



ALTERNATIVE REPORT

To the Second Universal Periodic Review on Albania, and recommendations accepted by Albania, during
the first UPR Review at Session 6 (30 November - 11 December 2009)

Albanian Rehabilitation Centre for Trauma and Torture (ARCT)
September, 2013

Table of Contents

Background	2
First UPR review of Albania	2
Prevention of Torture and other ill-treatment.....	3
1. The lack of implementation of OPCAT.....	3
2. Former political persecuted and their missing status as torture victims.....	4
Fight against Impunity and access to justice.....	5
Detention conditions.....	7
Disability rights and special needs.....	8
Gender Rights.....	10
Recommendations	11
Annexes :	
Annex 1: Data Analysis on detainees with special Needs.....	12
Annex 2: ARCT Shadow Report on UN HRC and UN CAT	22

Background

Albania is a country struggling to build democratic institutions based on the rule of law and respect for human rights¹. As the country makes further formal steps towards EU membership, important democratic deficits remain². Human rights and fundamental freedoms are guaranteed by the Albanian Constitution and legislation. However, implementation of such rights and enforcement of international agreements on human rights remain weak,³ for example in areas such as torture prevention, the right to a fair trial and the specific rights of detainees. By way of example, in accordance with the Albanian Constitution and national legislation, the authorities have various institutions to monitor places of detention (through specific Departments in the Ministry of Interiors and Ministry of Justice, as well as through the General Directorate of Prisons). In practice however, these institutions do not provide any valuable and reliable reporting and their recommendations are not seriously considered by the authorities. There is a significant discrepancy between the facts on the ground as described in national reports when compared with the reports provided by International Monitoring Bodies, such as the Council of Europe's Committee for Prevention of Torture, the European Commission, the US Department of State, or reports from Amnesty International, Freedom House, etc., as well as those provided by independent local NGOs, while a considerable number of their recommendations are not taken into consideration by the authorities.

ARCT's submission will focus on what the authorities have done to implement the accepted recommendations from the first UPR review concerning torture prevention in general and related issues concerning the fight against impunity and for improved access to justice; detention conditions and the rights of detainee; and the situation for persons with disabilities.

Due to limited commitment from authorities to reflect the views and insights of Albanian civil society, which works hard to monitor and hold the government to account to its promises and obligations pressure was maintained through submission of shadow reports and information.

ARCT will also submit some general recommendations regarding steps the authorities could take to improve the human right situation.

First UPR review of Albania

Recommendations with regards to Torture, Impunity, detention conditions – 2009 UPR

Albania accepted the following recommendations during the first UPR review (paragraph 67):

- Take effective measures to guarantee the independence of the judiciary and to put an end to infringements of judiciary independence through rapid, in-depth, independent and impartial investigations into allegations of interference as well as prosecutions and sanctions against the perpetrators (Belgium);
- Consistent with the recommendation of the Committee against Torture, strengthen the fight against impunity and look into all allegations of torture and ill-treatment committed by law enforcement authorities and prosecute those responsible for such acts (France);
- Investigate all allegations of torture or ill-treatment, prosecute those responsible and take all measures to ensure that impunity does not prevail (Denmark);

¹ Report European Commission: Albania 2006, Progress Report: EN {COM (2006) 649 final}.

² Freedom House's 'Freedom in the World 2010'

³ CPT Report to the Albanian Government on the visit to Albania from 28 to 31 March 2006, Strasbourg September 2007.

- Treat acts of torture by law enforcement officials according to the seriousness of their offence in line with previous recommendations of the Human Rights Committee (Germany);
- Intensify efforts to combat ill-treatment by police authorities (Norway);
- Improve the conditions of prisoners and pre-trial detainees and prevent any kind of abuse of prisoners by security personnel (Slovenia);
- Continue efforts to improve prison conditions (Russian Federation);
- Improve the conditions of detention for those held on remand and for convicted persons (Denmark);
- In light of the recent report by the Council of Europe's Committee for the Prevention of Torture, continue investments in prison and detention facilities, with a particular focus on improving material conditions for suspects held in police establishments and pre-detention centres (Norway);
- Implement effective and comprehensive reform of the penitentiary system (Canada);
- Establish detention facilities for juvenile detainees (Italy)

In the following, ARCT would like to show that the authorities have not fully implemented these recommendations.

Prevention of torture and other ill-treatment

In 1994 Albania ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) and in 1996 Albania ratified the European Convention for the Prevention of torture. Albania has also ratified the Optional Protocol to the UNCAT (OPCAT) in 2003. Albania has submitted its first initial report to the Committee against Torture (CAT) in 2003 and the second report to CAT in 2012; while the UN HRC session on Albania was held in May 2013. The Committee for the Prevention of Torture (CPT) under the Council of Europe has visited Albania eight times (the latest visit being in 2010). Despite positive efforts, Albania continues to struggle with the national enforcement of these international commitments, as mentioned above.

In order for Albania to fulfill its obligations under the UNCAT and the European Convention against torture, the CAT and the CPT have stressed the importance of properly criminalizing torture in the Criminal Code; ensuring proper legal safeguards for detainees; ensuring independence of the judiciary; fighting impunity that prevails during investigations of torture acts; improving the conditions in detention facilities; establishing a proper and independent monitoring mechanism; and finally ensuring a proper complaints system for victims of ill-treatment or torture etc. ***All recommendations which the Albanian government has yet to live up to.***

1. The lack of proper implementation of the UN Optional Protocol of the Convention against Torture

In 2003 the Albanian Parliament ratified the implementation of the UN Optional Protocol of the Convention against Torture (OPCAT), by the Law No.9094, dated 03.07.2003. In compliance with the OPCAT, in early 2008 the Parliament of Albania assigned to the Albanian People's Advocate (PA) the function of the National Preventive Mechanism against Torture (NPM) on the basis of a special law. The OPCAT ratification and establishment of the Albanian NPM remains a success story which was initiated as a cooperation between civil society and PA under the campaign "*Albania without torture*".

The preventive approach foreseen in the Optional Protocol is based on the regular and periodic monitoring of places of detention through visits to these facilities conducted by expert bodies in order to

prevent abuses. This standard is not being implemented in Albania and in contrast to OPCAT, the PA only monitors the situation once they receive allegations of abuse/ complaints.

Since its establishment, the Albanian NPM has been challenged by lack of multi-disciplinary professional expertise, financial resources, and lack of monitoring methodologies, which were minimized through cooperation with professional organizations which offered medical, psychological and psychiatric expertise to joint monitoring visits. As result, the NPM has been supported by CSOs to become functional and continuously increased the scope of work and activities with different places of detention.

Since 2011, the People's Advocate (PA) activities have been tremendously influenced by budgetary constraints, limited human and financial resources⁴; the institution has suffered from more than 2 years without being able to assign the Ombudsman, due to political stalemate. This situation and continuous political pressure has diminished the role and scope of work of the institution through budget cuts, and reduction of staff. This situation has become a concern where the PA recommendations were considered as "repetitive" and not taken into consideration properly by few state institutions.

The appointment of the new ombudsman happened in December 2011; main challenges for the institution remain the structural changes and improvements of the monitoring methodologies with regards to OPCAT implementation and concerns are related to the power of PA recommendations.

As of today, the PA remains an institution overwhelmed with complaints, without a preventive approach, as required by OPCAT. The PA office's effective independence from the parliament, executive and state institutions should be regulated by law. The number of PA staff in examining complaints from places of detention and engaged in monitoring places of detention is limited in view of the wide ranging issues that need to be addressed in places of detention. While PA conducts many visits to places of detention, no consistent and comprehensive system of visits to places of detention has been developed, such as full inspection visits (announced - to large facilities), follow-up visits and ad hoc visits (unannounced). While there are no general criteria on the length and regularity of full visits, given the capacity detention facilities that exist in Albania, full inspection visits should last a minimum of two days and be conducted at least twice a year.

Prevention approach has been supported and an independent civil society which through its role, mandate and clear methodology has significantly contributed for the OPCAT implementation. Although suffering from high staffs turn over and delays in assignment of duties from authorities, civil society has remained determined to maintain its independent but complementary role.

2. Former political persecuted and their missing status as torture victims:

Since early '90s in Albania, the transition has produced a variety of methods and instruments for dealing with the memory of communist crimes: such as the status of innocence for the victims (the former political persecuted), measures aiming at rehabilitation of victims, reparation and restitution of property, but the mechanisms have unsuccessfully addressed the issue of social justice and integration for the category of former political persecuted (FPPs) and their respective families/ relatives. The case of Albania is a demonstration that without a meaningful restorative justice mechanism(s) the chances for social turbulence and stagnation of democratic development processes is high even 20 years after the change of regime. The mechanism of denial does not bring sustainable social peace while unconditioned human rights respect needs being enforced and implemented for all societal groups.

⁴ UN Human Rights Committee 108 Session, Concluding Observations on the second periodic report submitted by Albania (CCPR/C/ALB/2)

As of ARCT data collected (1993-2013), there are less than 2,000 FPPs (over 65 years old- torture victims) detained during the communist regime and still alive, in dramatic conditions, and without a chance to be included under the material, moral, and social rehabilitation.

Albania has also signed but not implemented the European Convention on the compensation of victims of violent crimes (1983). According to the Convention, the Albanian Government (Ministry of Justice) should be entitled to complete the domestic legislation and improve practices with regards to compensation of the victims of violent crimes; no steps are taken so far.

Despite the implementation of the so-called “policy” of reparations for victims, virtually nothing has been done in the area of criminal justice and the need to address the malfunctioning of domestic and international laws concerning the condemnation of communist crimes in the country. The amnesty law in 1991 was adopted by the Albanian parliament, but it created a vicious circle for those affected by the law and established legal and administrative obstacles for the FPPs to approach the civil and/or criminal trials. Additionally, the justice system has functioned for the advantage of perpetrators as some trials against main figures from the repressive regime were successfully used as a mean for ensuring amnesty, property rights/restitution, possession of sequestered belonging, housing rights, pensions, etc.

Today, Albania does not have a consolidated national legislation which explicitly refers to the denial of crimes by the totalitarian communist regime. Likewise, removal of symbols of the authoritarian regime has not totally been accomplished.

The issue of Former Political Persecuted situation in Albania of 2012 did draw attention international community as never before, including State Department, European Commission, European Parliament. Due to a hunger strike in Tirana (October 2012⁵), the most unfortunate on human casualties on the long history of hunger strikes in this country, international community monitoring democratisation process of Albania formulated recommendations on a rapid inclusion of FPP issue within the integration agenda⁶.

Fight against Impunity and access to justice

Albania’s mechanisms to hold accountable those responsible for torture and ill-treatment or violations of prisoners’ rights are insufficient either to provide redress to victims of abuse or to deter perpetrators. The justice system does not effectively hold officials accountable for torture or ill-treatment, creating a climate of impunity. No case of torture has been reported since 2010 by the Albanian state authorities.

Pre-trial detention has been identified as a core concern by CPT. The number of the pre-trial detainees remains high.⁷ Excessive use of pre-trial detention constitutes a serious problem in the target countries. A common pattern is that court decisions to impose pre-trial detention tend to lack individual reasoning and to disregard the presumption of innocence. Although gaps in the legislative framework contribute to the excessive use of pre-trial detention, the key problem is often an inadequate implementation of the existing legal standards.⁸

The duration of pre-trial detention is another common problem. Moreover, although alternative measures to pre-trial detention have been recommended by civil society and European and International bodies, judges have failed to consider the use of such alternatives. Further, despite some progress, state authorities fail to ensure proper treatment of pre-trial detainees. By way of example, the risk of torture during pre-trial detention is high.

⁵<http://www.arct.org/pdf/Hunger-strike-of-former-politically-persecuted-in-Tirana.pdf>

⁶Statements of the US Ambassador to Albania, the Head of EU Delegation to Albania, Statements of spokesman of Mr. S. Fule, and the last resolution of the EP on the process of Albanian path towards EU integration.

⁷ In Albania the pre-trial detained population is 1948 out of 4879 detained in 18 pre-trial sections out of 21 detention facilities/prisons)

⁸Laska and Lika vs. Albania No:12315/04, 17605/04.

Furthermore, penitentiary centers continue operating permanently above capacity and overall conditions remain below standards, especially in some of the older prisons, pre-trial detention centers and police stations. Also, the excessive use and length of pre-trial detention is worrying, especially in the case of juvenile offenders under 14, 14-18 and in cases of adults over 65 years of age.

Within the international and domestic legal framework and basic rights for disabled persons in detention, there are specific issues to be addressed: a) getting equal access to facilities, programs and services: according to ARCT data inmates and arrestees have difficulties in using prison showers and toilets and to be protected from injury or the risk of injury (even in the newly established detention facilities); deaf and hearing-impaired prisoners lack sign language interpretation for disciplinary hearings; b) challenging inadequate medical care and prison officials' failure to provide inmates and arrestees with medical supplies or devices such as wheelchairs, in violation with the Art. 3 of ECHR9; c) challenging the detention procedures and confinement in isolation of disabled prisoners; segregation (of HIV-positive prisoners); d) fighting stigma of multiple disadvantage in terms of inmates' ethnicity, age, gender or sexual orientation¹⁰.

Finally, persons who have been detained for long periods and persons whose rights have not been respected during pre-trial detention often find it difficult, if not impossible, to ensure access to justice and redress afterwards.

Overuse of incarceration and lack of coordination between courts, prosecution and prison authorities have jeopardized the right to life, creating many cases of unlawful detention. ARCT during 2011 has successfully closed 2 court cases where the Court has changed the Decision recognizing the time spent in the pre-trial detention and reducing the punishment.

The issue of access to justice remains a specific concern of international community reports on Albania¹¹ while it becomes critical with regard to persons deprived of their liberty. Delays in court proceedings, corruption, and lack of proper knowledge in the international Law by judges were evidenced by ARCT during provision of free legal aid services to vulnerable persons in detention.

An issue of concern for the legal practitioners in Albania is also the *expensive court fees*, which are constantly violating the access to justice for the categories of underrepresented and poor victims.

According to a joint a decision from the Ministers of Finance and Justice in March 2010, claims cannot be admitted for examination by the competent court unless the claimant has paid a court stamp duty of 12,000 lek (€86); while for the criminal cases where damage compensation is requested, the victim should also pay 4% of the amount requested (another violation, considering that all people in need are represented by free-of-charge lawyers and attorneys.

Upholding the investigations results as secrecy jeopardises the process: sometimes individuals in police custody are kept in extreme conditions, forced to sign confessions used against. The presumption of guilt by public and justice officials with regard to arrested/detained persons remains high, leading to a tolerance of torture. Finally, persons who have been detained for long periods and persons whose rights have not been respected during pre-trial detention often find it difficult, if not impossible, to ensure access to justice and redress afterwards. Despite investigative mandate of the prosecution office in the criminal proceedings, violations are constantly identified while ordering arrest and detention¹². The caseload and information will be a source for improving the current legal aid system to ensure that the right to legal assistance is available and effective in practice.

9 See Kudła v Poland, op. cit., §94, Papon v France (no. 1), no. 64666/01, judgement of 7 June 2001; Gelfmann v France, no. 25875/03, judgement of 14 December 2004

10 Article 3, United Nations Declaration on the Rights of Disabled Persons

11 EU Analytical Report {COM(2010) 680}, page 21

12 Data from identified and referred cases of police brutality are now reported through use of ARCT format of effective documentation of torture. Since 2012, there are 13 cases reported by PTD MinePeza, Fushe- Kruja PTD, Jordan Misja PTD, Lushnja PTD and Durres PTD.

ARCT has verified through data from 2009 – 2013 that 45% of the detainees interviewed by ARCT reported being victims of some form of violence during arrest and the first hours of investigations. The data reveals the following:

	Cases of violence during arrest	Violence in custody	Violence in detention
2009	183 out of 549	379 out of 549	18 out of 298
2010	101 out of 369	121 out of 369	7 out of 140
2011	28 out of 129	38 out of 82	3 out of 67
2012	36 out of 159	41 out of 159	8 out of 117 ¹³

Due to initiated campaign Albania without torture, and preventive monitoring, there are few cases of extreme violence amounting to torture and ill treatment; creating solid grounds that good experience and introduced instruments (such as Istanbul Protocol) in prisons may be consider to be duplicated for the police custodial facilities.

ARCT has prepared alternative reports to the UN HRC 108th Session¹⁴, UN CAT 48th Session¹⁵ where, stating the violations of fundamental rights of access to justice.

Detention conditions:

With regards to the penitentiary system, despite improvements in some of the prisons and Pre-Detention institutions, overpopulation, occurrence of human rights violations, impunity, trained staff, respect for law provisions, inadequate health and social services are raised in almost any report of EU agencies and State Department for the situation in detention places in Albania. Preliminary results of an ongoing ARCT/RCT survey on prevalence of torture in places of detention is showing a problematic situation in almost any of the 21 penitentiary institutions in the country¹⁶, especially in some of the older prisons such as Burreli, 313 Prison in Tirana and pre-trial detention centres such as Kukesi and Lushnja.

(please advise the Annex 1: Data Analysis on detainees with special Needs)

With regards to detention conditions and premises in police commissariats, the situation remains critical: financial shortages were present, delays in disbursements, and problems with the payment of extra hours for police officers. Although there is no definition with regards to the police cell, it is generally considered as “any room within a police facility/commissariat, station, used or intended to be used for forced detention of an adult for longer than ten hours until such time as [s]he is released, bailed, or arraigned”.

Although the pressure from the civil society actors was high, the law amendments were not finalized by the Ministry of Justice, creating difficulties in managing specific situations. The passing of the amendments in the Criminal Code by the government were considered positive for the spirit of the punitive measures, yet the applicability of these amendments will be waiting for further administrative and technical interpretation in practice.

Various police inspection reports in different districts documented unsuitable detention conditions and treatments of detainees in police cells including: overcrowding and long stays for persons in police cells, substandard physical conditions and design faults, lack of access to health and mental health care, vulnerable persons being inappropriately held in police cells, abuse of detainees, poor sanitary conditions especially for women held in detention, lack of adequate accommodation, juveniles being held with adults, and absence of consistent training in duty of care and custodial role of police staff. Thus, the

¹³ Of these, here are 5 cases reported by the prison authorities in Tirana 313 Prison, Saranda Pre-detention and Fushe-Kruja.

¹⁴ ARCT report on UN HRC is accessible as following <http://www2.ohchr.org/english/bodies/hrc/hrcs108.htm>

¹⁵ ARCT report on CAT is accessible at the following <http://www2.ohchr.org/english/bodies/cat/cats48.htm>

¹⁶ A new pre-detention facility in Elbasan was opened in September 2012, although facing budgetary constraints

monitoring of conditions of detention in police commissariats is considered as important because persons in police custody are mostly pre-charge suspects; also, having temporarily lost their freedom, detainees have limited recourse to any remedy or assistance.

Considering that many police appear reluctant to perform their custodian role, one could understand difficulties or scruples they have to humanely treat suspects in their custody, and consequently the potential abuses detainees can experience in a police lockup. It is difficult to imagine the police respecting the human rights of detainees without an external monitoring system. This is the reason for a continuous monitoring process.

Fact finding from the monitoring:

With regards to the treatment of the arrested/ detained:

- Many people who come into custody or police contact do so with physical or mental vulnerabilities or both. There are also problems of alcohol or drug-related abuse or misuse. The police often provide the gateway to healthcare premises. A police station is not the most appropriate place for diagnostic assessment or healthcare treatment.
- There are no risk management standards developed in all premises visited in Albania
- Quality assurance procedures are not developed;
- Although effective procedures are in place for monitoring the use of force, monitoring and reporting against the use of force by diversity, location and staff is missing.
- The use of the 10- hours rule of accompaniment remains the ground for violations of basic rights: A lawful arrest by a police constable requires two elements: *A person's involvement or suspected involvement or attempted involvement in the commission of a criminal offence, and; Reasonable grounds for believing that the person's arrest is necessary.* Both elements must be satisfied. A person who is arrested, or further arrested, should be informed at the time, or as soon as practicable thereafter, that they are under arrest and of the grounds and reasons for their arrest, even if this fact is obvious, and of the relevant circumstances of the arrest in relation to both the above elements.
- Although the registry for the complaints was approved since 2012, and the General Police Director regulation was in place since December 2012, there are police commissariats like in Elbasani, Librazhi, Milot, etc which were not provided with the necessary documents.
- Surveillance systems were presented and piloted in few police commissariats, but the difficulty is in managing and processing the data, and recording the happenings.

With regards to the material conditions:

- 1) In Durres, Tirana, Lushnja, Lezha police commissariats the material conditions remain a concern: small and non- functional cells for the accompanied persons; no special cells for holding female inmates; no proper medical examination upon arrest and with regards to chronic illnesses.
- 2) Some investments were provided to Vlora, Gjirokastra and Kavaja while the summer period has increased the need for more space and conditions; difficulties in managing the mentally ill; there is no budget allocated for the food and medications.
- 3) Some new developments are being discussed with police structures with regards to a new plan for the opening of new police commissariats; positive developments and good infrastructure is presented in Fier, where the premises are newly built through contributions from Albanian Government and the European Commission.

Disability rights and special needs

Human rights in Albania reflect an issue which has required radical developments and improvements, along with the restoration of the rule of law and democratic principles¹⁷. Despite these commitment and the ratification of major human rights instruments (UDHR, ECHR, CEDAW, CRC, CAT, CRPD etc) yet

¹⁷ Proceedings of the European Ministerial Conference on Human Rights and Commemorative Ceremony of the 50th anniversary of the European Convention on Human Rights, Rome, 3-4 November 2000

there is little awareness and accountability from the government of human rights principles¹⁸ and own domestic laws protecting health conditions of persons with intellectual, physical, mental disabilities.

Albania has completely failed to end institutionalization and provide community-based alternatives for more than 900 persons with mental health problems and intellectual disabilities¹⁹. Reform is coming too slowly to institutions for adults with intellectual and mental health disabilities in Albania, where chronic neglect²⁰, filthy conditions²¹, and the use of physical restraints and high-dosage drugs to control behaviour remain routine²². Furthermore, there is an identified incompetence in coordination among various state agencies for the proper implementation of the already-there legislation (even refreshed in 2012).

ARCT has for many years campaigned for ratification and implementation of OPCAT with specific focus on prisons and police stations. *Violations of the civil and human rights of people with mental disabilities* result from appalling living conditions²³, the inappropriate use of restraint and seclusion, and failure to address complaints of ill-treatment, lack of medical treatment and rehabilitation therapies. The failure to provide adequate treatment to anyone deprived of their liberty, for example, infringes the right to the enjoyment of the highest attainable standard of physical and mental health – a right guaranteed under the International Covenant on Economic, Social and Cultural Rights.

ARCT's fact finding missions underline the need for long-overdue, comprehensive reforms of the mental health care services, due to the life-threatening living conditions in psychiatric hospitals. People are forced to live in prison-like establishments, abide by prison-like rules, sometimes in worse-than-prison conditions, having committed no crime. They are very often stripped of their legal capacity and have no option to ever leave. The legislation does not hinder the appointment of guardians, who may potentially or actually be in a conflict of interest with the ward; it is unacceptable such positions to be held by workers at the institution where the ward is placed. Also, unlike for institutions, there is no specific budget line for deinstitutionalization.

Despite legal safeguards with regards to right to life and security, torture and discrimination prohibition, there are no administrative and legal safeguards with regards to rehabilitation (while medication remains the sole treatment). Patients encounter restrictions in their exercise of socio-politico-economic rights, largely due to the false assumption that they are not able to carry out their responsibilities, manage their own affairs and make decisions about their lives.

In Albania there are no state-imposed policies on restraint and seclusion. What's worse is that hospitals have not developed such policies on their own, meaning that there are no maximum periods of time for which someone can be put in a strait-jacket or locked inside a claustrophobic isolation room. The answer: *"It is on a case by case basis"*. Not unlike other countries in the region, Albanian institutions have a shortage of staff, and thus a lack of real care²⁴. Without immediate and continuous therapy and rehabilitation, the lives of mentally disabled will be irreparably damaged. Limited [or no] freedom, forced routines and lack of privacy deprive people of their dignity. Many live in such poor conditions that could cause them physical or mental harm, and some suffer inhuman and degrading treatment and abuse by staff and other patients.

The adoption of the Convention on the Rights of Persons with Disabilities (CRPD, 2006) has provided momentum to highlight the importance of the nexus between disabilities and mental health in the context

18 US State Department HR Report has mentioned the slowlines "in implementing longstanding recommendations of ECPT, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2007/100544.htm>

19 Albania signed and ratified the UN Convention on the Rights of Persons with Disabilities (2012), which sets out their right to live in the community.

20 Violation of the Article 5 (violation of right to personal freedom and security), Article 8 (right to a private life) of the European Convention on Human Rights, *Stanev v. Bulgaria*

21 Violation of the violation of Article 3 (inhuman and degrading treatment) of the European Convention on Human Rights, *Stanev v. Bulgaria*

22 Concluding observations of the UN CAT on the 2nd Report on the Convention against Torture, May 2012; ARCT Shadow Report (page 12); <http://www2.ohchr.org/english/bodies/cat/cats48.htm> last access April 2013.

23 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) elaborated standards in 1998 for conditions and treatment in psychiatric institutions

24 The UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (Principle 11) require that restraint or seclusion should be used only to prevent harm to the patient or others, should not be prolonged unnecessarily and should be recorded in the patient's medical record. The patient must be held in humane conditions and under close care and supervision.

of human rights, humanitarian activities and in development work. Mental health legislation was firstly approved in 1996, addressing access to mental health care; yet with poor implementation, due to the inappropriate infrastructure (health, social and legal) that should further foster protection of the rights of the mentally ill and enhance their social inclusion. In this frame, a national mental health policy was formulated in 2003, while the mental health plan was approved in 2005. The 2012 Law on the mental health introduced the concepts of the community treatment and access to the least restrictive care, rights of consumers and family members, competency, capacity, and guardianship issues for people with mental illness, voluntary and involuntary treatment and mechanisms to oversee involuntary admission and treatment practices, law enforcement and other judicial system issues for people with mental illness. However, the implementation of the Mental Health legislation does require functional secondary legislation.

Parallel to it, the Albanian judicial system does not appear well-equipped to deal with such human rights cases. The courts are not highly professional (in the best case), although they will follow the legal provisions if they appear clear. While many new and reasonable laws have been drafted in Albania (such as the latest Mental Health Law, the Convention of the Rights of persons with disabilities, and the law against discrimination), they are vaguely understood and/or implemented.

Gender Rights

With regards to human trafficking, Albania has been considered a country of origin, and the majority of victims are women and children. Their sexual exploitation is still common and their risk of being criminalized when victims of trafficking remains constant. ARCT has played an important role in developing the guidelines on the national referral mechanism and a properly equipped Coordinator on Human Trafficking. The referral guidelines although defining clear possibilities for the victims remain poorly implemented. Regional approaches and cooperation among other countries is considered solely responsibility of state Police, while other areas like prosecution and health authorities remain at waiting. From ARCT case law, the worst cases of incrimination of cases of trafficked women remain exactly in poor cooperative approached of Albanian authorities with the neighboring countries in cases of extraditions and use of pre-detention spent abroad but not taken into account from Albanian judicial system.

Majority of female offenders do not pose a great risk to society and their imprisonment does not help, but hinders their social reintegration. Many are in prison as a direct or indirect result of the multiple layers of discrimination and deprivation experienced at the hands of their husbands, family and the community. They show histories of the extreme domestic violence and social isolation, desperation, marginalization; poor level of education, mental health and family disruption/abandonment (15 detainees, charged with or convicted of crimes against morality); while 35% of them are women who are responsible for their families (head of their families).

Majority of women who are detained not only do not have the economic means to hire a lawyer, but they are very often illiterate and unaware of their legal rights. Issues identified during interviews remain the ways the criminality is perceived by the female detainees: being in a poor country like Albania, women feel obliged to confess crimes on behalf of their husbands, children and/or family relatives; so, their husbands would be able to take care of their children and houses. Sexual and gender based violence (SGBV) is an issue of concern to be addressed but no clear government body is assigned and no clear mandate.

ARCT has 3 cases of extraditions re-opened; where the time in pre-detention was re-calculated and few women benefitted the reduction of their sentences (effective imprisonment time); the case of Feruze Bregu, Shpresa Rushiti, and Alketa Shaqiri.

