

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS 37TH SESSION (GENEVA, 06 NOVEMBER – 24 NOVEMBER 2006) ALBANIA, INITIAL REPORT TO THE COMMITTEE

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Information Submitted to the Committee

The Republic of Albania (Albania) submitted its initial report¹ on the *International Covenant on Economic, Social and Cultural Rights* (the Covenant)² on 5 January 2005, as well as a core report³ of 4 June 2003 and written replies to the Committee on Economic, Social and Cultural Rights' (the Committee's) list of issues.⁴ Albania's initial report to the Committee documented the legislation and practices of Albania's government in relation to the Covenant, which came into force for Albania on 4 January 1992. Albania's high-level

¹ E/1990/5/Add.67.

² <http://www.ohchr.org/english/law/ceschr.htm>.

³ HRI/CORE/1/Add.124.

⁴ The written replies to the Committee's list of issues were E/C.12/Q/ALB/1 of 30 June 2005 and E/C.12/Q/ALB/1/Add.1 of 17 July 2006. The State report, list of issues, answers to the list of issues, General Comments, and the concluding observations of the Committee as well as the reservations, declarations and understanding of the State Party are available at <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

delegation⁵ of ten was led by Mr. Hoxha Ferit, the Secretary General of the Albanian Ministry of Foreign Affairs. The Committee published its concluding observations and recommendations on 24 November 2006.⁶

There were no alternative reports submitted by Non-Governmental Organisations (NGOs).

Themes and Issues

Implementation of the Covenant in Domestic Law

The Committee noted with satisfaction that many economic, social and cultural rights were guaranteed in Albania's Constitution.⁷ It asked the delegation if citizens could invoke the Covenant in court to defend their rights. Albania replied that international agreements automatically have a direct legal effect and supersede domestic law. It stated that it would be absurd if Albanian courts could take decisions on "the vast and important matters in the Covenant." It also claimed that the Covenant is suitably enshrined in domestic law, so any court cases regarding issues in the Covenant would make reference to the relevant domestic legal provision. However, the delegation could provide no examples of court decisions citing specific articles in the Covenant.

The Committee concluded with satisfaction the incorporation of the Covenant into domestic law,⁸ while simultaneously expressing concern about the "existing gap between legislation in the field of economic, social and cultural rights and its actual implementation".⁹ The Committee urged Albania to "include detailed information on the practical implementation of the Covenant in its next periodic report".¹⁰

Judiciary

The Committee drew attention to the corruption, politicisation and lack of independence of the judiciary. Albania admitted that this was a crippling problem, and stated that it was working with the European Commission to strengthen the judiciary. However, there was no choice but to live with the situation at the present time. The Committee noted with satisfaction the enactment of a law that strengthens the authority of the People's Advocate (Ombudsman).¹¹ However the Committee also showed concern for the "reported lack of independence, security and training of the judiciary".¹²

In their conclusions the Committee also expressed their "grave concern" at the persistence of honour killings, predominantly in the north and northeast parts of Albania, and the tolerance shown to these practices under "Kanun" (traditional customary law).¹³ The Committee strongly recommended that Albania 'strengthen its efforts to eliminate the practice' of such killings while working to prosecute those responsible for such forms of violence.¹⁴

⁵ The nine other representatives were: H.E. Mr Sejdi Qerimaj - Ambassador, Permanent Representative of the Albanian Permanent Mission to UNOG; Mr Qirjako Qirko – Head of the Office of Minorities, Ministry of Foreign Affairs; Mr Olsi Kristo– Advisor, Ministry of Health; Mrs Enina Balili– Specialist, Foreign Relations Department, Ministry of Education and Science; Mrs Ana Shkempi – Specialist, Integration and Foreign Relations Department, Ministry of Justice; Mr Stefan Koci – Specialist, Department of Social Policies, Ministry of Labour, Social Affairs and Equal Opportunities; Mrs Ilda Poda – Specialist, Department of Social Policies, Ministry of labour, Social Affairs and Equal Opportunities; Mrs Migena Leskoviku – Director of Juridical Services, Ministry of Interior; Mr Ervin Nina – Second Secretary, Albanian Permanent Mission to UNOG.

