

COMMENTAIRES DU GOUVERNEMENT CONCERNANT LE RAPPORT SUR L'ALBANIE

ANNEXE : POINT DE VUE DU GOUVERNEMENT

L'annexe qui suit ne fait pas partie de l'analyse et des propositions de l'ECRI concernant la situation en Albanie.

Conformément à la procédure pays-par-pays, l'ECRI a ouvert un dialogue confidentiel avec les autorités de l'Albanie sur une première version du rapport. Un certain nombre des remarques des autorités ont été prises en compte et ont été intégrées à la version finale du rapport (qui selon la pratique habituelle de l'ECRI ne pouvait tenir compte que de développements jusqu'au 3 juillet 2009, date de l'examen de la première version).

Les autorités ont demandé à ce que le point de vue suivant soit reproduit en annexe du rapport de l'ECRI.

Comments of the Albanian Government on the 4th ECRI Report on Albania

The Government of the Republic of Albania hereby presents its appreciation for the long-standing commitment of the European Commission against Racism and Intolerance (ECRI) in advancing human rights and combating discrimination and intolerance in Europe.

The Albanian Government reaffirms its commitment to develop a legal and institutional framework that is conducive to equal opportunities for all citizens, supportive of cultural, ethnic and linguistic diversity, and inclusive in the economic and political life – as well protective of rights in the context of asylum and illegal immigration.

Considering the 4th ECRI Report on Albania as an important reference document, both as an overview and analysis of the situation of minority groups and communities, and as a map of recommendations and benchmark provisions for combating racism and discrimination, the Albanian Government presents the following specifications comprising contextual information on institutional provisions and ongoing policy initiatives tackling discrimination and promoting inclusion and tolerance.

International Legal Instruments

The Albanian authorities welcome ECRI's highlights on the progress made in the field of international law and human rights, including the ratification of Protocol No. 12 to the European Convention on Human Rights, the Additional Protocol to the Convention on Cybercrime, the European Convention on the Participation of Foreigners in Public Life at Local Level, as well as the accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

In connection to ECRI's recommendation regarding Article 14 of the International Convention on the Elimination of all Forms of Racial Discrimination, the Albanian Government confirms its commitment to initiate the process of the issuance of the declaration recognizing the competence of the Committee for the Elimination of Racial Discrimination (CERD).

The Albanian Government reaffirms its standing position vis-à-vis the European Charter for Regional or Minority Languages. Constitutional guarantees for the protection and promotion of minority rights, as well as adopted international legal instruments (including the Framework Convention on the Protection of National Minorities) ensure the furthering of the cultural and linguistic heritage of minority communities in the country. In the context of lacking official requests for the adoption of the European Charter for Regional or Minority Languages, and in view of the administrative and financial burdens related to the implementation of this legal instrument, the Albanian Government reiterates its full commitment to pursue the protection and promotion of minority rights through the wide range of pertinent national and international legislation in force.

Constitutional and Other Basic Provisions

The Constitution of the Republic of Albania enshrines the principle of equality of citizens and provides for the protection of social, cultural, economic and political rights of minorities, as well as protection from discrimination based on gender, race, language, ethnicity or religion. The Albanian Government, however, acknowledges the need to sustain the process of consolidating the legal framework for the protection of minority communities and vulnerable groups, as well as complementing constitutional principles with relevant secondary legislation.

In connection to ECRI's consistent recommendations concerning the establishment of a general anti-discrimination law, the Albanian Government underlines that recently the Albanian Parliament adopted a comprehensive anti-discrimination law, based on the initiative and draft proposition presented by the civil society sector.

Electoral Law Provisions

The Albanian Government is pleased to note ECRI's recognition of developments in the field of electoral reform, including the modernization of the electoral infrastructure, through the establishment of the National Civil Status Register digital database and the issuance of biometric identity documents. The reforms undertaken in this context comprise a series of measures, which fulfill key terms of reference of the agreement with the European Commission on visa liberalization in June 2008.

Insofar as the modalities for the distribution of the newly introduced identity cards are concerned, it is in place to note that, in view of the general elections of June 2009, the Albanian Government absorbed the larger share of the costs for disadvantaged groups and the full costs for the Roma community. In this connection, it is most important to underline that the issue of political disenfranchisement due to the inability to acquire the biometric identity documents for financial reasons has not been raised either in the immediate post-election context, or the period following thereafter.

In regards to remarks made concerning the legal provisions regulating the political associations and representation of minority groups and communities in the country, the Albanian Government remarks that national legislation allows for the establishment of political subjects pursuing the advancement of human rights and serving the interests of minority constituencies. Importantly, during the post-1990 period, minority-affiliated political parties have been important actors in the political scene and have been included in governmental structures on the ministerial and other high ranking levels.

