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ECRI REPORT ON ALBANIA

(fourth monitoring cycle)

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ECRI Secretariat
Directorate General of Human Rights and Legal Affairs
Council of Europe
F-67075 STRASBOURG Cedex
Tel.: + 33 (0) 388 41 29 64
Fax: + 33 (0) 388 41 39 87
E-Mail: combat.racism@coe.int

www.coe.int/ecri

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FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 3 July 2009 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

SUMMARY

Since the publication of ECRI's third report on Albania on 14 June 2005, progress has been achieved in a number of areas covered by the report.

A number of international instruments relating to human rights and the fight against discrimination have entered into force with regard to Albania.

In the field of criminal law the racist nature of an offence or its hate-based motivation now constitute a specific aggravating factor, and a new definition of the crime of torture has been adopted. The dissemination by computerised means of racist or xenophobic statements, threats or insults is now banned. The authorities have also reinforced the criminal law provisions against trafficking and adopted measures aimed at affording victims greater protection.

Efforts have been made to improve the functioning of the judicial system. The various initial and in-service training schemes for members of the judiciary and police officers give more systematic coverage to human rights protection issues. With regard to the problem of ill-treatment by the police, signs of an improvement have been noted.

The Ombudsman has continued consolidating the role he plays in protecting human rights, including with regard to torture prevention. The State Committee for Minorities has also consolidated its experience and been given additional resources.

Numerous measures likely to have a positive impact on the situation of the Roma have been adopted. These measures are aimed, for example, at improving their housing conditions, particularly through improved infrastructure. In the field of education they are designed, inter alia, to improve the material conditions of school education, facilitate Roma children's access to schooling and combat absenteeism and dropping out. Roma can benefit from a range of vocational training and guidance schemes; measures have also been taken to improve Roma access to health care. In 2008 the Albanian authorities also amended the legislation governing civil registration to eliminate the main obstacles to registration of children outside the time-limit. Some interesting initiatives have also been taken at local level in certain of these fields, although such efforts remain scattered and insufficiently co-ordinated.

The unit responsible for monitoring the implementation of the National Strategy for Improving the Living Conditions of the Roma Community has organised information campaigns and round-table discussions and has devoted a share of its efforts to strengthening its monitoring capacities and reinforcing the capacities of Roma associations.

With regard to migrants, refugees and asylum seekers, in 2006 the Albanian authorities took over responsibility for the pre-screening procedure aimed at identifying persons in need of international assistance and protection upon their arrival at the border and at referring them to the appropriate procedure as quickly as possible. Training has been dispensed to officials of the migration and border police to heighten their awareness of human rights issues.

A Code of Ethics for the audiovisual media was adopted in 2006, covering the need for the media to respect opinions of all kinds while countering any form of discrimination, and a Council on Media Ethics has been established.

ECRI welcomes these positive developments in Albania. However, despite the progress achieved, some issues continue to give rise to concern.

There is still no general law banning discrimination nor any example of a decision in which the Constitutional Court applied the fundamental principles of non-discrimination; the conclusion is still frequently drawn that, because the country's legislation provides that all citizens are equal, there is no discrimination in Albanian society. There is also no body in Albania having express responsibility for combating racial discrimination.

In the field of electoral law, civil society organisations voiced fears prior to the general elections of 28 June 2009 that the new provisions governing enrolment on the electoral rolls may be too restrictive, thereby depriving individuals, in particular Roma and Albanian Egyptians, of the right to vote. While financial measures were taken to absorb the costs of registration of disadvantaged citizens with limited incomes, it seems that a certain number of citizens who do not hold a valid passport did not request to be enrolled before the elections, and the process of civil registration is still on-going.

