



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

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**Committee against Torture  
Forty-eighth session**

**Summary record of the first part (public)\* of the 1060th meeting**

Held at the Palais Wilson, Geneva, on Tuesday, 8 May 2012, at 10 a.m.

*Chairperson:* Mr. Grossman

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\* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1060/Add.1.

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 19 of the Convention**

*Second periodic report of Albania (CAT/C/ALB/2; CAT/C/ALB/Q/2 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Albania took places at the Committee table.*
2. **Mr. Peka** (Albania), introducing his country's second periodic report (CAT/C/ALB/2), drew attention to paragraphs 4 to 7 of the written replies (CAT/C/ALB/Q/2/Add.1), which provided details of the National Mechanism for the Prevention of Torture established in 2008. Amended domestic legislation provided for the full, independent investigation, notably by the Ombudsman, of cases of torture, inhuman and degrading treatment and the monitoring of the rights of all persons deprived of their liberty. The National Mechanism for the Prevention of Torture had carried out inspections in the majority of the State Police detention and security premises. Paragraph 24 of the written replies contained statistics on the disciplinary measures that had been taken in 2011 against police officers found guilty of committing arbitrary action in the course of their duties.
3. Measures had been implemented to prevent domestic violence, as detailed in paragraphs 26 to 30 of the written replies. They included steps to ensure that the different authorities provided a coordinated response in such cases. Further measures to prevent violence towards women and domestic violence were due to be implemented, including the criminalization of marital rape.
4. Trafficking in persons constituted a criminal offence, as explained in paragraph 34 of the written replies. The first conviction for internal, as opposed to transnational, trafficking in females had been handed down in July 2011, thus establishing a legal precedent that would facilitate the conviction of such crimes in the future.
5. Several steps were being taken to reduce pretrial detention periods and prison overcrowding. They included the opening of new prisons and the adoption of legislation in 2011 introducing the possibility of house arrest, facilitated by electronic monitoring, as detailed in paragraphs 43 and 45 of the written replies.
6. Blood feud killings continued to be of great concern to the Government, since public opinion was particularly sensitive to such criminal offences. Nonetheless, the number of such conflicts had decreased between 2003 and 2011; they currently accounted for some 2 to 3 per cent of the total serious crime rate.
7. **The Chairperson**, speaking as Country Rapporteur, asked whether the Convention was considered to be self-executing in the State party. If so, was it applicable in Albanian courts regardless of whether additional domestic legislation was adopted? The Committee had received reports of two cases in which charges could arguably have been brought against police officers under article 86 of the Criminal Code, but the officers had instead been convicted of the lesser offence of arbitrary acts. He wished to know what measures the State party was taking to ensure that prosecutors applied the provisions of article 86 of the Criminal Code when appropriate. It would also be useful to have information on the substantive elements of the offence of arbitrary acts under article 250 of the Criminal Code. He failed to understand why article 86 of the Criminal Code did not contemplate arbitrary acts, given that it referred broadly to torture and any other inhumane acts.
8. Given that the definition of torture in article 86 of the Criminal Code included the intentional infliction of pain or suffering for any reason based on discrimination of any kind, it would appear that domestic violence fell within the scope of that crime, since it was

usually based on gender discrimination. The Committee would appreciate additional information on plans to introduce the specific crime of domestic violence, including the definition of that crime and the penalties that would be established. In addition, he requested data on trafficking in persons, particularly the number of prosecutions and convictions that had been brought, the length of prison sentences handed down and the protection measures that had been implemented for victims of trafficking.

9. In the case of the fatal shooting of three anti-government protesters on 21 January 2011, it appeared that those responsible had been punished with disciplinary measures only. He asked whether the administrative decisions handed down had prevented any criminal investigations from being carried out. It would also be useful to learn whether the family members of those killed had received any reparation, as required under article 14 of the Convention.

