals, in military bases and units, in Regional Directorates for Borders and Migration as well as in other sheltering centers for accommodation of illegal immigrants and trafficked persons, has had the objective to make sure complete coverage of monitoring the situation of human rights in these organs, to prevent violations and also perform realistic official conduct of the situation in the field.

7. In 2008, the Ombudsman, as the National Mechanism for Prevention of Torture (NMPT), has performed 50 inspections and visits, while in 2009, it has carried out 150 inspections, re-inspections and visits. Likewise, in 2010, the monitoring activity of the NMPT has increased both its standards and quality demonstrating higher performance productivity and additional presence in the field close to relevant organizations by carrying out 162 inspections, re-inspections and regular controls on special thematic and visits in all places of deprivation of liberty and other institutions mentioned above. In addition, this structure has addressed about 370 claims of individuals received during direct contacts while carrying out their inspections. All above-mentioned activities have been accompanied with 81 recommendations and are followed by a dense official correspondence for clarifying details and events revealed during inspections. Above recommendations and interventions have been mainly introduced for respecting the rights of convicts and detainees and for fulfilling their vital, health and educational needs.

8. Also, a series of other measures have been proposed for accomplishing internal infrastructural investments and complementing required staff in order to cover completely necessary services provided by these centers. In addition, promotional activities on human rights have been taken into account in collaboration with administration of prisons. The Ombudsman has continued to follow up with priority communication through a free phone number and operation of special post-boxes which are installed by the Ombudsman staff in every prison and pre-trial detention centers. Inspection of premises of the State Police has continued regularly by reviewing and controlling especially the legitimacy and the rules related to accompanying, detaining or arresting the individuals, their conditions and treatment within the Commissariats, their infrastructural and material problematics, etc. In exercising his responsibilities the Ombudsman has continuously required the enforcement of legislation in force and documentation approved in 2009 "On the Inspection Methodology of the State Police Organs".

9. Another area, on which the activity of the Ombudsman has been focused, as the National Mechanism for Prevention of Torture (NMPT), is also the monitoring of standards of human rights in the Armed Forces in the Republic of Albania. This activity has been primarily concentrated on the treatment of the rights of military men and women, complying with their status and controlling disciplinary measures and conditions in disciplinary confinement rooms.

10. While being a new and very specific activity, the prevention of torture through periodical inspections has had also its difficulties and challenges. Actually, they are faced with problems related to provision of necessary material and logistical base which are needed for carrying out more efficient and professional work. Therefore, in several cases, when use of violence is revealed during inspections, the Ombudsman has felt the need of providing independent opinions by the experts of various fields such as sociology, psychiatry, psychology, medico-legal area, etc. Taking into consideration these difficulties, the Ombudsman, in all the meetings organized with the representatives of the Albanian state, with other domestic or foreign partners, has requested their support for material base and resources because it has actually got into difficulties to accomplish properly his duties and responsibilities.

Question 4

11. During the period from 2008 to 2009, the NMPT has carried out annually 40 inspections, re-inspections and sudden or thematic controls in all Regional Police Directorates, Commissariats and Police Stations. Also, about 35 recommendations have been prepared and proposed in a year related to improvement of standards of human rights and treatment of individuals confined in these institutions.

12. Inspection of detention premises and security rooms plays a great role for identifying the problematics faced with in these premises with regard to conditions and conduct for the treatment of accompanied nationals, pre-trial detainees and persons arrested by the State Police officers. This mission has been and will still remain one of the main priorities of this Mechanism. The Mechanism has the primary role of executing legal competencies through inspections carried out mainly for preventing violation of the rights of accompanied nationals, pre-trial detainees and arrested people. For such purpose inspections have been carried out in almost all detention and security premises of the State Police structures, at different working hours during the day and late hours at night.

13. *The inspection issues of the NMPT:*

1) Establishment of detention rooms for confinement of nationals in all local organs of the State Police in compliance with law no. 9749, dated 04.06.2007, "*On the State Police*", and creating suitable and appropriate premises, supplied with required equipment and furnishings and separated for males, females and minors.

2) Construction or rehabilitation of security premises, improvement of staying (living) conditions of pre-trial detainees and arrested people in all organs of the State Police and legal regulations for this section of Police activity.

3) Introducing the law "*On the State Police*" to all the state police staff and also implementing rigorously legal requirements related to treatment of nationals accompanied to police stations and other organs.

4) Notifying the families, relatives or other entrusted persons of detainees and recording the time of notification, the names of informed persons, their contact numbers, etc.

5) Respecting correctly legal provisions of the Code of Penal Procedures related to records written down on the instant minutes, the exact time of the national arrest or confinement and initial treatment not as an detainee.

6) Provision of obligatory juridical and psychological assistance in cases of arrest or detention of minors and enabling them to stay separately from adult people.

7) Transference from the police premises to pre-trial detention and penal institutions, which are under the authority of the Prison General Directorate, of all pre-trial detainees imposed with the security measure of "arrest in jail" and of restrainers for the effect of execution of penal decisions sentenced them in absence to "imprisonment".

8) Putting up in police premises, including security and detention rooms, posters advertising the rights of detainees or confined and arrested people, and also preparation of forms in foreign languages displaying such rights which are served to foreigners as case may be.

9) Provision of medical examination for every person detained or arrested by the police immediately after the first moments of liberty deprivation, but not later than the first 24 hours.

14. For all problems identified during inspections, the NMPT has made recommendations asking for the solution of problematics existing in the activities carried

out by the State Police while holding people in their confinement rooms and legal regulations of such activities. Therefore, during the following months, representatives of the Mechanism re-inspected all police directorates and commissariats to see implementation of recommendations.

15. Issues recommended for legal regulation include:

a) Referring to actual situation, while most of security and detention rooms are out of standards and do not provide minimal living conditions, conditions for meals, airing, hygiene, required spaces, differentiated treatment for minors, females and sick people, it has been recommended amendment of Article 4 in the law "On the State Police" laying down such a duty for the State Police or amendment of Article 15/1 in the law no. 8328, dated 16.04.1998, "For the rights and treatment of prisoners and pre-trial detainees", revised, where a paragraph must be added stating that persons who are arrested or restrained by the State Police or by the Prosecution Office will be also confined in pre-trial institutions. Such legal measures pave the way for the legitimacy of the Police State performance for carrying out pre-trial responsibilities and facilitating the activities of such service.

b) The lack of a psychologist in the staff of the Commissariats while restraining or questioning minors and their presence only in Regional Police Directorates, has induced the NMPT to make recommendations for completing the staff of this service in all the structures of the State Police as it has been specified in Article 35 of the Code of Penal Procedures.

c) It has been ascertained during inspections that violation of legal rights of pre-trial detainees and persons restrained or arrested by the police have resulted also because of the lack of knowledge about the activities of independent institutions protecting human rights. Such violations occur also due to the fact that the police employees of basic role are not well aware of the law "On the Ombudsman" and the role of the National Mechanism for Prevention of Torture (NMPT), of the Optional Protocol on the Convention against Torture and other Inhumane and Degrading Punishment (OPCAT) and also the International Convention on Human Rights. For solving this problem, the National Mechanism has recommended the promotion of human rights even in formation centers in order to enrich the formation program of trainees in the Police Formation Center related to the respect for human rights.

Question 5

16. Considering the importance of promotional and informative aspects of the activity of the NMPT, the Ombudsman has organized a number of meetings and has coordinated a series of activities related to the issues of the process for establishing the NMPT and the importance of this structure for prevention of torture. During 2008 and onwards, round table talks have been organized with the representatives of the Ministry of Justice, the State Police, the Directorate General of the Police, civil society, etc.

17. In December 2008, the Ombudsman held a common conference with the Ministry of Justice, the Prosecution General Office and with the Directorate General of Prisons on the topic: "Awareness and solution of issues revealed during inspections carried out by the NMPT related to respecting the rights of prisoners and pre-trial detainees. Likewise, in the framework of cooperation and promotion, in international level, of the activities of the NMPT, representatives of the Unit for Prevention of Torture have attended two international meetings organized by the Council of Europe related to respecting human rights in prisons and police organs.

18. Finally, we cannot help mentioning the very good work accomplished for public information in the activity of the NMPT through the official web page of the Ombudsman, through the press, etc. In such case, display of inspection results and of the efforts for

revealing the cases of use of violence in prisons, at police commissariats, etc. has been a great advantage for increasing the consciousness of the public for denouncing negative events in maltreatment or abuses with the duties of public employees. The close relations with audio and written media have played a great role in these cases.

19. Legal recommendations – One of the functional activities of the NMPT has been also the provision of recommendations of the legal character, which, through the proposals for alterations and amendments of legal acts and sub-laws, has aimed at improving the legal framework in force related to prevention of torture and respecting human rights. In March 2008, the Ombudsman was invited to introduce his proposals to a public meeting debate related to new alterations of the law “On the rights and treatment of convicted people”. At the end of this debate, the Ombudsman’s proposals were accepted including in legal amendments also the supervising activity of the NMPT in the penitentiary system, as an organ which guarantees the respecting of the rights and treatment of convicted persons.

20. Pursuant to the efforts for improvement of the legal framework in force, the Ombudsman, in the role of the NMPT, has given special contribution by providing written suggestions and proposals for improving the law “On Prison Police”, the Prison General Regulations and other rules and regulations related to security premises of the State Police. At the same time, representatives from the Torture Prevention Unit have been assigned as members of the Consortium for working out the prison reform and also members of the working team for designing new buildings of prisons and pre-trial detention premises. These boards have provided opinions related to respecting the standards for the treatment of convicted persons.

21. Also, collaboration with NPOs is assumed to have been strengthened by setting up joint inspection groups which comprise also specialists from all required areas such as psychologists, legal doctors, psychiatrists, sociologists, etc.

Question 6

22. For the penal offence prescribed under Article 86 of the Penal Code, 1 penal proceeding was recorded in 2003, in all 2 penal proceedings were investigated, one penal proceeding was brought before the court and one penal proceeding ended with sentence to imprisonment. In 2004, 5 penal proceedings were recorded, in total 5 penal proceedings were investigated, 5 penal proceedings were brought before the court and 2 penal proceedings sentenced to imprisonment 4 male defendants. In 2005, one penal proceeding was recorded, in total 2 penal proceedings were investigated, 1 was brought before the court and one penal proceeding convicted to imprisonment one male defendant. In 2006, 2 penal proceedings were recorded, in all 3 penal proceedings were investigated, 2 cases were brought before the court. In 2007, 3 penal proceedings were recorded, in all 3 penal proceedings were investigated, 1 penal proceeding was dismissed, 1 was suspended and no case was brought before the court. In 2008, 1 penal proceeding was recorded, in total 2 penal proceedings were investigated, 1 was dismissed and no lawsuit was brought before the court.