⁶ E/C.12/ALB/CO/1 which available on the OHCHR website: <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>
⁷ For a press release of the proceedings, please see [http://www.unog.ch/unog/website/news_media.nsf/\(httpNewsByYear_en\)/CAA823B6E0635074C125722800474882?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/CAA823B6E0635074C125722800474882?OpenDocument).

⁸ Provision 4 of E/C.12/ALB/CO/1.

⁹ Provision 4 of E/C.12/ALB/CO/1.

¹⁰ Provision 41 of E/C.12/ALB/CO/1.

¹¹ Provision 6 of E/C.12/ALB/CO/1.

¹² Provision 16 of E/C.12/ALB/CO/1.

¹³ Provision 29 of E/C.12/ALB/CO/1.

¹⁴ Provision 58 of E/C.12/ALB/CO/1.

Roma, Egyptian and Greek Minorities

The Committee asked about discrimination against Roma people, particularly by the police.¹⁵ It questioned the delegation about what steps had been taken to improve their situation. The Committee also asked why Roma were classified as a “linguistic minority” and not a “national minority.” Albania answered that isolated incidents of police misconduct occurred, but they were not directed specifically at Roma. It also announced the launch of the National Strategy for the Improvement of Living Conditions for Roma People. The delegation stated that Albania uses the definition of “national minority” supplied by the *European Framework Convention for the Protection of National Minorities*, which requires that a group share a common language, culture and territory. Thus, Albania has three official national minorities: Greek, Macedonian and Montenegrin. Roma are recognised as a linguistic minority because they do not inhabit one distinct territorial region.

The Committee inquired about the status of the Egyptian people in Albania, citing information from the European Commission on Racial Intolerance (ECRI) that they have not been recognised as a minority. Albania replied that it had contacted the Egyptian embassy about this group, and found that Egypt itself did not recognise it as a minority. The delegation reported that the Egyptians had until a few years ago been considered part of the Roma community, when they declared themselves to be a distinct ethnic minority. Therefore, the Government has very little data about the numbers of Egyptians.

In response to questioning, Albania commented that the country enjoyed excellent relations with the Greek minority. There is a State Committee for the Greek minority, the head of which advises the Prime Minister (PM) on minority issues. The Greeks also have their own political party in the National Assembly.¹⁶

In their concluding report the Committee called on the government to intensify its efforts to “promote ethnic tolerance”¹⁷, and recommended public awareness campaigns and the training of teachers in this field. The Committee welcomed the adoption of the *National Strategy on the Improvement of the Living Conditions of the Roma Community*, in 2004.¹⁸ Their report also expressed some concern over the continuing cycle of discrimination in access to services suffered by the Roma and Egyptian minorities. They noted in particular the adverse impact of the government's failure to grant Albania's Egyptian community the status of a minority group.¹⁹ The Committee recommended that Albania reconsider this position, in accordance with international and regional standards, including the 1995 *Council of Europe Framework for the Protection of National Minorities* to which Albania is a party.²⁰

On the issue of education standards for Roma children, the Committee encouraged the Government of Albania to “take effective measures” to increase their school attendance through scholarship grants, reimbursement of expenses and recruiting school personnel from among the Roma community.²¹

Rural Issues²²

The Committee inquired about how economic growth and poverty reduction strategies were affecting rural areas, especially in light of the current massive urban migration. Albania reported that its economic growth was benefiting previously marginalized groups, as evidenced by the fact that GDP growth was directly proportional to the reduction of poverty in rural areas. However, the delegation stressed the need to carry out further social measures and attract investment, particularly in the mountainous areas of the country.

¹⁵ The Committee also brought up the situation of Roma with respect to education, employment and housing, which will be addressed in later sections.

¹⁶ The Unity for Human Rights Party, which currently holds two of 140 seats in the Assembly.