Recommendations

Based on the above information, ARCT recommends that Albania:

1. Take concrete steps to ensure implementation of the prohibition of torture and ill-treatment, by guarantying effective and impartial investigations into all alleged cases of torture; provide sanctions which commensurate with the seriousness of the crime, and adequate compensation for the victims.
2. Take effective steps to ensure that all courts fully respect the defendants' right to fair trial, by ensuring access to legal counsel and public hearings before a competent jurisdiction.
3. Ensure that law enforcement personnel receive training on the investigation of torture and ill-treatment by integrating the Istanbul Protocol in all training programmes for law enforcement officials.
4. Improve the conditions of detention for those held on remand and for convicted persons; by allocating sufficient resources for their construction and operation both for police and penitentiary facilities.
5. Take concrete steps to ensure access to health services for detained population, focusing to detainees with special needs (women, juvenile offenders, older people, mentally ill and chronic patients)

Annexes :

Annex 1:

Data Analysis on detainees with special Needs

Women in detention and prison facilities

In general, prison regimes are devised for male prisoners and tend to ignore the particular problems/needs of women prisoners who are a small (though growing) proportion of people held in prison.

Due to the small number of women offenders and of prisons for women, they tend to be imprisoned further from their homes and visiting arrangements are more difficult for the families of women prisoners than for men. The only women Prison in Albania is located in Tirana. As of May 2013, this prison is holding 58 detained women from different districts of the country. The facility does represent an old building, where most of it was adopted as prison.

	2007	2008	2009	2010	2011	2012
Average number of women detainees	79	88	94	76	65	56

Based on the data collected, 55% (34) of women are convicted for murder, 21 % (13) for exploitation of prostitution, 8 % (5) for fraud referred as crimes of poverty, 7% (4) for thieveries, 6% (4) for prostitution, 3% (2) for possession of narcotics.

Majority of female offenders do not pose a great risk to society and their imprisonment does not help, but hinders their social reintegration. Many are in prison as a direct or indirect result of the multiple layers of discrimination and deprivation experienced at the hands of their husbands, family and the community. They show histories of the extreme violence and social isolation, desperation, marginalization; poor level of education, mental health and family disruption/abandonment (15 detainees, charged with or convicted of crimes against morality); while 35% of them are women who are responsible for their families (head of their families).

Interview of 19 July, 2012 with detainee Lene Rukaj, 41 years old – Ali Demi PRI

Lene is held in detention for murder of her husband. She says *“I was married by force by one of my uncles. We live in Shkodra and there is high prejudice for early marriages. If you’re a girl and you’re 18 years you should get married. Then people will talk bad about you. Since first day of my marriage I was beaten by my husband. I didn’t want to get marry, he knew that. I have two children.. my parents in law don’t allow me to see my children. After the prison I don’t know where I can go and ask for them....”*

Majority of women in prison have one or more children under 16 years old for whom they are the primary carers, so that these children suffer as a result of their mother’s imprisonment; proportionate to the need, there are few resources for pregnant or nursing women prisoners; for instance, prison places in which

babies can remain with their mothers²⁵. The Women Prison in Tirana does provide an under-resourced foster care place.

Alternatively, by keeping women out of prison, where imprisonment is not strictly necessary or justified, their children may be saved from the adverse effects of their mothers' imprisonment (including children's institutionalization).

Interview of 07 May, 2012 with detainee Manjola Dollapi, 33 years old – Jordan Misja PTD

Manjola is held in detention for murder of her husband. She says *“Parents of my husband do not allow me to see my son. They told him that both parent died...”*

Majority of women who are detained not only do not have the economic means to hire a lawyer, but they are very often illiterate and unaware of their legal rights. Issues identified during interviews remain the ways the criminality is perceived by the female detainees: being in a poor country like Albania, women feel obliged to confess crimes on behalf of their husbands, children and/or family relatives; so, their husbands would be able to take care of their children and houses.

Interview of 19 July, 2012 with detainee Pranvera Manjani, 61 years old – Ali Demi PRI

Pranvera is held in detention for murder of her husband. She says *“I am a mother of 7 children. I killed him because he threw one of my children out of the window of the second floor. I jumped to save my child, but he grabbed me from my leg and started to beat me. It was not the first time he beat me and my children. I have asked police many times to help me... That day I didn't think: I took an ax and killed him. I was arrested together with my daughter. She is a child, and I had to tell police that I killed my husband. I took full responsibility...”*

Because of smaller numbers of women in prison, there tends to be a lack of rehabilitation and training programmes and gender-specific healthcare that cannot adequately be met. The Women Prison in Albania has created good institutional connections and support with the Maternity Hospital, to provide women detainees with tests and examinations with regards to reproductive health. Other support, activities and professional courses are provided by civil society, charity and religious organizations.

The number of foreign national women condemned by Albanian criminal justice system of many countries is growing, due to the increase in human trafficking and migration. Parallel to it, there is an increase percentage of Albanian detained women being held in foreign countries, as Greece, Spain and Italy that have been coerced or deceived into carrying drugs. They constantly report failure in their right to access justice: often the Albanian courts do not count the amount of time that spent in custody and/or detention in the foreign countries.

ARCT has 3 cases of extraditions re-opened; where the time in pre-detention was re-calculated and few women benefitted the reduction of their sentences (effective imprisonment time); the case of Feruze Bregu, Shpresa Rushiti, and Alketa Shaqiri.

What most female offenders need is to be treated fairly in the criminal justice system, taking into account their backgrounds and reasons that have led to the offence committed, as well as care, assistance and treatment in the community, to help them overcome the underlying factors leading to criminal behavior.

²⁵ The United Nations General Assembly resolution on human rights in the administration of justice, adopted on 22 December 2003 called for increased attention to be devoted to the issue of women in prison, including the children of women in prison, with a view to identifying the key problems and ways in which they can be addressed.

Recognizing the vulnerability of women to sexual abuse, the United Nations Standard Minimum Rules for the Treatment of Prisoners prohibit any involvement of male staff in the supervision of women’s prisons. This rule is reported as fully-applicable for the Women Prison “Ali Demi”, while the concerns remain high in the pre-detention section of Jordan Misja Prison, where few juvenile female offenders, interviewed showed their fear against the disrespect of male prison staff.

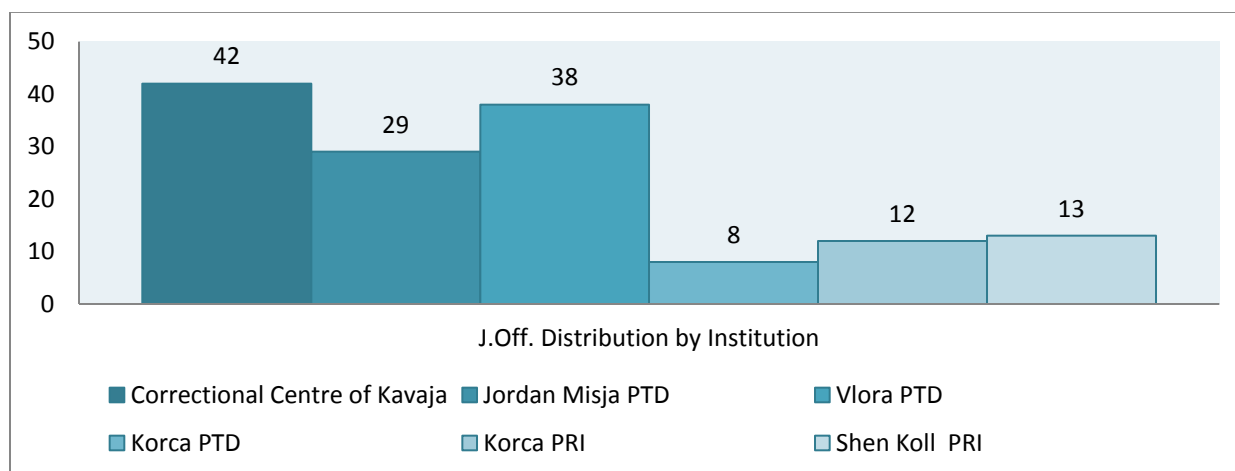
The material conditions in Albanian pre-detention facilities where women are held remain appalling: an estimate of 35-40 women (including juvenile female detainees) are held in pre-detention of Jordan Misja High Security Prison, where they face lack of all basic gender-based health care services, poor hygiene and lack of any recreational activities.

Although this measure should be restricted in cases with great risk, it is commonly implemented for all reported cases against women.

Juvenile offenders

The criminal justice system in Albania does not provide any mitigating circumstances for the juvenile offenders; despite, it does apply the imprisonment in a regular basis, as a “*coercive measure, implemented by the state through the courts in accordance with the law against persons having committed a criminal offense*”²⁶.

Today, there are a considerable number of juvenile offenders identified in the penitentiary system. The Correctional Centre of Kavaja is newly established facility/prison, functional since 2009 and dedicated to those juvenile offenders who commit crimes and are sentenced by a court decision. Today this facility has 42 juvenile offenders; while there are 29 in the Jordan Misja Pre-detention PTD section, 38 in Vlora PTD, 8 in the Korca PTD and other 12 convicted in the Korca PRI; and 13 in the Shen Koll Prison.



The root social causes that bring children into conflict with the law include poverty, lack of education and employment opportunities, urban movement and migration, peer pressure, drug or substance misuse, violence, abuse and exploitation²⁷; lack of parental guidance. Once in contact with a justice system that is unresponsive to the child’s needs, children deprived of liberty face back the same abuse and violence; and health related concerns.

²⁶ Commentary of the Criminal Code of the Republic of Albania and criminal doctrine”, Elezi. I, Kaçupi. S, Haxhia. M, (2009), West Print, Tirana, p. 197

²⁷ UNODC Manual for the Measurement of Juvenile Justice Indicators, New York, 2007, http://www.unodc.org/pdf/criminal_justice/06-55616_ebook.pdf

Interview of 07 May, 2012 with juvenile offender Nezir Kocja, 17 years old – Jordan Misja PRI

Nezir was brutally arrested and beaten up by police officers. He was hunting in the moment of his arrest. And he says that he was arrested as a revenge against him by one of the police officers. He says *“Police officer is a cousin of a person, injured by my brother, I have done nothing against anyone”...*Nezir was severely injured from a bullet in one of his arms; he cannot undergo any surgical interventions as the bullet is located close to vital veins.

Interview of 07 May, 2012 with juvenile offender Veli Meçi, 17 years old – Jordan Misja PRI

Veli was brutally arrested and beaten up by police officers. He says *“Police officers are experts in beatings. They know where to hit: they hit me with the back of their guns in the ankles ..I was arrested like the most dangerous criminal, 30 police officers broke into my house at two in the morning; I was sleeping in my bed...”*

Interview of May 07, 2012 with juvenile offender Sead Doci, 17 years old – TiranaPre-Detention

Sead points out that some of his friends are treated very badly by the other inmates, even from the police officers of the prison.

“Some guys treated worst than others, especially, those who are in a very bad economic situation and are abandoned by the family and friends. They do housekeeping for the other guys, who are older, powerful, have money and strong support from the outside. I think that sometimes, being a minor, but especially if you don’t have money and family support, makes the things more difficult.

Nobody treats you with respect and it is true not only between the inmates, but even for the Police staff. They are selective when it comes for giving extra facilities, which are offered to the most powerful and rich inmates here”.

Interview of May 07, 2012 with juvenile offender Lorenc Kabashi, 17 years old – TiranaPre-Detention

“My only and worst treatment here happened when I was kept in the isolation cell for 7 days. The conditions there were very bad. I couldn’t sleep, there were no enough ventilation and it was a closed and terrible environment”.

Recidivism is becoming a real concern. It is often used as the safest escape from the social and economic problems of a considerable number of juvenile offenders; while there is an urgent need for a comprehensive child-friendly strategy, which could provide specific answers with regards to increasing rates of reoffending among juvenile offenders.

Table on distribution of Juvenile offenders in 2013

Offenders coming from:	Education	condemned for 1st	Special Recidivists	- recidivists
------------------------	-----------	-------------------	---------------------	---------------

Institutions	PRI	POL	Extraditions	No education	Elementary grades	elementary grades	high school	university			
M.Peza			4			1	1	1	3		
A.Demi(B)	15	4			19	47	9	6	62	19	
A.Demi(G)	1	2			14	24	11	4	50	3	
Vaqarr	5			4	24	88	59	6	4	1	
Rrogozhine	16	9		21	87	92	74	5	216		63
Lushnja	1				32	164	55	4	214	22	19
Tepelene	2	2			5	40	15	1	52	2	7
Burrel	3			5	8	111	16		119	9	12
Lezhe	15	6		7	23	275	79	5			
Peqini	23	8		47	114	243	247	15	541	22	103
Kruje	5			5	31	43	10	3	80		12
F.Kruje	28	6		2	21	257	73	4	247	8	81
Korça	2	5		38	88	97	21	4	180	53	15
Kavaje	2	2				10			6	4	
Durrës						3	38				
Total	118	44	4	129	466	1495	708	58	1774	143	312

The **Albanian Criminal Code** does regulate the following:

- The age of criminal responsibility is 14 years for crimes and 16 years for contraventions. Persons aged 14 to 18 years are considered minors and a special status is guaranteed to them.
- The death sentence and life imprisonment cannot be applied to minors who, at the time of committing a crime, were under the age of 18 years. The only educational measure is the placing of minors in an educational institution. A prison sentence for a minor cannot be longer than half of the sentence applied for adults. Concerns remain higher when talking about the children under age of 14 due to lack of institutionalized mechanisms, and/or educational institutions²⁸.
- Children²⁹ can also be exempted from punishment because of the low degree of the offence or the minor's condition.
- The presence of a lawyer is obligatory for a minor from the very first moment the minor is detained or arrested.
- Trial for juveniles are presided over by judges who are qualified for this task.

There are few initiatives which support rehabilitative interventions, yet with no continuity.

Elderly populations in detention³⁰

²⁸ The detention and unreported cases of arrest and accompaniment are in violation of the Committee on the Rights General Comment no 10 on Children's rights in juvenile justice (2007)

²⁹ The term "child" is also used in a number of other dispositions of the Code. Under article 1 of the Convention on the Rights of the Child, "a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." Albanian legislation states that one needs to be under the age of 18 to be a juvenile

³⁰ The United Nations Principles for Older Persons (1991) and the Madrid International Plan of Action on Ageing (2002) do not use the term "elderly", for older persons, but it is used in the document to correspond to the usage of the term in some prison systems, for the sake of clarity and accuracy

What is most striking issue is that there are no studies related to age threshold for older detained population in Albania. The common known standard is the age of 65, which is related to the full pension time and social security benefits for older persons.

The increase in the number of older prisoners is already recognized by the system. As of today, the older population is 119 out 4836 (2.5%) of detained population: distributed in 14 institutions.

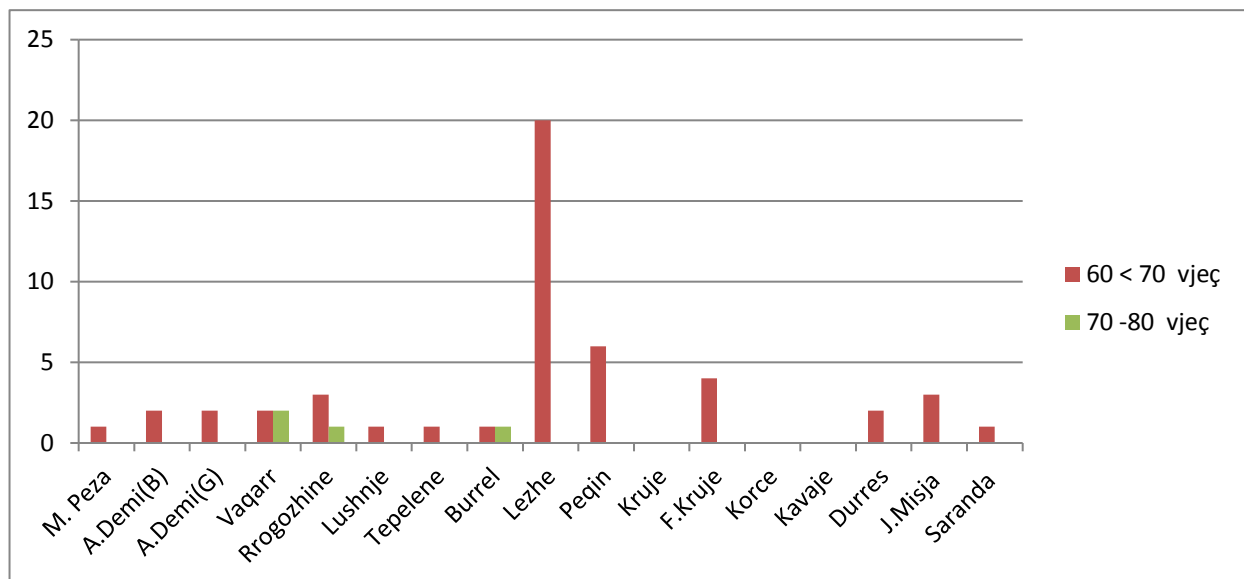


Table 2. Distribution of the older detainees in institutions

Detention monitoring shows the issues with regards to the treatment, and needs of this vulnerable group: prison services find difficulties to provide resources and care to older prisoners. Different physical capabilities and programming needs of older prisoners are not taken into account.

In 2012, there was the case of death of an 81 years old detainee in the Kruja Special Institution. Although the detainee Kolë Simon Kola was very old, with cardiac insufficiency problems and blood pressure, the criminal justice system kept him imprisoned until he passed away. The negligence of prison authorities and complete family abandonment was the fate of this prisoner, whose sentence was completed since October 2012, yet he was not released by the prison authorities.

Kolë Kola was interviewed by ARCT during its monitoring visit of August 2, 2012, where he raised his concerns of his health conditions, material conditions in the institution and lack of any recreational activity; *“It is very hot, sometimes I just don’t want to go out during the day, I want more time in the afternoon...Can you (addressing to Monitors) do something about it?”*

Although the hygienic conditions were horrible, he did not mention it. It was visible that he didn’t change his clothes in more than a week.

Although the prison authorities do not provide any special care/treatment, they intentionally or by negligence do not offer any other alternatives for their early release. Often, the older detained population are in extremely poor financial means; they find difficulties to maintain personal hygiene, they lack adequate clothing and nursing assistance.

Interview of 2 August 2012, Robert Shani, 65 years old Zaharia Prison, Kruja

“Our condition here are miserable...we have cold in winter and hot in summer. We cannot have the possibility to suffer our sentence like human beings”

Data show the older detained population represents individuals who experience chronic health problems, including particularly, a history of alcohol abuses; individuals who are abandoned by families or have no family ties who find prison as a housing possibility. There is a small number of older people whose crimes were horrible and they are completely left aside by prison authorities and inmates.

Shaban Norja is 83 years old; he raped and killed a 16-years old girl; and he was abandoned by his two children and entire family relatives. He was beaten twice from inmates and required transfers in three different penal institutions. He is actually in Fushe-Kruja Prison and the prison authorities are keeping him in an isolation cell. In an interview, he shows his unstable psychological status: *“My two boys are now saying that I am dead for them..”* While he is calm in describing the violence from other inmates: *“I can understand them, they consider me a monster, like in the news and television..”*

The Albanian prisons system does not provide any special accommodation units for the older population. Health related problems and poor accommodation, and accessibility of recreational activities isolates this category of people with special needs. For some, recreation is restricted to board games, domino games and some longer walk in open air.

Hajdar Mersina is 75 years old; He is interviewed in 2 August 2012, in Kruja Special Prison; he says *“I have been in many prisons in Saranda, Vlora and Rrogozhina. Now I am in Zaharia. I don't know about the others, but as for me, I feel treated differently. That's because I have 7 years that I don't have visits from my familiars, they have abandoned me. During this time I haven't gone with leave, like the others. I don't have any income or financial resource and that is the reason that my friends don't want to stay with me and treat me bad. I am obliged to eat the food of the institution, because nobody brings me food from home, clothes or any other important things for everyday life. I don't have any kind of support from outside and this makes things difficult for me, I feel prejudiced and discriminated, because I am lonely, without a family or anybody to look after me”... I am old and I cannot breathe...and, if possible to mention, that the airing time might be in the afternoon, because it is too hot and we can't stay under the sun.*

When asking the Zaharia Educational staff, the monitoring interviewer was informed that Hajdar Mersini represent an abandoned inmate, and there are no guarantees that he will come back...

Chronic and multiple health problems, such as heart problems, diabetes, hypertension, ulcer, poor hearing and eyesight, memory loss and other neurological disorders and a range of physical disabilities, are among common problems, identified from the data collection on the disability 2011-2012 from which older prisoners suffer. Even where no specific health problems exist the nutritional requirements of older persons are different to those of other age groups, and need to be taken into account in prisons.

There are no cases of amnesties and/or early releases for this category of people with special needs.

Mentally ill prisoners

There is little awareness and accountability from the government of human rights principles³¹ and own domestic laws protecting health conditions of persons with intellectual, physical, mental disabilities.

31 US State Department HR Report has mentioned the slowlines “in implementing longstanding recommendations of ECPT, accessible at

Reform is coming too slowly to institutions for adults with intellectual and mental health disabilities in Albania, where chronic neglect³², filthy conditions³³, and the use of physical restraints and high-dosage drugs to control behaviour remain routine³⁴. Furthermore, there is an identified incompetence in coordination among various state agencies for the proper implementation of the already-there legislation.

We identify same landscape in detention: appalling living conditions³⁵, the inappropriate use of restraint and seclusion, and failure to address complaints of ill-treatment, lack of medical treatment and rehabilitation therapies. The failure to provide adequate treatment to anyone deprived of their liberty, for example, infringes the right to the enjoyment of the highest attainable standard of physical and mental health – a right guaranteed under the International Covenant on Economic, Social and Cultural Rights.

The key identified system shortfalls amount to systematic discrimination against people with mental disabilities.

The Albanian prison system is missing a special forensic institution, fulfilling required international standards with regards to treatment of the mentally ill persons in conflict with the law. The Kruja Special Institution is located up in the mountains, where approaching the facility requires long hours of driving in a very bad road conditions. The facility is considered a prison rather than a special institution: the facility, organized in two separate wings deals with two categories of prisoners, mentally ill (105) and chronic ill detainees (46 diagnosed), under compulsory treatment (83) out of 151 detained persons.

The material conditions are appalling: poor hygiene, lack of system of ventilation, lack of recreational spaces and activities.

The Prisons Hospital shows filthy conditions, where humidity and poor maintenance are creating difficult living conditions. Changes in the work practice have decreased the overcrowding, as today this hospital deals only with the emergency cases. Although the health care is suffering from the lack of centralized health information system which does provide information for each detainee, hospitalized. There are cases where detainees have come to Prisons Hospital without their medical files and any preliminary clinical reviews. Difficulties are encounter with regards to laboratory tests; as of today, the penitentiary system is struggling to provide psychiatric examinations and re-evaluations, as there is only 1 psychiatrist working in the system.

The prisons hospital is provided medical care for cases of urgent recoveries, terminal patients/ prisoners, chronic ill prisoners and few severe mentally ill prisoners (3 women and 1 man) who are kept in strict isolation.

Dedicated as a forensic hospital, the Durrës Pre-detention Facility does represent better material conditions, as it is a newly- built facility. It handles the pre-detention section and the mental health section of the newly diagnosed prisoners with mental disorders. The facility suffers lack of recreational and therapeutically activities and lack of professional medical staff.

Out of 273, 67 detainees are handled as persons experiencing mental illnesses.

Interview with Lulzim Kruja 38 years old - Durres PTD

Lulzim suffers anxiety disorders, when asked about his day in this facility he expressed two main concerns/issues: *I need more outdoor time because only 2 hours and a half is not enough for me. Also, we don't have here a room, in order to use it as a cult room or other religious activities. We are all ill*

<http://www.state.gov/g/drl/rls/hrrpt/2007/100544.htm>

³²Violation of the Article 5 (violation of right to personal freedom and security), Article 8 (right to a private life) of the European Convention on Human Rights, Stanev v. Bulgaria

³³Violation of the violation of Article 3 (inhuman and degrading treatment)of the European Convention on Human Rights, Stanev v. Bulgaria

³⁴Concluding observations of the UN CAT on the 2nd Report on the Convention against Torture, May 2012; ARCT Shadow Report (page 12); <http://www2.ohchr.org/english/bodies/cat/cats48.htm> last access April 2013.

³⁵ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) elaborated standards in 1998 for conditions and treatment in psychiatric institutions

people and we need to pray for our health and we need activities to spend our time in a way that we can motivate ourselves positively. I think that two things are very important for us. The staff cannot fulfill this request because they depend on higher authorities.

When asked about any specific needs he might need, he answers: *As I told you, I need to have the possibility to spend more time outdoors and take part in different activities, to be more active and fill the day with recreational activities.*

When asked whether he considers himself vulnerable in detention, he answered: *It means not to be free, healthy and near your family. It means to suffer a lot far way from your home and familiars, not to have their support each moment, especially when you are ill.*

Interview of 01 August 2012, Bujar Shkembi, 52 years old, in Prisons Hospital

Bujar suffers from depressive symptoms and complains about lack of recreational activities in the institution and also for the hygiene of the person who serves the meals.

“We have no activities at all; we need a class where we can get out of the cell. We need also a healthy person who serves the bread or the food in general. They have assigned this job to one who is not able to keep the personal hygiene. This kind of job is accepted only from persons who are abandoned, who do not have family and economic support, and who can not take care of themselves like everybody else”.

Due to lack of special provisions and institutions, persons with mental disabilities, who have committed no offence, are placed in prisons, due to the lack of suitable mental health institutions.

The Article 46 on the administration of the compulsory treatment is used in an irregular basis, despite legal provisions stating that *“The court can revoke at any time the sentence on medical or educational sanctions if the circumstances under which they were taken cease to exist, but, in any case, the court is obliged **ex officio** to reconsider its decision after one year from the date of the court sentence”*. these practices are in contradiction of a number of fundamental human rights principles, as well as Article 82 of the United Nations Standard Minimum Rules for the Treatment of Prisoners which recommends specialized treatment rather than imprisonment in such cases.

In order to reduce potential human rights violations, neglect, overmedication and ill treatment amounting to torture, the 2012 Mental Health law has granted free access to monitors in the psychiatric hospitals, and/or in any other places where mentally ill individuals are kept. The law provides the principle of the torture prohibition.

Informal interviews and discussions with medical staff have shown a real concern: the increasing number of detainees, re-evaluated as mentally ill in order to benefit from the corrupted judiciary system for a milder sentence.

Chronically ill prisoners

Prisoners with chronic illnesses can experience great difficulties in prison; they are in constant needs for specialized treatments and diets, which mean that they experience daily discomfort, combined with fear of ill treatment and discrimination. For example, some diabetic prisoners told us they were able to keep their insulin and blood testing equipment with them; while others had to inject themselves in front of other prisoners while waiting for medical check-up.

Also, difficulties for these prisoners are basically shown at night, where prison professional staff closes the work, and assistance is basically in the hand of prison police.

Lack of privacy and confidentiality are also issues, with some prisoners diagnosed with sexually transmitted diseases in front of the monitors, or police or other inmates. As previously mentioned, the prisons hospital deals with the emergency cases –creating many difficulties for these category of vulnerable prisoners to get medication (and not only in emergency case).

Data show that almost all prisoners complain about the quality of medicaments; often, they buy their own medicaments; or treatment is brought by family relatives inside prisons.

Interview of 1 August 2012 Avni Vata, 53 years old -Prison Hospital in Tirana

Avni has a long time suffering from chronic breathing problem. “In the hospital there is a lack of oxygen, which I often need it, but I try to compensate with oxygen pumps. This makes my health situation more difficult, but the institution has not yet meet this need, which is very important to me”.

Sometimes, the treatment is very expensive and prisons are completely un-prepared to treat these extraordinary cases.

Interview of 1 August 2012 David Mataj, 47 years old - Prison Hospital in Tirana

He suffers from kidney and the only solution to his health situations is the transplantation

“Here there are not conditions for realizing kidneys transplant, so I have to go abroad the country, but this is impossible, due to my situation. I think that I deserve to be free, in order to realize this important intervention, which is vital for my health”.

The prison as an establishment has a direct impact in prisoners' life; there are many prisoners experiencing unidentified hypertension, diabetes, and cardiovascular problems. There are cases of deaths, because of chronic obesity; or cases of heart attack where prison authorities could not intervene/ prevent.

Smoking is an increasing concern. Lack of the health information system creates also considerable difficulties in managing the chronically ill prisoners.

Substance abusers find prison a good place to re-compensate their problems, although the basic treatment remains methadone.

The terminal illnesses are mainly treated in the Prisons Hospital, while they should be released: prison sentence does not play any rehabilitative or re-integration purposes. Instead, treatment remains expensive, sometimes not appropriately managed, and the person is simply dying deprived of his/her liberty.

The ARCT 2011-2012 data show the following diseases: cardiac problems, hypertension, obesity/ overweight/ underweight, asthma, diabetes, mental illness (schizophrenia, and other mental disorders, as anxiety), pneumonia, STD, etc.