23. For the penal offence prescribed under Article 87 of the Penal Code, in 2003, no penal proceeding was recorded, 1 penal proceeding was investigated in total and no case was brought before the court. In 2004, no proceeding was recorded for such offence. In 2005, 1 penal proceeding was recorded, 1 penal proceeding was investigated in all, and no lawsuit was brought before the court. In 2006, 2007, 2008 there is no record for such penal offence.

24. In 2011, several disciplinary measures were addressed, investigated and recommended for police officers for carrying out arbitrary actions during the execution of their duties, such as:

a) For breach of duty prescribed under Article 11, point 14 of the Disciplinary Regulations of the State Police, approved under the Decision of the Council of Ministers no. 786, dated 04.06.2008, dealing with illegal and unreasonable use of violence, 3 cases were investigated, of which:

- One case was punished with disciplinary measure of “Dismissal from the Police”.
- One case was penalized to “Suspension without salary up to 30 days”.
- One case was penalized with the disciplinary measure of “Termination of grade award up to 12 months”.

b) For breach of duty prescribed under Article 11, point 5, of the Disciplinary Regulations, dealing with performance of indecent actions, 6 cases were investigated:

- One case was punished to “Dismissal from the Police”.
- Three cases were penalized to “Suspension without salary up to 30 days”.
- Two cases were penalized with the disciplinary measure of “Termination of grade award up to 12 months”.

Question 7

25. Article 118 of the law “On the State Police” specifies explicitly that violence is used only for legal purposes and it should be in proportion with the danger posed by the individual. Also, Article 60 of this law lays down clearly that police officers have the obligation to comply with legal orders only and also are obliged to refuse the execution of any illegal order. Referring to what is mentioned above, no police officer is discharged for the responsibility of use of torture because it is prohibited by the Constitution (Article 25) and the Penal Code (Article 86). For these reasons, any police officer who obeys the order for execution of torture is the same responsible like his commander because the action is anti-constitutional.

Question 8

26. Albanian legislation adopted last years has been drafted in compliance and accordance with ratified international legislation, where it’s worth mentioning the approval by the Parliament of Albania of the law no. 9669, dated 18.12.2006, “On measures against violence in family relations”, which has brought forth a novelty for addressing the violence in family relations through involvement of a coordinated net of institutions.

27. Pursuant to legal framework against violence in the family, the Directorate General of the State Police has undertaken efficient measures for the reduction of this phenomenon by protecting the victims through appropriate legal arrangements. In this context, we can mention the establishment of appropriate police structures for addressing the events of family violence immediately after the law became effective. Also, effective measures have been adopted over the last four years for setting up and strengthening professional capacities of the police structures responding thus with required care and responsibility to the events of violence in the family. Therefore, a series of training activities have been held with police staff, and in several cases in partnership with international organizations like OSCE, PNUD, etc.

28. As a result of the guarantee provided by the police structures through protective measures specified under this law, the number of denouncements to these structures has become increasingly greater each year. Likewise, the number of actions “For release of Immediate Protective Order/Protection Order” brought before the court has also been increased. Statistical data of the last years has evidenced that 81% of persons inflicted

violence in the family are women/girls and 19% are men/boys. Therefore, violence in the family is often identified as violence on gender base. The approval of the Council of Ministers Decision no. 334, dated 17.02.2011, "On the device for coordination of the work for addressing the cases of violence in the family relations and the way of their proceeding", has paved the way for solving identified problems and deficiencies related to indispensability of cooperation and coordination of activities for responding in a coordinative manner towards the events of violence in the family. Among other things, this document has specified the procedures for multidisciplinary interventions in support of the victims of family violence.

29. Similarly, the national Strategy on Gender Equality and Reduction of Violence on Gender Base and Violence in the Family, 2011-2015, (passed under the Council of Ministers Decision no. 573, dated 16.06.2011), specifies as one of the most specific objectives (4.1.1) the amendment to the Penal Code related to severity for punishing violence in the family by describing marital violation and violence in the family as special penal offences.

30. Finally, the Council of Ministers has approved principally the Convention of the Council of Europe "On prevention and combat against violence towards women and violence in family relations", an act, which, after the legal ratification by the Parliament, provides the obligation for undertaking further arrangements and measures related to improvement of legislation on violence against women and violence in the family, and also establishing and strengthening relevant institutional capacities.

Question 9

31. As it is pointed out above, law no. 9669, dated 18.12.2006, "On measures against violence in family relations", specifies the concrete mechanism for ensuring immediate protection of victims of family violence by dismissing from the house the violator and ordering him/her not to approach the victim. Such device called 'Immediate Protective Order' may be required from several subjects and not only from the victim and such subjects are also public organizations, for instance, the State Police. The law makes sure psychological treatment of victims and their protection by special structures. In this view, law no. 10494, dated 22.12.2011, "On electronic monitoring of persons deprived of liberty according to law court decisions", based on which, persons who are posing violence in the family will be electronically monitored by an electronic bracelet in order not to approach the house of the violated member of the family. This law enters into force on April 1, 2012 and it will be implemented under a pilot project in Tirana.

32. As a result of the support and legal treatment of the cases of family violence, and due to increasing the awareness and consciousness of the victims of violence in family relations, the number of denouncements during the last four years has become increasingly greater each year. Likewise, judicial proceedings based on "Delivery of Protection Orders", brought before the court by the police structures, have also been increased in number. In 2008, the Police Structures have identified 822 cases, of which, 377 cases were brought before the court. In 2009, 1217 cases were identified, of which, 841 were brought before the court. In 2010, there were recorded 1998 cases, of which, 1234 cases were treated by the court. In 2011, 2181 cases were identified, of which, 1345 were brought before the court.

33. With regard to the cases of family violence, there are recorded penal proceedings in relation to articles 76, 78, 79, 84, 88, 89, 99, 100, 102, 106, and 2 cases related to Article 86 of the Penal Code. In total, there were numbered 17 proceedings for the cases of family violence in 2003, of which, 3 proceedings were dismissed, 2 cases were transferred and 12 proceedings were brought before the court and defendants were punished. In 2004, there were recorded 21 penal proceedings, of which, 3 proceedings were dismissed, 2 were

transferred and 16 proceedings were brought before the court ending with punishment of defendants. In 2005, there were 25 penal proceedings, of which, 7 cases were dismissed and 18 proceedings were brought before the court punishing the defendants. In 2006, there were recorded 43 penal proceedings, of which, 18 cases were dismissed and 25 were brought before the court punishing the defendants. In 2007, there were 26 penal proceedings, of which, 1 case was disregarded, 3 proceedings were dismissed, and 22 were brought before the court punishing the defendants. In 2008, there were recorded 13 penal proceedings, of which, 2 cases were dismissed, and 11 proceedings were brought before the court ending with punishment of defendants.

Question 10

34. Under Albanian law, the trafficking in of human beings is prescribed as a separate penal offence. Actually, it is specified in the Penal Code of the Republic of Albania, respectively under *Article 110/a, "The trafficking in of persons"*, *Article 114/b "The trafficking in of females"*, and *Article 128/b "The trafficking in of minors"*. These articles were included in the Penal Code under the law no. 9188, dated 12.02.2004, "On some amendments and alterations to the Penal Code", and fully comply with the Convention of the United Nations on International Organized Crime and with its two additional Protocols. In their context, *the three articles do not make any difference between the internal and transnational trafficking*. Acceptably, while there are elements of penal offence the case is classified as trafficking based on the three articles mentioned above. Thus, regarding the internal trafficking, the Court of Higher Crimes punished for the first time, under its Decision dated 27.07.2011, two persons for the penal offence of "trafficking in females" adjudicating that they had committed internal trafficking and established thus a judicial precedent regarding the fact that actually the internal trafficking is recognized as a phenomenon.

35. Recently, the National Coordinator against the Trafficking in of Persons has initiated holding out a discussion on the need of alteration of some important laws which regulate the area of the fight against trafficking in of human beings, especially the protection of trafficking victims. The need for such amendments results not only from several difficulties faced with in practice while enforcing the provisions prescribing the penal offence of the trafficking, but also to meet the recommendations of the Council of Europe, the Report of GRETA, the recommendations of the American State Department, including also the recommendations of the Committee of the CEDAE. Concrete proposals have been identified and put forth for amendments to the Penal Code and the Code of the Penal Procedure of the Republic of Albania. These alterations aims at improving the penal provisions on trafficking and complimenting with some new penal offences which regulate this area and adjusting the main focus on ensuring effective protection for trafficking victims. Actually, additional penal offences are proposed for criminalization of provision of services by trafficking victims, excluding from penal charges of trafficking victims for all illegal actions which they have performed as trafficking victims, laying down special provisions for penal offences dealing with counterfeit travelling documents and identification cards for the purpose of trafficking human beings.

36. The concern put forth with regard to *prostitution*, in submitted proposals, the National Coordinator against the Trafficking of Persons has expressed the opinion for decriminalization of practicing prostitution and criminalization of intercourses with a prostitute having the primary aim at assuring legal protection for prostitutes, excluding them from penal charges and their cooperation with justice. This proposal derives also from a recommendation of the UNO- the Commissioner for Emigrants Rights. Article 114/b of the Penal Code, "The trafficking in of females", is practically very often mixed up with Article 114/a, "Utilization of prostitution in aggravating circumstances". In order to prevent such uncertainty, they propose to nullify Article 114/a because the elements of this penal

offence are prescribed under Article 114/b, "The trafficking of females". The difficulties rest on the common elements comprising such penal offence and on the fact that sexual utilization is one of well-known forms of trafficking in Albania. Improper legal classification of penal offences creates non-remedial consequences for the harmed persons, especially the victims of trafficking.

37. Regarding the *provision of judicial assistance to victims of the trafficking*, for the category of people that need such service, including also trafficking victims, it must be pointed out that this is assured by law no. 10039, dated 22.12.2008, "On Judicial assistance". Article 11 lays down that the state judicial assistance is provided by authorized advocates in the forms of primary judicial assistance and secondary judicial assistance. More concretely, in order to assure judicial assistance for victims of trafficking, through legal representation, in all the stages of its treatment, the national Coordinator against the Trafficking of Persons is seeking the possibility for establishing closer cooperation with the State Commission of Judicial Assistance pursuant to above-mentioned law. For this purpose, it has been discussed and agreed to work out a cooperation agreement/memorandum with the objective of prioritizing the provision of judicial assistance to victims of trafficking. Such agreement will also involve various NPOs that have their expertise in provision of legal services.