Insofar as the issue of reserved seats in the Albanian Parliament is concerned, the Albanian Government draws attention to the fact that there is no established international standard calling for the fulfillment of minority representation through the provision of parliamentary quotas. Whereas the enhanced political representation and participation of minorities remains a priority commitment, the position of the Albanian Government is based on a process-oriented approach, rather than on the premise of reserving seats in the national legislative institutions. In this connection, the Albanian Government reaffirms its commitment to further the goal of effective inclusion of minority groups in the political life, both on national and local levels, by refining existing institutional arrangements in light of the experience accumulated so far, as well as practices from abroad.

State Committee for Minorities

In view of ECRI's observations relating to the issue of representation of minority groups and communities in the composition of human resources of the State Committee for Minorities, it is important to note that the terms of reference for the appointment of staff stipulate the carrying out of close consultations with active civil society organizations directly representing minority groups. Furthermore, the candidatures presented for final selection to the Council of Ministers are determined by a wide range of variables, such as the potential candidates' minority affiliation, educational attainment and professional skills, civic activism in the fields of human and minority rights, as well the popularity among respective minority constituencies.

In connection to the issue of communities lacking the status of national or ethno-linguistic minorities, the Albanian Government wishes to remark that the recognition of national minority status of the Bosniac constituency is under consideration. Meanwhile, the Albanian Government reiterates its long-standing position vis-à-vis the case of Albanian Egyptians, whose lack of a distinct language or kin-state precludes the recognition of national or ethno-linguistic minority status. In this context, it is most important to notice that the State Committee for Minorities is mandated with pursuing the concerns and interests of the aforementioned communities, until the resolution of the pertinent minority status issues.

Housing

The Albanian Government wishes to highlight that all priority measures in accordance with the framework of the National Strategy for Improving the Living Conditions of the Roma Community have been pursued. Following the completion of the assessment of housing needs for the Roma, the Ministry of Public Works, Transport and Telecommunications has engaged in the development of the

feasibility study designating the medium- and longer-term perspectives on the financial resources necessitated by the rehabilitation projects, as well as the delineation of the cooperation framework among central governing institutions, local authorities and civil society organizations of the Roma community.

In regards to ECRI's proposition to further the living conditions of marginalized groups through binding measures for local authorities, the Albanian Government wishes to reaffirm its position on an incentive-based approach that allows for the deployment of earmarked funding through a scheme of competitive grants – which enhances the efficiency of available resources by channeling funding towards the more competitive parties, as well promotes the grant-seeking and project-planning capacities of local institutions.

Education

In response to the challenge of increasing the participation of Roma children in all levels of education, the Ministry of Education and Science has focused its work in the following directions: pursuing the registration of Roma children in the absence of a birth certificate and the provision of free vaccination health services in the relevant cases, supporting the "Second Chance" project for Roma children and young people resuming their academic studies, reconstructing schools with a pronounced attendance of Roma children and located in areas where the Roma comprise a majority of the inhabitants, cooperating with civic groups and international organizations to alleviate poverty amongst Roma families and to raise awareness among the Roma community about the benefits accruing to families whose children attend school and have a higher educational attainment. In connection to the latter, the Ministry of Education and Science has adopted measures allotting quotas and ear-marked funding for vocational training and higher education programs for students of a Roma background.

In the context of ECRI's remarks concerning the need to enhance the statistical information required for strategic planning in response to the challenge of promoting the education of disadvantaged groups, the Albanian Government draws attention to the fact that, since 2008, the Ministry of Education and Science has started the development of a comprehensive database on the educational situation of Roma children, as well as those by other minority constituencies and marginalized communities in the country.

Employment and Integration in the Labor Market

The Albanian Government reaffirms its commitment to alleviate poverty and fight economic exclusion of all disadvantaged and vulnerable groups, by consolidating the fundamental principles of equality of citizens and equality of opportunities within the country's legislative framework, institutional provisions and policy initiatives.

In view of ECRI's recommendation regarding positive action in the fight against *de facto* discrimination, the Albanian Government draws attention to the fact that the legal principles of equality of citizens and opportunities are complemented by directives and initiatives that take into consideration the particularities of different vulnerable groups. In particular, the engagement of central and local governing authorities in enhancing the access of Roma in national schemes of employment

and integrating Roma communities in the labor market has been informed by the specific characteristics of the Roma minority. In this context, Albanian authorities have invested significant resources in carrying out awareness-raising campaigns targeting the Roma minority in order to enhance the latter's understanding of benefit available for categories in need, as specified by national legislation.