ALTERNATIVE REPORT

To the list of issues to be taken up in connection with the consideration of the second periodic report of Albania, adopted by the Committee at its 108th session (15 October– 2 November)

Albanian Rehabilitation Centre for Trauma and Torture (ARCT) May, 2013

Table of Contents

Introductory Remarks.....	page 2
Comments to the 24 Questions.....	page 3 – 23
Annex 1: ARCT Alternative Report to the Committee against Torture 2012.....	page 24 -66
Annex 2: List of ARCT's 82 cases in the period 2009 -2012.....	page 67 -83
Annex 3: ARCT's Resource Book for penitentiary structures and civil society: "Improving Access to Justice in Albania"	

INTRODUCTORY REMARKS

Coming from one of the most difficult and atrocious dictatorial regime, Albania is representing a challenge for the political, social and cultural developments of the Balkans, and more widely of Europe. As the country makes further formal steps towards membership of the European Union, it is worth underlining that important democratic deficits remain in the areas of the rule of law and that at the institutional level, the country still suffers from weak state institutions: by way of example a fully independent judiciary is lacking, as well as an executive branch that would combat corruption³⁶ and generally undertake law enforcement in full accordance with human rights standards.

Albania's respect for the rule of law is lagging behind other countries in the region according to the World Bank's Worldwide Governance Indicators (WGI).³⁷ While the Albanian authorities in their Second Periodic Report to the Human Rights Committee suggests that legal standards have improved significantly since the last examination and that international law plays an important role by prevailing over domestic laws³⁸, in reality key provisions of the International Covenant on Civil and Political Rights (Covenant), as well as other international treaties, such as the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, (Convention against Torture) are not implemented on the ground. Among local NGOs there is serious concern about the ability of the authorities to establish a system based on the rule of law, respect for human rights, predictability and the protection of citizens from the arbitrary use of power.³⁹ As a result, a culture of poor implementation of international human rights standards and impunity continues to prevail in the country.

It is worth noting, however, that the international community and various donors have made considerable contributions to reforms of the criminal justice system in Albania in terms of expertise and infrastructure. Establishing relevant pre-requisites towards membership of the European Union⁴⁰ (such as "improved access to justice"⁴¹ and "strengthened contribution of civil society organizations") is also important for the improvement of the human rights situation. The ensuing changes have for example positively impacted the detention and penitentiary systems and improved the detention conditions. By way of example probation services have proposed alternatives to imprisonment to people in conflict with laws, yet concerns remain with regard to the standardization and criteria for the use of these new mechanisms.

Question 1. Please provide information on cases where the provisions of the Covenant have been invoked directly or indirectly before the courts of the State party, and on the availability of remedies, and their effectiveness, for individuals claiming a violation of the rights contained in the Constitution and the Covenant.

ARCT does not have information about any court cases in which the Covenant was invoked directly or indirectly.

³⁶ See further Article 78 of the Stabilization and Association Agreement (SAA) between the Government of Albania and the European Community on "Reinforcement of institutions and rule of law".

³⁷ See www.info.worldbank.org.

³⁸ Paragraph 26 of the State report.

³⁹ See also Council Decision on the principles, priorities and conditions contained in the European Partnership (EP) with Albania, repealing Decision 2006/54/EC with regards to judicial reforms and law enforcement of human rights.

⁴⁰ SAA between the EU and Albania (OJ L 107, 28.4.2009, p.166).

⁴¹ Albania 2012 Progress Report accompanying the Communication from the Commission to the European parliament and the Council {COM(2012) 600 final}, Section 2.2, page 17.

However, lawyers have brought human rights violations covered by the Covenant to the local courts and referred to the European Convention on Human Rights and specifically in cases of torture and ill-treatment to the Convention against torture. By way of example, In the period 2009 – 2013, ARCT has been involved in around 82 cases related to violations of civil and political rights (including unlawful detention, torture and ill-treatment) – the large majority of which were civil compensation cases- ARCT has succeeded in having a final court decision in 35 of the cases (See Annex 2 for a list of the 82 cases and Annex 3 for the problems of access to justice in Albania).

With regard to the availability of remedies, and their effectiveness, for individuals claiming a violation of the rights contained in the Constitution and the Covenant, ARCT would note that Albania's mechanisms to hold accountable the state and eventual individuals responsible for violations of the Covenant are insufficient. The justice system does not work effectively and, therefore, a climate of impunity for law enforcement officials and prison administration still exists. By way of example, the authorities have not prosecuted anyone for torture since 2010. Moreover, there are several cases of police abuse during arrest and interrogation, but such ill-treatment is rarely punished and then only lightly.⁴² Finally cases of ill-treatments continue to be handled through administrative rather than judicial procedures.⁴³

Question 2. Please provide information on the measures taken to ensure the full independence of the Ombudsperson's Office, and on the human and financial resources allocated for its effective functioning. Please provide information on the number and type of complaints received by the Ombudsperson's Office and the follow-up given, as the case may be, to complaints of civil and political rights violations of which it has been seized.

The institution of People's Advocate (PA) has been badly influenced by budgetary constraints, limited number of staff and resources; and political stalemate – for example in relation to assigning the Ombudsman. This situation has affected the legitimacy of the institution and it is a concern of NGOs who note that the recommendations of the institution are not seriously taken into consideration by the state authorities.⁴⁴ Concern also remains about the PA's genuine independence from the Parliament, the government and other state institutions.⁴⁵

As of today, the PA remains an institution overwhelmed with complaints and generally characterized by a reactive approach to human rights issues. Legal and administrative changes are affecting the institution and a new draft law on the organization of functioning of the Ombudsman has been prepared. The ARCT has provided expertise and jointly presented comments to the amendments of Article 280 of the Albanian Criminal Code.

Further information regarding the PA is included in ARCT's shadow report to the Committee against Torture 2012 at page 3 - 4 (see Annex 1).

⁴² There is no public data about the number of criminal proceedings initiated, or criminal and disciplinary sanctions imposed following complaints of ill-treatment. See further Freedom House Report on Albania, 2012 <http://www.freedomhouse.org/report/freedom-world/2012/albania>

⁴³ See Albania 2012 Progress Report accompanying the Communication from the Commission to the European parliament and the Council {COM(2012) 600 final}, Section 2.2, page 17, available at http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/al_rapport_2012_en.pdf

⁴⁴ By way of examples, ARCT can refer to the case of the displacement of more than 150 Roma people in Tirana who were staying at the PA premises for more than three weeks without receiving an answer to their housing rights; and the case of more than 350 homeless families who were forced by state authorities to leave their houses, due to the property restitution, but who were not provided any alternative accommodation.

⁴⁵ ARCT has for example noticed some gaps in the publication of thematic reports.

With regard to the number of complaints received by the Ombudsman, ARCT would like to note specifically concerning prisoner complaints that recent years have seen a massive increase in the number of all types of prisoner complaints to all internal and external complaints bodies:

Year	Prison Administration	PA/NPM Complaints	CSOs, including ARCT	Media monitoring
2008	608	140	135	36
2009	524	330	168	43
2010	502	167	313	47
2011	470	-	150	35
2012	159	-	134	78

Sources: *Annual Reports of the General Prisons Directorate; information provided by the People's Advocate; information from ARCT and media monitoring*

Statistics on complaints concerning police violence against individuals, as acknowledged by the police authorities, began to be separated only in 2003 in response to the CPT recommendations. The State Police reports about complaints about the conduct of police officers and disciplinary investigations. The overviews include the number of disciplinary investigations, but not separate statistics on the number of submissions and complaints.

Question 3. Please describe any recent court decisions on protection against discrimination, in application of Law No. 10221 of 2010 on protection from discrimination, on the ground of race, colour, ethnicity, sex, language, gender identity, sexual orientation, political, religious or philosophical faiths, economic, social or educational status, or any other ground.

According to ARCT data, there are no court decisions with regards to the applicability of the Law No. 10221 of 2010 on protection from discrimination.

The Albanian Commissioner against Discrimination, who is more or less unknown to the public, has mainly issued administrative recommendations. Various minority groups do not have any trust in the Commissioner. By way of example, the Lesbian Gay Bisexual and Transgender community (LGBT), one of the marginalized communities in Albania, has lost its trust in the institution due to its slow work, deliberate bureaucratic impediments imposed on LGBT and its prolonged process of investigation that is undertaken without any valid explanation. Out of 9 cases linked to the discrimination of LGBT people, presented by coalitions in Albania, only 1 case has been concluded with recommendations⁴⁶.

Descriptive cases from the Commissioner are accessible in the following address: <http://historia-ime.com/en/english/123-albanian-lgbt-organizations-disatisfied-with-the-anti-discrimination-commissioner.html>

⁴⁶The case related to Mr. Tritan Shehu, an MP who refused to listen to LGBT organizations in a parliamentary hearing.

Question 4: Please provide the Committee with information on measures taken to address the dissemination of expressions by the media that propagate stereotypes against women by representing them as sex objects and as occupying a lesser position in the family and society. Please provide information on the impact of the measures taken to improve the plight of women in Albania, including in the context of the National Strategy on Gender Equality and Domestic Violence (2007-2010) and the Plan of Action for the Strategy, specifying: (a) the evolution of women’s status in the political, economic and social life of the country; (b) levels of employment among women and the proportion of women in positions of responsibility both in the private and public sector; (c) levels of compliance with the principle of equal pay for work of equal value between men and women; (d) the number of complaints and the sanctions adopted in application of article 115 of the Labour Code, article 175 of the Election Code (for the failure to respect gender equality during elections), and Law No. 9970 on gender equality.

Measures have been taken to improve the plight of women in Albania. By way of example since 2008, Albania has passed the Gender Equality in Society Law; amended the Law on Measures against Violence in Family Relations; opened the first national shelter for survivors of domestic violence; and established the mechanism of coordination and referral of domestic violence cases in several municipalities.

Albania has also created a data collection system based on information obtained through surveys concerning domestic violence and demographic health. A series of gender indicators have been adopted, including indicators that will require gender disaggregation of public statistics for a number of entities.

However, several sources indicate that domestic violence in Albania is still “widespread.” The latest INSTAT survey indicates that [56 percent](#)⁴⁷ (*opens as doc.file*) of women have experienced domestic violence.⁴⁸ One of the main obstacles in preventing domestic violence is the lack of openness about the problem (domestic violence is still viewed as a private matter that should not be discussed outside the home). Several sources verify that victims of domestic violence do not report their abuse to external groups or authorities, let alone to family members: in year 2012 only 20 percent of women, who experienced physical abuse, sought help – and of those that sought help, The majority approached family members; and fewer than 6 percent sought help from external persons such as police, doctors, lawyers, judges or social service providers.

	Number of cases referred by police structures to the Prosecutor’s office	Number of complaints referred by police structures to courts
2009	472 cases	841 charges
2010	439 cases	1234 charges
2011	495 cases	1345 charges

Question 5: Please describe the measures adopted to prevent and punish discrimination against lesbians, gays, bisexuals and transsexuals.

ARCT does not have any information regarding question 5.

⁴⁷ Please click on the link to access to Survey results

⁴⁸ In 2012, there were more than 15 cases of women killed as a result of domestic violence.

Question 6: Please provide information on enforced disappearances, torture and other human rights violations perpetrated during the Kosovo war and the communist era that are now being dealt with by the courts, and indicate the criteria used for reopening a case. Please also indicate to what extent it is ensured that the past cases of enforced disappearance are recognized as ongoing violations of rights under the Covenant.

Since early '90s in Albania, the transition has produced a variety of methods and instruments for dealing with the memory of communist crimes: such as the status of innocence for the victims (the former political persecuted), measures aiming at rehabilitation of victims, reparation and restitution of property, but the mechanisms have unsuccessfully addressed the issue of social justice and integration for the category of former political persecuted (FPPs) and their respective families/ relatives.

As of ARCT data collected (1993-2013), there are less than 2,000 FPPs (over 65 years old- torture victims) detained during the communist regime and still alive, in dramatic conditions, and without a chance to be included under the material, moral, and social rehabilitation.

Albania has also signed but not implemented the European Convention on the compensation of victims of violent crimes (1983). According to the Convention, the Albanian Government (Ministry of Justice) should be entitled to complete the domestic legislation and improve practices with regards to compensation of the victims of violent crimes; no steps are taken so far.

Despite the implementation of the so-called "policy" of reparations for victims, virtually nothing has been done in the area of criminal justice and the need to address the malfunctioning of domestic and international laws concerning the condemnation of communist crimes in the country. The amnesty law in 1991 was adopted by the Albanian parliament, but it created a vicious circle for those affected by the law and established legal and administrative obstacles for the FPPs to approach the civil and/or criminal trials. Additionally, the justice system has functioned for the advantage of perpetrators as some trials against main figures from the repressive regime were successfully used as a mean for ensuring amnesty, property rights/restitution, possession of sequestered belonging, housing rights, pensions, etc.

Today, Albania does not have a consolidated national legislation which explicitly refers to the denial of crimes by the totalitarian communist regime. Likewise, removal of symbols of the authoritarian regime has not totally been accomplished.

Last year, the situation of **Former Political Persecuted** attracted the attention of the international community, including the State Department, the European Commission and the European Parliament. As a result of a hunger strike in Tirana in October 2012⁴⁹, the international community, who is monitoring the democratization process of Albania, formulated some recommendations on a rapid inclusion of FPP issue within the integration agenda.⁵⁰

The cases of **enforced disappearance** have never been recognized as ongoing violations of rights under the Covenant: even more than 20 years after the fall of the former communist regime in Albania, there is no precise number of persons missing during the 50 years of the former regime between 1945 and 1991. The overall human toll is not well documented, with estimates ranging from 6,000 to 8,000 individuals killed. As Prof. Philip Alston would say "*twenty years after the fall of communism, Albania has not dealt comprehensively with the killings and other human rights abuses committed during those years. It is widely acknowledged that thousands of Albanians were tortured, executed and disappeared by the state, but many victims' families are unable to learn their loved ones' fate, and the details of the regime's abuses have not been accounted for*"⁵¹.

⁴⁹ <http://www.arct.org/pdf/Hunger-strike-of-former-politically-persecuted-in-Tirana.pdf>

⁵⁰ Statements of the US Ambassador to Albania, the Head of EU Delegation to Albania, Statements of spokesman of Mr. S. Fule, and the last resolution of the EP on the process of Albanian path towards EU integration.

⁵¹ UN Special Rapporteur on extrajudicial executions, Professor Philip Alston Mission to Albania (15-23 February 2010), Press Statement of 25 February 2010.

According to ARCT research, 20 years after the fall of communist regime, there are still approximately 4,000-4,500 missing persons during the period of the former regime. As the consequence of the insufficient government efforts and the lack of appropriate legislation, families are continuing to struggle in their efforts to exercise their right to know about the fate of their family members. However their efforts to find the truth about the fate of their loved never stopped.

In one of their attempts, on February 8th 2010, human remains of 19 persons were discovered. The remains are still at the custody of the Albanian Legal Medicine Institute, unidentified; do to the lack of expertise of the Albanian Institutions to properly identify those remains. This is just one example of the scope of the issue of missing persons during the communist regime in Albania.

Question 7: Please provide information on the measures taken to guarantee the implementation of article 86 of the Criminal Code and avoid the reclassification of reported incidents of torture as arbitrary acts under article 250 of that Code. Please also specify the measures taken to guarantee that all alleged mistreatment by the police and members of security forces are duly investigated and that perpetrators are punished. In particular, please report on the progress made in the investigation of the cases of alleged physical and psychological torture and ill-treatment of demonstrators following the events of January 2011.

Torture is criminalized according to article 86 of the Criminal Code. There is no public data about the number of criminal proceedings initiated, or criminal and disciplinary sanctions imposed following complaints of ill-treatment. Data shows⁵², however, that the Albanian State police have more than 230 police officers with disciplinary measures; including the ones who have been “punished” by the courts under the Article 250 of the Criminal Code.

ARCT is not aware of a case in which article 86 has been used. Normally, acts of torture are criminalized as arbitrary acts under Article 250 of the Criminal Code.

With regard to the obligation to investigate torture, ARCT data shows that ex officio investigations are rarely resulting in redress and fair treatment of the victims⁵³.

By way of example ARCT is providing legal aid in the following four (4) criminal court cases concerning torture and ill-treatment in which proper investigations according to international standards have not been conducted by the authorities:

Case of P. S (torture)

This case was evidenced and documented by the ARCT and the People's Advocate NPM on 31 December 2009. The interview was taken from 13.45 to 14.15, at the Tirana General Police Directorate in the presence of P.S born in 1982; an inhabitant in Tiranë, Rruga Kongresi I Lushnjës, who had completed elementary education, and who was single. He reported grave physical and psychological consequences as a result of being subjected to police violence by Commissariat Nr 2.

The act happened on 29th December at the zone at “Irfan Tomini” around 20.00. P.S says he was going home after visiting his uncle in Selita (outside Tirana). On his way home, he and his friend stopped at a restaurant. They suddenly heard a gunshot. P.S and his friends decided to immediately leave the

⁵² Referred to the data reported by the Albanian State Police to the CAT, May 2012

⁵³ See further Annex 1: ARCT Shadow report to the Committee against Torture.

restaurant, but the police ran after them and eventually arrested them. They were placed in the police van and then the police started brutally beating them with truncheons.

Subsequently, P.S was transported to the police commissariat 2, where the police brutality continued for around two hours. After the first interrogation P.S was sent to the General Police directorate where at 22.00 he was visited by a doctor who medicated him and provided some pain killers.

The monitoring team documented that P.S barely could walk; he could not sit during the interview due to the musculoskeletal aches and pains. In the moment of examination P.S was assisted by the experts as he could not move his arms as a result of the pain. P.S had contusions, lacerations, lesions caused by beating in the arms, face and body. The monitoring group documented the case and drafted recommendations for the next steps to be taken.

Case of Sh.M (torture)

The violent act against Sh.M happened on December 10, 2009. The ARCT monitoring team accompanied by the People's Advocate documented his case through interviewing him: the detained Sh.M, 20 years of age, born in 13 April 1989 in Tropoja, inhabitant in Tirana, with elementary education and single. The act happened around 22.30, at a distance of 150 meters near his house at the Kinostudio area in Tirana. Sh.M was under domestic arrest for the criminal act of stealing acar. He was found by the police in company of some of his friends breaching his domestic arrest; he was forcibly stopped by the police agents of commissariat 4 by gunshots.

During his attempts to escape the police, Sh.M was trapped by the head of the criminal investigation who pretended that he would break his arm. Sh.M reported that the police caught him and began beating him with their guns. Sh.M told that they put his head in the asphalt and one of them put his feet onto his head. He reported that he was also subjected to the falanga method that caused him difficulties in walking. He was also beaten under his feet from 22:30 to 24:00. The physical violence and beatings continued the next day.

The case was evidenced and documented in compliance with the Istanbul protocol requirements. Sh.M was brought before the court on 13 December where "he was sentenced to imprisonment on the accusation of breaching the domestic arrest and also violence against the head of the criminal investigation of Commissariat 4. Despite the complaint from his lawyer, Sh.M was transferred to Mine Peza pre-detention centre.

Case of D.T (acid attack)

The case involves an acid attack: On 29.07.2009, unidentified aggressors threw acid in the face and other visible parts of the body of D.T and her colleague (co-worker). The attack happened at a time when D.T. was involved in a difficult divorce that resulted in major disagreements with family relatives of her ex-fiance. A criminal case was registered (nr. 3985 date 29.07.2009) at the Tirana prosecutor office who filed the criminal case nr. 2755 date 29.07.2009 for the offence "Intentional serious injury", as foreseen by the article 88/2 of the Criminal Code (without having identified the suspected).

D.T was hospitalized in bad conditions at the Public Hospital "Mother Teresa" in Tirana. She stayed under intensive care for 3 days; where the medical staff could not guarantee her life and specialized treatment. Her family relatives had her transfer to a clinic in Brindisi Regional Hospital (Italy) where she stayed for around two months undergoing numerous restructuring surgical interventions.

ARCT, who was asked to represent the victim, wrote to the prosecutor's office to request information about the investigations and whether all actions were undertaken. ARCT received a response (nr. 627-A prot date 17.04.2012) stating that : *"the investigations have been suspended (interrupted) on 2.2.2010 with regards to the mentioned case and the file of the criminal case nr. 2755, of 2009, was redirected to the Tirana police directorate (sector of the crimes against life and health) for further investigations, with the purpose of the identification of the author/ authors of the criminal act. Special acts and information*

can be accessible from you or the victim to the Tirana police directorate...”. ARCT requested copies of the criminal investigations file, but until now there is no answer.

Case of L.P

The case was referred to ARCT from the father of L.P, Mr. H.P, and another relative. L.P was brutally beaten by police officers and forcedly arrested while he was at abus station. His relatives explained that L.P fainted as a result of the attack, and that he then was brought to the hospital for further medications.

After recovery, L.P was brought before the judge who ignored the signs of violence and did not requested investigations for the act of torture. L.P was then sent to the pre-detention centre in Tirana, and was not allowed to meet with his father. Only after 12 days, his family learned about this case and they brought it to the attention of the ARCT. The case was also referred by the medical doctor of the Prison 313, Jordan Misja to the prosecution office of Tirana, as violence.

ARCT has verified through data from 2007 – 2013 that 45% of the detainees interviewed by ARCT reported being victims of some form of violence during arrest and the first hours of investigations. The data reveals the following:

	Cases of violence during arrest	Violence in custody	Violence in detention
2009	183 out of 549	379 out 549	18 out of 298
2010	101 out of 369	121 out of 369	7 out of 140
2011	28 out of 129	38 out of 82	3 out of 67
2012	36 out of 159	41 out of 159	8 out of 117 ⁵⁴

The investigations of January 2011 protests were closed by non-sufficient evidence against two high ranking officials from the republican guard. The court decision created tension and insecurity against family relatives of the victims.

Question 8: Please provide information on the magnitude of the problem of violence against women, especially domestic violence, and on measures adopted for ensuring that acts of domestic violence are effectively investigated and perpetrators prosecuted and sanctioned. In particular, please report on the measures taken: (a) to combat effectively and prevent the application of discriminatory customary law (kanun); (b) to establish marital rape and domestic violence as penal offenses; (c) to provide the courts with the necessary funds to guarantee the proper enforcement of the Law on measures against violence in family relations; and (d) to eliminate cases when the execution of protection orders is suspended pending appeal or when judges attempt to reconcile the parties, while this is not a prescribed procedural step provided by domestic law. Please provide information on the number of existing safe shelters to assist victims of domestic violence.

Based on recent data from gender alliances and coalition of NGOs, on prevalence and incidence of domestic violence against women and children – 56% of women have experienced some form of violence in family relationships; 57.7% of children from 10-14 years old report being physically abused⁵⁵.

⁵⁴ Of these, here are 5 cases reported by the prison authorities in Tirana 313 Prison, Saranda Pre-detention and Fushe-Kruja.

⁵⁵ 1st Number, 2013, Bulletin, of the Centre for Civil and Legal Initiatives, page 3-5

The law on domestic violence envisages legal measures that guarantee the protection of all family members, regardless of gender or age, with a view to preventing them from becoming victims of domestic violence. These measures provide for better protection, not only of the persons who are currently in a family relationship, but also of persons who used to be in a family relationship, such as former spouses or partners. The practical implementation of this law has underlined the problem of protection from violence in girlfriend/boyfriend or engaged -to-be-married relationships (i.e. other intimate relationships). They are not included among the subjects protected by the law on domestic violence and the courts have not extended coverage by protection orders beyond the subjects mentioned in the law.

Albania has long been identified as a source and transit country for trafficking in women and children. In addition, many NGOs (as the National Coalition of the Albanian shelters⁵⁶) and international organizations (as IOM) report a significant increase in trafficking both into and out of other Balkan States.

The Serious Crimes Prosecution division reported investigating 21 human trafficking suspects in 2012, compared with 24 suspects investigated in 2011.⁵⁷ During the past year, the Serious Crimes Court prosecuted five suspected trafficking offenders; all five prosecutions resulted in convictions in 2012. The government's lack of sustained funding to NGOs, however, resulted in the temporary closure of one shelter during the reporting period. In the last year, the government reported identifying 84 new trafficking victims via the national referral mechanism, compared with 97 trafficking victims identified in 2010. NGOs reported assisting a total of 132 trafficking victims throughout the year. In July 2011, the government approved victim-centered standard operating procedures (SOPs) in collaboration with civil society to improve identification of trafficking victims and their referral to care.

Question 9: Please describe the measures taken to pursue prevention efforts and outreach campaigns with regard to blood feuds (the practice of vindicating honour outside the regular legal system), as well as the prosecution and judicial punishment of such practices. Please update statistics about cases of blood feuds.

As pointed out by the UN Special Rapporteur on extra judicial killing (February 2010) "Even though in low level, the country is facing blood feuds and extra-judicial killings isolating entire families (including small children born and grown up in closed homes) choosing self-isolation for fear of reprisals". In most cases the person who committed the murder was pressed by his family to commit the crime. The Kanun (alb) of LekDukagjin, a centuries-old code of conduct covering every aspect of life, still holds more sway in some areas of northern Albania than the criminal code.

On the other hand, government statistics claim that such killings fell sharply in number over the last decade. According to the ARCT media monitoring, there were 98 murders due to blood feud from 2001 to 2012, including five in the first nine months of 2012. Murders due to blood feuds account for 34.4 per cent of the murders that have occurred in Albania in the past two decades. In total, 69 families live currently isolated in their homes, the majority in the northern region of Shkoder. In these families 33 children cannot attend school because of fear of reprisal from the feuding family.

There are no state campaigns against the blood feud. The scale of the problem is hard to monitor as there are deep discrepancies in statistics on blood feuds and related killings. Local media and non-governmental organizations refer to dozens of blood-feud killings per year and to hundreds of children living in isolation as a consequence.

⁵⁶ Members of the coalition are VatraCenter-Vlora, Different & Equal-Tirana, TjeterVizion-Elbasan , Community Center-Gjirokastra and the National Reception Center-Tirana.

⁵⁷ Data in the Albanian Prosecutor's Office website: <http://www.pp.gov.al/>

Question 10. Please describe the measures taken to implement the legal prohibition of corporal punishment of children in all settings in compliance with the 2010 Law on the protection of the rights of the child. Please also provide information on steps taken to raise awareness about the harmful effects of such corporal punishment, and on non-violent forms of discipline.

The Albanian legislation does prohibit the corporal punishment at home (Article 21 and 26 of the Law on the Protection of the Rights of the Child (2010).

The Criminal Code, as amended in 2008 by Law No. 9859, punishes “physical or psychological abuse of the child by the person who is obliged to care for him/her” with imprisonment from three months to two years (article 124b).

Corporal punishment is explicitly prohibited in schools in article 36(2) of the Fundamental Normative Provision, based on Law No. 7952 “For the Pre-University Educational System” (1995), which states: “The individuality and human dignity of the pre-school child and pupil is respected. It is protected from physical and psychological violence, discrimination and isolation. In kindergarten and schools, it is categorically prohibited to have children made subject to corporal punishment or hazing.” Article 21 of the Law on the Protection of the Rights of the Child also applies (see above).

Corporal punishment is unlawful as a sentence for crime. It is not a permitted punishment under the Criminal Code. Article 25 of the Constitution states: “No one may be subjected to cruel, inhuman or degrading torture or punishment.” There is a similar provision in the Criminal Procedure Code (1995) and, as noted above, the Law on the Protection of the Rights of the Child (article 26).

Question 11. Please provide the most recent data on trafficking, disaggregated on the basis of gender, age and country of origin, as well as information on the number of prosecutions, convictions and sentences imposed on convicted perpetrators. Please describe the measures taken to improve the identification of victims and to enhance the effectiveness of the national referral mechanism to protect, assist, support, compensate and rehabilitate victims of trafficking.

A very recent report of Eurostat⁵⁸ concludes that Albania is a major transit country for human trafficking, illegal arms and narcotics.

Albania criminally prohibits sex and labor trafficking through articles 110(a), 128(b), and 114(b) of the Criminal Code, which prescribe penalties from five to 15 years’ imprisonment. These penalties are sufficiently stringent and exceed those prescribed for other serious crimes, such as rape. NGOs praised the victim-sensitive response from prosecutors appointed to trafficking cases during the year, including their referral of victims to care.

Investigations during 2010	Investigations during 2011	Cases convicted in 2011	Cases convicted in 2010
29	27	5	11

With regards to Article 9, 10 and 14

⁵⁸ http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130415_thb_stats_report_en.pdf
accessed June 2013

Question 12. Please provide information on the measures taken to guarantee that all persons detained by the police are fully informed of their fundamental rights from the outset of their detention, and have immediate access to a lawyer and a medical doctor, and are systematically brought before a judge within the constitutionally prescribed period.

During monitoring visits, ARCT has provided a considerable number of posters and leaflets with the basic information about human rights, including the right to access to legal services and basic health.