38. Proposed amendments to the Code of Penal Procedures aim at increasing the access to justice of the victims of trafficking and also intending that he/she, through a legal representative, become an active party in the process for protecting the interests of victims and their rehabilitation.

39. Along with proposed amendments to the Code of the Penal Procedures, the National Coordinator is coordinating the work for improving legal defense for the victims of trafficking especially for women and minors, making use of existing instruments and devices. Therefore, it is revised and is under completion the new draft of the Agreement on National Reference Mechanism for Identification, Reference and Protection of Trafficking Victims. The new draft of this agreement clarifies the roles and responsibilities of the parties therein and also it increases the number of subjects involved in the agreement with other new participants like the Ministry of Health, Ministry of Education, etc. and apart from existing centers, also other international organizations which provide services for trafficking victims.

40. The Decision of the Council of Ministers no.582, dated 27.07.2011, approved "Action Standard Procedures (ASP) for Identification and Reference of Potential Victims of Trafficking", which are basic documents for carrying out the actions for identification and reference of potential victims of trafficking, including the provision of the package of services for the victims of trafficking. Actually, over the period May-January 2012, training activities are planned to be conducted throughout the country for introducing and implementing the Action Standard Procedures (ASP).

41. Regarding *compensation for the victims of trafficking*, based on domestic legislation, the right to indemnity and compensation for the victims of trafficking of human beings is prescribed under the following provisions:

a) *The Code of the Penal Procedures of the Republic of Albania - Articles 61 - 68.* Article 61 of the Code of Penal Procedures governs the institute of civil action in a penal proceeding, according to which, the harmed person by the penal offence (a victim of trafficking) has the right to request through civil action in a penal proceeding return of the property and compensation for material damage.

b) *The Civil Code of the Republic of Albania (CC) - Articles 604, 625, and 644.* According to Article 625 of the Civil Code, the person incurring a damage, unlike a

property, is entitled to ask for compensation for the damage of his/her health or for the attack on honor and personality.

c) *Law no.10192, daedë 3.12.2009, "For prevention and combat against organized crime and trafficking through preventive measures towards properties"*. This law specifies the establishment of a Special Fund for prevention of organized crime, which sources are properties and assets seized and confiscated pursuant to this law and based on the decision of the Court of Higher Crimes (Article 37/1). Article 32 of this law, with regard to "*utilization of confiscated real properties and monetary means*", specifies that their first destination is compensation for the victims of penal offences committed by organized crime. The Special Fund, among other things, will be also used for social purposes, including also rehabilitation and integration of trafficking victims (*Article 37/2-c*). Likewise, Article 37/3-b specifies explicitly that non-profitable organizations including centers for rehabilitation of trafficking victims will also benefit from this Fund.

42. The scheme of compensation for the victims of trafficking has had several implementation difficulties. Therefore, in order to assure efficiency and practical application of compensation schemes for the victims of trafficking, several proposals for improvement of the legal framework have been forwarded to the Ministry of Justice. Apart from setting up a state scheme for the compensation of the victims of trafficking, efforts are being made for improving the provisions of the Code of Penal Procedures in order to bring the civil action to penal proceeding and adjudicate it within this process. The Office of the National Coordinator against the Trafficking of Persons has worked out a *National Action Plan on the Fight against the Trafficking of Human Beings, and also a National Action Plan on the Fight against the Trafficking of Children and Protection of Children, Victims of Trafficking, 2011-2013* (approved under the decision of the Council of Ministers no. 142, dated 23.02.2011), which has the objective to undertake concrete measures and arrangements for investigation, prevention and combat against the trafficking of persons. This plan serves also as a monitoring instrument for implementation of legislation, policies and anti-trafficking measures.

Question 11

43. Law no. 10494, dated 22.12.2011, "For electronic monitoring of persons of limited liberty under a lawcourt decision" has the objective to increase the number of persons, whose liberty will be limited outside the penitentiary system during investigation period, i.e. with home arrest and not pre-trial detention and also it aims at increasing the number of persons imposing the punishment measure of staying at home. The Ministry of Justice is seeking the possibility to amend the Code of Penal Procedures related to the ways of acceleration of processes. Also, in collaboration with Euralius Mission, the ministry is reviewing the possibility of reallocation of judges within the territory of the country based on the load of cases. This measure will bring forth the increase of efficiency of the judicial system and accelerate proceeding time.

44. Regarding the problem of overpopulation in the Institutions of Penal Decision Execution (IPDE), according to statistics of 2008, overpopulation numbered approximately 900 people. In 2011, there were trained averagely 4750 prisoners in all IPDEs. The capacity was for 4341 persons until 01.09.2011, and after this date, while a Special Section was set up in the IPDE in Durres for the training of convicts of mental deseases, the capacity of the IPDEs was increased to 4417 persons. Overpopulation has varied from 409 prisoners, or 9.4% of the capacity of 4341 persons to 333 prisoners, or 7.5% of the capacity of 4417 persons. Compared with the year 2010, overpopulation has varied from 9.5% to 11%. Thus obviously, in 2011, relatively smaller numbers of prisoners were trained as compared with 2010 and overpopulation is lowered by 4%.

45. Decrease of overpopulation in the IPDEs has resulted from the establishment of new institutions when, during the period 2008-2009, under the funding of the European Commission and of the Albanian Government, 5 new institutions were established in Vlora, Fushë-Kruja, Korça, Durrës, Kavaja with a total value of 30.7 million Euro. Another important element which has affected the mitigation of this problem has been the amendments to “The penal Code” and to law “On Penal Decision Execution”, aiming at the establishment of Probation Service. In order to lower the level of overpopulation in the IPDEs, under the funding of the European Union, over the period 2012-2014, three other new institutions will be set up in Elbasan, Berat and Fier. The establishment of these institutions will affect directly the increase of standards for treatment and hold of persons of limited liberty and also for the decrease of overpopulation in the IPDEs.

Question 12

46. Article 101 of the law no. 9749, dated 04.06.2007, “On the State Police”, specifies the cases of accompanying persons to police stations, the rights entitled to these persons, the way of their treatment and the time of stay/hold which is not more than 10 hours. The law stipulates the cases when persons are accompanied to police station, such as:

- When the person commits administrative misdemeanor which is penalized with fine and for this purpose it is necessary to clarify the identity of the person (when it has not got with itself the document of identification);
- For control of minors for educational purposes or for accompanying them to competent organs;
- When the person has got infective disease, mental disorders or is dangerous for the society;
- When persons with mental diseases, drunk, drugged or those with infective diseases, etc. who cannot control their actions and behavior and can inflict physical injuries or life risks to other people, their accompany to police premises has the nature of protective measures;
- When a minor abandons its parents is accompanied by police and returned to its parents, to its guardian or to centers which take care and control minor children.

47. The provisions of this law specify clearly that accompanied persons are different from those detained or arrested and alleged to have committed penal offences. In this context, the time of stay up to 10 hours for persons arrested and detained by the judicial police service is counted within the term of arrest/detention(48 hours) until the court has decided the form of security measure.

Question 13

48. Legal guarantee for arrested or restrained people to get their defense by a lawyer is sanctioned in the Code of Penal Procedures of the Republic of Albania. This right is made known to them by the judicial police officers during their interviews, detention or arrest. In cases when the person is not able to afford advocacy expenses, the latter is assigned by the prosecution office.

49. Arrested/restrained persons are held and treated in police premises until the time of review and settling of security measure by the court, but not more than 48 hours (point 5 of Article 259 of the Code of Penal Procedures). For determining the security measure of “arrest in jail”, persons are transferred from the police Commissariats to the Institutions of Pre-trial detention of the Ministry of Justice, where they are held and treated. The rights of arrested/restrained persons, the responsibilities of the State Police for respecting and assuring their rights and creating the conditions and possibilities for their accomplishment,

are prescribed in the “Manual on Standard Regulations and Procedures for Treatment and Security of Persons Arrested and Restrained in Police Units”, approved under the Order no. 763, dated 27.09.2011, of the Director General of Police.

50. During the arrest, detention and stay in the security premises and rooms, these persons are informed about their rights, which include: the right to be informed about the cause or reasons of arrest/detention; the right to be defended and represented by a lawyer; information for family members or relatives; obligatory information to parents or guardians of minor children; the right to meet the advocacy at any time; the right to get medical examinations and treatment; minors are held in their rooms separately from adults; the right not to give explanations to the staff of services, arrest or detention; the right to food treatment; the right to exercise religious rites, carry out personal needs at any time and have continuous access to drinking water.

Question 14

51. In all penal institutions under the authority of the Ministry of Justice, arrested and detained persons, in compliance with General Rules and Regulations of prisons, Article 41, are allowed to contact their family members through telephone without limitations, therefore these communications are not necessary to be carried out by the directorates of IPDEs. Regarding the treatment of minor children, according to Article 35 of the Code of Penal Procedures, minor defendants are provided with judicial and psychological assistance at any stage and level of proceedings, in the presence of parents or other persons required by the minor and accepted by the proceeding authority. Therefore, parents of the minor, the psychologist and advocate are present not only during questioning but also at any procedural actions which requires the presence of the minor child. The Minister of Justice has adopted special rules for their treatment in special sections of prisons in order to create a sure climate for the minor held as a defendant in a judicial process as a category of specific needs and sensitivity.

52. In addition, law no. 10 039, dated 22.12.2008, “On judicial assistance”, stipulates the conditions, types, ways and procedures for provision of judicial assistance by the state, for protection of human rights and fundamental freedoms of the individual and also their other legal interests. This law prescribes the provision of judicial assistance to minors in conflict with law. Concretely, point 2, Article 13, Chapter III in the law “On judicial assistance services and the beneficiaries”, specifies explicitly that “*minors also benefit judicial assistance, for which, defense in penal proceedings and at court trial is obligatory by law*”. This stipulation is made to complement the provisions of the Code of Penal Procedures as well as the framework of fulfilling the obligations derived from international acts in the field of protection of children rights, in which the Albanian state is a party with full rights and responsibilities. Pursuant to Article 35, actually in the pre-trial detention center of “Jordan Misja” in Tirana, minor defendants are provided continuously with psychological assistance through individual training activities connected specifically to each case, and also are provided with advocacy before their detention.