Despite the measures taken, many Roma and Egyptians in Albania have to contend with extreme poverty and social and economic marginalisation. Many of them live under precarious conditions in dwellings that are often without access to potable water, electricity and sewer networks and in areas with still very limited health care provision. Roma are also particularly at risk of being evicted from their homes without systematically being rehoused. Alongside extremely high rates of unemployment among adult Roma, within the school system Roma children have to contend with direct discrimination and the phenomenon of "hidden absenteeism". The number of Roma children attending school remains very much lower than that for the majority population, and the vast majority of Roma children drop out well before the statutory minimum school leaving age. This also makes them highly vulnerable to trafficking. While some of these problems are shared by other segments of the Albanian population, Roma and Egyptians experience such situations to a disproportionate extent. In addition, the indifference towards these communities shown by certain politicians - notably at local level - and their under-representation in the country's political and public life and scant coverage by the Albanian media exacerbate their marginalisation and hinder resolution of the problems with which they are confronted.

With regard to protection and recognition of minorities, some minority representatives continue to express criticism regarding the effectiveness of the State Committee for Minorities. According to representatives of the Vlach/Aromanian ethno-linguistic minority, the distinction drawn between "national" and "ethno-linguistic" minorities engenders a strong sentiment of being treated as inferior. The Bosniac and Egyptian communities express the wish for more attention to be paid to their specific demands.

In matters of migration and asylum, not all the statutory or regulatory instruments necessary to the application of the legislation in force concerning asylum claims have been adopted as yet, and high turnover among the staff responsible for processing asylum claims and for effective application of the pre-screening procedure has reportedly sometimes hindered the functioning of these systems.

No progress has been made towards the introduction of a system guaranteeing that all allegations of ill-treatment by the police will be subject to a thorough investigation by an independent body.

For lack of a complete, coherent system of collection of data on the access to rights of the various minority groups present within the country, or on the implementation of the criminal law provisions on racism, discrimination and intolerance, it is difficult for the authorities to monitor the effectiveness of the measures taken to improve the situation of certain groups.

In this report ECRI recommends that the Albanian authorities take further action in a number of areas; it makes a series of recommendations, including the following.

ECRI makes a number of recommendations aimed at ensuring the adoption of comprehensive legislation and the full implementation of the provisions on combating racism, discrimination and intolerance not only as regards criminal law, legal aid and police conduct but also with respect to the fields of electoral law, migration and asylum. In this respect it stresses the importance of training and awareness-raising measures. ECRI also recommends setting up a body specialised in combating racism and racial discrimination.

ECRI reiterates its recommendation that the Albanian authorities strengthen the legal framework in the field of civil and administrative law by introducing comprehensive legislation aimed at combating discrimination, both direct and indirect, in all key fields of life. In this connection it refers to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.*

ECRI makes a series of recommendations aimed, firstly, at stepping up the efforts to combat the various forms of discrimination that may be encountered by Roma and Egyptians in Albania, notably in the fields of housing, education, access to employment, health, civil registration and participation in public affairs and, secondly, at facilitating the full implementation of the National Strategy for Improving the Living Conditions of the Roma Community, including by local authorities.

ECRI strongly recommends that the Albanian authorities move forward with the implementation of tangible measures, in consultation with the communities concerned, to ensure that each Roma family has access to decent accommodation, including through the connection of Roma settlement sites to the electricity, drinking water, sewer and road networks. It recommends that the authorities fix clear and ambitious targets in this respect for at least the next two years and publish regular reports on progress made.*

ECRI recommends that the Albanian authorities speed up the establishment and support the operation of pre-school facilities enabling Roma children to improve their proficiency in the Albanian language before they enter primary school; it also invites the Albanian authorities to support the implementation of non-governmental initiatives that have given good results in this field.*

ECRI makes a number of recommendations aimed at ensuring greater involvement of minority groups and guaranteeing that their situation is better taken into account. It recommends that the authorities reinforce their dialogue with the representatives of the Vlach/Aromanian minority, the Bosniac community and the Albanian Egyptians.

ECRI encourages the Albanian authorities to pursue and intensify their efforts to combat trafficking of children.

* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Existence and Implementation of Legal Provisions

International legal instruments

1. On 26 November 2004 Albania ratified Protocol No. 12 to the European Convention on Human Rights, which provides for the general prohibition of discrimination, and the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems. These instruments entered into force on 1 April 2005 and 1 March 2006 respectively.
2. In its third report on Albania, ECRI recommended that the country bring a swift and successful conclusion to the process of ratifying the European Convention on the Participation of Foreigners in Public Life at Local Level. Albania ratified this Convention on 19 July 2005 and it entered into force in respect of Albania on 1 November 2005.
3. In its third report, ECRI recommended that Albania sign the European Charter for Regional or Minority Languages and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Following the adoption of Law No. 9703 of 2 April 2007, Albania acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 5 June 2007. Albania has not yet signed the European Charter for Regional or Minority Languages.
4. In its third report, ECRI recommended that Albania make a declaration under Article 14 of the International Convention on the Elimination of all Forms of Racial Discrimination so as to recognise the competence of the Committee for the Elimination of Racial Discrimination (CERD) to receive and examine individual complaints of violations of this Convention. Albania has still not made this declaration.
5. ECRI recommends that Albania sign and ratify the European Charter for Regional or Minority Languages and make a declaration under Article 14 of the International Convention on the Elimination of all Forms of Racial Discrimination.

Constitutional provisions and other basic provisions

6. The Albanian Constitution guarantees the general principle of equality before the law and protection against discrimination on grounds such as race, ethnic origin, language, religion, social status or ancestry (Article 18). It also prohibits organisations that incite and support racial, religious, regional or ethnic hatred (Article 9). It further provides an extensive framework for the protection and promotion of the identity of persons belonging to national minorities and grants them rights and freedoms in this respect (Article 20). In addition, non-citizens and stateless persons within Albanian territory are covered by the same rights, freedoms and duties as Albanian citizens, unless individual provisions specifically restrict the application of certain rights or freedoms to the latter (Article 16). Under Article 122 of the Constitution, international instruments ratified by Albania, such as Protocol No. 12 to the European Convention on Human Rights, take precedence over national laws and are directly applicable in domestic law unless implementing legislation has to be passed beforehand.

7. In its third report, ECRI recommended that the Albanian authorities enact the necessary secondary legislation in order to ensure that the constitutional guarantees relating to racism, equality and non-discrimination can be applied in practice. It also recommended taking steps to make the general public and legal professionals aware of the possibilities of direct reliance on these constitutional guarantees.
8. ECRI notes that, under Article 134 § 1d of the Constitution, any court which considers that a law is unconstitutional may refer a preliminary question to the Constitutional Court. Under Article 134 § 1g individual complaints concerning alleged violations of the Constitution may also be submitted to the Constitutional Court. Despite these provisions, there has still been no example of a judgment of the Constitutional Court applying the above fundamental principles and there is scarcely any secondary legislation permitting their effective application by the ordinary courts.¹
9. ECRI reiterates its recommendation that the Albanian authorities enact the secondary legislation necessary to ensure that the constitutional guarantees relating to racism, equality and non-discrimination can be effectively applied by the ordinary courts, so that individual victims of discrimination in daily life can in practice have access to an effective remedy. It also recommends that initiatives be taken to raise the awareness of both the public and legal professionals as to the possibilities of relying upon these constitutional guarantees in proceedings before the ordinary courts.

Electoral law provisions

10. Since ECRI's third report, the Albanian authorities have undertaken a major electoral reform through the adoption of certain constitutional amendments and of the new Electoral Code. One of the reform's main objectives was to ensure the compilation of reliable voter lists through the introduction of modernised, computerised national civil registers.² Issuance of identity cards is another key measure accompanying the introduction of these registers, since all voters wishing to exercise their right to vote will henceforth be required to present their new identity card or a currently valid passport.
11. Many civil society actors voiced fears prior to the general elections of 28 June 2009 that these new provisions, intended to serve the legitimate aim of remedying significant deficiencies in the accuracy of voter lists, may be too restrictive. Although the amount involved was small, the fact that there was a charge for issuing identity cards was criticised, in particular as regards its obligatory nature with no possible exceptions. There were fears that large low-income families could find themselves unable to register all of their family members, which would then deprive some individuals of the right to vote; in view of the social and economic situation of the Roma and the Albanian Egyptians,³ it was argued that this problem could disproportionately affect members of these communities. Moreover, in the case of persons not already included in the civil registers, primarily Roma,⁴ additional possible difficulties in issuing identity cards were referred to. The lack of a complete register of addresses in Albania was also mentioned as further complicating the task of sending individual notifications to some of the 700,000 citizens not yet

¹ See below, Civil and administrative law provisions

² See in particular the Joint Opinion on the Electoral Code of the Republic of Albania adopted by the Venice Commission at its 78th plenary session (Venice, 13-14 March 2009), document CDL-AD(2009)005.