ARCT data collected through a national screening instrument, managed for a contingency of 1142 people in places of deprivation of liberties (police, pre-detention and prisons) show the following with regard to access to a lawyer:

	Reporting No lawyer during police interrogation:
2009	295 out of 549
2010	459 out of 585
2011	91 out of 128
2012	93 out of 158

Reference is also made to Annex 3 about access to justice in Albania, including for detainees.

There is little awareness and accountability from the government of human rights principles⁵⁹ and own domestic laws protecting health conditions of persons with intellectual, physical, mental disabilities. Reform is coming too slowly to institutions for adults with intellectual and mental health disabilities in Albania, where chronic neglect⁶⁰, filthy conditions⁶¹, and the use of physical restraints and high-dosage drugs to control behavior remain routine⁶². Furthermore, there is an identified incompetence in coordination among various state agencies for the proper implementation of the already-there legislation.

Informal interviews and discussions with medical staff have shown a real concern: the increasing number of detainees, re-evaluated as mentally ill in order to benefit from the corrupted judiciary system for a milder sentence.

Question 13. Please indicate what measures have been adopted to prevent arbitrary detention and to guarantee that persons subjected to illegal and/or arbitrary detention are able to report such violations and are afforded effective judicial redress and compensation. Please also indicate which steps have been taken to limit the legally prescribed maximum duration of police custody following arrest and pretrial detention, and to ensure that this duration is not exceeded in practice.

ARCT would like to note that arbitrary detention continues to be of concern. Persons who have been arbitrarily detained for long periods often find it impossible to ensure access to justice and redress afterwards.

⁵⁹ US State Department HR Report has mentioned the slowlines “in implementing longstanding recommendations of ECPT, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2007/100544.htm>

⁶⁰ Violation of the Article 5 (violation of right to personal freedom and security), Article 8 (right to a private life) of the European Convention on Human Rights, *Stanev v. Bulgaria*

⁶¹ Violation of the violation of Article 3 (inhuman and degrading treatment) of the European Convention on Human Rights, *Stanev v. Bulgaria*

⁶² Concluding observations of the UN CAT on the 2nd Report on the Convention against Torture, May 2012; ARCT Shadow Report (page 12); <http://www2.ohchr.org/english/bodies/cat/cats48.htm> last access April 2013.

In Annex 2 cases related to arbitrary detention are included.

Question 14. Please comment on allegations of secret detention carried out on the territory of the State party in the context of its cooperation in counter-terrorism.

No information may be provided with regards to point 14.

Question 15. Please provide information on the detention of asylum seekers who enter the country in an irregular manner, and on measures taken to ensure that persons with international protection needs are identified and referred to asylum procedures.

Starting in 2006, Albania has accepted 9 former Guantanamo prisoners: ZakirjanHasam, Uzbekistan; Allah MuhammedSaleem Egypt; Ahmed Adil, Uighur community (China); Abu BakkrQassim, Uighur; AkhdarQasemBasit, Uighur; Haji Mohammed Ayoub, Uighur; Allah MuhammedSaleem (Sheikh Allah) Egyptian. Two other men have left Albania: FethiBoucetta to Algeria and AdilHakimjan to Sweden. 3 men arrived in February 2010 in Albania AbdylRauf Omar Mohammed Abul Al Qusin. Saleh Bin HadiAsasi (Sayf Bin Abdullah) the SherifFatih Ali al Mishadwho also are in a very bad health situation. All these persons have earned the status of “non-longer combatants enemies”. They were granted a refugee status in Albania.

What ARCT considers a real concern is related with their political asylum and the fact that current refugee status they have does not fulfill any possibilities of integration and resettlement for these persons: they are not allowed to return to their countries of origins, they were not granted the Albanian citizenship; few of them have created families without being able to register their newborns.

Being provided with some minimum income by the Albanian Government, poor vocational and language instructions, the former Guantanamo prisoners need assistance and a detailed resettlement plan which could be of great importance.

Since 2011, the ARCT is assisting these persons through an UNVFVT- DA Project in an annual basis. Two of former Guantanamo prisoners (Allah MuhammedSaleem (Sheikh Allah) AbdylRauf Omar) have left Albania to Egypt.

Due to an agreement with the US government, Albania has started accepting mujahidin from the Iraqi camps. 44 men have already arrived, while 210 men are expected to come to Albania, and settled to Babrrru Centre (Tirana).

Question 16. Please provide information on the de facto functioning of the High Council of Justice in securing the quality, efficiency and independence of the judiciary, in particular efforts to combat what is described as widespread corruption. Please also specify the measures taken to resolve the issue of overlap of inspection powers between the inspectorates of the High Council of Justice and of the Ministry of Justice.

High Council of Justice has been the subject of many discussions and ensuing amendments. Through a recently closed EU-funded project, the HCJ was assisted in prioritizing the reforms including composition, functioning, structure of the High Council of Justice, internal organization and administrative structure,

appointment, transfers, evaluation of Judges and nomination of Chief Judges and disciplinary system of the judges.

A new law is launched, yet without any measures aiming at transparency and no involvement of groups of interests.

Question 17. Please provide information on any practical measures taken to ensure that inordinate delays in the conduct of civil and criminal proceedings are eradicated, and that administrative and structural deficiencies in the judicial system are addressed.

No practical measures are taken to ensure that inordinate delays in the conduct of civil and criminal proceedings are eradicated, and that administrative and structural deficiencies in the judicial system are addressed. As a result, cases are delayed for years. Thus, there is an urgent need for the operation and functionality of the administrative courts.

Question 18. Please provide information on any measures taken to reduce overcrowding in prisons, especially in the Women’s Prison in Tirana, and to improve the infrastructure and sanitary conditions in all prisons and investigation detention facilities.

The majority of female offenders are in prison as a direct or indirect result of the multiple layers of discrimination and deprivation experienced at the hands of their husbands, family and the community. They show histories of the extreme violence and social isolation, desperation, marginalization; poor level of education, mental health and family disruption/abandonment; while 35% of them are women who are responsible for their families (head of their families). Based on the data collected, 55% (34) of women are convicted for murder, 21 % (13) for exploitation of prostitution, 8 % (5) for fraud referred as crimes of poverty, 7% (4) for thieveries, 6% (4) for prostitution, 3% (2) for possession of narcotics.

<i>As of May, 2013</i>	2007	2008	2009	2010	2011	2012
Average number of women detained	79	88	94	76	65	56

The number of foreign national women condemned by Albanian criminal justice system of many countries is growing, due to the increase in human trafficking and migration. Parallel to it, there is an increase percentage of Albanian detained women being held in foreign countries, as Greece, Spain and Italy that have been coerced or deceived into carrying drugs. They constantly report failure in their right to access justice: often the Albanian courts do not count the amount of time that spent in custody and/or detention in the foreign countries.

ARCT has 5 cases of extraditions re-opened; where the time in pre-detention was re-calculated and few women benefitted from the reduction of their sentences (effective imprisonment time); the case of F B, Sh R, and A Sh, V. Sh, R.A.

Question 19. Please provide information on measures taken to improve the treatment of juveniles in police stations, in particular relating to timely registration, notification to their lawyer, quality of the provision of defence from an ex-officio lawyer, physical infrastructure of police cells and separation from adults. Please provide further information on the steps taken to ensure that

alternatives to detention, such as diversion, probation, counselling, community service or suspended sentences, are used in addressing juvenile crime.

Albania does not have a child friendly criminal justice system. Although many investments and improvements were made, yet the treatment of the juvenile offenders remains appalling, and limited in standards. There is no special legislation dedicated to juvenile offenders, nor special treatment dedicated to the premises.

Although mentioned in the Article 46 of the Criminal Code, there are no possibilities for educational/correctional schools. A concern remains the management of the time spent in police custody for those accompanied (up to 10 hours). See further Annex 1..

With regards to Article 19

Question 20. Please provide information on the legal regime that regulates the ownership and licensing of the press and the broadcasting media, and on how the press and broadcasting media promote freedom of expression, despite the lack of a self-regulatory body for the media.

The law on broadcast media stipulates criteria for the licensing and activity of radio and TV stations and it contains a number of provisions regarding media ownership in the field of broadcast media.

The law states that persons deprived of the capacity to act by a court ruling, political parties and organisations, religious communities and associations, local government authorities or other state authorities cannot obtain a broadcast license. Also excluded from applying for a license are industrial organizations, banks, and credit institutions.

According to this law, broadcasters can obtain two kinds of licenses depending on their coverage: local and national. The criteria to be met for national licenses are stricter than those for local or regional ones. More specifically, the holder of a local license can be a natural or a legal person, with no limitation imposed on the establishment of a company. The law prohibits the granting of more than two local broadcast licenses for the same territory, be it a radio or a television channel. However, the same broadcaster can obtain both a radio and a TV broadcast license. There is no limitation on foreign ownership; the shares of a local medium can be owned one hundred percent by foreign owners, but again, it cannot own more than two local media stations.

On the other hand, the limit on ownership stake in a national radio or TV station is 40 percent; thus a national radio or TV station must have at least three owners, either legal or natural persons. The owners of a national radio or television outlets are forbidden to possess shares in another national radio or television enterprise, in whatever amount. It is forbidden for an owner of shares in a national broadcasting station to obtain a local broadcast license.

Regarding the owners of national media, there is no limitation at all regarding foreign ownership, apart from those that apply to Albanian owners of national broadcast media, namely the 40-percent limit and the other criteria of ownership.

Apart from the limit on ownership stakes, a national media company must be registered as a joint stock company.

With regards to Article 23, 24

Question 21. Please provide information on the measures adopted to strengthen support for families by developing a comprehensive child-centred family policy, and to prevent the removal of

children from their families because of their health status, or placement of children in institutions by parents in difficult economic situations. Please also describe the measures taken to promote social support and community-based services for young people as they leave institutional care.

In Albania, there are hundreds of crimes committed every year against children.⁶³

The issue is of concern when taking into consideration the negligent attitude of public institutions (especially the justice and social welfare system) towards the widespread violence and abuse against children (including serious sexual crimes) within,. The main problems children have to deal with today are abuse, violence, exploitation, maltreatment, trafficking, discrimination, neglect, poverty and social exclusion,.

The Balkan Epidemiologic Study on Child Abuse and Neglect (BECAN) in Albania, under which the data were made public on January 2013, confirmed that violence against children is a daily phenomenon for many children across Albania. **The study showed that 59% of children in Albania are victims of physical violence and 11% percent of children said they were victims of sexual harassment. Almost 5% of children said they were victims of sexual violence and 4% of them stated that this happened to them during the last year.**

Albania is a party to the Convention on the Rights of the Child. National as well as international obligations require the country to strictly implement measures that protect, ensure and respect the rights of the child and that would take into consideration the best interest of the child.

There are no child protection units. Moreover, the initiation of a juvenile justice reform is urgently needed so that special attention could be paid to the legal basis and necessary special mechanisms to be in place.

Question 22. *With regard to information that 502 of 661 Albanian Roma street children reportedly went missing following their placement in the AghiaVarvara children's institution in Greece between 1998 and 2002, please inform the Committee on the measures taken to investigate the fate of those children whose whereabouts are still unaccounted for.*

ARCT is not aware of the factThrough media monitoring, it is identified the case of more than 200 Roma families returned from Greece who are struggling to survive in Saranda - without any possibility for housing and accommodation.

With regards to Article 25

Question 23. *Please describe the measures taken to protect the rights of persons with disabilities and their full participation and inclusion in society. Please also describe the restrictions put on the right to vote of persons with disabilities by article 45 of the Constitution and article 45 of the Electoral Law.*

In December 2012 Albanian parliament ratified the UN Convention for Persons with disabilities. Despite international pressure, the inclusion of the concept of disability as a mainstream did not ensure the protection of civil and political rights of this category of vulnerable groups.

⁶³By way of example on 16 March 2013, a 10 years old child got lost from the control of his parents and was found only the next day, thanks to the an accidental check, to the house of a person, who now is being investigated for sexual crimes against children..

Albania is having parliamentary elections in 23rd of June 2012, and the need to amend the Electoral Code by accurate determination of the legal responsibilities for relevant structures, starting with making the lists for election for all the categories without exception, in order to realize the right to vote for people with disability will continue to be unaccomplished.

People with disabilities remain unrepresented, no data base and no standards of accessibility of voting centre and tools in support of the Electoral Code are provided.

The situation remains appalling in all places of deprivation of liberty, where the pressure remain high, and authorities remained biased by the power.

With regards to Article 26, 27

Question 24. Please describe the measures taken to ensure the effective implementation of the strategies and policies adopted to eliminate discrimination and the social exclusion of persons belonging to ethnic and national minorities, and to combat the negative stereotypes of the Roma minority and other minority groups. Please also provide information on the measures taken to ensure that the Commission for Protection against Discrimination receives adequate financial and human resources in order to work independently. Please comment on reports that members of the Roma community have been subjected to forced evictions and that their houses have been demolished, while no adequate housing alternative was provided.

Despite legislation and policy papers, the situation of Roma minorities raises concerns, as they attract attention of international communities and indeed raises the neglect from the Albanian state authorities. The commissioner against discrimination is not know for this community; they face unemployment, stigma, lack of basic health services, no education. The census does not provide a clear answer on the current number of this minority.

A case of forced eviction happened in 2012, where some Roma families, around 50 people, have been violently evicted from the former military barracks where they had recently been resettled, on the outskirts of the capital, Tirana. Police brought four families back to the barracks, but they have since fled. The other four families refused to return.

Question 25. Please provide information on the steps taken to disseminate information on the Covenant and the Optional Protocols, the submission of the second periodic report of the State party (CCPR/C/ALB/2), its examination by the Committee and the Committee's previous concluding observations on the State party's initial report (CCPR/CO/82/ALB). Please also provide information on the involvement of representatives of ethnic and minority groups, civil society, non-governmental organizations and national human rights institutions in the preparatory process for the report

Few efforts are made to disseminate information on the Covenant and the Optional Protocols; the session of the Human Rights Committee and topics of priorities. ARCT and it network of local partner organizations were not informed by the state authorities, but became aware of the examination of Albania by the Danish partner organization, DIGNITY- Danish Institute against Torture.

Recommendations:

Please find below a number of recommendations based on List of issues and findings:

- (1) *All police facilities (commissariats, police stations) should have the necessary personnel, including medical and psychological staff to provide proper treatment to categories of vulnerable groups in detention (juvenile, women, mentally ill and disabled).*
- (2) *Guaranteed free access to legal aid, and active participation in the legal representatives during investigative process.*
- (3) *Clear instructions should be adopted on the authorities' approach towards acts of torture and adequate training on prohibition against torture is provided to investigative authorities, in order to ensure overall implementation of the Covenant.*
- (4) *In light of serious cases of police brutality, it is recommended to eliminate the climate of impunity of law enforcement personnel who commit acts of torture and ill-treatment and ensure strict application of articles 86 and 87 of the CC, in compliance with the ratified international acts and the respective recommendations of the human rights organizations.*

Annex 1

ALTERNATIVE REPORT

To the list of issues (CAT/C/ALB/2), dated 15 December 2011
 Prepared by the UN Committee against Torture to be considered in connection with the consideration
 of the second periodic report of

ALBANIA

Albanian Rehabilitation Centre for Trauma and Torture (ARCT)
 April, 2012

CONTENTS

TABLE OF CONTENTS	22
INTRODUCTORY REMARKS.....	PAGE 222
COMMENTS TO THE 24 QUESTIONS.....	PAGE 3 – 2322
ANNEX 1: ARCT ALTERNATIVE REPORT TO THE COMMITTEE AGAINST TORTURE 2012.....	PAGE 24 -6622
ANNEX 2: LIST OF ARCT'S 82 CASES IN THE PERIOD 2009 - 2012.....	PAGE 67 -8322

ANNEX 3: ARCT’S RESOURCE BOOK FOR PENITENTIARY STRUCTURES AND CIVIL SOCIETY: “IMPROVING ACCESS TO JUSTICE IN ALBANIA”	22
INTRODUCTORY REMARKS	23
INTRODUCTORY REMARKS	41
WITH REGARDS TO ARTICLES 1 AND 4:	41
WITH REGARDS TO ARTICLE 2:.....	41
WITH REGARDS TO ARTICLES 5-9:	47
WITH REGARDS TO ARTICLE 10:.....	47
WITH REGARDS TO ARTICLE 11:.....	47
WITH REGARDS TO ARTICLE 14:.....	48
OTHER ISSUES OF CONCERN:.....	49
Disabled persons	49
Children and juveniles	49
Legal aid schemes	50
RECOMMENDATIONS:	50
ANNEX 1 - CASES IDENTIFIED DURING REGULAR AND AD-HOC VISITS, LETTERS AND MEDIA MONITORING	50
ANNEX 2 - COURT REPRESENTATION OF A SELECTION OF CASES AS OF 2011:	60
ANNEX 3 - PREVALENCE OF TORTURE AND ILL TREATMENT IN POLICE, PRE-TRIAL AND DETENTION, RESULTS FROM THE NATIONAL SURVEY BASED ON THE ARCT& RCT SCREENING INSTRUMENT	71

INTRODUCTORY REMARKS

Coming from one of the most difficult and atrocious dictatorial regime, Albania is representing a challenge for the political, social and cultural developments of the Balkans, and more widely of the Europe. Since early '90s, significant legal reforms have been made hereby establishing a legal framework in the area of human rights and setting up key institutions, such as the Ombudsman's Office (People's Advocate). However, serious problems from the communist era prevail and Albania is still a society governed by weak state institutions, lack of the Rule of Law and widespread corruption; receiving criticisms on the implementation of laws.

In the area of human rights, there are several significant structural and political barriers that continue to challenge the democratic principles of the Albanian state. Despite legal framework to guarantee the promotion and enforcement of human rights: existing legislation is often not enforced, especially in the field of prevention of torture gender equality and domestic violence, fight against discrimination, human trafficking and child protection, disability and social inclusion of vulnerable groups, and living conditions of the Roma minority. At the institutional level, the country still lacks a fully independent judiciary and an executive branch that carries out law enforcement in full accordance with international human rights standards.

WITH REGARDS TO ARTICLES 1 AND 4:

Question 1: In the light of the previous recommendation of the Committee (CAT/C/CR/34/ALB, para. 8 (a)), the Committee welcomes the amendments to article 86 of the Criminal Code regarding persons acting in an official capacity. Please indicate any illustrative cases when article 86 of the Criminal Code has been applied to persons acting in an official capacity.

Albania's mechanisms to hold accountable those responsible for torture and ill-treatment or violations of prisoners' rights are insufficient either to provide redress to victims of abuse or to deter perpetrators. The justice system does not effectively hold officials accountable for torture or ill-treatment, creating **a climate of impunity**. **No case of torture has been reported since 2010 by the Albanian state authorities.**

Regardless of initiatives coming from the civil society organizations, the victims go unidentified, discriminated and threatened by the perpetrators; ARCT has presented around 26 civil cases on compensation and succeeded in 11 of them. ARCT has also presented 5 criminal cases pursuant to Article 86, but none of them was accepted as a torture act; instead the responsible persons were found guilty of misuse of power and excessive use of force by police officials. (Vajushi, 2010 and Serjani 2010)

WITH REGARDS TO ARTICLE 2:

Question 2: Please provide information on the mandate and activities carried out to date by the People's Advocate (Parliamentary Ombudsman), who has been designated as national preventive mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and on the measures taken by the relevant authorities of the State party to implement NPM findings and recommendations made following visits to places of detention. Furthermore, please indicate measures taken to provide the People's Advocate with the specific human, financial and logistical resources necessary to ensure its effectiveness and independence, in accordance with article 18, paragraph 3, of the Optional Protocol and guidelines Nos. 11 and 12 of the Sub-Committee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in relation to visits to States parties. Please also indicate challenges, if any, in access to specific places of detention. Please provide

the Committee with information on any review undertaken to assess the effectiveness of the People's Advocate.

In 2003 the Albanian Parliament ratified the implementation of the UN Optional Protocol of the Convention against Torture (OPCAT), by the Law No.9094, dated 03.07.2003.

In compliance with the OPCAT, in early 2008 the Parliament of Albania assigned to the Albanian People's Advocate (PA) the function of the National Preventive Mechanism against Torture (NPM) on the basis of a special law. The OPCAT ratification and establishment of the Albanian NPM remains a success story which was initiated as cooperation between civil society and PA under the motto "Albania without torture".

The preventive approach foreseen in the Optional Protocol is based on the regular and periodic monitoring of places of detention through visits to these facilities conducted by expert bodies in order to prevent abuses. In contrast, the PA only monitors the situation once they receive allegations of abuse.

The newly-established NPM was challenged by lack of multi-disciplinary professional expertise, lack of financial resources, and lack of monitoring methodologies, which were minimized through cooperation with professional organizations which offered medical, psychological and psychiatric expertise to joint monitoring visits. As result, a well-accepted NPM has become functional and continuously increased the scope of work and activities with different places of detention.

Since 2011, the People's Advocate (PA) activities have been tremendously influenced by budgetary constraints, limited number of staff and resources; the institution has suffered from more than 2 years without being able to assign the Ombudsman, due to political stalemate.

This situation and continuous political pressure has diminished the role and scope of work of the institution through budget cuts, and reduction of staff. This situation has become a concern where the PA recommendations were considered as "repetitive" and not taken into consideration properly by few state institutions.

The appointment of the new ombudsman happened in December 2011; main challenges for the institution remain the structural changes and improvements of the monitoring methodologies with regards to OPCAT implementation and concerns are related to the power of PA recommendations.

As of today, the PA remains an institution overwhelmed with complaints and characterized by reactive approach in addressing human rights issues, yet without a preventive approach, as required by OPCAT. Concern also remains about Office's effective independence from the parliament, executive and state institutions. While PA conducts many visits to places of detention, no consistent and comprehensive system of visits to places of detention has been developed, such as full inspection visits (announced - to large facilities), follow-up visits and ad hoc visits (unannounced). While there are no general criteria on the length and regularity of full visits, given the capacity detention facilities that exist in Albania, full inspection visits should last a minimum of two days and be conducted at least twice a year.

In view of the high risk of ill-treatment by the police and high turnover of police detainees, more frequent and unannounced visits should be undertaken to detention rooms at border posts.

The number of PA staff in examining complaints from places of detention and engaged in monitoring places of detention is limited in view of the wide ranging issues that need to be addressed in places of detention.

Question 4: Please also report on the instances of regular and unannounced visits to police stations by the People's Advocate and other independent bodies during the reporting period.

The PA visits to police stations have been performed by the commissioner for human rights (one of three mandated commissioners at PA). Their mandate included unannounced visits to police

commissariats, with regards to material conditions and violations of human rights, yet without a methodology in performing regular visits.

The human rights monitors in Albania are identified by their mandates as “watchdog” organizations, reactive to cases and complaints; and, those who dedicate work in prevention and documentation (mostly representing professional organizations).

Watchdog Organizations such as Albanian Helsinki Committee (AHC) and the Children’s Human Rights Centre of Albania (CRCA) have played an important role in the process of awareness raising on specific cases of police maltreatment. AHC has been implementing an initiative with regards to internal complaint mechanism and has performed joint monitoring visits with PA. CRCA is monitoring police commissariats with the scope of identifying violation of children and juveniles rights. ARCT in this scheme represents the organization which is “offering” the health component for the monitoring visits/inspections both at regular and unannounced visits. Starting in 2008, the ARCT has performed more than 250 monitoring visits in all 21 penitentiary institutions in the country; and since 2012, it has started monitoring the 42 police commissariats in Albania, initiating MoUs with police structures in monitoring, training and capacity building.

ARCT has developed its own standard operating procedures in performing the monitoring visits. The SOP included best practices for access to places of detention, planning and implementation of the visits, procedures for interviews with staff and detainees, qualitative and quantitative documentation of the findings, the report writing, report submission and follow-up of recommendations, methodology of approaching the prison, authorizations, etc.

Through such monitoring, recommendations were raised with regards to provision of food and improvements of material conditions. Today, the Albanian State Police is facing critical problems with providing basic rights for persons accompanied (within 10 hours) and held custody cells (such as food, space, proper ventilation and outdoor activities. No specialized treatments are provided with minors and women (issue becomes a concern when there are pregnant women and juveniles under 14).

Yet, there is a need for legally guaranteeing the CSOs free access to detention police cells, with regards to monitoring, documentation and prevention.

Question 6: With reference to the previous recommendations of the Committee, please provide updated information, including statistics (disaggregated by age, gender and origin), on the number of complaints, investigations, prosecutions and convictions, including criminal and disciplinary sentences, related to acts of torture and ill-treatment under articles 86 and 87 of the Criminal Code allegedly committed by law enforcement personnel during the reporting period. Please clarify which provisions of the Albanian Criminal Code were violated in each case. It would also be useful to receive information about recent examples of cases where the accused was found guilty of acts of torture, including the sentences handed down and the penalties given.

There is no public data about the number of criminal proceedings initiated, or criminal and disciplinary sanctions imposed following complaints of ill-treatment.

Recent years have seen a massive increase in the number of all types of prisoner complaints to all internal and external complaints bodies.

Year	Prison Administration	PANPM Complaints	CSOs	Media monitoring
2008	608	140	135	36
2009	524	330	168	43

2010	502	167	313	47
------	-----	-----	-----	----

Sources: *Annual Reports by the General Prisons Directorate, information provided by the People's Advocate (NPM); information from ARCT and media monitoring;*

Different reasons have been cited for the high increase in the number of prisoner complaints: there is a persisting concern in a timely and effective review of prisoner complaints, as complaints are frequently sent from one organization to another, and complaints bodies are often uninformed about the decisions and measures taken by other bodies. There is lack of regular analyses of complaints within the complaints bodies, and lack of regular co-operation between various complaints bodies that would address the root causes of prisoner complaints. Many complaints arise from lack of uniform interpretation of legal provisions by prisons, absence of information on relevant national legislation and international human rights standards. While there has also been recognition among prison leadership that the majority of complaints can be resolved within the prison, it is not infrequent when prisoners lack trust in the internal prison complaints system.

Prisoners can also complain to Prison Administration, People's Advocate and NPM, prosecutors' office, courts, including Constitutional Court, local authorities, NGOs, international organisations, etc. This often results in identical complaints being forwarded to several institutions (as the case of objections against the amendments to the Internal Prisons Regulation early in 2010).

The lack of transparency and responsiveness to prisoner complaints also shows that the mechanism to address grievances is equally broken. Indeed, officials have repeatedly dismissed allegations by individuals or human rights organizations regarding violations of prisoner rights without starting a serious and transparent investigation.

A prisoner complaints reform would be urgently required to overcome the prisoner complaints crises that would address changes in the procedure of reviewing prisoner complaints, regular analysis of prisoner complaints within individual complaints bodies, and facilitate intensive co-operation between complaints bodies to address the root causes of such complaints. Prisoner complaints procedures and venues in other prison systems would merit further research. The same applies to review individual complaints about police misconduct.

Statistics on complaints concerning police violence against individuals, as acknowledged by the police authorities, began to be separated only in 2003 in response to the CPT recommendations. The State Police reports about the number of submissions and complaints about the conduct of police officers from the State Police, and the number of disciplinary investigations. While the overviews do not include separate statistics on the number of submissions and complaints on police violence, they include the number of disciplinary investigations on police violence.

Public awareness needs to be raised on the creation of a fully-fledged independent investigation body.

No information is provided on the procedural length of a case, dynamics and transparency is missing when information is required by CSOs and journalists.

Question 7: Please report on the measures taken to adopt clear legal provisions establishing that orders from a superior may not be invoked as a justification of torture

No specific administrative measures are reported;

Question 11: What further steps have been taken to reduce long pretrial detention periods of up to three years and address overcrowding in places of detention?

Pre-trial detention has been identified as a core concern by CPT. The number of the pre-trial detainees remains high.⁶⁴ Excessive use of pre-trial detention constitutes a serious problem in the target countries. A common pattern is that court decisions to impose pre-trial detention tend to lack individual reasoning and to disregard the presumption of innocence. Although gaps in the legislative framework contribute to the excessive use of pre-trial detention, the key problem is often an inadequate implementation of the existing legal standards.⁶⁵

The duration of pre-trial detention is another common problem. Moreover, although alternative measures to pre-trial detention have been recommended by civil society and European and International bodies, judges have failed to consider the use of such alternatives. Further, despite some progress, state authorities in the target countries fail to ensure proper treatment of pre-trial detainees. By way of example, the risk of torture during pre-trial detention is high.

Furthermore, penitentiary centres continue operating permanently above capacity and overall conditions remain below standards, especially in some of the older prisons, pre-trial detention centers and police stations. Also, the excessive use and length of pre-trial detention is worrying, especially in the case of juvenile offenders under 14, 14-18 and in cases of adults over 65 years of age.