10. He requested confirmation that the Ombudsman was not required to provide data or proof of violation in order to conduct regular or unannounced visits to places of detention. He also asked whether the Government had agreed to the Ombudsman's request for additional financial and logistical support. The Committee would welcome data on the current budget of the Ombudsman's Office. It would be useful to know whether a time frame had been established to respond to the recommendations that the National Mechanism for the Prevention of Torture had made on improving detention conditions, increasing the number of psychiatric staff at all police stations and giving police officials and employees training in the role of the Mechanism and the Ombudsman.

11. The Committee had received reports indicating that violence against children within the family and in State care institutions remained a major issue in the State party and that the prevailing public attitude towards corporal punishment was that it did no harm. Furthermore, the Government had not adopted the recommendation of the Committee on the Rights of the Child regarding violence against children within institutional settings (CRC/C/15/Add.249, para. 41). He therefore wished to know what specific measures the State party was taking to raise awareness among parents and the staff of institutional care facilities of the need to use non-violent forms of discipline. It would also be useful to learn whether the State party had enacted any legislation specifically prohibiting all corporal punishment in child-rearing.

12. He would appreciate details of the amended legislation on the rights and treatment of prisoners. In particular, he asked whether limits had been introduced on the use and duration of isolation for convicted persons, pretrial detainees, institutionalized persons, women, juveniles and persons with disabilities. The Committee would welcome information on the circumstances in which isolation was permitted under the law for each of those categories. It would be useful to know whether the State party had set up special institutions for women and children serving prison sentences, as stipulated in the domestic legislation on the rights and treatment of prisoners. If so, he asked what those institutions were called and where they were located.

13. He asked whether article 8 of Act No. 8492 on foreign nationals or any other relevant legislation had been amended to provide a clear basis for a so-called "unwanted person" to challenge a removal order where there were substantial grounds for believing that the foreign national was in danger of being subjected to torture. Given that article 3 of the Convention established the principle of non-refoulement, he wished to know whether the State party's domestic legislation fully acknowledged the application of article 3. It would be useful to have details of the procedure by which an "unwanted person" could challenge that designation, particularly being ensured access to an interpreter, the guarantee of due process and full access to the relevant information, particularly in the case of an alleged violation of article 3 of the Convention.

14. He would appreciate an account of the practical mechanisms in place to ensure that rejected asylum-seekers were not at risk of torture or ill-treatment on deportation. The Committee also wished to know whether the State party planned to collect data on applicants for asylum whose requests had been granted because they had been tortured or because of a real personal risk of torture if they were returned to their country of origin. He asked whether, if the Government concluded that the principle of non-refoulement might be violated, it could modify that conclusion through diplomatic assurances. If so, it would be interesting to know in what circumstances that could be applied, and to have details of any relevant examples.

15. The Committee had learnt from NGO reports that the State party had received nine former detainees of the United States Naval Base at Guantanamo Bay, including one Egyptian national who had been in a legal limbo because he had no identity papers. He requested clarification of the legal status of those nine people, including their children. The Committee requested updated information on the number and nature of all the diplomatic assurances the State party had given and received. He also requested updated information on the fate of over 500 Roma children of Albanian nationality who had disappeared from the Aghia Varvara shelter in Athens, Greece. While four of them had been located in the State party, the whereabouts of the others remained unknown. He wished to know what investigations the State party was conducting to ensure proper clarification of that issue.

16. **Mr. Gaye** (Country Rapporteur), commending the State party's efforts to train prison personnel and involve NGOs in awareness-raising campaigns, said that he would like more information on the training of law enforcement officials regarding the prohibition against torture in accordance with article 10 of the Convention. He asked what steps had been taken to train medical staff to identify signs of torture or ill-treatment in places of detention, in accordance with the Istanbul Protocol. It would be useful to know whether specific training was provided for the protection of women, lesbian, gay, bisexual and transgender people and ethnic minorities in places of detention and, if so, what results such training had achieved. It would be helpful to have more information on the statement in paragraph 133 of the report concerning the decrease in the number of violations committed by the police.