³ See below, Vulnerable/Target Groups – Albanian Egyptians

⁴ See below, Vulnerable/Target Groups – Roma: Civil registration

registered; this primarily concerned the poorest members of the population, here too the Roma community in particular. The authorities have referred to financial measures taken to absorb the costs of registration of disadvantaged citizens with limited incomes, including Roma and Albanian Egyptians; ECRI welcomes this step as an important contribution to ensuring that the right to vote is real and effective for all citizens. At the same time, it seems that a certain number of citizens who do not hold a valid passport did not request to be enrolled before the elections, and ECRI notes that the process of civil registration is still on-going.⁵ To the extent that this may also affect their future voting rights, ECRI hopes that all citizens who do not hold a valid passport or identity card will be able to complete the civil registration process as soon as possible.

12. ECRI notes that the reorganisation of constituencies into multi-seat electoral zones with all elected representatives chosen under a system of proportional representation did not lead to the establishment of a system in which national or linguistic minorities have a right to a reserved seat in the Albanian Assembly. While no international standard requires such a system to be put in place, this request remains on the agenda for some national or ethnolinguistic minority representatives. The formation of political parties representing specific minorities' interests is moreover prohibited under Albanian law. Although this reflects a legitimate desire to avoid political divisions along ethnic lines, it is nonetheless perceived by certain minorities as an additional hindrance to the promotion of minority rights, especially in a context where the State Committee for Minorities does not play the strong role some groups would wish to see it play.⁶
13. ECRI strongly recommends that the Albanian authorities take all the necessary measures to make it possible for all individuals of voting age who have not been deprived of their civic rights to exercise their right to vote; it encourages the Albanian authorities to pursue their efforts aimed in particular at ensuring that no one is disenfranchised for purely financial reasons.
14. ECRI encourages the Albanian authorities to remain attentive to the calls by representatives of certain minority groups for seats to be set aside for minority representatives in the Albanian Assembly and to seek solutions, whether within the legislature or other institutions, that allow minority groups' concerns to be better taken into account.

Criminal law provisions against racism

15. In its third report, ECRI recommended that the Albanian authorities explicitly provide in criminal law that a racist motivation shall constitute a specific aggravating circumstance whatever the nature of the offence committed. It recommended taking the necessary measures to guarantee the effective implementation of the criminal law provisions relating to racism, discrimination and intolerance and reasserted the importance of training and awareness-raising measures in this respect. ECRI also recommended that further data be collected with regard to the implementation of criminal law provisions against racism so that their effectiveness might be assessed.
16. ECRI welcomes the adoption by the Albanian Assembly, on 26 February 2007, of Law No. 9686 amending the Criminal Code, which now provides that the racist nature of an offence or its hate-based motivation shall constitute a specific aggravating factor. This new provision covers motivations based on

⁵ See below, Vulnerable/Target Groups – Roma: Civil registration

⁶ See below, Anti-discrimination bodies and other institutions - State Committee for Minorities

gender, race, religion, nationality, language and political, religious or social convictions. The Albanian authorities also pointed out that the same law introduced in the Criminal Code a new definition of the crime of torture, which encompasses all offences that cause the victim serious physical or mental suffering where such offences are committed intentionally by a person holding public office, at that person's instigation, with his or her express or implicit consent or on any discriminatory ground.