Within the international and domestic legal framework and basic rights for disabled persons in detention, there are specific issues to be addressed: a) getting equal access to facilities, programs and services: according to ARCT data⁶⁶, inmates and arrestees have difficulties in using prison showers and toilets and to be protected from injury or the risk of injury (even in the newly established detention facilities); deaf and hearing-impaired prisoners lack sign language interpretation for disciplinary hearings; b) challenging inadequate medical care and prison officials' failure to provide inmates and arrestees with medical supplies or devices such as wheelchairs, in violation with the Art. 3 of ECHR⁶⁷; c) challenging the detention procedures and confinement in isolation of disabled prisoners; segregation (of HIV-positive prisoners); d) fighting stigma of multiple disadvantage in terms of inmates' ethnicity, age, gender or sexual orientation⁶⁸.

Finally, persons who have been detained for long periods and persons whose rights have not been respected during pre-trial detention often find it difficult, if not impossible, to ensure access to justice and redress afterwards.

Overuse of incarceration and lack of coordination between courts, prosecution and prison authorities have jeopardized the right to life, creating many cases of unlawful detention. ARCT during 2011 has successfully closed 2 court cases where the Court has changed the Decision recognizing the time spent in the pre-trial detention and reducing the punishment.

With regards to access to justice, delays in court proceedings, corruption, and lack of proper knowledge in the international Law by judges were evidenced by ARCT during provision of free legal aid services to vulnerable persons in detention.

Question 12: What measures have been undertaken with a view to abolishing the 10-hour administrative detention period for interrogation prior to the 48-hour period within which a suspect must be brought before a judge?

64 In Albania the pre-trial detained population is 1948 out of 4879 detained in 18 pre-trial sections out of 21 detention facilities/prisons)

65 Laska and Lika vs. Albania No:12315/04, 17605/04.

66 ARCT has published an alternative report, 2 progress reports and a study on the prevalence of torture in Albania for 2009, where it is covered the penitentiary system and fact findings for cases of maltreatment, and violence

67 See Kudła v Poland, op. cit., §94, Papon v France (no. 1), no. 64666/01, judgement of 7 June 2001; Gelfmann v France, no. 25875/03, judgement of 14 December 2004

68 Article 3, United Nations Declaration on the Rights of Disabled Persons

The year 2007 when the transfer of the pre-trial detention to the Ministry of Justice did not solve the issue of the arrested and accompanied persons from the police. It did make it hopeless: today we are facing a State Police, without budgetary means to deal with these two contingencies of persons: a) the persons who are subjected to the 10-hour administrative detention period are often kept without being registered, with no access to information and without any possibility to inform relatives; the urgency goes where the accompanied persons are juvenile offenders under aged, women (*during monitoring ARCT has encountered pregnant mentally women in one Police Commissariat*), mentally ill persons, etc.

The Albanian State Police is suffering the non-derogation or change of the Article 4 of the Law on the State Police; and the non-sense in the Article 15 of the Law on the treatment of the detainees.

Question 13: Please update the Committee on progress in implementing the fundamental legal safeguards for persons detained by the police, guaranteeing their rights to inform a relative, to have access to a lawyer and a doctor of their own choice and to be provided with information about their rights.

Basic safeguards against ill-treatment during pre-trial detention are still not applied in a *consistent and effective manner*: detainees do not get timely access to a lawyer and are often not brought before a judge within the constitutional time periods⁶⁹.

According to ARCT monitoring visits, information about the rights of persons detained by the police is missing in most of police commissariats in Albania; many police commissariats remain in very bad conditions, such as Kukesi, Saranda, Vlora, Kavaja. ARCT has experienced a case where police officers have used personal mobile phones to inform relatives of a detainee (Vlora Police Commissariat).

Access to legal counsel is ensured by law, yet violations of the right to legal counsel are systematically documented and reported: (please see Annex 3)

Question 15: In the light of the recommendation by the Human Rights Committee (CCPR/CO/82/ALB, para. 12), as well as the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/17/28/Add.3, para. 70), please inform the Committee of additional measures to extinguish a belief in the practice of vindicating honour and blood outside the regular legal system, which remains entrenched in certain parts of the society, and to investigate such crimes and prosecute and punish all the perpetrators.

Blood feud as "*made in Albania*": As pointed out by the UN Special Rapporteur on extra judicial killing (February 2010) "Even though in low level, the country is facing blood feuds and extra-judicial killings isolating entire families (including small children born and grown up in closed homes) choosing self-isolation for fear of reprisals".

Although there is a lack of fully reliable data on the numbers involved, sources indicate that this phenomenon continues to exist and remains an issue of concern.

Question 18: Please clarify the steps taken to identify at the earliest possible stage asylum-seekers who may have been subjected to torture or ill-treatment, and ensure medical and psychological assistance and care to those individuals, as well as free legal aid to facilitate the application procedure.

Starting in 2006, Albania has accepted 9 former Guantanamo prisoners: ZakirjanHasam, Uzbek; Allah MuhammedSaleem Egypt; Ahmed Adil, Uighur; Abu BakkrQassim, Uighur; AkhdarQasemBasit, Uighur; Haji Mohammed Ayoub, Uighur; Allah MuhammedSaleem (Sheikh Allah) Egyptian. Two other men have left Albania: FethiBoucetta to Algeria and AdilHakimjan to Sweden. 3 men arrived in February 2010 in

⁶⁹ 2009 Country report on Human rights Practices, Bureau of Democracy, Human Rights, and Labour March 11, 2010 available at <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136016.htm>

Albania AbdylRauf Omar Mohammed Abul Al Qusin. Saleh Bin HadiAsasi (Sayf Bin Abdullah) the SherifFatih Ali al Mishadwho also are in a very bad health situation. All these persons have earned the status of “non-longer combatants enemies”. They were granted a refugee status in Albania.

What ARCT considers a real concern is related with their political asylum and the fact that current refugee status they have does not fulfill any possibilities of integration and resettlement for these persons: they are not allowed to return to their countries of origins, they were not granted the Albanian citizenship; few of them have created families without being able to register their newborns.

Being provided with some minimum income by the Albanian Government, poor vocational and language instructions, the former Guantanamo prisoners need assistance and a detailed resettlement plan which could be of great importance.

Since 2011, the ARCT is assisting these persons through an UNVFVT- DA Project in an annual basis.

WITH REGARDS TO ARTICLES 5-9:

General information

Pushed by the pressure of approximation of domestic legislation in line with the EU legislation in early 2011 Albania adopted a national strategy and respective action plan on the judicial reforms; yet requiring solid indicators and political will for the creation of a solid, independent, functional, and trustful judiciary.

WITH REGARDS TO ARTICLE 10:

Question 26: Please give information on steps to ensure that all new prison officers benefit from appropriate initial training and that ongoing training is organized for all prison officers already working in the prison system, with due regard for the selection of persons with the appropriate personal qualities.

The training Centre remains underdeveloped and the program is often repetitive and not consulted with all stakeholders. More professional training is needed for the medical, educational, and police staff- part of the waiting commissions- in safeguarding the right to privacy, confidentiality and proper categorization of the detainees.

Question 27: Please inform the Committee whether all professionals who are directly involved in the process of documenting and investigating torture, as well as medical personnel and other officials involved with detainees, are trained on the provisions of the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the result of such training. Please also indicate whether the Istanbul Protocol is used in asylum determination procedures.

Since 2011, the ARCT has introduced a tailored format on documentation of torture and violence by the medical staff in places of detention (based on applicability of the Istanbul Protocol).

The format has been piloted, tested and put in use by the General Prisons Directorate, as part of the project on contributing on the OPCAT implementation and NPM establishment in Albania.

The format is referred to the Istanbul Protocol and is tailored for use in the Albanian prison system.

ARCT does not have information whether the Istanbul Protocol in asylum determination procedures.

WITH REGARDS TO ARTICLE 11:

General information

There remain concerns over arrest and police custody, poor conditions of detention and long pre-trial detention periods of up to three years. In addition, independent inspections of places of detention are insufficient, and despite establishing of the Albanian National Preventive Mechanism, the prevalence of violence, ill treatments and torture has not decreased but rather becoming sophisticated: human rights violations are constantly evidenced due to lack of special treatment for mentally ill, women and juvenile in places of deprivation of liberty.

Question 31: Information on prison establishment:

The penitentiary system is lacking a system of electronic documentation and analysis with regards to prevalence of torture and ill treatment. Lack of data has constantly caused difficulties in providing sound recommendations for improving the situation in places of deprivation and liberty and need for training and standardization of procedures.

Despite investments in opening the new penitentiary faculties, the existing ones show appalling condition which amount to degrading and inhuman treatment of the detainees (Jordan Misja Prison, Burreli Prison and Kukës pre-trial detention were constantly raised by ARCT in 3 annual reports and 6 semi-annual monitoring reports.

Closing old penitentiary facilities would require human and material resources, but also should be done through a proper re-evaluation of the existing Master plan

WITH REGARDS TO ARTICLE 14:

Question 43:*The Committee would appreciate an update on the application of legal and other mechanisms to ensure fair and adequate compensation for all victims of torture, and former political prisoners and persecuted persons, as well as information on instances and types of compensation granted (CAT/C/CR/34/ALB, 7 (h)). Please also inform the Committee about whether any programmes or services for rehabilitation are available and accessible to victims of torture and ill-treatment.*

Article 44 of the Constitution guarantees compensation to persons who have suffered damages due to illegal action, or lack of action, by state employees and bodies. However, there are provisions in Albanian law recognizing state liability for the compensation of victims of torture or other ill-treatment inflicted by police officers or other public officials. In practice, the State has done very little for this issue. The only remedy available to victims of torture (*or their relatives, if the victim has died*) is to file a civil suit for compensation.

The redress and compensation raises concerns for the categories of the existing torture victims from the communist regime- creating a democide against those who suffered from state atrocities. For more than a decade, this population has faced a model of denial and neglect from state authorities, changing them into a large group of population practically representing victims of a State organized torture and persecution. The categories of former political persecuted in Albania remained generally neglected and politically used, they remained un-integrated and forgotten. Today there are less than 2000 FPPs (over 65 years old- torture victims) who are still alive, in dramatic conditions, and without a chance to be included under the material, moral, and social rehabilitation.

Albania has also signed but not implemented the European Convention on the compensation of victims of violent crimes (1983). According to the Convention, the Albanian Government (Ministry of Justice) should be entitled to complete the domestic legislation and improve practices with regards to compensation of the victims of violent crimes; no steps are taken so far.

OTHER ISSUES OF CONCERN:

DISABLED PERSONS

People with disabilities still excluded despite legal framework: A schematic analysis of problems has led towards the confirmation yet in Albania there is a need for a disability discrimination (and services) law, where particular attention should be paid to provision of reasonable accommodation; entitlement to essential support services; remedies for violations. Whereas the current situation shows absence of limits on the categories of persons protected; limits on the areas of life covered; the exclusion of particular categories of state and non-state actors; the relative inaccessibility and cost of enforcement for individuals.

The existing Mental health law has shown that it was vaguely understood and/or implemented creating an absence or ineffectiveness of procedural safeguards for compulsory treatment, failure to implement in some cases the principle of the least restrictive alternative; and failure to ensure the effective promotion and support of alternatives to compulsory treatment; yet the new draft law on mental health in Albania creates more possibilities for services, but it remains a weak piece of legislation without special provisions for the health system in penitentiary system. Critical levels of unmet demand for essential support services, including personal care, daily living support, accommodation, therapy, aids and appliances remain issues of major concern.

During 2011, the Albanian Government undertook the initiative to amend the Mental Health Act; which entered into force in April 2012. Despite attempts from civil society organizations (ARCT) and the pressure from international community, there is no solution with regards to psychiatrists-on-call during cases of police arrests.

Signing the "UN Convention on the Rights of People with Disability" by the Albanian government in 2009 created a hope for further developments with regards to rights of people with disabilities; the reality is, that the Albanian state institutions at central and local levels were unprepared for the set of measures to fulfill the criteria set out by the international law.

There are identified significant gaps in data management and health information system about disabled people in detention. The lack of reliable data prevents accurate assessment of the adequacy of current levels of service provision. A small number of prisoners requiring urgent treatment for mental illness remain in prison while they wait for an available bed in a forensic mental health facility (yet the Kruja Special Institution represents a detention facility).

The Albanian legislation on treatment of detainees and the Prison Regulations (Decision of Council of Ministers no.303, 25/05/2009) provide some legal and administrative framework for the detention of people with an intellectual, physical, or mental disability, yet the situation and financial means, as well and health benefits remain very poor. Furthermore, some concerns should be raised about the impact of the new health insurance scheme/legislation, and monitoring its careful implementation.

CHILDREN AND JUVENILES

Rights to proper treatment to children and juvenile: Some other important interventions should also be considered at allegations of the ill-treatment, sometimes amounting to torture of children by police. International treaties, which Albania is a party to, oblige its authorities to provide detainees under the [age of 18](#) with additional protection, including conditions and procedural guarantees geared to their special needs for psychological and rehabilitative purposes.

Violence against children in Albania is an issue of concern. Due to delays in the judicial process, many juvenile offenders spend their entire sentence in pretrial detention, thus breaching the principle that detention of children pending trial should be a measure of last resort. Another issue of great concern

remains the treatments of the children of age under 14 years of age who commit criminal acts and are released by police without any measure⁷⁰.

Despite the approval of the child-sensitive laws, Albania is still missing a juvenile justice strategy addressing neglected aspects, such as the protection of child victims and witnesses of crime, and measures concerning offenders below the age of criminal responsibility.

LEGAL AID SCHEMES

The 2008 Albanian legislation guarantees free legal services in civil, criminal and administrative proceedings. Some important changes are made for the victims of domestic violence (*especially women and unprotected children*), but still there is an immediate need to improve the quality of this assistance to be provided to different categories of persons.

RECOMMENDATIONS:

Please find below a number of recommendations based on an analysis of the cases in Annex 1:

- (5) *All detention facilities should have the necessary personnel, including medical personnel.*
- (6) *All persons in custody should have the right to be examined, if the person concerned so wishes, by a doctor of his/ her own choice.*
- (7) *Clear instructions should be adopted on the authorities' approach towards acts of torture and adequate training on prohibition against torture is provided to judges and prosecutors, in order to ensure overall implementation of the Convention (UNCAT).*
- (8) *In light of serious ill-treatment cases, which have occasionally resulted to death, it is recommended to eliminate the climate of impunity of law enforcement personnel who commit acts of torture and ill-treatment and ensure strict application of articles 86 and 87 of the CC, in compliance with the ratified international acts and the respective recommendations of the human rights organisations.*

ANNEX 1 - CASES IDENTIFIED DURING REGULAR AND AD-HOC VISITS, LETTERS AND MEDIA MONITORING

People deprived of their liberty often report the lack of information and knowledge on the procedures to be followed starting from arrest until facing detention. The existing complaint mechanisms often show the mistrust of inmates that the complaints will be fairly reaching their destinations.

Reports and statements from local actors are in line with international actors monitoring the situation and developments in Albania. The Office of Ombudsman and human rights civil society organizations have pointed out in their reports that abuse and ill-treatment in police stations and prisons are yet frequent, while impunity remains high. The Ombudsman's recommendations related to police abuse, undue length of judicial proceedings, non-enforcement of judgments in civil cases and unfair dismissals are insufficiently put into practice by government institutions⁷¹.

⁷⁰ Article 46 of the Criminal Code foresees the measures for this category of underage offenders, but the courts do not apply this article due to the complete absence of the correctional schools

⁷¹ EU Analytical Report Accompanying the communication from the Commission to the European Parliament and the Council; Commission Opinion on Albania 's application for membership of the European Union {COM(2010) 680}, page 24

According to the trial monitoring, performed during 2011 by ARCT legal staff the judiciary system is experiencing continuous negligence in investigating cases of misuse of power, police brutality, violence, torture and ill treatment: 74 cases (out of 165 registered in the Court of Serious Crimes) were related to serious crimes against person, such as murder and serious injuries, 4 cases of police officers prosecuted for the misuse of power, 4 court decisions for a case of escape in the FusheKruja Prison; misinterpreting the application of the torture allegations (during arrest, during protest, during interrogation, etc.)

The 29 cases represent violations as violence, discrimination, unlawful detention affecting the right to life, the right to fair trial and the missing possibility to be assisted by a lawyer; access to medical care, access to family rights amounting to torture where subjects are inmates in pre-trial detention and prisons (adults from 25 to 65 years of age, women in detention, juvenile offenders under 18 years of age, and a case followed upon release from the pre-detention centre (Vajushi, 2010). Around 8 complaints were referred by the People’s Advocate Office.

The typology of cases ARCT has provided its expertise were mainly related to human rights violations and court representation in cases of violence and abuse of power amounting torture and inhuman and degrading treatment of persons deprived of their liberty.

General advice & assistance regarding detention legislation and procedures & related matters	Complaints about treatment and conditions in Places of deprivation of liberty: access to medical care, access to family rights
Deaths in Custody, unlawful detention amounting violation of the right to life	Problems associated with classification, segregation, and solitary confinement
Freedom of Information	Prison Regulations, Orders, internal orders, etc
Judicial Review Applications/ court representation	Anti-discrimination law

Case Z.R (inhuman treatment due to religious beliefs)

Z.R is at Peqin Prison. He wrote to ARCT after the complete negligence of prison authorities in Peqin. He is claiming for inhuman treatment due to religious rights and food from his relatives. Z.R is practicing the islam and as such he requires a special treatment from the prison, in respect of his religion. He wrote also to the director of this prison, who refused this request. so, Z.R has requested his relatives to bring food for him in the prison. Again, the prison directorate did not allow his relative to bring food inside due to specific prison order. The category of food that Z.R consumes are not permitted by prison authorities; He has requested for solution but still there is no answer from the prison authorities.

Case I.K (inhuman treatment due to prison’s conditions, corruption and no access to health care)

I.K is at Peqin Prison. He wrote to ARCT (2008) after a list of names and institutions and still no answer. Some of their claims are lack of electricity for a long time; when the power cuts go up to 8 hours per day; abuse with funds for oil; physical and verbal violence from the prison staff mainly when inmates are in places without security system; bad higvine; and reduction of food from their relatives (due to new prison regulations); reduction of the correspondence with other institutions that protect prisoners’ rights; discrimination for those who do not pay bribes for a better treatment; no health care and no medicaments

ARCT Comments and recommendations: When the arrested or the detained is sick the prosecutor may order that he remains under survey in his dwelling house or in another surveyed place⁷²

Article 21 of the Internal Regulation of the Ministry of Justice provides that “medical examinations of detainees will be carried out by the police station doctor”. The detainee has the right of 24-hours medical service.

⁷²Article 255/3 of the CPC

“Once they enter the detention prison, the detained persons are hosted by a doctor or a nurse, who makes an initial examination and opens a specific medical file for the detained person. Also, during th e stay in detention cells, the doctor has periodic contacts with the detained persons regarding various problems and concerns they may have. However, the lack of medications is a serious problem”.

ARCT comment. In light of above, with regard to the enjoyment of this right there are two crucial problems:

Firstly, the internal regulation of detention does not provide for the right of the detainee to be examined by another doctor following the request of the detainee.

Secondly, lack of medical personnel in police stations. The health care of detainees is not ensured due to the simple fact that police stations have no medical personnel within their staff.

ARCT Recommendations (Right of access to a doctor)

ARCT strongly recommends completion of all detention facilities with necessary personnel, including medical personnel.

In addition, the person in custody should have the right to be examined, if the person concerned so wishes, by a doctor of his/ her own choice.

Case I.P (inhuman treatment due to religious beliefs, violence from other inmates)

In his letter (2008) I.P is claiming for his violated rights and discrimination from the security staff of Kruja Prison. he is claiming of being victim of violence from other inmates due to his religion. he explains that the prison staff also is aware of such situation but they do not intervene. after he was sent to the prison hospital for a period of 15 days, he was again resent in the same section with the persons who violated him. actually I.P is under high security isolation, being considered by the security staff as a dangerous element and according to him this is a case of discrimination.

ARCT Comments: Safety and physical integrity of detainees is guaranteed by the law.

ARCT Recommendations

ARCT recommends that clear instructions be adopted on the approach towards acts of torture and adequate training on prohibition against torture is provided to judges and prosecutors, in order to ensure overall implementation of the Convention (UNCAT).

In light of serious ill-treatment cases, which have occasionally resulted to death, ARCT recommends to law enforcement agencies to eliminate the climate of impunity of law enforcement personnel who commit acts of torture and ill-treatment and ensure strict application of articles 86 and 87 of the CC, in compliance with the ratified international acts and the respective recommendations of the human rights organisations.

Case T.H (violation of right to fair trial)

In his letter T.H is claiming of being subject of unfair trial and imprisonment. (violation of Art.6 of ECHR). He is claiming that he did not have the right to be heard before the court. He also alleges that he is punished with no basic but secondary testimonies, claiming that he has the defence and other evidence providing the contrary.

ARCT Comments: Everyone deprived from liberty has the right to be notified immediately, in a language that he understands, of the reasons for this measure, as well as the accusation made against him. The person deprived from liberty shall be informed that he has no obligation to make a declaration and has the right to communicate immediately with a lawyer, and he shall also be given the possibility to realize his rights. The person deprived from liberty, must be sent within 48 hours before a judge, who shall decide upon his pre-trial detention or release not later than 48 hours from the moment he receives the documents for rev iew. A person in pre-trial detention has the right to appeal the judge's decision. He has the right to be tried within a reasonable period of time or to be released on bail pursuant to law. In all other cases, the person deprived from liberty extra judicially may address a judge at anytime, who shall

decide within 48 hours regarding the legality of this action. Every person deprived from liberty has the right to human treatment and respect for his/her dignity.⁷³

The officers and the agents of the judicial police that have made an arrest or a detention or have held the arrested on delivery, shall immediately inform the prosecutor of the place where the arrest or the detention has taken place. They shall explain to the arrested or the detained the right to select a defence lawyer and immediately shall notify the selected defence lawyer or the one appointed ex-officio by the prosecutor. The officers and agents of the judicial police shall, as quickly as possible, make the arrested or detained person available to the prosecutor in the custody, but still not later than twenty -four hours from the arrest or the detention, by sending the relevant minutes⁷⁴

In contradiction to the above legal requirements, evident infringements of rights have been reported at the moment of arrest and police custody of detainees. Thus, the arrest of detainees in several cases has not been duly recorded, which most likely is done consciously, in order to conceal later procedural irregularities, or at the worse case illtreatment.

The administrative detention period must be up to 10 hours. After that period expires, the detainee must be released or arrested. If arrested the prosecutor takes the case over while the detainee awaits the outcome of the investigations.

Eventhough the legislation provides for the above rights, a number of them are infringed on purpose, due to neglect or insufficient knowledge of legal provisions. Gross violation of rights, cases of torture and ill-treatment, some of which ascertained even by the Internal Police Control Service, have been reported throughout 2008.

Case of PrekGjelaj (mentally ill patient) (inhuman treatment amounting torture)

During the June visit 2009 at Shën Koll, the ARCT has evidenced that PrekeGjelaj a mentally ill prisoner was kept in detention conditions in very degraded mental health status and in very bad and degrading hygienic conditions since his arrest in 2004. Since this date PrekeGjelaj was not brought before the judge for his criminal charges. According to the information administered in his criminal file records, PrekeGjelaj was accused for illegal weapon possessions and was condemned in his absence with "Imprisonment" according to the articles 78, 78/2 of the Criminal Code, with the obligation to be sent in the pretrial centre upon his arrest.

Furthermore, the first district court of Shkodra has postponed its decision for more than 4.5 years to be sent in pre-trial as not convicted with an intermediate decision for the forensic expertise and examination of PrekeGjelaj. After all these forensic examinations this person was diagnosed with the schizophrenia and grave mental health disorders. During the patient's hospitalization he was examined and diagnosed with the psychomotor decency, having unable to live his real life.

PrekeGjelaj is held in miserable conditions and in degrading environmental circumstances. The forensic re-examination and his recovery in the Prison's Hospital are considered an emergency; and the current treatment is considered inhuman and degrading treatment of this detainee.

Case of Edison Lleshi (violence amounting torture from police officers)

On 03.04.2009 around 20.00 the citizen Edison Lleshi accompanied with some of his friends/cohabitants KevianShini and Bledar Manga were staying at the café "Shpella" in the city of Peshkopia. The owner of this café, QaniLskurti, being in a desperate situation has accused Edison and his friends as thieves of his café, happened two days ago. QaniLskurti has warned the police patrol on his suspects, getting three of them arrested and accompanied to the Police Station.

⁷³ Article 28 of the Constitution

⁷⁴Article 255 of the C PC

Bledar Manga, Edison Lleshi and KevianShini were sent to the third floor of the Police Station at the desk office of Mr. PavlinZhivani, chief of the crime prevention and community policing, to be interrogated on the case. During interrogations, Bledar Manga has accepted the crime implicating his friends Edison Lleshi and KevianShini in this criminal act, as collaborators thieves in this criminal act.

Mr. PavlinZhivani, chief of the crime prevention and community policing has insisted that Edison Lleshi and KevianShini should have confessed their role in stealing the café and other objects. Police has used physical violation against them, beating and slapping KevianShini, and beating Edison Lleshi with a baseball bat in his feet. Police officers were in front of these two minors resistance in confessing the crime from their sides, so they have continued with the psychological pressure, threatening with criminal charges from 6 months to 5 years imprisonment. Mr. PavlinZhivani continued reading the criminal code on the charges for the thieves, but yet the juveniles Edison Lleshi and KevianShini told him that they had not been involved in this crime

Being in this position for many hours, the judicial policeman PavlinZhivani, around 01.30 am has released three youngsters, warning them to come back to the police commissariat the next day. The same day, at around 20.00, Edison Lleshi, KevianShini and Bledar Manga were accompanied by respectively father AvniLleshi, Grandfather FakShini, and father Femi Manga. The youngsters were interrogated again from the chief of the judiciary police, PavlinZhivani, aiming confessing authorship in the criminal act. He also provided to put their parents against their sons dividing them in different rooms on this purpose.

But this fact did not change the situation, the youngsters did not confess, not accepting that they committed the stealing at the café. In the moment after interrogation and the father of Edison, FaikLleshi and KevianShini were explaining their answers, there was heard a strong noise and a call "He jumped" and after that, everybody ran through corridors. Edison Lleshi, whose father was talking to the chief of judicial police, jumped from the window of the third floor of the Police commissariat in the back side of the building. Edison Lleshi was immediately sent to the city hospital for the emergency interventions, then on 06.04.2009 Edison Lleshi was brought to the Military Hospital in Tirana for specialized surgical interventions.

During the inspection visit Edison Lleshi's father has been contacted by ARCT psychologists and people's Advocate inspectors; he required our assistance for his son. The complaint file was administered by the inspectors of the People's Advocate was held by the Dibra Police commissariat, showing the book of accompaniment, the register of the operational services of the police, the information of 03.04.2009, communications of 04.04.2009, of 05.04.2009 of 06.04.2009, and the clinical file Nr. 15 date 06.04.2009 for Edison Lleshi.

In the inspection file, the ARCT has also the testimony of KevianShini made on 08.04.2009 where he explains: "...Pavlini has asked me first, making pressures on me saying that he would put us in jail for years; he hit me in the face,..then he we about and yelled at Edison, asking him to get inside... I was waiting outside when Pavlini came to me..when I got there, I saw Pavlini beating Edison in his feet without his shoes; his feet were laying to another chair .. he stopped when I got inside and Edison started wearing his sneakers and went out of the office".

After some verifications made specifically by the People's Advocate Office and the ARCT psychological expertise, it was immediately recommended that disciplinary measure should be taken against these violent acts by their police commissariats. The people's advocate has sent the file to the general prosecutor's office- the ARCT has invited the Lleshi parents to file a case where legal aid would be provided for them free of charge by the centre.

Case of BexhetSerjani(violence amounting torture from police officers)

The act of violence was registered in Tepelena, on 11 July 2009: BexhetSerjani, inhabitant in Gjirokastër was violated by the chief of police of Tepelena, ArgjirCela. According to Bexhet the case started when a month ago Bexhet has parked his car in the police commissariat; his car was damaged in the police commissariat and when two of them were met, they did not greet each other. This was considered an offense from the chief of commissariat, and he accompanied Bexhet to the police commissariat, where he

has been beaten up with truncheons, iron tubes, etc". BexhetSerjani confessed that he was beaten by Çela and his five brothers. " I was beaten up so hard that I faked; when I got me sense I was at the Tepelena hospital". Serjani asked for help but none of the policemen had reacted. "In the hospital, the doctors told me to go to Gjirokastra hospital for specialized check up. When I decided to go to Gjirokastra hospital, ArgjirÇela and his brothers came in the hospital and in from of all doctors and nurses started beating me. I was taken by them and the auto ambulance sent me to the police commissariat where they continued beating me very bad in three séances ", Serjani explained.