17. Turning to article 11 of the Convention, he did not fully grasp what was meant by the terms "arrest" and "detention" referred to in paragraph 141 of the report. He would appreciate more information on the maximum period of pretrial detention described in paragraph 144, especially as such detention was often prolonged in Albania. There was a need to define precisely what was meant by the security measure of "imprisonment arrest", mentioned in paragraph 145, and indicate whether there were time limits on such measures. Referring to paragraph 300 of the report, he asked for details of cases in which the presence of a defence attorney was not required when an arrested or detained person was under investigation. He wished to know how NGOs were involved in investigations of human rights violations in practice, whether the investigations covered all places of detention or were limited to prisons and what the results of such investigations had been. Details were lacking concerning the access of detained persons to medical care by a doctor of their choice.

18. He drew particular attention to the recommendations put forward by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following its visit to Albania in 2008, as set out in the list of issues (CAT/C/ALB/Q/2, para. 31). He would like to know what had been done to follow up on those recommendations. He also reiterated the requests for information regarding measures to protect persons interviewed by the national mechanism for the prevention of torture (para. 33), safeguards for persons admitted to a psychiatric establishment on an involuntary

basis (para. 34), investments in prison and other detention facilities (para. 35) and improvements in medical care for detainees (para. 36).

19. With respect to article 12 of the Convention, he noted with concern that investigations into allegations of police wrongdoing were conducted by authorities reporting to the Ministry of Internal Affairs, which compromised the spirit of impartiality. He suggested that responsibility for such investigations should be given to an independent body separate from the Ministry. He wondered whether the State party envisaged alternatives to custodial penalties as a means of alleviating the problem of overcrowding of prisons and pretrial detention centres and whether that problem was not tied to the slow pace of justice.

20. Turning to article 13, he noted with concern that the police officers involved in cases of the death of persons in detention referred to in paragraph 255 of the report were sentenced to only 3 years' imprisonment. If they had been charged with torture, which would have been more appropriate as the handling of the detainees had resulted in death, the penalties would have been more severe. He encouraged the State party to enhance the role of the Ombudsman in the fight against impunity and to step up efforts to inform detainees of their rights, including the right to lodge complaints of abuse. He had received reports that the judiciary had not been sufficiently committed to the fight against impunity. There was a need, therefore, to ensure that the judiciary was independent and that appropriate human rights training was provided to judicial officers. There was also a need for further information on the implementation of article 14, including the judicial or other mechanisms to provide fair and adequate compensation to victims of torture, including former political prisoners, and on efforts made to ensure their rehabilitation.

21. With respect to article 15, he said that no provision had been made under domestic law to prohibit explicitly the use of evidence obtained as a result of torture. He would like to know what steps had been taken to prohibit the use of such evidence and whether article 15 had been invoked by the courts. Lastly, he welcomed the measures taken by the State party to prevent domestic violence and would be grateful to learn more about their results. He would also like data on ethnic profiling, ill-treatment and undue use of force by the police, in particular against young members of the Roma community, and the measures taken to prevent such acts of discrimination.

22. **Mr. Bruni**, commending the large number of institutions such as the Ombudsman and the various components of civil society that had been consulted for the report, would like to know whether similar consultations would be held regarding the implementation of the recommendations of the Committee. He asked whether Albania envisaged making a declaration under article 22 of the Convention, thereby recognizing the competence of the Committee to receive and consider communications. He would appreciate information on the results of the visits to places of detention by the national mechanism for the prevention of torture.

23. Referring to paragraph 74 of the report concerning asylum, he asked whether Albania considered the Convention as the legal basis for extradition in the absence of a specific agreement on extradition with another State, as recommended in article 8 of the Convention. He would like to know whether there had been any follow-up to the circular mentioned in paragraph 157 concerning the conclusions and recommendations of the Committee. He would also like further details of the reports from NGOs of eight cases of death in detention facilities registered in 2011 and the measures taken to address the phenomenon. Citing paragraph 98 of the report of the European Committee for the Prevention of Torture to the Albanian Government on its visit to Albania in May 2010, he asked whether the Government was planning to abolish the sanction of placement of juveniles in a disciplinary cell for up to 10 days.