17. The Albanian authorities have also reported that, on 27 November 2008, the Albanian Assembly adopted Laws No. 10023 amending the Criminal Code and No. 10024 amending the Code of Criminal Procedure, both aimed at enabling the full honouring by Albania of its obligations arising from the ratification of the Convention on Cybercrime and the Additional Protocol thereto, concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems. The dissemination by computerised means of racist or xenophobic statements, threats or insults is accordingly now prohibited. Specific procedures for investigating such acts have also been laid down.
18. Since ECRI's third report was published, efforts have been made to ensure that the various initial and in-service training schemes for police officers and members of the judiciary give more systematic coverage to human rights protection issues. ECRI notes with interest a certain number of training sessions held since the publication of its third report to raise awareness among judges, public prosecutors and police officers, especially with regard to issues linked to the implementation of the criminal law provisions on racism, discrimination and intolerance and to the recommendations made by ECRI in its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing. However, no information could be provided on the impact of these training sessions and it appears that, so far, they have been attended by only a small number of people working within the criminal justice system.
19. Very few data exist on the implementation of the criminal law provisions relating to racism, discrimination and intolerance. The Albanian authorities have drawn attention to two cases brought before the courts, in 2005 and 2006, under Article 266 of the Criminal Code (breaching public order by inciting hatred towards segments of the population). No figures are as yet available concerning the application of the new articles added to the Criminal Code following the adoption of Law No. 9686 of 2007 and Law No. 10023 of 2008.
20. ECRI again recommends that the Albanian authorities take the necessary measures to guarantee the implementation of the criminal law provisions relating to racism, discrimination and intolerance. It underlines the importance of providing all persons working within the criminal justice system – members of the police force, the prosecution service, the judiciary and lawyers – with specific training in the relevant provisions of national law, and of raising their awareness of the new provisions adopted in 2007 and 2008. It strongly encourages the authorities to scale up their efforts to this end, in order to reach a greater number of people working in this field. It also reiterates the importance of making public officials alert to the problems of racism, discrimination and intolerance.
21. ECRI recommends collecting further data concerning the implementation of criminal law provisions in this area so that their effectiveness can be assessed; these data should cover the various stages of criminal proceedings, from the filing of a complaint to the final outcome.

Civil and administrative law provisions

22. In its second report on Albania, ECRI noted the existence of provisions guaranteeing equal rights in a number of fields of life such as education. It also noted the guarantee of non-discrimination in both the public and private sectors contained in Article 9 of the Labour Code. Article 202 of the Labour Code provides that a fine shall be incurred for violations of Article 9, and Article 201 provides that employees who are the victim of discrimination shall be awarded damages. In its second and third reports ECRI nonetheless recommended that the Albanian authorities introduce a comprehensive body of anti-discrimination legislation aimed at combating direct and indirect discrimination in key fields of life. In this connection, it highlighted the educational and preventive role that such legislation could play and its usefulness in revealing discriminatory practices.
23. There is still no general anti-discrimination law. At present, a number of social fields, such as housing, health care and access to public services, are still not covered by legislation banning discrimination. ECRI understands that civil society actors have drawn up a draft anti-discrimination law with the assistance of Albanian and foreign legal specialists. However, so far, this draft law has not been submitted to the relevant committees of the Assembly for examination.
24. ECRI again draws the Albanian authorities' attention to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, which contains detailed recommendations on the provisions which ECRI considers should feature in a body of civil and administrative law against racial discrimination. As ECRI pointed out in this recommendation, such legislation should apply not only to direct, but also to indirect discrimination. The recommendation also sets out a range of measures that can facilitate implementation of legislation in this area, including shifting the burden of proof. ECRI draws the Albanian authorities' attention to the vital importance of appropriate legal measures so as to combat racism and racial discrimination effectively and in a way which acts as a deterrent; it stresses that legislating against racism and racial discrimination also plays an educational role within society, transmitting the powerful message that no attempts to legitimise racism and racial discrimination will be tolerated in a society ruled by law.
25. ECRI reiterates its recommendation that the Albanian authorities strengthen the legal framework in the field of civil and administrative law by introducing comprehensive legislation aimed at combating discrimination, both direct and indirect, in all key fields of life. In this connection it refers to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

Administration of justice

26. In its third report, ECRI recommended that the Albanian authorities continue and reinforce their efforts to improve the functioning of the judicial system. The authorities have pursued their efforts in this direction, in particular by further developing the infrastructure, improving management of proceedings and training members of the judiciary in applying the European Convention on Human Rights. It must nonetheless be noted that there continue to be problems with the functioning of the judicial system,⁷ as acknowledged by the Albanian authorities, who are keeping up their efforts in this field.