National Strategy for Improving the Living Conditions of the Roma Community

In resonance with ECRI's remarks, the Albanian authorities acknowledge that the monitoring process for the implementation of the National Strategy for Improving the Living Conditions of the Roma community is of key importance for assessing the progress made in various fields, the identification of emergent predicaments and the fine-tuning of ongoing projects and initiatives to the varying situations. In this context, the Ministry of Labor, Social Issues and Equal Opportunities is tasked with facilitating the work of the high level inter-ministerial group monitoring the implementation of the Strategy, by enhancing the collection of data and exchange of information, as well as stirring the respective institutional stakeholders to fulfill the objectives framed in the Strategy.

The commitment of the Albanian Government to improve the living standards for the Roma community was reaffirmed by the Decision of the Council of Ministers (VKM 437, 8 April 2008) to join the Roma Inclusion Decade 2005–2015 initiative. The finalization of the National Action Plan for the Roma Inclusion Decade implicates the expansion of available resources in promoting the welfare of the Roma community, and the consolidation of the consultative and cooperative framework among local institutions and civil society organizations representing interests and concerns of the Roma community.

State Policing

The Albanian Government remarks that state police compiles and administers statistical information regarding criminality in the country based on the typology of criminal acts defined in the Criminal Code, which includes those bearing a link to racism and intolerance (such as Article 73 on genocide, Article 74 on crimes against humanity, Article 253 on the infringement of citizens' equality, Article 86 and Article 87 on torture, Article 266 on hate speech and Article 265 on the instigation of hatred and ethnic violence). Importantly, the small number of proceedings for racially-motivated criminal offences constitutes a positive indicator of prevailing attitudes, opinions and behavior Albania vis-à-vis discrimination and xenophobia.

In pursuit of objectives in the framework of the National Strategy for Improving the Living Conditions of the Roma Community, the General Police Directorate has compiled directives for local structures, in regards to the protection and respecting of the rights of Roma and Egyptian communities in particular.

The Ministry of Interior confirms that, even though there have been no cases of racially-motivated violent behavior from police officers on duty, the Albanian authorities have pledged a relentless fight against verbal abuse and infringement of rights of citizens suspected of criminal activity during the process of detention and investigation. In connection to ECRI's remarks on the institutional framework of

fighting against impunity of law enforcement officials, the Albanian Government wishes to inform that the Internal Control Service at the Ministry of Interior classifies all cases linked to ill-treatment by law enforcement officials and relays them accordingly to General Prosecutor's Office.

Asylum and Immigration

In connection to ECRI's notes on the issue of staff turnover, the Ministry of Interior confirms that legislation on the state police and relevant institutional directives provide clear specifications regarding the appointment of officers, transfer procedures for border and immigration police staff, as well as upgrading requisites. Provisions in place specify that at the time of appointment in the Department of Border and Migration, police officers must have completed the training programs and must commit to pursuing this appointed function for at least a three-year long period. In particular, legal and administrative guarantees preclude the unwarranted staff turnover, while ensuring that asylum and immigration police officers are at all times qualified and well-trained.

In this context, the Albanian Government highlights the fact that the legal framework regulating the civil servant status is largely in place and wishes to affirm its commitment to promote a merit-based, depoliticized and independent public administration.

Representation in State Institutions

The Albanian Government underlines that national legislation on civil service is based upon the fundamental principle of equality of opportunities and provides for the participation of minorities in the public administration, the judiciary, the armed forces and the police. The governing authorities at the central and local levels have been engaged in promoting an increased representation of minorities in the public service sector, through the organization of awareness-raising campaigns and the introduction of facilitating measures for the recruitment of persons belonging to different ethnic backgrounds.

Monitoring

The Albanian authorities concur with ECRI in identifying the need to base legislative reforms and policy initiatives on a comprehensive data analysis, in order to fine-tune governmental and non-governmental initiatives to the specificities of differing situations. Hence, the Albanian authorities consider that the multi-faceted challenge of good governance involves the digitization of accumulated information, the integration and analysis of available statistical data, and the serious investment for the collection of systematic and comprehensive data in the future.

In regards to ECRI's recommendation for the registration of the ethnic affiliation in the national demographic data, the Albanian Government highlights the endorsement by the National Institute of Statistics of the inclusion of the item of ethnicity in the forthcoming 2011 census.

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On this occasion, the Albanian Government reaffirms its active engagement in the fight against racism and discrimination, and the protection of rights and advancement of opportunities for minorities, disadvantaged communities and vulnerable groups. Committed to a transparent and sustained co-operation with ECRI, the Albanian Government wishes to promote the traditionally good relations, tolerance, co-operation and good understanding among Albanian people and minority groups and communities in the country as a valued heritage in the whole Balkans region and larger European context.