Case of KlajdiHyka (violence amounting torture from police officers)

KljadiHyka, 18 years old, inhabitant in Kamza, accompanied by his cousin ET and his friend GZ were maltreated by the police on 25 January 2009. This case was reported in the media and documented by the ARCT.

On 25th KlajdiHyka, was in Tirana in a café. After spending some time in this café, they took the bus to turn back home. after a couple of minutes, the bus stopped and two persons pretending they were police agents ordered three kids to get out. "They walked us in an abandoned barrack and started beating us saying that we were stealing in the bus", Hyka confessed after filing a complaint in the Tirana prosecutor's office. Hyka told that there were accompanied to police commissariat no.2. Hyka did not recall the names of the two persons. They asked the kids to sign papers; Hyka said that he did not understand what was the content of the papers he signed.

KlajdiHyka, told us that he is feeling pain in his body as he walks holding his father's arms. "We were kept for hours in the police commissariat; they beat us with punches. After they did not find anything in our pockets they forced us to signed papers. They wrote themselves those papers and forced us to sign 'em; we did not understand what we signed", Hyka said. he said that that two police agents were very careful not leaving signs of violations as they hit the kids in their heads and in the skulls and in the legs.

Case of S. Sh., S. P., D. P., A. L., Gj. P. detainees at the Pre-detention Establishment of Shen Koll (inhuman treatment)

The case of violent act was registered on 10th of September 2009; the ARCT was informed by the media about the fight between inmates and the supposition that prison guards were also involved. The case was reported by the detainees themselves.

According the prison authorities, this event started in the afternoon of 9 September. One detainee from Mirdita went to meet a friend in the pre-detention; after this visit he was seen by another detainee from Shkodra with whom he ad a fight 3 years ago. The Shkodra detainee with his cell inmates starting beating the Mirdita detainee. The next day, during the time at open air, the group of Shkodra inmates was attacked from the group of Mirdita inmates in the name of honor. This attack became extremely dangerous for other inmates as well, and that was the reason why prison guards intervened.

During People's Advocate and ARCT inspections, inmates were also asked about this act. Besides the fact, prison guards have responsibilities to maintain a safe environment for all the inmates. This act is in breach of the article 22 of the General Police Prison Rules; in compliance with the ARCT mandate in monitoring visits, medical evidence was checked, documenting signs of violence of truncheons and police violence.

The general Prisons directorate has suspended two police officers involved in this fight and another administrative suspension for a period of 3 months. disciplinary measures were also given to the prison director and the head of prison's security section.

Case of PajtimSerjani (torture)

This case was evidenced and documented by the ARCT and the People's Advocate NPM on t31st December 2009. The interview was taken from 13.45 to 14.15, at the Tirana General Police Directorate in the presence of PajtimSerjani, born in 1982, inhabitant in Tiranë,RrugaKongresiiLushnjës, elementary

education, single – as he reported grave physical and psychological conditions due to police violence of commissariat Nr 2.

The act happened on 29th December at the zone at “IrfanTomini” around 20.00. Pajtimi says he was going home after visiting his uncle in Selita (outside Tirana). On his way back, he stopped with a friend to have dinner where at the restaurant there was a gunshot. Pajtim and his friends decided to immediately leave the restaurant. but the police has run after them; they have stopped but in the moment of their arrest the policemen put them in the police van and started brutally beating them with truncheons, punches until Pajtim was fainted. Police accused him for the incident in the restaurant.

Pajtimi was transported in grave conditions in the police commissariat 2, where the police brutality continued for around two hours. After the first interrogation Pajtim was sent to the General Police directorate where at 22.00 he was visited by the doctors, who medicated him and provided some pain killers. “There were testimonies that saw me beaten up by the police”- he said.

The monitoring team documented that PajtimSerjani barely walked, he was making little steps; he could not seat during interview due to the musculoskeletal aches and pains. In the moment of examination and photographing Pajtimi was assisted by the experts as he could not move his arms from the pain. pajtimi had contusions, lacerations, lesions caused by beating in the arms, face and body. The monitoring group had documented the case and drafted recommendations against the police officers.

Case of ShkezenMeçollari (torture)

The violent act against ShkelzenMeçollari happened on December 10, 2009. The ARCT monitoring team accompanied by the People’s Advocate documented his case through interviewing him: the detained ShkëlzenMuçollari, 20 years of age, born in 13 April 1989 in Tropoja, inhabitant in Tirana, with elementary education and single. The act happened around 22.30, at a distance of 150 meters near his house at the Kinostudio area in Tirana. ShkëlzenMuçollari was under domestic arrest for the criminal act of “car stealing”. He was found by the police in company of some of his friends breaching his domestic arrest; he was forcibly stopped by the police agents of commissariat 4 by gunshots.

During his attempts to escape the police, Shkelzen was trapped by Ervin Dalipaj, the head of the criminal investigation, where Ervin pretends tha he broke his arm. Shkelzen reported that he swift the head of the criminal section, without touching him. “when Police caught me, they started beating me with their guns in the head, punches all over my body_- shkelzen told; “they cold not cuff me, and for that they put my head in the asphalt and one of them, put his feet intro my head, I stayed like that for like 15 minutes”- police verbal offenses and beating continued in the commissariat. He reported that he was subject of the falanga- causing him difficulties in walking; they got Shkelzen tight up in the chair, and they beat his feet with truncheons from 22:30 to 24:00. Shkwlzeni told that he was kept like that for hours and other 5 persons beat him in the back. The reason was Shkelzen to confess where his friends Elis Qoka and SergetoTurolla were hiding. The physical violence and beatings have continued in the next day where Shkelzen was fainted; he was brought back to the cell at around 00:30 of the second day in the commissariat.

The police started interrogation third day from 09:00 to 13:00, where he was found in grave conditions and fainting a couple of times. Shkelzen had asked to see the doctor, and also asked for a lawyer; but as his physical conditions were very grave, he was forced to sign his statement in such conditions. After this statement, Shkelzen was taken by police officers in the van and was driven around Tirana for hours searching for his friends.

The relatives of Shkelzen were informed about his arrest from one of their son’s friends. They have denounced this act to People’s advocate and ARCT has provided the medical assistance for the examinations.

The case was evidenced and documented in compliance with the Istanbul protocol and the OPCAT requirements. Shkelzen was brought before the court on 13 December where “he was sentenced to imprisonment on the accusation of breaching the domestic arrest and also violence against the head of

the criminal investigation of Commissariat 4. Despite the complaint from his lawyer, Shkwlzeni was transferred to Mine Peza pre-detention centre.

Case of suicide of Klodian Bushi (death in pre-detention cell)

The case was made public to the media on the 12 November 2009; Klodian Bushi committed a suicide at the Durres Police commissariat cells.

Klodian Bushi was suspected for stealing a house and a jewelry shop in Durres. Having him as a suspect, the police investigators have interrogated his wife as she was caught selling some of the stolen jewelries. The police have asked his wife and Klodian to be present in the police commissariat in the afternoon, when he was arrested.

The police officer has checked his a couple of times as he was asking for cigarettes; around 20.00 being in a distance of 10 meters had heard some noises coming from Klodian's cell and some kicks in the door. The police officer went immediately to check, called him and Klodian did not answer. He opened the door and found Klodian hanged up to the door with his clothes around his neck. The police officer has untightened Klodian, brought him to the corridor and asked for help. Even though Klodian was sent to the hospital, he was declared dead. The ARCT collected the information by the visit at the Durresi Pre detention centre of Durresi.

Suicide case of the 31st December 2009 (death in pre-detention cell)

A.B 52 years old, married with 4 children was transferred to Rogozhina after being sentenced. AB, on 31st of December at 23:54 had asked the internal regime guardian to assist him for his personal needs. According to other prisoners/testimonies, he was found hanged up with his legs in the air and the chair thrown in the other side of the toilet door.

According to the prison director, and based in the official prison report on this suicide the person has stayed in the bathroom for a very short periodic of time almost 4.5 minutes. His cell inmate reported to the team, that A.B had shown signs of depression and loss of hope for his future. AB's relationship with family members, relatives, friends and other inmates were considered very good, and also were confirmed by the prison authorities. According to the prison director, AB was feeling frustrated as his attorney has asked for extra money for his defense. Being in very poor economic conditions, AB decided for this act.

His personal medical file did not show any psychological and medical problems for such terrible consequences.

ARCT has observed and come out with an urgent recommendation in improving the prison conditions. The current situation could be deplorable and hard to live with, and can easily cause a grave psycho-affective and emotional status of the prisoners which can cause to drastic and desperate attempts of suicide. This dynamic also, aggravated by the absence of the professional psychological staff are added elements which aggravate and increase the prisoners' vulnerability towards mental health problems.

Case story Enea Panxhi ("Jordan Misja" Str. Pre-detention Institution) (physical and psychological violence against a juvenile offender, no access to legal counsel)

Arrested on March 2009. Lack of information about accuse from police officers. He is minor and he needs differentiated treatment from interrogatory officer. It is providing in Albanian Procedural Criminal Code that "for minors, is obligatory that the interrogation process would be on presence of lawyer and a psychologist". He has been under pressure from police officers during the first phase of interrogation. This phase has been realized on absence of a lawyer and none know him with the right to have a lawyer. Albanian Procedural Criminal He pretends that all this process has been accompanied with physical and psychological violence. He stays for 4 days in police station and during this period he hasn't any contact with family.

Case story of Renato Xhakollari ("Jordan Misja" Str. Pre-detention Institution) (physical and psychological violence against a juvenile offender, no access to legal counsel)

He is 17 years old, arrested on March 2008. He has been violated in police station in Tirana for two hours. The violation has been in physical and psychological way; regardless of accepted of accuse,

because he has been arrested in flagrancy. Interrogation has been on absence of lawyer and psychologist, and none inform him about the rights as a right to have a lawyer, to inform relatives etc. He has been prejudiced from prosecutor, because she asks if he is recidivist and when he says no she say "this is what you always say". About the violation he has inform and the judge hasn't take in consideration this fact.

Case Story of Ervin Preci ("Jordan Misja" Str. Pre-detention Institution) violence during arrest by police officers

He has been arrested on October 4th 2008 in Allias (an urban neighborhood of Tirana), police officers of Police Station No 4 in Tirana. He has been treated violently from police since they arrive to Police Station. During the night he and his friend have been treated violently in permanent way to sign the charge sheet of interrogation in absence of lawyer, regardless of their request for a lawyer. To this request the police respond that you will sign this documents because it is not a big deal and after of disapprove, police use psychological pressure as "You sign it now because if not we kill you", and all this has been accompanied with physical violence.

Case Story EdmirShehi ("Jordan Misja" Str. Pre-detention Institution) (physical and psychological violence against a juvenile offender, unlawful detention,

He is 17 years old and arrested on August 4th in Dibra. After this he has been transported with helicopter in Tirana Police Directorate. During the interrogation process he pretends that has been treated violently from police officer (without uniform), and all this process has been realized on absence of a lawyer. He said "In police directorate, not violence but extremely hard violence against me and they filled in socks like the ones the soccer players wear, they filled socks with sand. They beat me in my back, with truncheon. I can't describe the violence... I couldn't, they didn't trust me, only violation against me, and the signed papers. I signed due to huge violence against me."

About this he said that has inform the judge during the security measure session, but the court do not take in consideration that fact.

Case of VezireSina ("Ali Demi" Prison Institution)(inhuman treatment, no access to medical doctor)

She is from Lushnja and is convicted for here father murder. She don't accept accuse, and she pretend that all the charge-sheet has been signed under the violence. The violence has been physical and psychological from judiciary police on Lushnja Police Commissariat. This violence has been used in presence the relatives as here mother, sister etc. She said "the whole family was in the office of judiciary police...accept all of it, what is written here...my first violence... accept it, there is another policemen with helmet in his head, he banged his hand so hard and then turned and said, if you don't accept it then one of your family will... so, you Vezire (female name) have to sing at any cost here. i was forced to confess at that moment, because on the policemen, hit me in my legs and i fell down unconsciousness. My biggest violence against me was at that moment when I found myself in the court for the measure. There in that moment they accused me for my father's murderer. I didn't accept it there, and in that moment I have seen my mother hanging a bottle of water, saying please some water, because I fainted, and then.. I heard the judiciary officer saying that now she's in our hands.... step back now –they said to my mom.... such big violence for me was can be considered as the worst".

Case Story Lind Rrahmani ("Mine Peza" Str. Pre-detention Institution) (torture)

He arrested on August 1st, 2008, close to the railroad station, in Tirana. It was around 9 pm, and he and some relatives were coming back from a family event, police stopped them, they communicated with them for a while and then let them free. He was a little drunk, and has spoken a little rude. Then, 30 minutes later they came back and this time they started beating him, slaps... punches, they put him to jail, with the reason of resistance against the police forces. After they accompanied him in the police commissariat no.3, then they sent him to the military hospital, due to the violence against him, then after the Commissariat no.3 to the Police directorate. The violence has been described in this form from him "Truncheons, punches, kick, in my head, in the legs... I have been cut in half..., three months have passed but the wounds are there". He stays 2-3 hours in military hospital, time to get the medications. All

the interrogatory period has been on absence of lawyer and the prosecutor has never been to interrogate him.

Case of suicide of ArtanHalili (death in prisons)

The case of suicide happened at the Peqini High Security Prisons, at 21:20 when prison authorities were informed about the death of ArtanHalili.

ArtanHalili was accused for murder. He had committed the suicide with the curtains. the prison authorities have reported that ArtanHalili had manifested depression during the last two weeks prior his suicide “He was staying alone, not communicating with other inmates and completely isolated by the others”. other inmates have told the monitoring tema that ArtanHalili has mentioned time after time this suicide. in the moment of the suicide, Artan was completely alone in his cell.

ARCT has wrote that the Peqini Prison is considered a prison where the material conditions, the separation and isolation from the city and also lack of professional staff capacities in managing the inmates.

Obligations to secure the safety of prisoners: Of evident importance for the wellbeing of prisoners is the obligation on States to protect them against lethal violence and ill-treatment by other detainees. Although this positive obligation is not expressly provided for in any of the general human rights instruments, all of them are being interpreted and applied in such a way that they do require the State to afford such protection.

The UN Covenant on Civil and Political Rights contains several provisions that have been used by the Human Rights Committee to formulate State obligations to protect prisoners against each other as well as against themselves. Especially relevant are article 6 § 1, which demands that the right to life ‘shall be protected by law’, and article 10 § 1, which stipulates that ‘*All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person*’.

In the Albanian penitentiary system, the following death cases were registered for the 2011 in respective detention facilities:

- Case of S.L (87) at Fushe-kruje Prison (27.01.2011).
- Case of Sh.K (38) at ShenKolli Prison (22.02.2011).
- Case of E.M (35), at Kruja Special Institution (11.05.2011).
- Case of A.L (81) at Kruja Special Institution 06.04.2011.
- Case of Q.B. (81) at Kruja Special Institution (25.03.2011).
- Case of A.Gj. (68) atLushnje Prison (29.07.2011).
- Case of A.R. (53) at Rrogozhina Prison (15.08.2011).
- Case of A.D. (31) at Prisons’ Hospital (18.08.2011).

ANNEX 2 - COURT REPRESENTATION OF A SELECTION OF CASES AS OF 2011:

No	Identity	Age/sex	Type of complaints	Type of legal service required by the prisoner	How the case was identified	Date of case identification	Case evaluation	Status/ Court instance
1	Ervin Preci,	M	Damage compensation	Full Court representation	ARCT Monitoring visits at Jordan Misja Prison	08.12.2009	Evaluated for full representation-case opened	Court case no. 15134, Tirana First Instance Court; case closed with Court decision no.3232, date 20.4.2010;
2	ShemirPaxhi	M	Damage compensation	Full Court representation	ARCT Monitoring visits	08.12.2009	Evaluated for full representation-case opened	Court case no. 15135, Tirana First Instance Court
3	PellumbPirtarka,	M	Damage compensation	Full Court representation	ARCT Monitoring visits Peqini High Security Prison, transferred during the process to FusheKruja Prison	08.12.2009	Evaluated for full representation-case opened	Court case no. 15133, Tirana First Instance Court; 3 court sessions – case closed with Court decision no.1104, date 17.2.2010
4	MersinMersini,	M	Damage compensation	Full Court representation	ARCT Monitoring visits	08.12.2009	Evaluated for full representation-case opened	Court case no. 15133, Tirana First Instance Court; case closed with Court decision no.2282, date 23.3.2010
5	PrengLleshaj,	M	Damage compensation	Full Court representation	ARCT Monitoring visits (Jordan Misja Prison)	08.12.2009	Evaluated for full representation-case opened	Court case no. 15133, Tirana First Instance Court; case closed with Court decision no.1993, date 12.3.2010
6	EndritJon	M	Damage	Full Court	ARCT	08.12.2009	Evaluate	Court case no.

	uzi,		compensation	representation	Monitoring visits	9	ed for full representation-case opened	15133, Tirana First Instance Court; meeting with the subject after his release
7	Renato Xhakola,	M	Damage compensation	Full Court representation	ARCT Monitoring visits	08.12.2009	Evaluated for full representation-case opened	Court case no. 15133, Tirana First Instance Court;
8	SkenderDumi,	M	Damage compensation	Full Court representation	ARCT Monitoring visits at "Ali Demi" Prison, at the pre-detention section	08.12.2009	Evaluated for full representation-case opened	Court case no. 15133, Tirana First Instance Court; case closed with Court decision no.3042, date 14.4.2010
9	IlirFusha	M	Damage compensation	Full Court representation	ARCT Monitoring visits at "Ali Demi" Prison, at the pre-detention section	08.12.2009	Evaluated for full representation-case opened	Court case no. 15133, Tirana First Instance Court; case closed with Court decision no.2569, date 30.3.2010
10	PajtimSerjani	M	Damage compensation	Full Court representation	ARCT Monitoring visits	08.12.2009	Evaluated for full representation-case opened	Court case no. 15133, Tirana First Instance Court
11	GezimVajushi ⁷⁵	M	Violence during arrest and damage compensation	Full court representation	ARCT Monitoring visit at the 302 Pre-detention centre, tirana	16.10.2010	Evaluated for full representation-case opened, and interview taken	2 Visits and interview at the 302 M.Peza pre-detention centre; meeting with the subject after his release,
12	LatifZholi	M	violation of right to life, Unlawful detention,	Full Court representation	Referral by complaints presented to	10.3.2010	Evaluated for full representation-case opened	Visit at TepelenaPrison; request of his personal file; request to the Chanelor

⁷⁵This was a case where the subject was accompanied by the prison police during the preliminary court sessions; the other cases were followed by ARCT lawyers without the presence of the inmates; most of inmates are participating in the court cases after their releases (cases in the pre-trial)

					People's Advocate			of the Appella Court in Tirana; control of the judiciary status of the client; assistance for the legal procedures for the immediate release of the client; Court Decision no.26, date 28.03.2011 of the Gjirokastra first Instance court has released the client. The decision was appealed by the prosecution office.
13	Valmiram ahnutaj	F	Unlawful detention, breach of procedures during extradition from Spain	Full Court representation	ARCT Monitoring visits at Ali Demi Prison	07.1.2011	Evaluated for full representation-case opened	Case opened on March 1st 2011; 9 court sessions at the Court of Serious Crimes, 2 request letters to the Prosecution Office in Tirana, 2 requests for the Ministry of Justice for the file transfer from Spain, 2 requests to Interpol Albania, Translation of files from Spanish to Albanian; visits in the prisons and meetings with the subject,
14	Ilirjan Ramadan Koboci	M	Unlawful detention, breach of	Full Court representation	ARCT Monitoring visits at	03.2.2011	Evaluated for full represent	Case opened on March 15 th 2011; 1

			procedures during extradition from Italy		Vaqarri Prison		ation-case opened	court sessions at the Court of Serious Crimes, 1 request letters to the Prosecution Office in Tirana, 1 requests for the Ministry of Justice for the file transfer, 1 request to Interpol Albania, 3 visits in the prison and meetings with the subject,
15	Fatmir Tirtja	M	Violence, Unlawful detention, confessions taken under psychological and physical torture	Full Court representation	ARCT Monitoring visits at Shen Koll Prison and Lezha police commissariat	11.2.2011	Evaluated for full representation-case opened	First case opened on April 1 st 2011 on the lawfulness of the detention measure; 1 visit in the pre detention centre in Lezha, 1 court session in the Appeal court of Shkodra, 2 requests for documents to the prosecution office, 4 visits at Shen Koll Prison; preparation for the Constitutional Court Procedures
16	Martin Tirtja	M	Violence, Unlawful detention, confessions taken under psychological and physical torture	Full Court representation	ARCT Monitoring visits at Shen Koll Prison and Lezha police commissariat	11.2.2011	Evaluated for full representation-case opened	First case opened on April 1 st 2011 on the lawfulness of the detention measure; 1 visit in the pre detention centre in

								Lezha, 1 court session in the Appeal court of Shkodra, 2 requests for documents to the prosecution office, 4 visits at Shen Koll Prison; preparation for the Constitutional Court Procedures
17	AlketaShaqiri	F	Unlawful detention, breach of procedures during extradition from Greece; recognition of the detention time in Greece	Full Court representation	ARCT Monitoring visits at 'Ali Demi' Prison	11.3.2011	Evaluated for full representation-case opened	Case opened on March 11 th 2011; 4 court sessions at the Court of Serious Crimes, 3 request letters to the Prosecution Office in Tirana and Elbasan, request letters to the INTERPOL Office in Tirana; request letters to the General Prosecution Office in Tirana; request letters to the Ministry of Justice; Translation of files to Albanian; visits in the prisons and meetings with the subject,
18	AgimXhambazi	M	Reduction of detention due to his health conditions	Advice / assistance	Request for legal assistance; ARCT Monitoring visits at FusheKr	11.5.2011	Evaluated as an advice; there is a need for more information about	The visit at FusheKruja was based on the client' files, the court decision and the execution of the transfer

					uja Prison		the case	order
19	Ervin Kuka	M	Unlawful detention, breach of procedures of the remand time; lack of legal aid during the process	Full Court representation	Request for legal assistance visits at Rrogozhina Prison	22.2.2011	Evaluated as an advice; there is a need for more information about the case	The visit at Rrogozhina was based on the client' files, the court decision and the execution of the transfer order; court case opened in Lezha Court; 2 sessions of which organized; the arguments prepared
20	Dave Nikolli	F	Reduction of detention/ benefit of the 90 days detention reduction – according to the law	Advice / assistance	Request for legal assistance; ARCT Monitoring visits at Ali Demi Prison	8.3.2011	Evaluated as an advice;	The visit at A. Demi Prison was based on the client' files, the court decision and the execution of the transfer order; ARCT has presented a written request to the President of the Republic of Albania for the Act of Amnesty
21	MelihaHyka	F	Reduction of detention/ benefit of the 90 days detention reduction – according to the law	Advice / assistance	Request for legal assistance; ARCT Monitoring visits at Ali Demi Prison	8.3.2011	Evaluated as an advice;	The visit at A. Demi Prison was based on the client' files, the court decision and the execution of the transfer order; ARCT has presented a written request to the President of the Republic of Albania for the Act of Amnesty
22	MexhitKeputa	M	Damage compensation and violation of the house	Full court representation	ARCT Monitoring visits at Durres Pre-detention	21.1.2010	Evaluated for full representation-case opened	Case opened on March 11 th 2011; 2 court sessions at the Court of Serious

					centre			Crimes, 1 request letters to the Prosecution Office in Tirana, Translation of files to Albanian; visits in the prisons and meetings with the subject,
23	Fran Cera	M	Violence in the detention	Full court representation	Referral case from People's Advocate, Rreshen	21.1.2010	Evaluate d for full representation- further investigation needed	Case was identified at the police commissariat of Rresheni; 1 request letters to the Prosecution Office in Lezha, 1 complaint at People's advocate meetings with the subject, complaint to the Minister of Interior
24	ToninGjonaj	M	Unlawful detention and violation of right to life	Full court representation	Individual complaint to ARCt	1.12.2010	Evaluate d for full representation- case opened	4 court sessions at at the Court of Judicial District of Tirana, 1 request letter to the Prosecution Office in Elbasan, meetings with the subject, gathering documentation necessary for the judicial process (financial one, administrative) etc on 12 July 2011 Tirana district court, accepted the request

								for compensation for or unlawful imprisonment, but did not admit to the fullest extent this compensation. ⁷⁶
25	Fatos Pengu	M	Damage compensation for unlawful detention	Full court representation	Individual complaint to ARCT	1.12.2010	Evaluated for full representation-case opened	4 court sessions at the Court of Judicial District of Tirana, 1 request letter to the Prosecution Office in Elbasan, meetings with the subject, gathering documentation necessary for the judicial process (financial one, administrative) etc on 07 July 2011 the Court of Judicial District of Tirana, accepted the request for full compensation for or unlawful imprisonment, ⁷⁷⁸
26	Shkelqim Sula	M	Recurs of the court decision	Advice/ assistance	ARCT Monitoring visit in FusheKr	11.5.2011	Evaluated as an advice;	The visit at F-Kruja Prison was based on the client' files,

⁷⁶The Law no. 9381, dated 28.04.2005 "On the compensation of unlawful detention sites" provides the maximum compensation for unlawful detention up to 3000 ALL (lekshqiptare) approximately 30 USD per day. It claims to compensate the material damage caused due to unlawful detention /imprisonment, while the moral damage is not covered by this law. However, the measure of compensation for unlawful detention /imprisonment is far from full compensation for unlawful detention /imprisonment.

⁷⁷ The Court of Judicial District of Tirana , Decision no. 6000 dated 07.07.2011.

⁷⁸Actually He and his family want to sue the police and the prosecutors to request compensation for moral and existential damage caused by false accuse and unlawful detention.The case is preparing.

					uja			the court decision and the execution of the transfer order;
27	YlliZenuni	M	Recurs of the court decision	Advice/ assistance	ARCT Monitoring visit in Durres pre-trial detention	27.1.2011	Evaluate d as an advice;	The visit at Durrespre trial detention was based on the client' files, the court decision and the execution of the transfer order;
28	RezartGje rmazi	M	Recurs of the court decision	Advice/ assistance	ARCT Monitoring visit in A.Demi Prison	8.3.2011	Evaluate d as an advice;	The visit at A.Demi Prison was based on the client' files, the court decision and the execution of the transfer order;
29	ArlindaBar oti	F	Recurs of the court decision (Appeal Court decision 53201-00332-00-2010	Advice/ assistance	Refferal by the People's Advocate	21.1.2011	Evaluate d as an advice;	The visit at A.Demi Prison was based on the client' files, the court decision and the execution of the transfer order;
30	GenciAlik ollari	M	Inhuman treatment / access to proper health care	Advice / assistance	Refferal by the People's Advocate ; visit at the PrisonsH ospital	21.1.2011	Evaluate d as an advice;	The visit at PrisonsHospita l was based on the client' files, the court decision and the execution of the transfer order;
31	FotaqZah aria	M	Denial of the right to fair trial; lack of access to medical treatment (amounting ill-treatment); recurs on the detention punishment	Advice / assistance	Refferal by the People's Advocate ; visit at the J.Misja Prison	21.1.2011	Evaluate d as an advice;	The visit at J.Misja Prison was based on the client' files, the court decision and the execution of the transfer order; Court case no.1096; meetings with subject at 313 Prison

32	LirakBejko	M	Denial of the right to fair trial; arbitrary violence during arrest	Advice / assistance	ARCT Monitoring visit in Durres	11.2.2011	Evaluate d as an advice; there is a need for further investigation	The visit at Durres pre-detention was based on the client' files, the court decision and the execution of the transfer order;
33	Luan Fagu	M	Inhuman treatment / lack of access to proper health care	Advice / assistance	Refferal by the People's Advocate ; visit at the Peqini prison	24.2.2011	Evaluate d as an advice; there is a need for further investigation	The visit at peqini Prison was based on the client' files, the court decision and the execution of the transfer order;
34	ArbenBaci	M	Recurs of the court decision; acknowledgment of the working period from 17 July 2010 until 1 December 2010	Advice/ assistance	ARCT Monitoring visit in the Korca Prison	4.4.2011	Evaluate d as an advice;	The visit at Korca Prison was based on the client' files, the court decision and the execution of the transfer order; employment shifts from the prison administration
35	ProfiGjaka	M	Recurs of the court decision; acknowledgment of the working period from January-December 2010	Advice/ assistance	ARCT Monitoring visit in the Korca Prison	4.4.2011	Evaluate d as an advice;	The visit at Korca Prison was based on the client' files, the court decision and the execution of the transfer order; employment shifts from the prison administration
36	ToninGjonaj and family ⁷⁹	M	Damage compensation for the violation of civil and political rights	Full court representation	Individual complaint to ARCT	1.12.2010	Evaluate d for full representation-case opened	2 court sessions at the Court of Tirana, 1 request letter to the Prosecution

⁷⁹ Actually Heand his family want to sue the police and the prosecutors to request compensation for moral and existential damage caused by false accuse and unlawful detention. The complaint is preparing.