53. The Code of Penal Procedures prescribes for minor children, violators of law, their rights to get the assistance of a legal representative since the moment they are being questioned. The attendance of the defense advocate is obligatory and no action is carried out without his presence. Also, minors in “Jordan Misja” IPDE are assisted by an advocate based on legal provisions in force. For assuring legal assistance to minors, also in cases when minors are not able to get their defense, the Directorate General of Prisons signed, in 29.04.2011, the Agreement of Cooperation with the Center for Integrated Legal Services and Practices in order to provide legal and psychological assistance, free of charge, for minors in the “Jordan Misja” IPDE and in the Institute of Re-integration in Kavaja.

Question 15

54. Crimes against the person committed due to bloodfeud continue to be of great concern because these penal offences are very sensitive for public opinion, especially murders of bloodfeud conflicts. Over the period from 2003 to 2011, murders of bloodfeud conflicts, in proportion with criminal murders, are as follows:

- In 2003, 132 criminal murders were recorded, of which 12 were for bloodfeud conflicts.
- In 2004, 119 criminal murders were recorded, of which 11 were for bloodfeud conflicts.
- In 2005, 131 criminal murders were recorded, of which 5 were for bloodfeud conflicts.
- In 2006, 87 criminal murders were recorded, of which 4 were for bloodfeud conflicts.
- In 2007, 103 criminal murders were recorded, of which none was for bloodfeud conflicts.
- In 2008, 86 criminal murders were recorded, of which 4 were for bloodfeud conflicts.
- In 2009, 82 criminal murders were recorded, of which 1 was for bloodfeud conflicts.
- In 2010, 116 criminal murders were recorded, of which 5 were for bloodfeud conflicts.
- In 2011, 124 criminal murders were recorded, of which 4 were for bloodfeud conflicts.

55. In order to reduce penal offences committed for bloodfeud, the Albanian government has undertaken a series of measures for prevention and reduction as much as possible of this phenomenon, which mainly include:

56. *Amendments to relevant legislation:* In the Penal Code, these changes were made: a) Article 78 for “Premeditated murders”, where the following amendment is made to law no. 8733, dated 24.01.2001, “Murders committed for interests, vengeance or bloodfeud are sentenced to imprisonment not less than 20 years or to life imprisonment”. Also, b) in Article 83/a, “Serious threats made for vengeance or bloodfeud” are sentenced with fines or imprisonment up to three years.

57. *Other assumed measures:* Arrangement of all-round measures for the seizure of murderers, in general, and those of bloodfeud conflicts, in particular, is considered a great preventive measure against bloodfeud conflicts; selection of the staff and its continuous training with peculiarities for prevention and reveal of murders, in general, and those of vengeance or bloodfeud conflicts, in particular; strengthening the cooperation with prosecution organs for quick investigation of these criminal offences and bringing the murders before the law court; organization of the work for the seizure of wanted persons who have been convicted for the criminal offence of murder for bloodfeud motives, something which has affected greatly the reduction of murders for bloodfeud conflicts; strengthening and institutionalizing collaboration with local government authorities and NGOs for settling bloodfeud conflicts by reconciliation; strengthening the cooperation with education directorates and schools for the education of the new generation with the spirit of tolerance and prevention of crimes; assistance and cooperation with Commissions of Bloodfeud Reconciliation, always complying with law in order to mediate the solution and settling bloodfeud conflicts by reconciliation.

58. Referring to above-mentioned statistics, it results that the number of murders for this penal offence is becoming lower. This is also an impact of the police activity for prevention and investigation of bloodfeud murders, which has consisted in: establishing special structures for the fight against bloodfeud conflicts and especially in districts where such phenomenon is widely spread like in Shkodra, Lezha, Kukës, Dibra, etc. These organs, after the new restructuring process, based on the Order no.895, dated 31.12.2007, "For determining the objectives of the activities of the State Police Structures", are integrated into Sections of Crimes against Persons which are located in Regional Police Directorates. In the framework of this Order, in Police Commissariats. the Sections for Prevention of Crimes and Policing in Communities are actually operating, which have the important responsibility to prevent higher penal offences and primarily murders, in general, and those for vengeance and bloodfeud in particular.

Article 3

Question 16

59. Aliens in the territory of the Republic of Albania, who are waiting for their requests as asylum seekers, are kept in the Confined Center for Aliens in Kareç. This center is operating based on its Rules and Regulations approved under the decision of the Council of Ministers no.1083, dated 28.10.2009. In section four, chapter six, article 5 of the Regulations it reads: The following organizations and their representatives have access to this Center in the framework of exercising their missions:

- a) United Nations High Commission for Refugees (UNHCR).
- b) European Commission of Human Rights.
- c) European Commission for Prevention of Torture and Inhumane or Degrading Punishment.
- d) United Nation Committee against Torture.
- e) Ombudsman.
- f) Red Cross International Committee.

60. A refused asylum seeker leaves (is deported) for his country voluntarily or in cooperation with IOM or NGOs.

Question 17

61. Requests of asylum seekers over the period 2003 – 2008.

<i>Nationality</i>	<i>Asylum seekers</i>	<i>Females</i>	<i>Males</i>	<i>Age</i>	
				<i>0-20 y.</i>	<i>20-60 y.</i>
Kosova	17	3	14	7	13
India	7	2	5	0	7
Iraq	4	2	2	0	4
Morocco	2	0	2	0	2
Algeria	2	0	2	0	2
Bangladesh	1	0	1	0	1
Czech Republic	2	1	1	0	2
Chad	1	0	1	0	1
Egypt	2	0	2	0	2

<i>Nationality</i>	<i>Asylum seekers</i>	<i>Females</i>	<i>Males</i>	<i>Age</i>	
				<i>0-20 y.</i>	<i>20-60 y.</i>
Iran	2	0	2	0	2
China	1	0	1	0	1
Montenegro	2	0	2	0	2
Macedonia	6	2	4	0	6
Nepal	1	0	1	0	1
Nigeria	2	0	2	0	2
Rumania	2	0	2	0	2
Rusia	2	0	2	0	2
Serbia	5	1	4	0	5
Kurdistan	10	0	10	0	10
China/Uygur	6	0	6	0	6
Uzbekistan	1	0	1	0	1
Tunizi	1	0	1	0	1

62. During the period 2003 – 2008, 31 persons have got the status of ‘Refugee’, while others are refused; some have abdicated their request for asylum or have left the receiving center for asylum seekers. In 2011, 5 nationals from Kosovo (a family) and 2 persons from Somalia have applied for asylum at the office of police service for Borders and Migration, deep in territory of the country, while an Uzbek native has applied for asylum at the state border.

Question 18

63. Regarding the steps made since the first stage for identification of asylum seekers who have been subject to tortures, treatment of their diseases and provision of medical treatment, psychological assistance, caring for these persons and legal assistance for facilitating procedures, overall required assistance is provided for them. Based on the Decision of the Council of Ministers no. 1102, dated 04.11.2009, "For the treatment and provision of health service for persons who are granted asylum and persons who have applied for asylum in the Republic of Albania", every asylum seeker or refugee in the territory of the RoA benefits free medical treatment. Free legal assistance is provided under the support of the UNHCR, and regarding social assistance, the staff of the National Center for Asylum seekers in Babru comprises social workers and psychologists trained in the field of asylum.

Question 19

64. Having regard to the number of successful applications and to decisions for refusal of application based on the Law for Foreigners, there is a case sent back by the court for review and the Directorate for Citizenship and Refugees, after receipt of new facts on the claim for asylum, has decided to accept the request of the asylum seeker.

Question 20

65. The Constitution of the Republic of Albania and the Albanian legislation prescribe a series of provisions which guarantee that no one can be subject to torture, to cruel, inhumane and degrading treatment or punishment, and also provisions related to prevention of acts of torture or maltreatment. Article 122 of the Constitution lays down that each

ratified international agreement becomes a part of the internal system and prevails over the domestic law, which does not comply with it. The Republic of Albania is a state party with full rights and obligations in the Convention of the United Nations against Torture and other Cruel, Inhumane and Degrading Punishment and Treatment. In the framework of fulfilling anticipated responsibilities, Albania respects rigorously Article 3 of this Convention.

66. The Ministry of Justice, based on Constitution, on international acts (conventions, protocols, bilateral and multilateral agreements, and other acts), which are components of internal legislative system, and also on domestic legislation (based on article 504/2 of the Code of penal Procedures), in any case, gives guaranties for fulfilling legal conditions and requirements for extradition from foreign countries to Albania of Albanian nationals for whom guarantee is required related to respecting the right for re-trial because of the trial in absence or for the treatment of prisoners, and reciprocally requires the same guarantees for cases of extradition of subjects from Albania towards foreign countries. The definition of torture as a penal offence and specification of relevant punishments in the Penal Code of the Republic of Albania (with relevant amendments) constitutes an important measure for preventing acts of torture. Likewise, the Penal Code, under its Articles 86 and 87, specifies torture and any other inhumane acts, and also the cases when these actions have inflicted severe consequences, as criminal offenses along with relevant sentences.

Question 21

67. No such case is recorded in pre-trial detention centers and penal institutions of the country. As it is treated in question 14, minors are provided with assistance of an advocate based on legal provisions in force. In order to assure legal assistance for minors, even in cases when minor children are not able to get advocates, the Directorate General of Prisons signed, in 29.04.2011, the Cooperation Agreement with the Center of Legal and Integrated Services and Practices, for provision of free legal and psychological assistance for minors in the "Jordan Misja" penal institution and in the Institution of Re-integration in Kavaja city. For the purpose of respecting the dignity of prisoners and pre-trial detainees, for assuring their impartial treatment with no discrimination because of sex, nationality, race, economic and social status, political views and religious belief, Albanian legislation, complying with international organizations, in its legal and sub-legal acts, includes a series of provisions that have to do with the treatment of prisoners and pre-trial detainees, and also with authorities and responsibilities of competent public organs.

Article 5 - 9

Question 22

68. From information available in the Ministry of Justice it results that no subject has been extradited from other countries or towards other countries for the penal offense of "torture".

Question 23

69. Efforts have been made for improving Albanian law, and especially penal law related to this field. With legal amendments made to the Penal Code in 2007, provisions of Article 86, "Torture", comply fully with the definition in Article 1 of the Convention, and components and cases prescribed under this article constitute penal offences and are sentenced to imprisonment from four to ten years.