24. **Ms. Belmir**, noting shortcomings in the Albanian justice system, including the absence of juvenile courts and lack of clarity concerning criminal and military criminal law, requested updated information on efforts to provide a legal definition of children and combat child trafficking, as well as on other problems such as honour killings and domestic violence.

25. **Mr. Mariño Menéndez** asked whether solitary confinement could be imposed on persons who were remanded in custody or was restricted to persons confined in prisons or other detention centres. He asked whether any audio or video recordings were made of interrogations of persons charged with serious offences. Referring to paragraphs 349 and 350 of the report concerning the detention of persons escorted to police stations, he noted that the time limit for such pretrial detention should be regulated by a law rather than by the current regulations, which were more flexible than the law. He would appreciate an update on legislation to combat discrimination. He asked what the Government had done to tackle the issue of birth registration of Albanian children born abroad. Lastly, he wished to know whether the Government considered the transition from the former regime to the current democracy to be complete and whether compensation was still being provided to victims of that regime.

26. **Ms. Sveaass** drew attention to *Child Disciplinary Practices at Home*, published by the United Nations Children's Fund (UNICEF) in 2010, which stated that the majority of children between 2 and 4 years of age experienced some form of violent discipline at home and that a number of children in care institutions were exposed to severe assault, such as slapping on the face or head and kicking. She noted with concern that there were no specific laws to prevent such disciplinary practices. She would appreciate information on any programmes to increase the number of children who were registered at birth. The lack of juvenile courts and the number of children held in pretrial detention centres with adults was another matter of concern. Turning to the issue of mental health, she asked whether any statistical data were available on the pharmaceutical restraints on patients mentioned in the report of the State party.

27. **Ms. Gaer**, commending the manual on the treatment of persons in police custody mentioned in the report of the European Committee for the Prevention of Torture, noted that the Committee had found that law enforcement officials were little aware of the existence of the manual, let alone its requirements. She would appreciate updated information on efforts made to raise awareness about the manual. She wondered whether there had been not only training but also follow-up testing of their knowledge of its contents. The European report had also found widespread allegations of ill-treatment by the police, including slaps, kicks and truncheon blows, during the apprehension or interrogation of criminal suspects, particularly in the Korça region. She would like to know whether any investigation of such ill-treatment had been conducted or any law enforcement official had been criminally charged or disciplined. Noting that overcrowding was associated with violence between prisoners, she asked whether the State party monitored sexual violence in prisons. If so, she would appreciate information on the results of the monitoring and protective measures implemented.

28. Referring to the reply to the issues raised in paragraph 9 of the list of issues (CAT/C/ALB/Q/2/Add.1, paras. 31–33) concerning domestic violence, she asked for updated information on the number of proceedings that been brought before the courts. Were there any examples of law enforcement officials who had been punished for not providing protection or not intervening in cases of domestic violence? With regard to blood feuds, she said that men appeared to be the victims of such violence, and she wondered whether any of the persons murdered in connection with blood feuds were female. She would also welcome any statistics on honour crimes, including the number of prosecutions and persons punished for the offence. It would be useful to have updated information

regarding allegations of the existence of secret detention centres in Albania, where inhuman treatment had purportedly been inflicted on prisoners, as described in the Council of Europe report on inhuman treatment of people and illicit trafficking in human organs in Kosovo. Lastly, she would like to know whether any progress had been made in resolving the problem of special prison institutions for women referred to in paragraphs 318 and 319 of the report of the State party. If the women prisoners mentioned were mixed with men, it would be helpful to know who guarded the women and whether there had been any cases of abuse reported, criminal charges pressed and prosecutions brought.

29. **Mr. Togushi** asked whether funding for the national human rights institution had increased since it had begun to function as a national preventive mechanism. If so, he would like figures to be provided, not counting assistance from donors. He also wondered whether any changes had been made to the maximum possible period of confinement of a juvenile prisoner in a disciplinary cell. A recommendation had been made to reduce the period from 10 days to 3. Lastly, he asked what steps had been taken to ensure that persons were not remanded in custody for periods exceeding those prescribed by domestic law.

*The public part of the meeting rose at 11.55 a.m.*