								Office in Elbasan, meetings with the subject
37	Lind Rrahmani	M	Damage compensation	Full Court representation	ARCT Monitoring visit	08.12.2009	Evaluated for full representation-case closed, complainant released	Court case no. 15132, Tirana First Instance Court
40	Fatmir Tirtja	M	lawfulness of the detention measure	Full Court representation	ARCT Monitoring visits at Shen Koll Prison and Lezha police commissariat	11.2.2011	Evaluated for full representation-case opened	Second case opened on April 1 st 2011 on the; 1 visit in the predetention centre in Lezha, 1 court session in the Appeal court of Shkodra, 2 requests for documents to the prosecution office, 4 visits at Shen Koll Prison; preparation for the Constitutional Court Procedures
41	Martin Tirtja	M	lawfulness of the detention measure	Full Court representation	ARCT Monitoring visits at Shen Koll Prison and Lezha police commissariat	11.2.2011	Evaluated for full representation-case opened	Second case opened on April 1 st 2011 1 visit in the pre detention centre in Lezha, 1 court session in the Appeal court of Shkodra, 2 requests for documents to the prosecution office, 4 visits at Shen Koll Prison; preparation for the Constitutional

								Court Procedures
--	--	--	--	--	--	--	--	------------------

Sources: ARCT Annual Report to OSI, Budapest (2009, 2010, 2011)

ANNEX 3 - PREVALENCE OF TORTURE AND ILL TREATMENT IN POLICE, PRE-TRIAL AND DETENTION, RESULTS FROM THE NATIONAL SURVEY BASED ON THE ARCT& RCT SCREENING INSTRUMENT

Introduction of Screening Instrument for Detention and Imprisonment Conditions (SIDC) – the process of development and validation

Starting since 2009 up to date, ARCT has completed the process of the data collection using the SIDC developed in partnership with the Danish RCT. Throughout 2009-2011 1039 questionnaires and 58 semi-structured interviews. The interviewees were randomly selected among those that reporting a violent experience in the questionnaire. All interviews were collected in Albanian language and translated into English. The purpose of the interviews – apart from contributing to ARCT documentation and advocacy activities – is to allow for a study of the validity of the SIDC by comparing SIDC reporting and interview-based narrative reporting.

Quality control of interviews

It was agreed that the interviews should provide information about the following, with the purpose to provide enough details so that the credibility of the account can be evaluated:

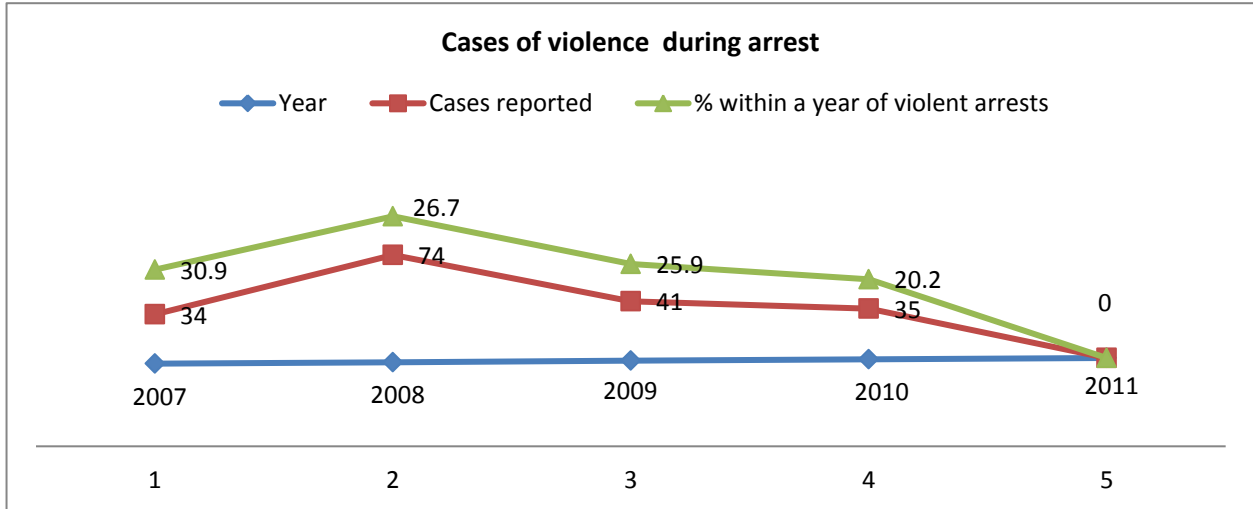
- The nature of the violence (physical, psychological, further details with regard to for instance beating with or without objects, slapping, punching, kicking and insults, threats, humiliations etc)
- In case of physical violence: the body parts affected
- In case of physical violence: whether there were signs of violence at the time and currently
- In case of physical violence: if the injuries were presented to a medical doctor and if any treatment were provided
- Information about the perpetrators: who and how many
- Place of the violent event and circumstances (“situation”)

A coding scheme based on European jurisprudence, on cases of torture and cruel and degrading ill treatments was developed and presented by RCT, Copenhagen.

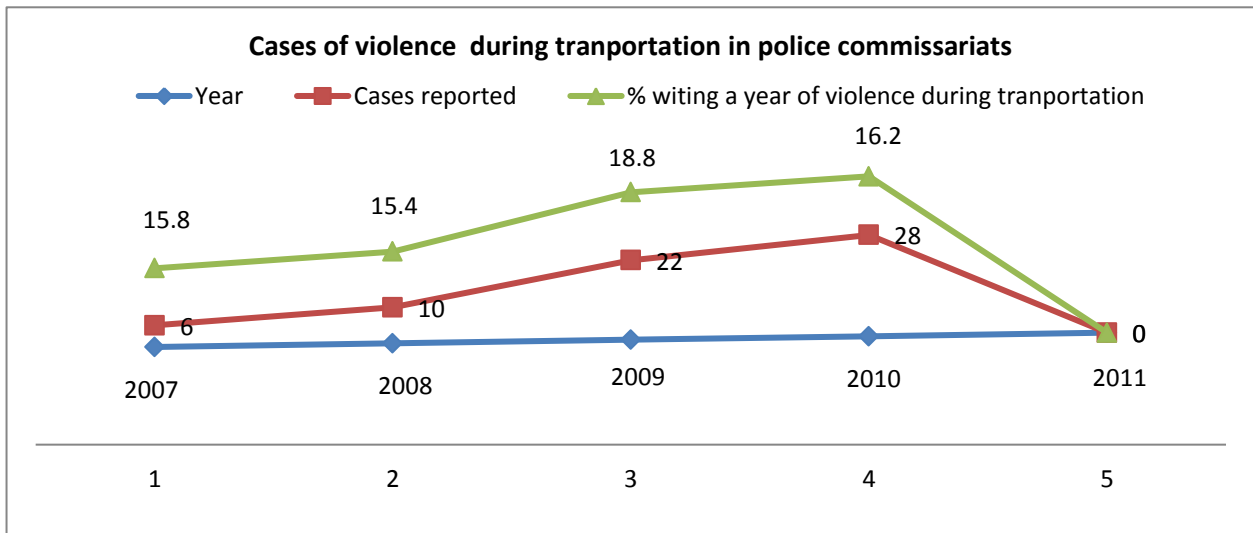
A quick review of the cases with respect to whether they represented credible cases of violent treatment gave the following result: All cases represented violent treatment. A few cases were scarce on details which gave lower credibility, but none of the cases were severely doubtful as to the credibility of the events. Some of the cases represented clear torture.

In Albania a total of 4979 (37% in pretrial and 63% in detention) and were kept in prison or pre-trial detention in 2011.

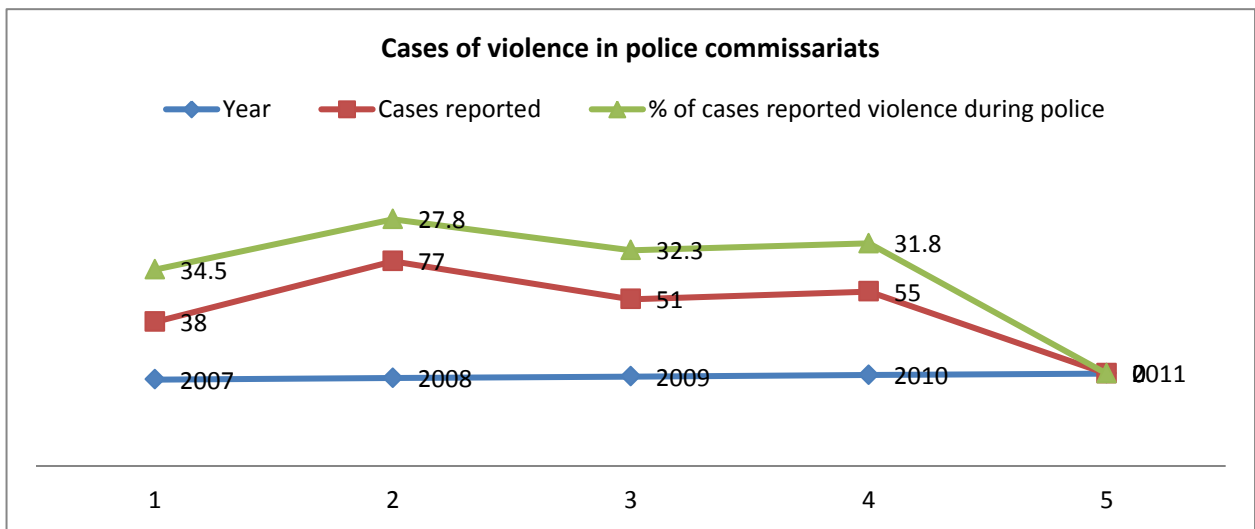
The data collection and analysis has gone through a process of codification and validation which was concluded in December 2011, providing though a consolidated and unique instrument to be considered as a human rights barometer.



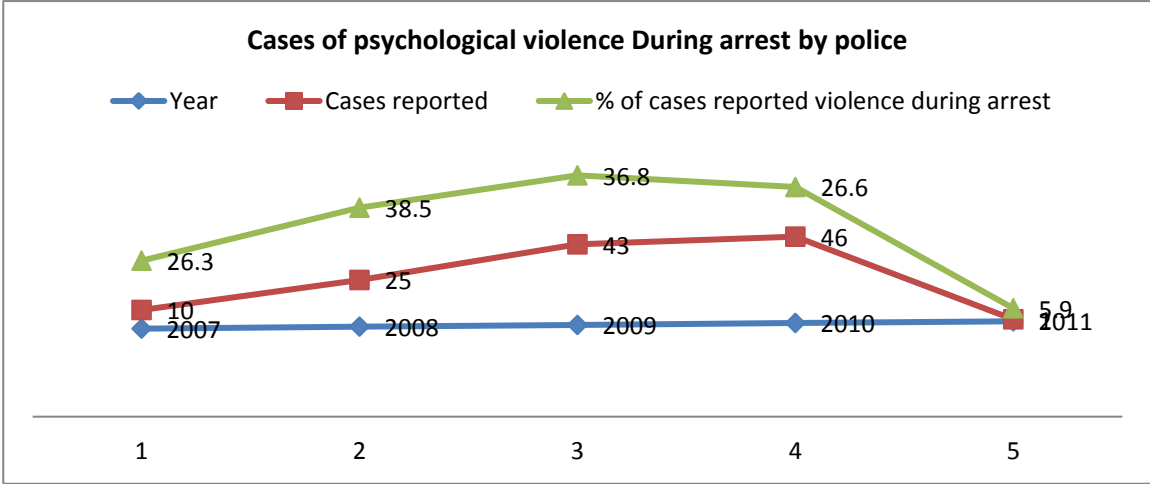
Graph. 1 - Trends in reported cases of arrested persons who have experienced violence by police during arrest



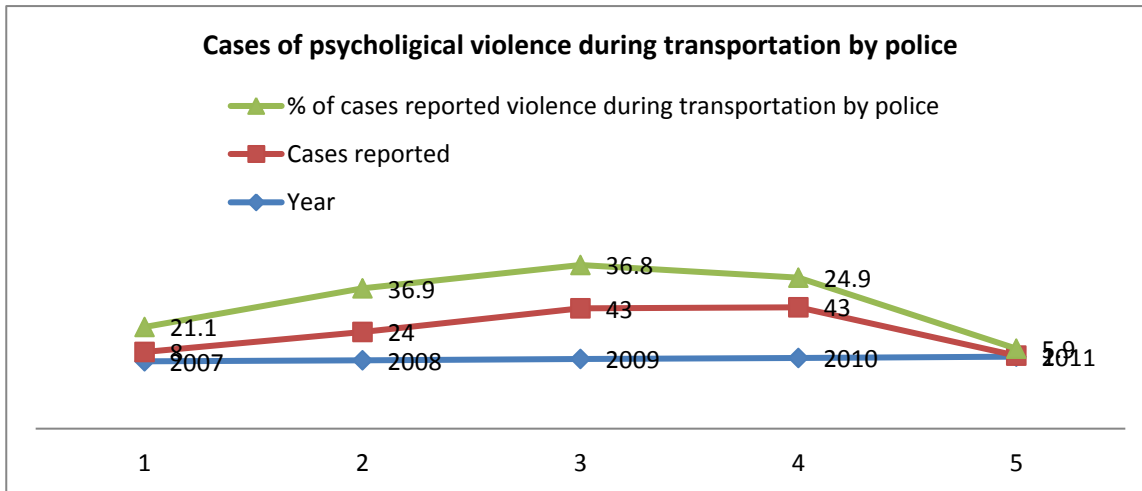
Graph. 2 - Trends in reported cases of arrested persons who have experienced violence during their transportation in police commissariats



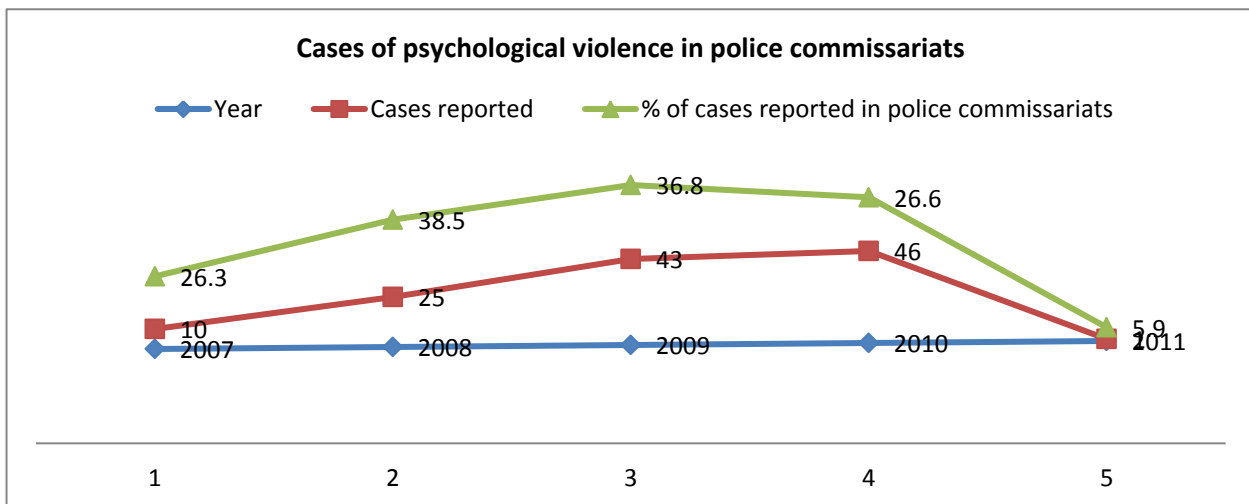
Graph. 3 - Trends in reported cases of arrested persons who have experienced violence when brought to police commissariats



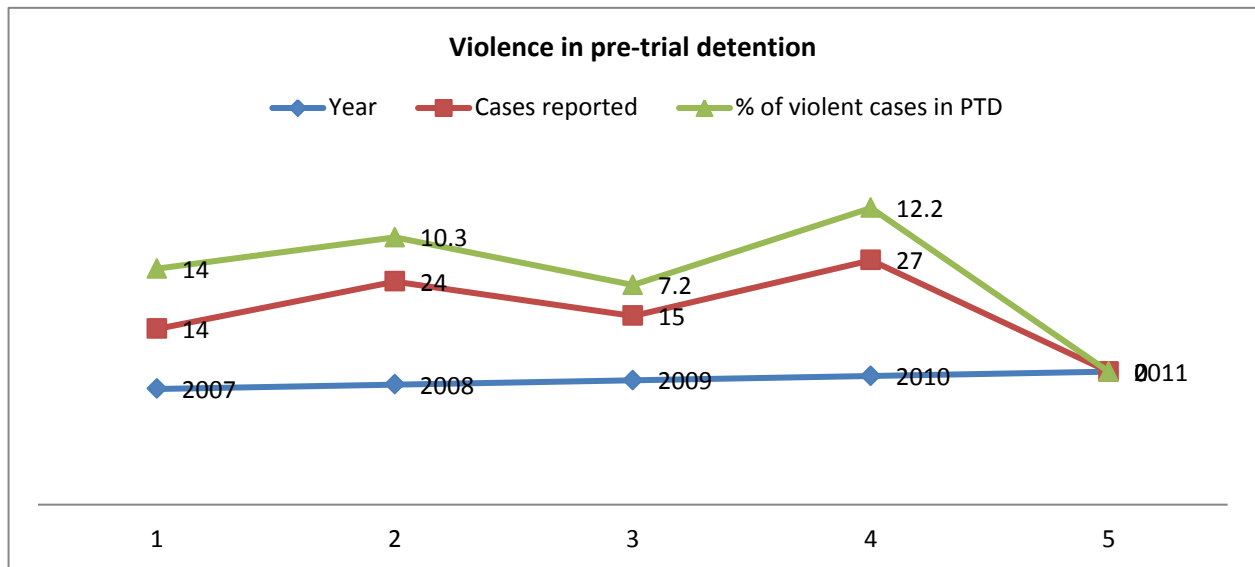
Graph. 4 - Trends in reported cases of arrested persons who have experienced psychological violence by police during arrest



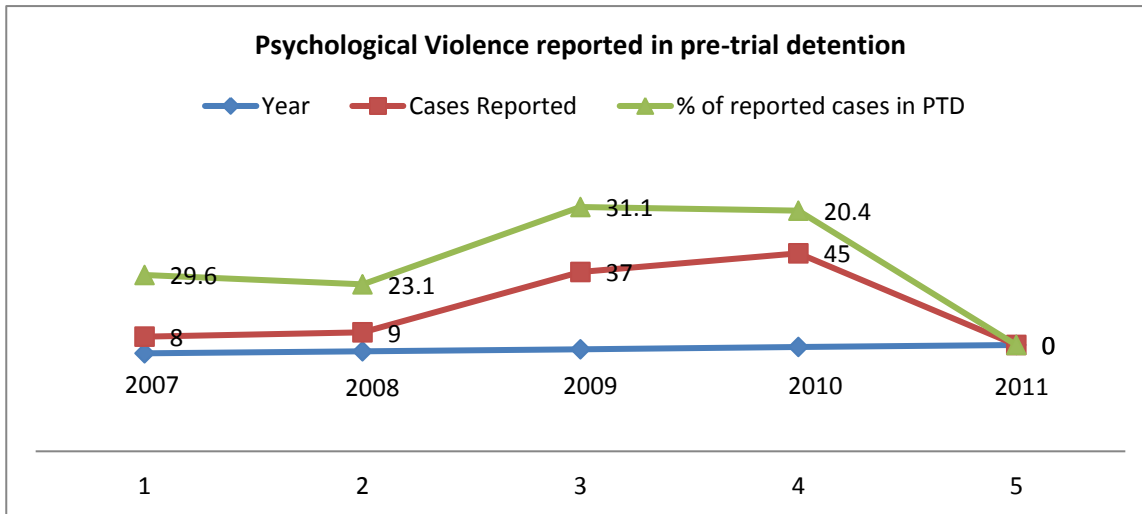
Graph. 5 - Trends in reported cases of arrested persons who have experienced psychological violence during their transportation in police commissariats



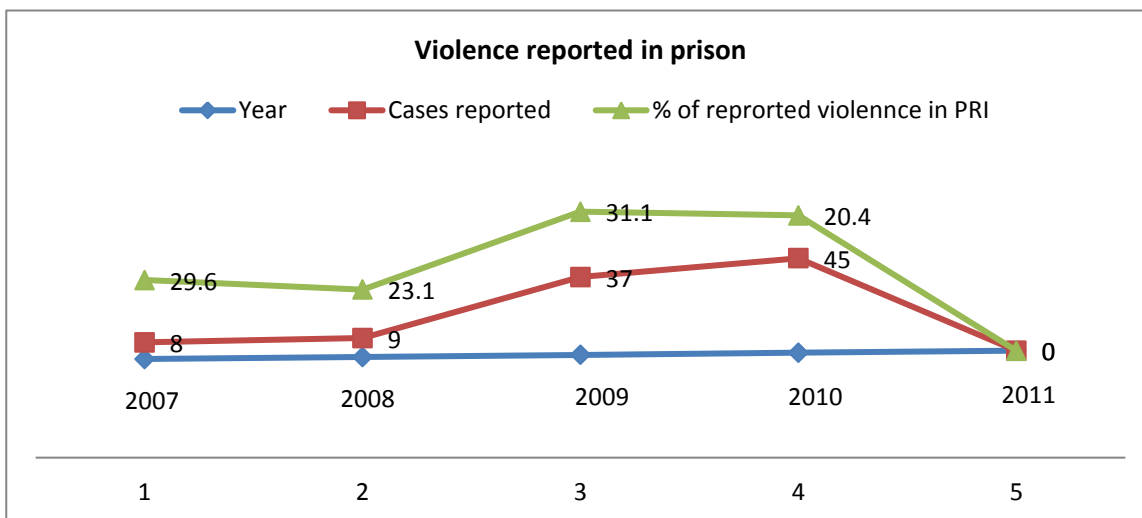
Graph. 6 - Trends in reported cases of arrested persons who have experienced psychological violence when brought to police commissariats



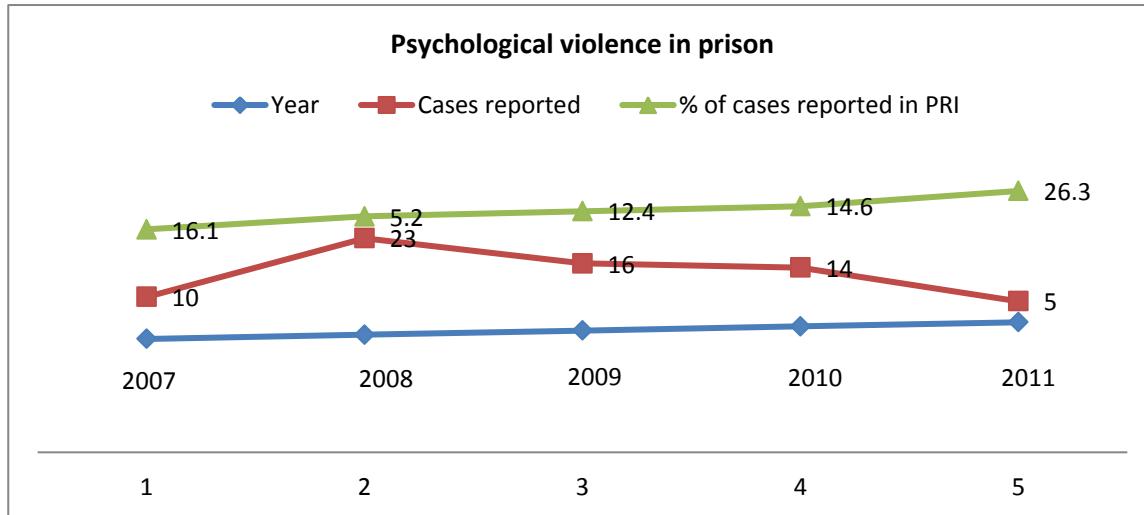
Graph. 7 - Trends in reported cases of arrested persons who have experienced violence in pretrial detention facilities



Graph. 8 - Trends in reported cases of arrested persons who have experienced psychological violence in pretrial detention facilities



Graph. 9 - Trends in reported cases of arrested persons who have experienced violence in prisons



Graph. 10 - Trends in reported cases of arrested persons who have experienced psychological violence in prisons

Annex 2

Cases and interviews taken during detention monitoring of ARCT (2009- 2013)

No	Identity	Gender	Type of complaints	How the case was identified	Date of case identification	Status/ Court instance
1	A.D	M	Unlawful detention of a juvenile offender	IEVP ShenkollLezhe	03.01.2012	The Court decision no. 542, dated 1 march 2012 of First instance court, Tirana: accepted the complaint; abolished the arrest; and, ordered immediate release for subject. 6 hearings; 2 visits in prison of Shen Koll
2	F.B	M	Violence, unlawful detention without a court decision	IEVP ShenkollLezhe	03.01.2012	Court decision no. 20 dated 28.02.2012, of Shkodra First Instance Court accepted the complaint; abolished the arrest; and, ordered immediate release for subject. 3 hearings in Shkodra; 2 visits in prison of Shen Koll
3	B.M	M	Violation of right to fair trial; Interpretation of the Article 6/3 of the ECHR; and Article 42 of the Constitution)	IEVP ShenkollLezhe	03.01.2012	The Constitutional Court accepted the complaint (Decision nr. 24 date 30.04.2012): Annulled the decision nr. 1341, date 20.11.2007, of first instance court Tiranë; decision nr. 174, date 21.03.2008, of Apeal Court Tiranë; decision nr. 00-2010-321 (288), date 18.03.2010, of Criminal College of Supreme Court; re-opening of the case.
4	V.V	F	Unlawful detention, breach of procedures during extradition	ARCT Monitoring visits at Ali Demi Prison	23.02.2012	Case nr. 1770/191/ 2011; accepted the complaint and transferred the acts for territorial competency to the Fieri first instance Court. 4 hearings, 2 visits in prison; 1 visit to Fieri First instance court.
5	S.Z	M	Violation of Art.37 of Constitution, and	ARCT Monitoring	05.03.2012	Case opened: complaints prepared with regards to Art.37

			Art. 8 of ECHR; unlawful detention and damage of reputation and property	visits at Korça Prison		of Constitution, and Art. 8 of ECHR against Police; unlawful detention and damage of reputation and property
6	V. SH	M	Unlawful detention; breach of procedures during extradition	Contacting ARCT by telephone, IEVP, Peqin	28.02.2012	Preparatory work: the decision nr. 1, date 06.01.2003, of Elbasan court; 1 letter to ASP, Tirane and Prosecutor's Office in Elbasan; 1 letter sent to INTERPOL Albania (nr. 2394/1 prot. LA-DKJ 510 date 7.5.2012 Interpol Tirana.) The power of attorney signed by prison authorities. Complaint filed to Elbasani district court. 2 visits to prison; 1 visit to court.
7	SH.R	F	Unlawful detention, breach of procedures during extradition; racial discrimination	ARCT Monitoring visits at Ali Demi Prison	23.02.2012	Preparatory work: the decision nr. 43, date 13.11.2006 of the Criminal Court; 1 letter to ASP, Tirane and Prosecutor's Office in Elbasan; 1 letter sent to INTERPOL Albania The power of attorney signed by prison authorities. Complaint filed to Tirana district court. 2 visits to prison; 1 visit to court.
8	DH.R	F	Rehabilitation of victim from a violent crime. Applicability of Art. 2 of the European convention for the compensation of victims of violent crime	Subject contacted ARCT	10.03.2012	Preparatory work: letter sent to Prosecutor office and reply dated 627-A prot date 17.04.2012; letter presented to the Ministry of Justice; Letter to G.Hospital reply date 2022/1 Prot date 08.05.2012
9	P.P	M	Unlawful application of the Article 51 for a juvenile offender (reduction of imprisonment)	Subject contacted ARCT	26.01.2012	Preparation of the file: decision nr. 10-2012-457 act, date 19.03.2012 of Appeal Court of Durrës, decision nr. 541 date 30.07.2010 first instance court of Durrës"; 2 visits in Durrës; 1 visit to Appeal Court in Durrës.
10	M.B	M	Unlawful detention, non- implementation of a court decision	ARCT Monitoring visits, VaqarrPrison	27.03.2012	Letter dated 27 March 2012 was sent to GPD and the case was successfully closed. Subject was released.
11	P.S	M	Criminal Charges against 2 police officers	ARCT Monitoring visits	08.12.2009 Closed in May 2012	Case Closed (won): Condemnation of the 2 Police officers on Art. 250 of the Criminal Code (Arbitrary acts)