¹⁷ Provision 49 of E/C.12/ALB/CO/1.

¹⁸ Provision 8 of E/C.12/ALB/CO/1.

¹⁹ Provision 21 E/C.12/ALB/CO/1.

²⁰ Provision 50 of E/C.12/ALB/CO/1.

²¹ Provision 68 of E/C.12/ALB/CO/1.

²² Further issues affecting rural areas will be addressed throughout the sections to follow.

Citing the Committee on the Rights of the Child (CRC), the Committee expressed alarm that *Kanun*, or traditional customary law, is still widely practiced in the remote areas of the country. In particular, it highlighted the practice of blood feuds and honour killings. Albania answered that *Kanun* was a relic from the 15th Century, and has been superseded by national law. However, it admitted that honour killings and blood feuds occasionally presented problems in some areas. Nonetheless, the Government is carrying out awareness-raising campaigns, and these crimes are on the decline.

Gender Equality

The Committee noted with concern the "continued unequal status of women in Albania".²³ The Committee questioned Albania extensively on its Gender Equality Act (2004), which included measures to promote equal pay for equal work. Albania announced that the Commission for Gender Equality had been removed from the PM's office, where it had been extremely inefficient, and now had branches in every relevant ministry. The Committee strongly criticised this framework as too weak to tackle gender inequality²⁴, demonstrating a lack of political will, and suggested that Albania adopt an independent institution with its own budget. The delegation responded that a review by the European Union (EU) had determined that Albania's approach was on the right track, but envisioned eventually creating a separate institution to deal with gender issues. The delegation added that its equal work for equal pay measures were very strictly enforced, and that there were no cases of gender discrimination along these lines in Albania. The Committee did not receive a response to their question on whether Albania's equal opportunity initiatives also applied to areas of health and culture, in addition to labour policy.

The Committee requested Albania to clarify the term "positive discrimination", which occurred in its written replies. It commended Albania for the comprehensive list of vulnerable groups in its State report, but asked what measures, including positive discrimination, were taken to assist them. Albania confirmed that "positive discrimination" referred to affirmative action, and added vaguely that the law did not prohibit affirmative action to "special categories of individuals."

The Committee inquired about the prevalence of sexual harassment in the workplace. Albania responded that it had no data on this issue, because there is no specific law on sexual harassment; rather, these cases are classified as abuse of official power or rape.

The Committee's concluding report also requested statistics on domestic violence, and about the existence of training of police and judges. Albania announced that a draft law on domestic violence will be passed in the future, which will enable data collection on this issue. The Committee requested that Albania provide detailed information on the extent of domestic violence in that nation, as well as information on the legislative measures and policies provided for victims.²⁵

In response to inquiries, the delegation stated that polygamy was not practiced in Albania.

Migrant Workers

The Committee questioned Albania about measures taken to protect the country's large number of migrant workers and their families. It also asked about available infrastructure to incorporate returning migrant workers, as well as measures to assess the interrelated effects on society, such as human trafficking and commercial exploitation, particularly of children. Albania announced that it had recently concluded an agreement with Greece for the identification and return of trafficking victims. It also highlighted closer cross-border police cooperation as well as training for the police and judiciary and witness protection programs.

²³ Provision 22 of E/C.12/ALB/CO/1.

²⁴ The Committees specifically referred to Albania's measures taken to comply with the Convention for the Elimination of Discrimination Against Women (CEDAW), such as the Action Platform for Women as well as regional contact points.

²⁵ Provision 57 of E/C.12/ALB/CO/1.

Albania also commented that it was seeking to reach agreements on social security for its migrants in all host countries.