70. Likewise, Article 7/1 of the Penal Code prescribes the universal jurisdiction according to which penal law in the Republic of Albania is enforceable even for a foreign national, who is outside the territory of the Republic of Albania and is not extradited, but

has committed, among others, the penal offense of “*torture*”. Even though no subject is extradited so far for the penal offense of “*torture*”, neither for penal proceeding nor for serving penal sentence, for any case of non-extradition of the subject, recognition of penal decision or transfer of penal proceeding has been requested. Especially, the principle *aut dedere aut judicare* is applicable in cases of impossible extradition according to Article 6/2 of European Convention on Extradition. Application of this principle is governed by the Code of Penal Procedures and also under law no.10193, dated 03.12.2009, “For jurisdictional relations with foreign authorities on penal issues”. In cases when extradition is subject to existence of an agreement, based on Article 8 of the United Nations Convention referred to, the Constitution, in its Article 122, prescribe the prevalence of bilateral agreements or international acts for any conflict with domestic law.

Question 24

71. The Ministry of Justice has no communication with other states in the form of letter of request related to breaches prescribed under Article 4 of the Convention.

Article 10

Question 25

72. For respecting and assuring human rights a series of legal acts and sub-laws have been adopted:

a) The law “On the State Police”, in Article 118, “The use of violence”, sanctions that violence is used to accomplish a legal objective only then when it is necessary and only then when the use of other means has been not effective, unsuccessful and impossible, the minimal level of force is used, it is used gradually, warningly and is immediately stopped when the objective is achieved;

b) Law no. 8328, dated 16.04.1998, “On the rights and treatment of convicts to imprisonment and pre-trial detainees”, revised, prohibits the use of physical force against prisoners if it is not necessary for stopping violent acts, attempts of prison-breaking and calming down rebellions and even if they are passive towards law enforcement. If necessary, violence is used as the last means. Intense of force to be used is the possible minimum and is used in the shortest possible time;

c) Law no.10032, dated 11.12.2008, “On prison police”;

d) Regulations on Detailed Rules for the Conduct of Prison Police Employees, passed under the Order no. 5251/2, dated 30.07.2010, of the Minister of Justice, sanction that police employees are not allowed to induce or inflict acts of torture, inhumane or degrading treatment of persons deprived of liberty;

e) Actions, conduct and behavior of police employees for accomplishing their duties are also specified in the Police Ethic Code;

f) Disciplinary Regulations of the State Police approved under the decision of the Council of Ministers no.786, dated 04.06.2008; g) Standard Work Procedures for the State Police Services define the rules and legal responsibilities for accomplishing their mission, and also respecting of human rights by the police staff; h) Very often, dependent on situation and conditions for respecting human rights and freedom by the Police, orders, requisitions, circular letters, prescriptions have been worked out and delivered, where the attention of local police structures is drawn giving orders and putting forth duties for respecting and assuring human rights, especially for persons deprived of liberty (restrained, arrested or detained people).

73. However, apart from complying with legal acts, great importance is paid on training. Thus, in the modern concept of police basic schooling and also training, the philosophy of law should transvers as a spirit all education program of each module. In police education system, human rights are treated at all schooling levels (basic level, first management level, medium and high management levels).

74. Use of force is part of general curricular of the training of prison staff, which is treated as a separate theme. This theme is included in the basic program and in the Manual of medium management training, which includes the topic "*Protocol on the use of force*". In case of indentifying the use of torture or inhumane treatment, necessary measures are undertaken for moral, psychological and social rehabilitation. Reports are forwarded to superior administrative organs in order to impose disciplinary measures against responsible persons or charges are filed in the prosecution office, which adjudicate in the context of penal violations.

Question 26

75. Improvement of professional education of service workers in penal institutions has been one of priorities of the Directorate General of Prisons (DGP) and is considered a very important component for provision of service to persons of limited liberty in compliance with international standards. As a result of a series of measures undertaken for organization, management and improvement of programs and modules, which are worked out under foreign assistance, training service has been increasingly improved responding thus to the needs of training staff. Training service is realized by the Training Sector, which is included within the structures of the Directorate General of Prisons. During the last years, this center has embarked on a deep reform for improving training service. Also, an education program has been drafted and is being implemented based on the best experiences of the countries of EU. The program includes 240 hours with a span of time covering 45 days theory and 3 month practice. A successful feature of such reform is the raise of training service to a system including basic trainings, training for progress in career and specific training over the span of the whole year.

76. In 2011, 1028 employees from penal institutions (prisons and pre-trial detention premises) attended training activities included in 218 training days. The groups that participated training activities comprised employees of basic security level recruited for the first time, all those who applied for higher ranks (grades), employees of medium level security service, who were trained one week on the basic program and one week on the program of medium management level. The third group included social and health service specialists, who were trained one week on the treatment of persons using narcotic substances. The staff working with minors was also involved in training, including also management level, directors and their deputies. Summarily, positive changes are mentioned below:

Question 27

77. Prevention of torture constitutes a very important training topic for all staff levels of prison services. Trainings involve all levels of employees, especially medium level employees of security services, who are included in a two weeks program, in two phases, on basic and medium level management program. Training groups are made up of employees from all services together aiming at consolidation of multi-disciplinary teams, clarification of roles, emphasis on professional ethics and cooperation. There have been worked out and published modules, which are made available free of charge to every participant attendening training activities, such as, the Manual for training Medium Level Management. Training modules have been enriched with problematics faced with during practical activities and also with international standards. Therefore, part of modules has

been Rec 2006(2) European Rules of Prisons, Rec 2008(11), “On minors”, the scope of measures and sanctions, Conventions, Regulations and relevant Guidances for training persons in conflict with law. All major international acts and internal legislation are bound in a book and are sent to institutions to be included in their training programs.

78. In cooperation with the Albanian Center for Rehabilitation of Trauma and Torture, for the first time in 2011, it was worked out the format of the document on the cases of the use of physical and psychological violence, for medical emergencies, for introducing law, an unified document which was elaborated according to requirements and recommendations of the CE and in full compliance with the Protocol of Instambul. This new format is forwarded to all institutions to become part of their activities. Development of the format is a product of continous and joint training carried out in 2011 with specialists from the areas of medicine, police and education, prison system and experts of Albanian Center for Rehabilitation of Trauma and Torture. In this framework, several training activities have been organized with the participation of 35 doctors and nurses, 28 people from the police staff and 33 employees from education staff.

Question 28

79. In the framework of continous assistance provided by the services of the European Commission, the Directorate General for Extension (Instrument TAIEX), in collaboration with the European Law Academy (ERA), organized a seminar in Viena, on 3-4 December, 2009, about Asylum and Migration. Also, in the framework of continuous assistance provided by the services of the European Commission, the Directorate General for Extension (Instrument TAIEX) conducted a visit in Belgrade, on 12-13 March, on the topic: “Management of receiving capacities of refugees in regional level”. In Scopje, Macedonia, a seminar was held on 15-25 November on the topic: “Migration Policies in the countries of Western Balkan”. A seminar in the framework of cooperation with the German Government and with MARRI, on the topic: “The best practices in acception of refugees in receiving centers for asylum-seekers”. A meeting by TAIEX in June 2010 and training by UNHCR, in February 2011, about Geneva Convention and Dublin Declaration.

Question 29

80. The State Police has already created an experience related to trainings, where the annual training plan of the State Police is worked out each year and approved under an order delivered by the Directorate General of Prisons. This plan includes all the needs of different police structures according to directions and for each specific issue. Among others, we may mention some topics dealing with:

- Introducing police officers to human rights and especially for detained/arrested persons;
- Introducing police officers to their tasks and responsibilities related to women rights and minimization of violence in the family and also increase their knowledge on legislation and its application in these fields;
- Special attention is paid to the themes on communication of police effectives with the public according to certain situations.

81. Also, the annual training plan specifies clearly the objectives which are sought to be achieved through development of respective themes, it specifies the beneficiaries, trainers that will conduct training activities, the place and training monitoring staff and at last the process of certification of beneficiaries based on their training results.

Neni 11**Question 30**

82. The Directorate General of Prisons has cooperated with the structures of international agencies operating in the field of children rights like UNICEF, ILO, Save the Children, etc., and has signed agreements with them just for carrying out informative, sportive and cultural activities, especially for minors, for which there is a re-integration program after their release from prison.

83. Having regard to recommendation for inclusion of pre-trial detained minors in creative activities, continuous measures have been undertaken to enable the pre-trial detained minors involved in education activities, such as, formal education, vocational courses, therapy of arts, cultural and sportive activities and their participation in sportive spartakiads. These activities have been increased during the last years. Minor children are involved in these activities according to a working schedule. Education staff in penal institutions has paid great attention to increase the number of several activities because they affect largely the rehabilitation of such category of people. Compared with the year 2009, an increase is noticed in the number of socio-educational, cultural and sportive activities. In 2010, there were organized 291 social activities, 74 sportive activities, 179 cultural and religious activities. Averagely, within a month, prisoners are involved 77 hours in sportive activities, 15 hours cultural activities and 24 hours social activities.

Question 31

84. The Decision of the Council of Ministers no. 303, dated 25.03.2009, "On approval of Regulations of Prison General Directorate", revised, defines the ways how prisoners, either detainees or convicts to imprisonment, realize their rights and responsibilities, organization of their life, the way and conditions for execution of the penal decision to imprisonment, performance of working activities, and remuneration for accomplished work, etc. Articles 15 and 16 of these Regulations specify clearly that immediately after entering the institution the prisoner is informed by the Receiving Commission about the regulations of the institution including hygiene rules. The prisoner is examined by a doctor without the presence of the staff of the penal institution. A medical card is filled in for each prisoner and doctors's examination is recorded in a medical, scientific report for which the doctor is responsible; anamnesis, i.e. health state described by the prisoner itself, is a section of the medical report. Medical card is made available to the prisoner whenever he requests it. Medical information may be given to a third party only upon a written request and on declaration of the person of limited liberty, which is always attached to the medical card.

85. For prevention and fight against SIDA (AIDS), law no. 9952, dated 14.07.2008, is adopted "On prevention and control of HIV/AIDS-IT", and the decision no. 113, dated 17.02.2011, "For prevention of transmittal of HIV/AIDS-it and care, advice and treatment of persons suffering from HIV/AIDS in the institutions of education, re-education, institutions of medical treatment, residential institutions of social care, prisons and pre-trial detention premises".

86. Common guidelines of the Minister of Justice and the Minister of Health, "On hygienic and sanitary inspections in pre-trial detention and penal institutions", define in details hygienic rules to be applied by any institution.