12	G.V ⁸⁰	M	Violence during arrest and damage compensation	ARCT Monitoring visit at the 302 Pre-detention centre, Tirana	16.10.2010 Closed in January 2012	Case Closed (won): 2 Visits and interview at the 302 M.Peza pre-detention centre. Subject was released and compensation was granted
13	I.K	M	Unlawful detention, breach of procedures during extradition from Italy	ARCT Monitoring visits at Vaqarri Prison	03.2.2011; Closed in April 2012	Case Closed (won): subject was released; full correspondence with the General Prison Directorate; Case opened on March 15 th 2011; 1 court sessions at the Court of Serious Crimes, 1 request letters to the Prosecution Office in Tirana, 1 requests for the Ministry of Justice for the file transfer, 1 request to Interpol Albania, 2 visits in the prison and meetings with the subject,
14	L.ZH	M	violation of right to life, Unlawful detention,	Referral by complaints presented to People's Advocate	10.3.2010 Closed in 2011; appeal - continues	Case Closed (won) Visit at Tepelena Prison; request of his personal file; request to the Chancellor of the Appeal Court in Tirana; control of the judiciary status of the client; assistance for the legal procedures for the immediate release of the client; Court Decision no.26, date 28.03.2011 of the Gjirokastra first Instance court has released the client. The decision was appealed by the prosecution office.
15	V.M	F	Unlawful detention, breach of procedures during extradition from Spain	ARCT Monitoring visits at Ali Demi Prison	07.1.2011 Closed in February 2012	Case Closed (won); subject was known the pre-trial detention; reduction of imprisonment; Case opened on March 1st 2011; 9 court sessions at the Court of Serious Crimes, 2 request letters to the Prosecution Office in Tirana, 2 requests for the Ministry of Justice for the file transfer from Spain, 2 requests to Interpol Albania, Translation of files from Spanish to Albanian; visits in the prisons and meetings with the subject,
16	F.M	M	Violence, Unlawful	ARCT	11.2.2011	First case opened on April 1 st

⁸⁰This was a case where the subject was accompanied by the prison police during the preliminary court sessions; the other cases were followed by ARCT lawyers without the presence of the inmates; most of inmates are participating in the court cases after their releases (cases in the pre-trial)

			detention, confessions taken under psychological and physical torture	Monitoring visits at Shën Koll Prison and Lezha police commissariat	Follow up in 2012)	2011 on the lawfulness of the detention measure; 1 visit in the pre-detention centre in Lezha , 1 court session in the Appeal court of Shkodra, 2 requests for documents to the prosecution office, 1 visit at Shën Koll Prison; preparation for the Constitutional Court Procedures
17	M.M	M	Violence, Unlawful detention, confessions taken under psychological and physical torture	ARCT Monitoring visits at Shen Koll Prison and Lezha police commissariat	11.2.2011 Follow up in 2012)	First case opened on April 1 st 2011 on the lawfulness of the detention measure; 1 visit in the pre detention centre in Lezha, 1 court session in the Appeal court of Shkodra, 2 requests for documents to the prosecution office,1 visits at Shen Koll Prison; preparation for the Constitutional Court Procedures
18	MF AND A F	M	Constitutional interpretation of the article 250	ARCT Monitoring visits at Shen Koll Prison and Lezha police commissariat	January 2012	Review evaluated, waiting for the Constitution Court decision.
19	A.SH	F	Unlawful detention, breach of procedures during extradition from Greece; recognition of the detention time in Greece	ARCT Monitoring visits at 'Ali Demi' Prison	11.3.2011 Follow up in 2012)	Case opened on March 11 th 2011; 4 court sessions at the Court of Serious Crimes, 3 request letters to the Prosecution Office in Tirana and Elbasan, request letters to the INTERPOL Office in Tirana ; request letters to the General Prosecution Office in Tirana ; request letters to the Ministry of Justice ;Translation of files to Albanian; 3 visits in the prison (2012) and meetings with the subject,
20	E.S	F	Reduction of detention/ benefit of the 90 days detention reduction – according to the law	Request for legal assistance; ARCT Monitoring visits at Ali Demi Prison	08.3.2012	The visit at A. Demi Prison was based on the client' files, the court decision and the execution of the transfer order; ARCT has presented a written request to the President of the Republic of Albania for the Act of Amnesty
21	K.H	F	Reduction of detention/ benefit of the 90 days detention reduction – according to the	Request for legal assistance; ARCT Monitoring	08.3.2011	The visit at A. Demi Prison was based on the client' files, the court decision and the execution of the transfer order; ARCT has presented a written

			law	visits at Ali Demi Prison		request to the President of the Republic of Albania for the Act of Amnesty
22	M.K	M	Damage compensation and violation of the house	ARCT Monitoring visits at Durres Pre-detention centre	21.1.2010 Follow up (2012)	Case opened on March 11th 2011; 2 court sessions at the Court of Serious Crimes, 1 request letters to the Prosecution Office in Tirana, Translation of files to Albanian; visits in the prisons and meetings with the subject,
23	T.GJ	M	Unlawful detention and violation of right to life	Individual complaint to ARCT	1.12.2010	4 court sessions at at the Court of Judicial District of Tirana, 1 request letter to the Prosecution Office in Elbasan, meetings with the subject, gathering documentation necessary for the judicial process (financial, administrative) on 12 July 2011 Tirana district court, accepted the request for compensation for unlawful imprisonment, did not admit to the fullest extent this compensation.
24	F.P	M	Damage compensation for unlawful detention	Individual complaint to ARCT	1.12.2010 Follow up (2012)	4 court sessions at the Court of Judicial District of Tirana, 1 request letter to the Prosecution Office in Elbasan, meetings with the subject, gathering documentation necessary for the judicial process (financial one, administrative) etc on 07 July 2011 the Court of Judicial District of Tirana, accepted the request for full compensation for unlawful imprisonment,
25	V.M (juvenile)	M	Inhuman treatment /	ARCT Monitoring visit in Jordan Misja Prison	04.05.2012	The visit at Jordan Misja Prison (pre-trial) was based on the client' files, the court decision and the execution of the transfer order;
26	H.A (juvenile)	M	Inhuman treatment / access to proper health care	visit Jordan Misja Prison	04.05.2012	The visit at Jordan Misja Prison (pre-trial) was based on the client' files, the court decision and the execution of the transfer order;
27	N.K (juvenile)	M	Denial of the right to fair trial; Inhuman treatment	visit at the J.Misja Prison	04.05.2012	The visit at J.Misja Prison was based on the client' files, the court decision and the execution of the transfer order; meetings with subject at 313 Prison

28	S.C (juvenile)	M	Denial of the right to fair trial; Inhuman treatment	visit at the J.Misja Prison	04.05.2012	The visit at J.Misja Prison (pre-trial) meetings with subject at 313 Prison
29	A.H	M	Inhuman treatment / lack of access to proper health care	visit at the Peqini prison	08.05.2012	The visit at peqini Prison was based on the client' files, the court decision and the execution of the transfer order;
30	TGJ and family ⁸¹	M	Damage compensation for the violation of civil and political rights	Individual complaint to ARCT	1.12.2010	2 court sessions at the Court of Tirana, 1 request letter to the Prosecution Office in Elbasan, meetings with the subject
31	L.P	m	Torture and inhuman and degrading treatment	Full court representation	Individual complaint to ARCT (his father approached the centre)	2 court sessions at the Court of Tirana, 1 complaint to the Prosecution Office, Prison Jordan Misja reply with regards to forensic evaluation. meetings with the subject at Jordan Misja Prison (potential case to ECHR).
32	K.C	M	Change of Compulsory medical treatment at a medical clinic into ambulatory medical treatment in institution;	Advice and representation to review the sentence; Acceptance of petition by court decision no. 1678 Akti, dt.18.01.2010	12.02.2011 Identified at the Prison of Vaqarri (during regular monitoring visits)	<ul style="list-style-type: none"> • Contact with offender, retreat of Decision Act No., 1678 Akti, dt.18.01.2010 at Tirana District Court • Contact with family members and data collection for subject. • Contact the forensic experts. • Preparation of the complaint and follow up of the judicial proceedings, with the object: LEGAL: Article -46, 290/1, 378/1, 471 of the Penal Code;
33	SH.R	F	Review of the compulsory medical treatment; 1973	Advice and representation to change the sentence; Acceptance of petition by court decision no. 9 date 21.11.1998	17.02.2012, IEVP Kruja	<ul style="list-style-type: none"> • Contact with offender, retreat of Decision Act 9 date 21.11.1998, the Tirana District Court • Contact with prosecutor and data collection for subject. • Contact the forensic experts 64, date 09.03.2012. • Preparation of the complaint and follow up of the judicial proceedings, with the object: LEGAL: Article 46 Criminal Code, article 379 of the Penal Procedure Code.
34	E.M	M	Review of the compulsory medical treatment; 12.03.1952	Advice and representation to change the sentence; Acceptance of petition by	10.03.2011 Referred by the Medical staff of IEVP Kruje ; interviewed	<ul style="list-style-type: none"> • Contact with offender, retreat of Decision Act No. 151 date 13.01.2004, Tirana District Court • Contact with prosecutor and data collection for subject.

⁸¹ Actually He and his family want to sue the police and the prosecutors to request compensation for moral and existential damage caused by false accuse and unlawful detention. The complaint is preparing.

				court decision no. 151 date 13.01.2004	by ARCT staff at Prison' Hospital (jan.26, 2012)	<ul style="list-style-type: none"> •Contact the forensic experts. • Preparation of the complaint and follow up of the judicial proceedings, with the object: LEGAL: Article 46 of the Penal Code;
35	E.M	M	Review of the compulsory medical treatment; 13.09.1978	Advice and representation to change the sentence; Acceptance of petition by court decision no. 1039, dt. 01.04.2005	Referred by the Medical staff of I EVP Kruje ; interviewed by ARCT staff at Prison' Hospital (09.04.2012)	<ul style="list-style-type: none"> •Contact with offender, retreat of Decision Act No. 1039, dt. 01.04.2005 the Tirana District Court •Contact the medical staff of I EVP Kruja for the personal file of the detained person. • Preparation of the complaint and follow up of the judicial proceedings, with the object: LEGAL: Article 46/2 of the Penal Code;
36	A.L	M	Review of the compulsory medical treatment; 1970, Durres	Advice and representation to change the sentence; Acceptance of petition by court decision no. nr.3/30 Act, dt. 11.05.2012	05.03.2012 Transferred to Durres Pre-detention centre	<ul style="list-style-type: none"> • Contact with offender, retreat of Decision Act nr. nr.3/30 Akti, dt. 11.05.2012, of the Durres District Court •Contact forensic expert for the act. • Preparation of the complaint and follow up of the judicial proceedings, with the object: LEGAL: Article 46 of the Penal Code;
37	D.M	M	Intensive medical care;Intensive care through dialyses, and actually without kidneys)02.09.1963	Advice and representation to change the sentence; Acceptance of petition by court decision no. 964, dt. 09.11.2011	02.08.2012 Prison's Hospital	<ul style="list-style-type: none"> •Contact with offender, retreat of Decision •Contact with prisons authorities for the interventions Contact with the Ministry of Health for the dialyses • Preparation of the complaint and follow up of the judicial proceedings, with the object: on the amnesty granted with the Law 107/2012
38	A.V	M	Hospitalized for 19 months at the Prison's Hospital1972	Advice and representation to change the sentence; identified during monitoring	01.08.2012 Prison's Hospital	<ul style="list-style-type: none"> • Contact with offender, interview and questionnaire fulfilled during monitoring visits •Contact with prison authorities for subject. •Contact the forensic experts. • Preparation of the complaint and follow up of the judicial proceedings
39	M.K	M	Intensive medical care; cardiovascular problems21.04.1932 (The detainee passed away in prison)	Advice and representation to change the sentence;	09.11.2012 I EVP Kruja	<ul style="list-style-type: none"> •Contact with offender, retreat of Decision •Contact with prisons authorities for the interventions Contact with the Ministry of Health for the dialyses • Preparation of the complaint

						and follow up of the judicial proceedings, with the object: on the amnesty granted with the Law 107/2012
40	K.B	M	Change of Compulsory medical treatment at a medical clinic into ambulatory medical treatment in institution; 16.07.1975	Advice and representation to change the sentence; Acceptance of petition by court decision no.104, dt.05.07.2011	12.02.2011 Identified at the Prisons Hospital in Tirana (His parents have contacted the ARCT)	<ul style="list-style-type: none"> • Contact with offender, retreat of Decision Act No. 175, dt.18.02.2010 Tirana District Court • Contact with prosecutor and data collection for subject. • Contact the forensic experts. • Preparation of the complaint and follow up of the judicial proceedings, with the object: LEGAL: Article 46/1/4 of the Penal Code;
41	D.L	M	Review of the compulsory medical treatment; 05.11.1976	Advice and representation to change the sentence; Acceptance of petition by court decision no. 47, date 18.05.2011	17.02.2011, I EVP Kruja	<ul style="list-style-type: none"> • Contact with offender, retreat of Decision Act No. 175, dt.18.02.2010, the Tirana District Court • Contact with prosecutor and data collection for subject. • Contact the forensic experts. • Preparation of the complaint and follow up of the judicial proceedings, with the object: LEGAL: Article 46/3 of the Penal Code; Article 260 of the Penal Procedure Code.
42	R.Gj	M	Review of the compulsory medical treatment; 12.03.1952	Advice and representation to change the sentence; Acceptance of petition by court decision no. 505, date 21.06.2011	17.02.2011, I EVP Kruja	<ul style="list-style-type: none"> • Contact with offender, retreat of Decision Act No. nr.1101 date 21.11.2006, the Tirana District Court • Contact with prosecutor and data collection for subject. • Contact the forensic experts. • Preparation of the complaint and follow up of the judicial proceedings, with the object: LEGAL: Article 46 of the Penal Code;
43	A. SH		Review of the compulsory medical treatment; 25.08.1962	Advice and representation to change the sentence; Acceptance of petition by court decision no. 734, date 28.09.2011	10.03.2011 Referred by the Medical staff of I EVP Kruje	<ul style="list-style-type: none"> • Contact with offender, retreat of Decision Act No. 1451 dt. 17.11.2009 the Tirana District Court • Contact the medical staff of I EVP Kruja for the personal file of the detained person. • Preparation of the complaint and follow up of the judicial proceedings, with the object: LEGAL: Article 46 of the Penal Code;
44	B.K	M	Review of the compulsory medical treatment;	Advice and representation to change	15.04.2011 Transferred from Prison	<ul style="list-style-type: none"> • Contact with offender, retreat of Decision Act nr. 1492, dt. 14.09.2006, nr. 135, dt.

			20.06.1959	the sentence; Acceptance of petition by court decision no. 734, date 28.09.2011	Jordan Misja to Prisons Hospital	17.01.2008, nr. 301, dt. 03.03.2009 dhe nr. 569 Akti, dt. 15.06.2010, of the Tirana District Court •Contact forensic expert for the act 171, date. 30.09.2011. • Preparation of the complaint and follow up of the judicial proceedings, with the object: LEGAL: Article 46 of the Penal Code;
45	A.H	M	Review of the compulsory medical treatment; 1972	Advice and representation to change the sentence; Acceptance of petition by court decision no. 964, dt. 09.11.2011	30.06.2011 IEVP Kruja	•Contact with offender, retreat of Decision Act nr. 345 date 30.04.1998 of Tirana District Court •Contact forensic expert for the act 171, date. 30.09.2011. • Preparation of the complaint and follow up of the judicial proceedings, with the object: LEGAL: Article 46 of the Penal Code;
46	R.RR	M	violation of right to life, Unlawful detention,	ARCT Monitoring visits at Prison of Lushnje	Evaluated for full representation- case opened and closed with the Court Decision in 28.07.2011	Visit at Lushnje Prison; request of his personal file; request for the Court Dec.95, dt 17.12.1998; Appeal Decision 467, dt 26.09.2005; the Lushnje Court decision 24, dt 13.02.2006 on which the ARCT has appealed in 2011. ARCT after evaluating the case 61, date 28.07.2010 and the Appeal Court Decision was taken in 28.07.2011 (No.1089) with the positive result of acknowledgement of imprisonment period to final decision.
47	Z.M	M	violation of right to life, Unlawful detention,	Referral by complaints presented to People's Advocate, Monitoring at Vaqarri Prison, in Tirana	Evaluated for full representation- case opened and closed with the Court Decision nr, 690, date 24.11.2011	2 Visits at Vaqarri prison; preparation of the file (including the court decision 59, dt 14.2.2003, the execution orders, and the appeal court decision no.for the period of 13.42001 until 07.11.2001 in predetention. The Court Decision nr, 690, date 24.11.2011 with the positive result of acknowledgement of imprisonment period to final decision.
48	H.K	M	violation of right to life, Unlawful detention,	Referral by complaints presented to People's Advocate,	Evaluated for full representation- case opened	Visit at Vaqarr Prison; request of his personal file; request to the Chancelor of the Berati District no.154, dt.07.11.2006; control of the judiciary status of

				and through organization of joint monitoring visits of the NPM and ARCT		the client; assistance for the legal procedures for the immediate release of the client. The Court Decision nr 458, date 08.08.2011 with the positive result of acknowledgement of imprisonment period to final decision.
49	A.H	M	violation of right to life, Unlawful detention,	Referral by complaints presented to People's Advocate	Evaluated for full representation- case opened and positively closed with Court decision 139, 04.12.2011	Visit at Jordan Misja Prison; request of his personal file; control of the judiciary status of the client; assistance for the legal procedures for the immediate release of the client; Court Decision no.839, date 29.07.2007 of the Tirana first Instance court. The decision with the positive result of acknowledgement of imprisonment period to final decision.
50	V.M	F	Unlawful detention, breach of procedures during extradition from Spain	ARCT Monitoring visits at Ali Demi Prison	Evaluated for full representation- case opened And case positively closed on 11.10.2011.	Case opened on March 1st 2011; 9 court sessions at the Court of Serious Crimes, 2 request letters to the Prosecution Office in Tirana, 2 requests for the Ministry of Justice for the file transfer from Spain, 2 requests to Interpol Albania, Translation of files from Spanish to Albanian; visits in the prisons and meetings with the subject, The decision acknowledged imprisonment period to final decision
51	L.ZH	M	violation of right to life, Unlawful detention,	Referral by complaints presented to People's Advocate	Evaluated for full representation- case opened	Visit at Tepelena Prison; request of his personal file; request to the Chancellor of the Appella Court in Tirana; control of the judiciary status of the client; assistance for the legal procedures for the immediate release of the client; Court Decision no.26, date 28.03.2011 of the Gjirokastra first Instance court has released the client. The decision was appealed by the prosecution office.
52	E.P	M	Damage compensation	ARCT Monitoring visits at Jordan Misja Prison	Evaluated for full representation- case opened	Court case no. 15134, Tirana First Instance Court; 11 court sessions; file requested from the general prisons directorate;
53	SH.P	M	Damage compensation	ARCT Monitoring	Evaluated for full	Court case no. 15135, Tirana First Instance Court; 8court

				visits	representatio n- case opened	sessions; file requested from the general prisons directorate; request for transfer the case to Elbasani first instance court
54	P.P	M	Damage compensation	ARCT Monitoring visits Peqini High Security Prison, transferred during the process to FusheKruja Prison	Evaluated for full representatio n- case opened	Court case no. 15133, Tirana First Instance Court; 6 court sessions; file requested from the general prisons directorate; request for transfer the case to Elbasani first instance court
55	M.P	M	Damage compensation	ARCT Monitoring visits	Evaluated for full representatio n- case opened	Court case no. 15133, Tirana First Instance Court; 6 court sessions; file requested from the general prisons directorate; request for transfer the case to Elbasani first instance court
56	P.LL	M	Damage compensation	ARCT Monitoring visits (Jordan Misja Prison)	Evaluated for full representatio n- case opened	Court case no. 15133, Tirana First Instance Court; 8 court sessions; file requested from the general prisons directorate; request for transfer the case to Elbasani first instance court
57	G.V ⁸²	M	Violence during arrest and damage compensation	ARCT Monitoring visit at the 302 Pre-detention centre, tirana	Evaluated for full representatio n- case opened, and interview taken	2 Visits and interview at the 302 M.Peza pre-detention centre; meeting with the subject after his release,
58	I.R.K	M	Unlawful detention, breach of procedures during extradition from Italy	ARCT Monitoring visits at Vaqarri Prison	Evaluated for full representatio n- case positively closed at the court of 1st level and Appeal Court; Recourse to the Supreme Court	Case opened on March 15 th 2011; 1 court sessions at the Court of Serious Crimes, 1 request letters to the Prosecution Office in Tirana, 1 requests for the Ministry of Justice for the file transfer, 1 request to Interpol Albania, 3 visits in the prison and meetings with the subject,
59	E.J	M	Damage compensation	ARCT Monitoring visits	Evaluated for full representatio n- case opened	Court case no. 15133, Tirana First Instance Court; meeting with the subject after his release; follow up of the case with the presence of the subject

⁸²This was a case where the subject was accompanied by the prison police during the preliminary court sessions; the other cases were followed by ARCT lawyers without the presence of the inmates; most of inmates are participating in the court cases after their releases (cases in the pre-trial)

60	R.XH	M	Damage compensation	ARCT Monitoring visits	Evaluated for full representation case opened	Court case no. 15133, Tirana First Instance Court; meeting with the subject after his release; follow up of the case with the presence of the subject
61	S.D	M	Damage compensation	ARCT Monitoring visits at "Ali Demi" Prison, at the pre-detention section	Evaluated for full representation case opened	Court case no. 15133, Tirana First Instance Court; file requested from the general prisons directorate;
62	I.F	M	Damage compensation	ARCT Monitoring visits at "Ali Demi" Prison, at the pre-detention section	Evaluated for full representation case opened	Court case no. 15133, Tirana First Instance Court; file requested from the general prisons directorate;
63	P.S	M	Damage compensation	ARCT Monitoring visits	Evaluated for full representation case opened	Court case no. 15133, Tirana First Instance Court; the Cases was presented as a success form of cooperation by People's Advocate, at the 2010 Annual Report; followed by ARCT as forensic expertise and also by attorney.
64	B.M	M	Violation of the right to fair trial (Art 46 of the Albanian Constitution), art 6, ECHR	ARCT complaint	Evaluated for full representation case opened. Request to the Constitutional Court.	ARCT has prepared the introduction letter based on the violations found in the court decision of first instance court of tirana nr. 1341 date 2 1.12.2007, decision nr. 174 dt 2 1.03.2008 Tirana Appeal Court, decision nr. 288 date 18.03.2010 Supreme Court. 1 Request to the Constitutional Court.
65	F.T	M	Violence, Unlawful detention, confessions taken under psychological and physical torture	ARCT Monitoring visits at Shen Koll Prison and Lezha police commissariat	Evaluated for full representation case opened	First case opened on April 1 st 2011 on the lawfulness of the detention measure; 1 visit in the pre detention centre in Lezha, 1 court session in the Appeal court of Shkodra, 2 requests for documents to the prosecution office, 4 visits at Shen Koll Prison; preparation for the Constitutional Court Procedures
66	M.M	M	Violence, Unlawful detention, confessions taken under psychological and physical torture	ARCT Monitoring visits at Shen Koll Prison and Lezha police commissariat	Evaluated for full representation case opened	First case opened on April 1 st 2011 on the lawfulness of the detention measure; 1 visit in the pre detention centre in Lezha, 1 court session in the Appeal court of Shkodra, 2 requests for documents to the

						prosecution office, 4 visits at Shen Koll Prison; preparation for the Constitutional Court Procedures
67	A,SH	M	Unlawful detention, breach of procedures during extradition from Greece; recognition of the detention time in Greece	ARCT Monitoring visits at 'Ali Demi' Prison	Evaluated for full representation- case opened	Case opened on March 11 th 2011; 4 court sessions at the Court of Serious Crimes, 3 request letters to the Prosecution Office in Tirana and Elbasan, request letters to the INTERPOL Office in Tirana ; request letters to the General Prosecution Office in Tirana ; request letters to the Ministry of Justice ;Translation of files to Albanian; visits in the prisons and meetings with the subject, Actually the case is transferred because of jurisdiction reasons to the Penal Court of Elbasan District. There are developed 3 court sessions until now
68	A.XH	M	Reduction of detention due to his health conditions	Request for legal assistance; ARCT Monitoring visits at FusheKruja Prison	Evaluated as an advice; there is a need for more information about the case	The visit at FusheKruja was based on the client' files, the court decision and the execution of the transfer order
69	E.K	M	Unlawful detention, breach of procedures of the remand time; lack of legal aid during the process	Request for legal assistance visits at Rrogozhina Prison	Evaluated as an advice; there is a need for more information about the case	The visit at Rrogozhina was based on the client' files, the court decision and the execution of the transfer order; court case opened in Lezha Court; 2 sessions of which organized; the arguments prepared
70	M.K	M	Damage compensation and violation of the house	ARCT Monitoring visits at Durres Pre-detention centre	Evaluated for full representation- case opened	Case opened on March 11 th 2011; 2 court sessions at the Court of Serious Crimes, 1 request letters to the Prosecution Office in Tirana, Translation of files to Albanian; visits in the prisons and meetings with the subject,
71	F.C	M	Violence in the detention	Referral case from People's Advocate, Rreshen	Evaluated for full representation- further investigation needed	Case was identified at the police commissariat of Rresheni; 1 request letters to the Prosecution Office in Lezha, 1 complaint at People's advocate meetings with the subject, complaint to the Minister of Interior
72	F.P	M	Full court representation	Individual complaint to	Evaluated for full	4 court sessions at the Court of Judicial District of Tirana, 1

				ARCT	representatio n- case opened; and accepted with the Court Decision no.6000, dt.07.07.2011 The decision is appealed to the Appeal Court by Prosecution Office of Elbasan District.	request letter to the Prosecution Office in Elbasan, meetings with the subject, gathering documentation necessary for the judicial process (financial one, administrative) etc; on 07 July 2011 the Court of Judicial District of Tirana , accepted the request for full compensation for unlawful imprisonment, ⁸³⁸⁴
73	SH.S	M	Advice/ assistance	ARCT Monitoring visit in FusheKruja	Evaluated as an advice;	The visit at F-Kruja Prison was based on the client' files, the court decision and the execution of the transfer order;
74	Y./Z	M	Advice/ assistance	ARCT Monitoring visit in Durres pre-trial detention	Evaluated as an advice;	The visit at Durres pre trial detention was based on the client' files, the court decision and the execution of the transfer order;
75	R.GJ	M	Advice/ assistance	ARCT Monitoring visit in A.Demi Prison	Evaluated as an advice;	The visit at A.Demi Prison was based on the client' files, the court decision and the execution of the transfer order;
76	G.A	M	Advice / assistance	Referral by the People's Advocate; visit at the Prisons Hospital	Evaluated as an advice;	The visit at Prisons Hospital was based on the client' files, the court decision and the execution of the transfer order;
77	F.H	M	Advice / assistance	Referral by the People's Advocate; visit at the J.Misja Prison	Evaluated as an advice;	The visit at J.Misja Prison was based on the client' files, the court decision and the execution of the transfer order; Court case no.1096; meetings with subject at 313 Prison
78	L.B	M	Advice / assistance	ARCT Monitoring visit in Durres	Evaluated as an advice; there is a need for further investigation	The visit at Durres pre-detention was based on the client' files, the court decision and the execution of the transfer order;
79	L.F	M	Advice / assistance	Referral by the People's Advocate;	Evaluated as an advice; there is a	The visit at peqini Prison was based on the client' files, the court decision and the

83 The Court of Judicial District of Tirana, Decision no. 6000 dated 07.07.2011.

84Actually He and his family want to sue the police and the prosecutors to request compensation for moral and existential damage caused by false accuse and unlawful detention. The complaint is in the process of preparation.

				visit at the Peqini prison	need for further investigation	execution of the transfer order;
80	A.D	M	Advice/ assistance	ARCT Monitoring visit in the Korca Prison	Evaluated as an advice;	The visit at Korca Prison was based on the client' files, the court decision and the execution of the transfer order; employment shifts from the prison administration
81	P.GJ	M	Advice/ assistance	ARCT Monitoring visit in the Korca Prison	Evaluated as an advice;	The visit at Korca Prison was based on the client' files, the court decision and the execution of the transfer order; employment shifts from the prison administration
82	L.RR	M	Full Court representation	ARCT Monitoring visit	Evaluated for full representation- case closed, complainant released	Court case no. 15132, Tirana First Instance Court