The Committee encouraged Albania to consider ratifying the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*.²⁶

Unemployment and Social Policy

The Committee expressed concern over the high rate of unemployment, ranging from 14-30%, depending on whether the informal sector is included in the calculation. It also noted that the unemployment rate among Roma was as high as 90%. It inquired about the minimum wage as well as social benefits for the unemployed. Albania replied that the minimum wage in the public sector was set at \$140 per month. When questioned about the private sector minimum wage, the delegation answered that this was not necessary due to the fact that private sector wages had always been higher than public sector wages. Furthermore, the delegation stated that the Government was not required by law to pay unemployment benefits, but that 120,000 families currently received payments. It also remarked that free vocational training was provided to some vulnerable groups, such as Roma as well as to female victims of human trafficking. The Committee called on Albania to "strengthen its measures to combat the phenomenon of trafficking in persons" and recommended a review of the state's Criminal Code to address the needs of victims of trafficking.²⁷

The Committee asked about the monetary gap, since 2002, between urban and rural pensions, to which the delegation responded that it could not answer at this time. The Committee also asked if people were able to go to court to claim their rights to social services, which the delegation did not answer. The Committee urged the government of Albania to "increase its efforts to combat unemployment" and to "consider introducing a legal minimum wage that is applicable to all workers".²⁸

In their concluding report the Committee called upon Albania to ensure "targeted social assistance depending on family income" was guaranteed to all disadvantaged individuals.²⁹ While "noting the progress made by the State party to combat poverty through the *National Strategy on Social and Economic Development in the Poverty Strategy*"³⁰ they emphasised that more could be done on this issue. The Committee also noted with satisfaction the ratification of the *ILO Convention No. 102 on Social Security (Minimum Standards)*, in January 2006.³¹ The Committee urged the government to develop "poverty reduction strategies" such as developing annual indicators disaggregated by gender, age, urban-rural population and ethnic background for the purpose of assessing the needs of marginalized groups.³² The Committee encouraged those findings to be made available in Albania's next periodic report.

Labour Policy and Trade Unions

The Committee noted that Albania had regulations against strikes by public employees, and asked if school teachers were included in this prohibition. It also asked what labour dispute resolution mechanisms were available to those prohibited from striking. Albania replied that the security forces and civil servants were prohibited from striking, but that this did not include schoolteachers.

²⁶ Provision 43 of E/C.12/ALB/CO/1.

²⁷ Provision 59 of E/C.12/ALB/CO/1.

²⁸ Provisions 52 and 53 respectively of E/C.12/ALB/CO/1.

²⁹ Provision 56 of E/C.12/ALB/CO/1.

³⁰ Provision 31 of E/C.12/ALB/CO/1.

³¹ Provision 5 of E/C.12/ALB/CO/1.

³² Provision 60 of E/C.12/ALB/CO/1.

Regarding child labour practices, the delegation outlined some of Albania's regulations governing employment of minors, the most important of which prohibited children younger than 16 from working. However, it did not answer the Committee's question about how these regulations were enforced.

The Committee took note that the law does not allow for workers to refuse dangerous work without risk of losing their jobs. The delegation could provide no comment on this issue, but remarked that workplace accidents were on the decline.

The Committee requested examples where the Labour Inspectorate, which upholds labour regulations, had enforced its ruling through the courts. The delegation replied that there were no such cases before the courts, and that the activity of the Labour Inspectorate was "somewhat problematic."

With respect to questions concerning whether Albania's trade unions were members of a number of international organisations, the delegation replied that it had supplied information on trade unions to the Human Rights Committee (HRC), and should not have to supply it again to this Committee. However, it confirmed that Albania's trade unions did participate in the various international organisations listed by the Committee. Albania confirmed, in response to questions, that public employees were allowed to join trade unions.

The Committee expressed concern at the prohibition of strikes by civil servants who do not provide essential services, stating that this "constituted a restriction of the activities of trade unions which is beyond the scope of article 8 (2) of the Covenant".³³

Health and Abortion

The Committee informed Albania that the phrase "right to public healthcare" in the Albanian Constitution was not broad enough to comply with Article 12 of the Covenant. The Committee noted with grave concern the extremely high abortion rate in Albania, as well as information it had which indicated that 45% of children's deaths were due to abortions. It asked the delegation if abortion was used as a method of population control. Albania answered that the Ministry of Health was also concerned about the abortion rate, but had no statistics on deaths due to abortion.