87. The Directorate General of Prisons has paid great attention to health care of persons of limited liberty. Based on recommendations made by several organizations, which are operating in this field, considerable efforts have been made for improving the living conditions of the community deprived of liberty. Therefore, a new structuring is made with

the health staff in prisons and provision of health care. Averagely, a penal institution includes in its structure one general doctor, one dentist, one pharmacist and four nurses. All convicts and pre-trial detainees, once they appear in pre-trial detention and penal institutions, are contacted by the medical staff. Since the first moment they get medical examinations which are recorded in the individual Medical and Dental Card. The Medical Card is a document where are recorded all health problems of persons and it is unified in all prison system. Examinations of infective diseases are not carried out within 24 hours but according to the features of each confined person: laboratory and imageric analysis are carried out first and are selected and completed in the following days. Persons of limited liberty are provided with all medical services by the Directorate General of Prisons like all other nationals (Medicament, Laboratory and Imagery). This medical service, including all its components, is provided free by the state. Only the doctor is aware of health problems (diagnosis) of each person deprived of liberty.

Question 32

88. Operational measures for assuring and improving the rights of prisoners to meet their family members are determined by law. Based on provisions of law no. 8328, dated 16.04.1998, "On the rights and treatment of convicts to imprisonment and pre-trial detainees", revised, Articles 40 and 41, special attention is paid to maintenance, improvement and restoration of relations of prisoners with their families. Prisoners have the right to inform immediately their family members about their confinement or transfer to other penal institutions. For minor children and women who have young children a special and advantageous program is worked out related to relations with their families.

89. Prisoners are allowed to have meetings and correspondence with their family members and other persons. Meetings are carried out in special places under the visual watch, not audio, of monitoring staff. Meetings with family members are favoured especially. When prisoners are not able to secure the necessary means of correspondence, they are provided by the prison administration. Based on the General Regulations of prisons, persons of limited liberty are entitled to meet their family members, their relatives and friends four times a month. The director of the penal institution can provide to prisoners additional justified meetings, while minor prisoners have the right to meet their families 8 times a month. Minor children and three adult persons are allowed at each meeting. One meeting can last 5 hours for married prisoners and those who have children. The prison administration provides the prisoner with the place and conditions for holding long special meetings. Procedures of meetings with family members, relatives and friends are specified in Article 58 of Prison General Regulations and in internal rules and regulations of each penal institution. According to recommendations of the Committee for Prevention of Torture glass screens were eliminated because they hindered direct meetings of prisoners with their families and relatives.

Question 33

90. After every information on maltreatment and punishment of persons deprived of liberty, although they might have been imposed as disciplinary measures or for other motives, something which has been accepted in interviews carried out during monitoring visits of the National Mechanism for Prevention of Torture(NMPT), the latter starts immediately its examinations (administrative investigation). However, during the monitoring visits in penal institutions, the experts of the NMPT hold interviews with a greater number of persons deprived of liberty in order to divert attention from separate persons who might become subject to mistreatment and discrimination by the staff of these institutions. Generally, meetings and interviews with persons deprived of liberty are held in rooms intended for the meetings with advocates or family members without the presence, observation or audition of institution administrative and security staff, without observing

cameras and in full privacy. In cases of general inspections of prisons or pre-trial detention premises, meetings are held in the rooms of prisoners, also without the presence of the staff and in as much as possible normal conditions, after the experts of NMPT have ensured prisoners' privacy.

91. For preventing punishment of prisoners who have been interviewed during the monitoring of the Ombudsman, periodical inspections are carried out in all penal institutions by specialists of various fields in the Directorate General of Prisons targeting the respect of the rights of prisoners and detainees by the civil and police staff of these institutions and complying with laws and sub-laws in force. For denounced cases documentary information is received and the direct contact with the prisoner is carried out.

92. The Ombudsman is an independent organ which monitors the conditions in penal institutions and estimates whether possibly administrative staff can violate the rights of prisoners. This task is realized while dealing with complaints and through inspections carried out by a Special Section and the National Mechanism for Prevention of Torture established in January 2008. This devise of the Ombudsman is a specialized structure which inspects and visits penal institutions for the purpose of preventing torture and other inhumane or degrading punishment. The Ombudsman, commissioners or vice-commissioners may visit prisons without the need of getting any permission. These are private visits. While performing its duties, this mechanism is guaranteed to hold private interviews, without witnesses, with persons deprived of liberty, personally or with the assistance of a translator, if necessary, and with any other individual that can provide required information. The meeting of the Ombudsman with the prisoner is not observed. This organ is responsible for identifying possible cases of torture and also other inhumane or degrading treatment and also makes recommendations for imposing administrative measures or penal proceeding against the person responsible for the use of violence.

93. Another measure serving this purpose is the establishment of post boxes, and also 2 free telephone numbers in all penal institutions in order to enable the prisoner call the Ombudsman or the Directorate General of Prisons. Several NPOs, which have the mission of protecting human rights and fundamental freedoms, are allowed to inspect prisons and pre-trial detention premises at any time. Representatives of these organizations are allowed to visit these premises, check up relevant documentation and contact directly confined persons without the presence of the police officer.

Question 34

94. The penal Code of the Republic of Albania prescribes the provision of medical measures to persons who have committed a penal offence and are irresponsible, and also provision of educational measures to minor children who are excluded from punishment and because of their age they have no penal responsibility. Article 46 of the Penal Code stipulates the medical measures and their types that are given by the court to irresponsible persons that have committed penal offences. Medical measures are: (1) Obligatory ambulatory treatment and (2) Obligatory treatment in a medical institution.

95. Law court decision on medical measures is revocable at any time when circumstances for which this decision is taken are vanished. Since the moment of imposing the medical measure, at any case, the court that has drawn the decision is obliged to review the decision on establishment of medical measure after a year since the time such decision is taken. During the trial process, the court complies with penal procedural provisions laid down in the Code of the Penal Procedure. Article 239, third paragraph of the Code of Penal Procedure states that temporary hospitalization in a psychiatric institution cannot continue when it results that the defendant is not mentally ill any more. Pursuant to this procedural provision, it is important that law court should review, every year, the decision on imposition of the type of medical measure.

96. Article 46 of the Code of Penal Procedures prescribes compulsory medical measures: (1) at any case when the mental state of the defendant shows that he should be medically treated, the court decides the hospitalization of the defendant in a psychiatric hospital. (2) When compulsory medical measure has been imposed or should be established for the defendant, the court orders the confinement of the defendant in a psychiatric institution, and (3) During preliminary investigations, the prosecutor requests the court to decide for the hospitalization of the defendant in a psychiatric institution and when the delay poses danger, orders the temporary hospitalization until the court takes the decision.

Question 35

97. Having regard to the improvement of the infrastructure of prison system, required measures and arrangements have been made to increase the capacities in conformity with European standards, or improvement of conditions of existing institutions, namely: 1) Construction and operation of the Institute for Penal Decision Execution (IPDE) in Peqin town. This penal institution has a capacity of about 685 prisoners, where, in a separate section, pre-trial detainees of the region are treated under the security measure "arrest in prison" given by the court, who have previously been accommodated in the old pre-trial detention premises that were located close to the rooms of the police commissariat; 2) Construction and operation of the penal institution in Korca city. This institution has a capacity of about 312 prisoners, where pre-trial detainees from the region are treated in a separate section. The first phase is funded under CARDS 2002 Program with a sum amounting to 2,5 millions euro. The second construction phase of this prison is funded under the CARDS 2004 Program with a sum amounting to 2,5 millions euro; 3) Construction and operation of penal institution in Fushe-Kruja. This institution has a capacity of 312 prisoners, where pre-trial detainees from the region are treated in a separate section; 4) Construction and operation of the penal institution in Durres. It has a capacity of 224 prisoners, where pre-trial detainees from the region are treated in a separate section. This is the first institution constructed under the financial support of the state budget; 5) Construction and operation of the Institute for Minors in Kavaja city. This institution has a capacity of 40 prisoners, where pre-trial detainees from the region of Durres are treated in a separate section.

98. Notwithstanding construction and operation of new penal institutions, overpopulation of pre-trial detainees continues to be a problem in Institutions for Execution of Penal Decisions (IEPDs). This phenomenon obligatorily bears consequences related to reduction of the time for airing, the time of meetings with families and relatives, of individual treatment of detainees by the employees of social, legal care, etc. In order to find a solution to this problem, projects for establishing new penal institutions have been developed. The IPA Program (2007-2009) of the EU has supported provision of funds for construction of pre-trial detention institutions in the regions of Fier and Elbasan with a total values of 16,5 millions euro.

99. In order to assure appropriate conditions for holding and treating prisoners, the following investments are carried out during 2010-2011:

- Waterworks and reconstruction in the prison in Tepelena town.
- Rehabilitation of the building no.3 in the prison of Shën Koll-Lezha
- A second line for water supply and partial refurbishments of pre-trial institution in Durres
- External engineering nets in Elbasan, Berat
- Reconstruction of administration building in Rrogozhinë
- Emergent Investment in "Jordan Misja" pre-trial institution

- Purchase of different equipment
- Rehabilitation in Lezha (2 buildings)
- Rehabilitation, II stage, Tropoja – contract was signed in September; rehabilitation under construction; pay-off under process.

Question 36

100. As it was stated in Question 31, the Prison General Regulations specifies clearly that medical examination is made within 24 hours once the prisoner or the detainee is confined in penal institution. Each year, long-term postuniversity specialization courses for doctors include also doctors who are qualified specifically for penitentiary system. Starting from 2012, all prisoners will be treated by the Institute of Insurance and Health Care in order to enable disbursement of medicines and all other services provided by this institute.

101. Once the convict or the detainee is brought to the penal institution, he/she is received by the Receiving Commission, which carries out verification of documents and physical presentation of the person, who is also asked by the commission about health and spiritual state, for the problems and troubles that might have. Information collected by the receiving commission serves to develop the individual treatment plan, in order to avoid any unpleasant situation in the future. Afterwards, the convict or the pre-trial detainee is examined by the general doctor of the institution, who makes the assessment about the health status of the person deprived of liberty and fills in the Medical Card, where he records all health performance of the individual all over the time serving his/her sentence.

102. Regarding investments of health service in 2010, 10 penal institutions were supplied with medical and dental equipment. In Peqin: 1 autoclave, 1 chemical laboratory, 1 EKG, 1 Oximeter. In “Jordan Misja” penal institution: 1 autoclave, 1 chemical laboratory, 1 EKG, 1 Oximeter. In Kruja: 1 chemical laboratory, 1 EKG, 1 Oximeter. In Lushnja: 1 dental cabinet. Also, 5 EKG and 3 Oximeters were delivered to prison hospitals in Peqin, Vlora, Lezha, Fushë-Kruja, Rrogozhina, Lushnja, Korça. In 2011, all penal institutions were furnished with first-aid bags and glycometers for microsurgical interventions.

103. Investments for medical and dental services in Prison Hospitals of every penal institution, and also treatment with medicaments, medical and dental supplies, have improved medical infrastructure within the system and have increased the quality of such services. In addition, the number of medical consultations and treatments outside the prison system is lowered, increasing thus security, lower costs compared with treatments provided outside the IEPDs system. A great progress of the health sector is inclusion of convicts and pre-trial detainees in health insurance scheme. Persons sentenced to imprisonment and pre-trial detainees will get free of charge all services included in health insurance scheme. Upon the proposal of the Directorate General of Prisons and the Ministry of Justice, the decision of the Council of Ministers no. 337, dated 06.04.2011, states that persons sentenced to imprisonment and pre-trial detainees are included in the category of persons economically inactive. In the sense of law no. 7870, dated 13.10.1994, “On health insurance in the Republic of Albania”, contribution to the funds of health insurance for persons of limited liberty are paid by the state in compliance with Article 34 of above-mentioned law.

104. The Council of Europe, in cooperation with the Directorate General of Prisons, organized in 12-13 December, 2011, a training seminar about health services in prisons, which was attended by 40 specialists of medical and socio-psychological staff. The main objective of the seminar was the training of health and social care staff which is serving in penal institutions, based on the experience exchanged with foreign professionals of this field. The experts of the Council of Europe focused their discussions on such topics like Standards of the Council of Europe and the CPT related to health services in prisons and

medical ethics, medical examination once the convict enters penal institution, medical consultation and documentation, health care for vulnerable category including minors, women, old age people, etc.

105. With regard to the recommendation of the Committee of the Council of Europe for Prevention of Torture (CPT), the Directorate General of Prisons has proposed to transfer medical service under the authority of the Ministry of Health.

Question 37

106. Actually, there is no person, against whom a judicial decision is taken, being held in the premises monitored by the State Police, because the practice of holding persons in the premises of the Police is a past history now.

Question 38

107. The Police General Directorate, under the funds of the state budget, has rehabilitated and established appropriate premises for holding and treating arrested and detained persons. Since 2009 onwards, premises of security rooms were totally rehabilitated in the Police Commissariats in the cities of Fier, Lezha, Kukës, Korça, Gjirokastra, Kavaja and in the Police Commissariat no. 5 in Tirana. The plan, design and rehabilitation work for establishing such infrastructure comply completely with norms, parameters and standards laid down in the Convention of CE "For Prevention of Torture and Inhumane and Degrading Treatment", fulfilling all conditions for human stay and treatment of confined persons such as: 1) sufficient space, surface and cubature for a person; rooms are designed and constructed for the stay of one person having a surface of 9-10 square meters each; 2) good hygienic and sanitary conditions; 3) conditions for airing and complete natural lighting; 4) conditions for staying and resting (appropriate beds and bedlinen for sleeping); 5) conditions for accomplishing personal necessities and access to drinking and washing water any time; 6) conditions for washing the body with warm water; 7) conditions for meeting the advocacy maintaining privacy/confidentiality of talks; 8) conditions for food treatment: three meals a day based on the norms approved by the Ministry of Health and the Ministry of Interior.

108. All norms, parameters and conditions that are to be applied for establishing and creating the premises for this category of people are specified in the Manual of Standard Rules and Procedures for Treatment and Security of Arrested and Detained Persons in the Police Units, approved under the Order no. 763, dated 27.09.2011, the Directorate General of Police. Other security rooms inherited from the previous system have been rehabilitated and improved, too, such as: painting, cleaning, hygiene, extending window spaces for airing and lighting, provision of sleeping beds, replace of old blankets with new ones, etc.). Under the Order no. 542, dated 10.06.2011, of the Director General of the Police, security rooms in the premises of Police Commissariat no. 4 in Tirana are not operating any more because they are not suitable for the treatment of arrested/detained persons.

109. Regarding the premises for serving the sentence, they are furnished with necessary supplies and materials for accommodation like metallic beds and bedside chests, bedlinen and cantonment materials, such as mattresses, blankets, sheets, pillows, plastic tables and benches). According to norms and plan of supply, and also based on formal demands of the penal institutions, logistic supplies are distributed on periodic terms. The rooms of convicts and pre-trial detainees get natural light and electric light is not missing at night. The sector of logistics makes sure that even when electric light is interrupted because of technical defects, a generator is put on operation.

Articles 12 and 13**Question 39**

110. The events of the use of violence and maltreatment by the prison police staff against persons of limited liberty may be considered sporadic. For the penal offence of torture inflicted on prisoners or pre-trial detainees, only one penal proceeding is recorded in 2003, which was transferred because of subject matter jurisdiction; one penal proceeding was recorded in 2004 and it was brought before the court; one penal proceeding in 2008 was transferred. In 2009, the prosecution office investigated 4 police officers in the penal institution in Fushe-Kruja charged of "arbitrary actions" while accompanying the convicts. Four incidents were recorded in 2010: three cases in the penal institution in Vlora and one case in Korça. The Directorate General of Prisons has undertaken immediate measures for verification of these cases and has prosecuted them to respective districts offices. No case was recorded in 2011.

111. Disciplinary and penal sanctions are imposed on prison police officers who are proved to have used violence. When the breach of law doesn't include elements of penal offense, they are considered administrative misdemeanors and are punished under administrative disciplinary measures. Administrative measures imposed on police officers include:

- 1) Written rebuke;
- 2) Written warning;
- 3) Suspension from the job with no salary from one to three months;
- 4) Demotion of grade or position;
- 5) Dismissal from work.

In addition, periodical training activities are organized by the Training Sector in the Prison General Directorate in collaboration with NGOs in order to increase the consciousness of prison police officers for elimination of any element which might cause inhumane treatment on persons of limited liberty and make them aware of what is considered violence or degrading treatment in the prison system.

112. The Ombudsman ascertains that violence by the employees of the State Police have been noticed because there have been cases of torture and maltreatment of persons restrained, detained or arrested in the premises of their confinement. Daily information related to events of torture and maltreatment by the State Police is brought to the office of the Ombudsman mainly from the complaints submitted by nationals themselves or by the families of prisoners or detainees. For more complete information the office of the Ombudsman makes use of written and visual media, NPOs and a free public phone number available to all citizens. After each information on torture and maltreatment, the Ombudsman office immediately follows up with the issue and initiates administrative investigation. It has been noticed and still remains a concern the moment of persons' arrest and their questioning, because most complaints of nationals have to do with these two components, and they pretend that during this period they are not introduced with their rights. They claim that declarations are taken under pressure and without the presence of the defense. Their declarations are taken even of events that have no relation to their confinement. There are cases when minors are questioned without the presence of the psychologist, etc. For every identified case, the office of the Ombudsman has made its recommendations for imposing disciplinary measures or institute penal proceedings against the employees who has violated the law. In order to prevent the events of violence in these premises and allow their documentation, and also to avoid baseless accuses against the employees of the State Police, recommendations have been made for installation of security

cameras in the premises of confinement, in security and investigation rooms, at all local units of the State Police.

Question 40

113. The Constitutional framework (The Constitution of the Republic of Albania, respectively Articles 15-134), and also laws and sub-laws, (the Code of Penal Procedures, Articles 227-269; Law no. 8328, dated 16.04.1998, “On the rights and treatment of persons sentenced to imprisonment”, revised, and also the Decision of the Council of Ministers no. 303, dated 25.03.2009, “On approval of Prison General Regulations”, revised), prescribe clearly the obligation of the state organs to inform persons alleged of penal offense, or pre-trial detainees about their rights. The Prison General Regulations states that prison employees are obliged to inform pre-trial detainees or convicted persons about their rights once they are confined in the penal institution. The Directorate General of Prisons is undertaking required measures to print the forms of complaints and make them available to prisoners. Nevertheless, the complaints of arrested or pre-trial detained persons are received and treated continuously by the Ministry of Justice.

114. Having regard to information on the rights of arrested/detained persons, judicial police officers, apart from verbal communication, make available a written format containing all the rights during arrest/detention and stay/treatment in the premises of security rooms. After reading the format and introducing it to these persons, the format is signed by the latter and administered in two copies, of which, one copy is held by the person itself and one copy by the police staff in the function of “Supervisor of security rooms” in the police commissariat. Compilation, approval and application of this document is made based on the Order no. 562, dated 16.06.2011, of the Director General of the State Police ““On approval and application of “The declaration for informing and introducing the legal rights to arrested/detained persons by the State Police”, during arrest/detention and stay in the premises of security rooms””. Several posters advertising the rights of this category of persons are displayed in the premises of local police stations, directorates and commissariats, in detention premises and security rooms.

115. In “The Manual on Standard Rules and Procedures for Treatment and Security of Arrested/Detained Persons in Police Units”, approved by the Order no. 763, dated 27.09.2011, in Chapter I, point 3, letter “i”, it is stated: “.....they are guaranteed the right to complaints and requests related to treatment and respect of their rights by the police staff.”. Likewise, Chapter III, paragraph 1, point 1.31 specifies that: “.arrested/detained persons have the right to submit oral or written complaints and requests, enclosed in envelopes, to the Director of the Commissariat, to the Regional Police Director, the Director general of the State Police, to Prosecution Offices, the Ombudsman, NPOs, etc.

Question 41

116. Amendments made to legal acts and sub-laws of the penitentiary system have improved the procedures on the rights of prisoners to complaints and requests. Prisoners are allowed to submit every day, in writing and exclusively verbally, requests and complaints to the staff of the IPDE or to ask for meetings with the director of the IPDE or management staff. Authorised persons organize meetings with prisoners to enable them present their requests and complaints. The management of the penal institution enables prisoners to have confidential meetings with the members of Monitoring Commission, with the Ombudsman and his office staff, with the advocacy required by the prisoner or assigned for him. With representatives of domestic or foreign NPOs that are operating in the area of human rights or of international organizations. Requests and complaints, after being recorded in a separate book, are handed over to the director of the IPDE, who is obliged to appoint the relevant employee to solve the issue and respond to the prisoner. For requests and

complaints forwarded to the IPDE, the answer is given within 15 days. The prisoner may present requests and complaints to the Minister of Justice, the Director General of Prisons, the Ombudsman, the Prosecutor, law court, the Monitoring Commission for Penal Decision Execution, or other state organizations and to get answer within the time limits determined by legal acts in force.