The Committee asked questions concerning reproductive health, HIV/AIDS and other sexually transmitted infections (STIs), public vs. private dental care, potable water supply, smoking and drug addiction. Albania answered that it has conducted many awareness raising campaigns on contraception and condom use, as well as established new centres for STI consultation and testing. It reported that 30% of dental care in Albania was public. The delegation also announced that it had improved the provision of potable water, as well as passed a national anti-smoking law.

The Committee's concluding report showed concern for the declining allocation of funds to health services under the federal budget.³⁴ Similar distress was directed towards the "high incidence of infant and maternal mortality, and the prevalence of illegal abortions",³⁵ as well as the planned closures of many health care facilities.³⁶ To improve these standards the Committee urged the government to "undertake the necessary measures to improve its health services"³⁷ through increasing budgetary spending in this area. They also

³³ Provision 26 of E/C.12/ALB/CO/1.

³⁴ Provision 33 of E/C.12/ALB/CO/1.

³⁵ Provision 34 of E/C.12/ALB/CO/1.

³⁶ These facilities included psychiatric hospitals, as referenced in provision 35 of E/C.12/ALB/CO/1.

³⁷ Provision 62 of E/C.12/ALB/CO/1.

encouraged the collection of information on vaccination campaigns, which could then be presented in Albania's net periodic report.³⁸

Housing and Forced Evictions

The Committee noted that the right to housing was lacking in the Albanian Constitution, and the delegation agreed that this needed to be addressed. In response to questioning, Albania stated that the 2004 law on urban housing had been partially implemented. As a result, a limited number of families in the capital, Tirana, have been provided with flats according to assessments of need carried out by the municipality.

The Committee also raised the issue of forced evictions, especially of Roma and Egyptians. Albania responded that forced evictions are a last resort, and are only used for public purposes, such as the construction of roads and schools. The Committee urged the government to take "effective measures"³⁹ to provide evicted persons with adequate compensation or with alternative accommodation.

Education

The Committee asked Albania why it had increased the length of compulsory education from eight to nine years. The delegation replied that this measure is part of a general school system reform aimed at making it compatible with western countries, and at adding new subjects such as civics, human rights and foreign languages. Albania announced that it had increased the education budget by 26%, although one Committee member had a source indicating that the budget was in fact decreasing. The Committee also noted with concern that the number of students in Albania declined from 1999-2000.

Since compulsory education for children ends at age 14, but children are not allowed to work until the age of 16, the Committee inquired about what activities they engaged in during this two year period. Albania replied that due to the extension of compulsory schooling, children now leave school at age 15. From age 15-16, there are a number of vocational training centres they can enter. The delegation added that enrolment in these centres is increasing.

The Committee expressed concern about the high drop-out rate among girls and Roma children, and asked if Albania had any strategy to address this. In addition, it raised the issue of access to education for rural children due to blood feuds⁴⁰, which make it dangerous for them to leave their houses, as well as for the children of unregistered families. Albania gave details of a number of measures addressing education for Roma, including training for teachers, construction of new schools, registration of children, courses on illiteracy and scholarships. It remarked that Romani is not yet used as a second language in schools in Roma areas, mainly because the Government has received no requests from Roma to do so. Furthermore, the delegation added that children do not need documentation to be enrolled in school.

The Committee asked about the costs of higher education, specifically why 10% of the student population paid tuition to public universities while the other 90% did not. It also requested information on government scholarships. Albania answered that in the past 90% of students in public universities were admitted based on a quota system and their results on a standardised test, and did not pay tuition. The remaining 10% of places were reserved for students who did not do well enough on the standardised test, but who could enter the university by paying tuition. However, this has changed and at present all students enjoyed free tuition. Government scholarships are granted to "needy pupils," as well as those who do well in their first year of university. The Committee's concluding report welcomed the adoption of the National education Plan 2005-2015 on pre-University Education as an important initiative.

³⁸ Provision 64 of E/C.12/ALB/CO/1.

³⁹ Provision 61 of E/C.12/ALB/CO/1.