117. The issue related to improvement of work for treatment of requests and complaints has been to the primary attention of the Directorate General of Prisons (DGP) and it has been reflected on the action plan for meeting the recommendations of the Committee of the Council of Europe for Prevention of Torture(CPT). For this purpose, in collaboration with Albanian Helsinki Committee, a working team is set up in the DGP for improving the actual mechanism of treatment of requests and complaints. The working team has completed the unification of the forms of requests and complaints based on an English model. Also, a protocol is worked out which will serve as a guideline for prisoners in order to facilitate and improve the filling in of forms by prisoners. After formalization of formats, a series of training activities will be conducted by the Training Sector in the DGP in cooperation with Albanian Helsinki Committee in order to increase the capacities of responsible staff for receiving and addressing the requests and complaints.

118. Moreover, the police staff has paid great attention to execution of administrative and normative acts related to receipt and verification of requests and complaints of the community for violation of rights and unlawful use of violence. The police structures that are dealing with verification and execution of these complaints are the central departments and directorates at the Police General Directorate, according to their jurisdiction. In the Directorate General of the Police, within the Directorate of Professional Standards, a separate sector is established dealing with identification and treatment of requests and complaints, something which will affect further improvement of the work for identification and evaluation of problems in this field, and also for determining and taking appropriate measures to prevent acts of breach of law in this direction. Also, in the Ministry of Interior, the Directorate of Internal Control Service is operating since years ago and has its extensions to local police organs, which, among other legal responsibilities, covers also the events of use of unlawful violence by police employees and also abuses of violating human rights and freedoms.

119. Over the period from 2009 -2011, the Internal Control Service has filed at Prosecution Offices of Judicial Districts 8 penal prosecutions for 14 police officers, of which, 2 officers of the first management level and 12 officers of execution levels, on charges of maltreatment and use of violence against persons in the premises of the state police. All these prosecutions have been initiated based on the complaints of several nationals.

Question 42

120. In the framework of strengthening the independence of judicial power, the Ministry of Justice has initiated the implementation of Intersectional Strategy of Justice and the Action Plan attached, approved under the decision of the Council of Ministers no. 519, dated 20.07.2011. This strategy comprises an important and comprehensive document which aims at improving further the system of justice in the Republic of Albania by assuring its independence, partiality, effectiveness and efficiency, and also increase the access to justice and public confidence, and side by side with strengthening and increasing further the contribution of this sector in the Albanian society development for inducement and acceleration of the European integration. This strategic document and the Action Plan associating it anticipates objectives and concrete measures for the institutions and other components of the justice system over the period 2011-2013, in order to fulfill the vision” “Albania will enjoy the status of an integrated country in the European and Euro-Atlantic

structures as a state of justice, democratic and guarantee of human rights and fundamental freedoms and will transform the system of justice to be open to anyone, to enspire confidence on everyone and assure justice to whoever”.

121. Complying with such a vision and with the problematics identified in the system of justice, the strategic document prescribes concrete arrangements and measures, especially the consolidation of the independence of the judicial power and the organs of the system of justice aiming at facilitation of self-government of juridical power and the increase of its capability to affect the other powers. The Strategy pays special attention to independent administration of judicial budget by improving interinstitutional collaboration and provision of functional schemes.

122. In addition, a key objective is also the increase of professionalism of judges and prosecutors for treatment of penal judicial cases that have to do with prohibition of torture through organization of thematic professional trainings provided by the School of Magistrature. Actually, the following table shows the training topics conducted by the School of Magistrature over the period 2008-2011 having on focus prevention of torture and inhumane treatment:

<i>Nr.</i>	<i>Time</i>	<i>Topics of training sessions</i>
1.	3 October 2008 14-15 April 2009 16-17 April 2009 21- 22 May 2009	Compensation of trafficking victims (The rights of trafficking victims. Comparative look: the right to compensation; international and compared rights. Albanian law and experience of organs of justice – penal, civil and labour law.)
2.	13-14 October 2008 28-29 October 2008 17-18 November 2008 24-25 November 2008	The role of judiciary on execution of law “On measures against violence in family relations” (9669/18.12.2006). Order of defense and of UMM, and also interinstitutional cooperation for si their implementation.
3.	2 December 2008 3 December 2008 15 December 2008 16 December 2008	Identification, treatment and protection of trafficking victims of human beings before and after the law court trial.
4.	4-5 December 2008 5-6 March 2009	Training on family and minor-children law, including the Council of Europe of Human Rights and the law of the European Commission. The trafficking of human beings, Conventions of the Council of Europe. Compensation of trafficking victims (The rights of trafficking victims. Comparative look: the right to compensation; international and comperative rights. Albanian law and experience of organs of justice – penal, civil and labour law.)

<i>Nr.</i>	<i>Time</i>	<i>Topics of training sessions</i>
5.	10-11 February 2009 9-10 March 2009	Training on family and minor-children law, including the Council of Europe on Human Rights and the law of the European Community
6.	12 February 2009	Training on penal law and penal procedures, including Council of Europe of Human Rights (Articles 2 and 3 of the Convention on protection of human rights and fundamental freedoms).
7.	11-12 January 2010 14-15 January 2010	Assistance to victims and witnesses in a penal process. Rights and services towards victims and witnesses.
8.	23 April 2010 20-21 October 2010 15-16 December 2010	Respecting the rights of victim in proceedings. The right to compensation. International standards and situation of legislation and law enforcement in Albania.
9.	18 June 2010 29 October 2010 9 March 2011	Theoretical and practical aspects of the trafficking of human beings and judicial practices. Assistance to illegal cross of borders. Theoretic and practical aspects in view of international \conventions.
10.	14-15 November 2011	Human rights and the Council of Europe of Human Rights. Updating the decisions of the European Court of Human Rights with Albanian state as a party for penal matters. Execution of provisions of international law by national courts in the field of human rights.
11.	16-17 November 2011	Human rights and the Council of Europe of Human Rights. Theoretical and practical problems related to review of the claims of convicted persons in the phase of execution of penal decisions. Jurisprudence of European Court of Human Rights. Development of a regular legal process in penal proceedings.
12.	2 March 2011	The significance of psychological estimation in family matters. Procedural position of a psychologist. Violence in the family and legal problematic in civil and penal aspects.

<i>Nr.</i>	<i>Time</i>	<i>Topics of training sessions</i>
13.	15-16 March 2011 17-18 March 2011	Training on: "Cases of maltreatment of children".

Question 43

123. Regarding application of legal and sub-legal mechanism related to compensation of the victims of torture, of former political prisoners and persecuted persons, we can state as follows:

- Law no. 9831, dated 12.11.2007, "On indemnity of former political prisoners of the communist regime", revised, has the objective to determine the beneficiaries, amounts, criteria and procedures of financial compensation benefited by former political prisoners, who has suffered the direct persecution of the communist regime by serving unjust penal punishment, such as imprisonment or obligatory medical measures based on one or some penal final decisions taken by simple courts, special courts or under orders of investigating organs during the period from 30.11.1944 up to 01.10.1991. The aim of this law is to provide financial compensation by the Albanian state to former political convicts of the communist regime, who are alive, for the families of executed victims, and also for persons interned or deported in camps, as an obligation of the democratic state to condemn the crimes of totalitarian communist regime and assure them a better life.
- The Decision of the Council of Ministers no. 707, dated 23.6.2009, "On approval of financial compensation for former political convicts of the communist regime", revised;
- The Decision of the Council of Ministers no. 933, dated 17.11.2010, "On determination of procedures of administrative review of requests and amounts of financial compensation to family members of victims executed unjustly without trial for political motives, over the period from 30.11.1944 up to 1.10.1991".

Article 15

Question 44

124. Based on Article 28 of the Constitution, persons deprived of liberty, have the right to be informed immediately, in the language they understand, of the reasons of such measure as well as for the accusation charged with and that they have no obligation to make any declaration and that have the right to communicate immediately with the advocacy and be allowed realize their rights.

125. The Penal Code specifies as penal offence the use of violence by the person assigned to carry on investigations, who intends to force the national make declaration, give evidence or admit his/her guilt or the guilt of others, and such offence is punished to imprisonment from 3 up to 10 years (Article 314). The Code of Penal Procedure, in case of an arrest or detention, states that the local prosecution office is informed immediately for the arrest or detention. The arrested or detained person is informed that has no obligation to make any declaration, and that has the right, since the moment of arrest or detention, to get to know the reasons of arrest or detention, to know the penal offense or accusation charged with and also about the rights entitled to him/her. Likewise, Article 37 of this Code (with relevant alterations) specifies that: "When a person, who is not taken as a defendant, makes declaration before the proceeding authority and this evidence incriminate him/her, the proceeding authority interrupts the questions warning him/her that, after such declaration,

penal proceedings might be instituted against him/her and invites him/her to get an advocate. Previous declaration cannot be used against the person who has made it". Article 38/1 states that: 1) The defendant, even when is under isolated security measures or deprived of liberty because of any reason, is questioned being free, except the cases when measures are to be imposed to prevent any attempt to flee or use of violence. 2) No method or technique can be employed, even with the consent of the defendant, to affect the free will or to change the memory or evaluation of facts. 3) Before asking questions, the defendant is made known that has the right not to answer the questions and even if he/she doesn't answer, proceedings will continue". Article 39 specifies that: 1) The proceeding organ informs the defendant, clearly and precisely, about the fact attributed to him, let him know evidences existing against him, and disclose the source of evidence when investigation is not damaged. 2) The proceeding organ invites him to explain everything that he finds useful to his defense and directly asks him questions. 3) When the defendant refuses to answer, this is written down in the records.

126. Pursuant to above-mentioned law frame, the Constitutional Court, under the Decision no. 14, dated 03.05.2011, has determined as a constitutional standard that any kind of evidence doubted to have been taken under violence is unacceptable. Likewise, this decision obliges the state organs, on all cases when there are claims for the use of violence by police officers, to carry out complete and comprehensive investigations, otherwise, collected proofs and evidences are worthless and consequently the whole process as well.

Question 45

127. In order to respect the dignity of convicts and pre-trial detainees, their impartial treatment and without discrimination on any ground such as sex, nationality, race, economic and social status, political opinions and religious belief, the Albanian legislation, in compliance with international agreements, lays down a series of provisions in its legal acts and sub-laws that have to do with the treatment of prisoners and pre-trial detainees and also the competencies and duties of relevant state organs. Legal acts aim at ensuring the respect for human rights and fundamental freedoms, social rehabilitation, individualization of treatment and the principle of legitimacy. From the statistics of the Directorate General of Prisons it results that no incident is recorded in prison system having as a factor ethnicity, minority or on the basis of religious belief or sexual orientation.