⁴⁰ For more information, please see "Rural Issues," above.

The Committee inquired about teacher salaries. Albania replied that salaries for university professors were based on the title they hold, and is higher than the amount paid to other teachers in Albania. It commented that their salaries were quite sufficient to live on.

The Committee asked about human rights education for teachers through a current project with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Italian Government. The Committee also requested information on government standards for private educational institutions. The delegation did not provide any meaningful answers to these questions.

The Committee urged the government to take "all necessary measures to allocate the required resources"⁴¹ in order to improve the quality of education for all, and in particular to ease the burden on low-income groups. The Committee also recommended a reassessment of the curricula at all levels of educational institutions, directed at promoting respect for human rights.⁴²

Culture

The Committee asked Albania what percentage of the State budget is devoted to cultural issues. It noted a general absence of information concerning culture, particularly from a rural point of view. It also mentioned that some parks and cities have been recognised as heritage sites by UNESCO, but are not protected under Albanian law. The Committee also requested information on the role of religion in Albanian culture. The delegation responded that not more than 0.5% of the budget was designated for cultural promotion, but that the Government was hoping to increase that figure to 1%. It admitted that it had no national strategy on culture. Finally, the delegation remarked that "religion has nothing to do with culture in Albania."

The Committee also raised the issue of a university professor who had been accused of anti-nationalism for publishing a geographical paper. Albania clarified that this was merely a case of copyright law.

The Committee's concluding report encouraged the government to consider increasing the proportion of the budget allocated to "cultural development and participation in cultural life" in line with article 15 of the Covenant on Economic, Social and Cultural Rights.⁴³

Other Issues

Referring to issues of the CRC, the Committee questioned Albania about its definition of the child, as well as the age of marriage. The delegation responded that Albania's definition of the child complies with the CRC. The age of marriage is 18 years, although it may be lower in some regions of the country. However, the delegation did not believe that marriages of minors presented a significant problem.

The Committee asked if Albania's laws on prostitution criminalise the prostitute herself. The delegation responded that anyone practising prostitution is sanctioned under the criminal code, under the chapter on public moral decency. It admitted that this was not an ideal situation.

The delegation also inquired regarding information it had that the right of disabled persons to marry was restricted. Albania answered that only those with serious mental illnesses are prevented from marrying.

Conclusions and next steps

In her concluding remarks, the Chairperson expressed regret that Albania did not answer some of the Committee's questions, to which she attributed a lack of experience of being reviewed.

⁴¹ Provision 66 of E/C.12/ALB/CO/1.

⁴² Provision 67 of E/C.12/ALB/CO/1.

⁴³ Provision 69 of E/C.12/ALB/CO/1.

The Committee was very organised and systematic with their questions, but the Albanian delegation left many issues either unanswered or inadequately addressed. These included the status of the Egyptian minority, the role of religion, female retention rates in school, the legal process of defending one's rights, positive discrimination, abortion, and teachers' salaries. In particular, some of the delegation's replies on education were practically incoherent, and the Chair was required to intervene to put it back on track.

The Committee used information from the CRC at several points during the dialogue, in particular in reference to the practice of *Kanun* law.

At one point, the delegation appeared to challenge the Committee's authority to inquire about trade unions, which had already occurred during Albania's review at the HRC.

In the Committee's concluding report of 24 November 2006 they emphasised the importance of taking a human rights approach to all government actions. With this in mind they urged Albania to consider the adoption of "national action plan" in the field of human rights, in accordance with paragraph 71 of the 1993 Vienna Declaration and Programme of Action.⁴⁴

With a view to following-up their recommendations, the Committee invited Albania to update its core document⁴⁵ of 4 June 2003, and further requested the submission of Albania's second and third periodic reports by 30 June 2009.⁴⁶

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⁴⁴ Provision 42 of E/C.12/ALB/CO/1.

⁴⁵ HRI/CORE/1/Add.124.

⁴⁶ Provision 72 of E/C.12/ALB/CO/1.

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