⁷ See, for example, the Ombudsman's annual report for 2007, which mentions the number and type of complaints received concerning the judicial system (complaints declared inadmissible since the Ombudsman has no competence in such matters).

27. Until recently, legal aid was available in Albania only in connection with criminal cases. On 22 December 2008, the Assembly enacted Law No. 10039 on Legal Aid, which came into force in early 2009 and establishes a system for providing legal aid to those in need, including in civil cases. ECRI welcomes this step. It underlines the particular difficulties that may be encountered by victims of racial discrimination in securing access to the courts owing, for example, to financial problems or to the difficulties inherent in such cases such as scant knowledge of the relevant law or difficulties in gathering the necessary evidence. These difficulties may also be exacerbated where clear, complete legislation against discrimination is lacking. ECRI hopes that, as set out in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, the enactment of this law will in practice guarantee free legal aid and, where necessary, a court-appointed lawyer for victims who wish to go before the courts as applicants or plaintiffs and who do not have the necessary means to do so. It emphasises in this context the need to ensure that all relevant actors within the legal system are fully conversant with the new provisions governing legal aid, and that the general public is also made aware of the enhanced possibilities of enforcing their rights.
28. Bearing in mind in particular the important role that can be played by the courts in ensuring that effective remedies are available to victims of racist crimes or racial discrimination, ECRI encourages the Albanian authorities to continue their efforts to improve the functioning of the judicial system.
29. It invites the authorities to ensure that victims of racial discrimination have effective access to free legal aid wherever they satisfy the requirements under the new legal aid system, and recommends that they take all necessary measures to raise awareness amongst both the general public and legal professionals as to the new legal aid system now in place.

Anti-discrimination bodies and other institutions

- *The Ombudsman (Avokati i Popullit - People's Advocate)*
30. Under the Albanian Constitution, the Ombudsman defends the rights, freedoms and lawful interests of individuals against unlawful or improper actions or failures to act of the organs of public administration.⁸ In its third report on Albania, ECRI made a series of recommendations aimed at ensuring that the Ombudsman's Office systematically takes into account any possible discriminatory aspects of complaints brought to its notice and at enabling it to detect patterns of discrimination, whether direct or indirect. It also encouraged the Office to pay special attention to the rights of Roma or Egyptian children. At the same time, ECRI encouraged the Albanian authorities to consider setting up an independent body specialised in combating racism and racial discrimination.
31. Since ECRI's third report, the Ombudsman has continued consolidating the growing role he plays in protecting human rights in all fields within his competence; where necessary, the Ombudsman's Office gives complainants advice on other possible means of seeking redress. The section responsible for dealing with issues concerning children's rights has continued its activities to promote the rights of all children. Since 2008 the Office's resources have also been reinforced to enable it to play its new role of national mechanism for torture prevention in accordance with Article 17 of the Optional Protocol to the

⁸ Article 60(1) of the Constitution.

Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.⁹

32. ECRI welcomes these positive elements and hails the commitment of the Ombudsman and his Office to defending human rights in Albania. Thanks to this commitment the institution now enjoys considerable credibility within the country. ECRI nonetheless regrets that the approach of the Office, based first of all on formal equality before the law, does not make it easier to identify cases of possible racial discrimination; such questions appear to remain largely absent from its work. ECRI reiterates that the discriminatory aspects of a complaint are not always immediately apparent – even to the victim – and that, because they appear innocuous, cases of indirect discrimination can be particularly difficult to identify and prove. For this reason, ECRI again points out the benefits for the Ombudsman of collecting data on complainants' ethnic or national origin, while fully respecting the principles of confidentiality and voluntary self-identification by the persons concerned. ECRI notes with interest that the authorities have indicated that a new complaint form is now provided to complainants, including items regarding possible discrimination based on national, ethnic or racial grounds, and that a legal expert in claims related to racist or discriminatory behaviour has recently been appointed to the Office. While it is too soon to assess the impact in practice of these developments, ECRI hopes that they will allow a more systematic approach to be taken to cases of possible racial discrimination. ECRI observes that the Ombudsman's potential role in bringing to light cases of discrimination through the complaints with which he deals would be all the more important in that there is currently no body in Albania with specific responsibility for combating racial discrimination.
33. ECRI recommends that the Ombudsman's Office pay particular attention to the possible discriminatory aspects of complaints brought to its notice, even where they have not been raised by the complainant, and stresses, in this connection, that it would be most opportune to provide the Office's staff with training in the different ways in which racism and discrimination may manifest themselves.
34. ECRI strongly encourages the Ombudsman's Office in its new efforts to record the ethnic or national origin of complainants as part of its normal operational practice, so as to be able to bring to light cases of discrimination, whether direct or indirect, and emphasises the need to respect the principles of confidentiality and voluntary self-identification by the persons concerned. It encourages the Ombudsman's Office to review its practice in this field regularly in order to ensure that the mechanisms put in place are both effective and fully in line with the above principles.
35. ECRI strongly recommends that the Albanian authorities ensure that there exists a body specialised in combating racism and racial discrimination, drawing inspiration from its General Policy Recommendations No. 2, on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, and No. 7, on national legislation to combat racism and racial discrimination.

⁹ See the Ombudsman's annual report for 2007, pp. 44-45 of the English translation. See also the Optional Protocol to the [United Nations] Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment: Part IV, National preventive mechanisms, Article 17: " Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. ..."

- *State Committee for Minorities*
36. In March 2004 the Council of Ministers set up the State Committee for Minorities, answering to the Prime Minister, which is tasked with making recommendations to the government concerning measures to be taken to improve the situation of persons belonging to minority groups.¹⁰ In its third report, ECRI recommended that this newly established Committee devote attention to issues of both direct and indirect discrimination. It also recommended that the Albanian authorities ensure that the Committee had the necessary financial and human resources to function as effectively as possible.
37. Since ECRI's third report, the State Committee for Minorities has consolidated its experience and been allocated additional resources. The number of persons working for the Committee has for instance increased. The Albanian authorities have indicated that they have also recently approved the opening of field offices in several Albanian cities other than Tirana, meaning further resources will be required. However, some minority representatives continue to express scepticism, and even outright criticism, regarding the mechanism's effectiveness. In this connection, ECRI notes that, in the view of a number of minority representatives, the Committee's members are appointed without adequately consulting the minorities concerned; this undermines the Committee's credibility as a body supposed to defend the interests of each of the recognised minorities. ECRI notes in this respect that, if this body is perceived by the minorities as incapable of representing their interests, it will be unable fully to play its role, which depends in part on the trust placed in it by the groups it is intended to represent. Moreover, only the three "national minorities" (Greek, Macedonian and Serbo-Montenegrin¹¹) and the two "ethno-linguistic minorities" (Roma and Vlach/Aromanian) are represented on the Committee;¹² although the Committee itself does not seem opposed to a broadening of its membership or to combating discrimination experienced by other groups, problems related to the lack of legal recognition of the Egyptian and Bosniac communities as minorities¹³ mean no members representing these communities have been included in it so far.
38. With regard to its competence, it can be noted that the Committee has only an advisory role with no decision-making authority; certain minority representatives would like it to be transformed into a ministry so that it can have a real influence on decisions. The Advisory Committee on the Framework Convention for the Protection of National Minorities has highlighted the difficulties inherent in a situation where a government body is expected directly to represent minorities' interests and underlined the importance of establishing an institutional framework conducive to dialogue between the authorities, on one hand, and the minorities, on the other.¹⁴ ECRI notes that according to information provided by the authorities, the Committee recently took the initiative in proposing changes to its status that aim to complement its consultative functions with decision-making powers; ECRI hopes that this initiative will

¹⁰ Council of Ministers' Decision No. 127 of 11 March 2004 establishing the State Committee for Minorities.

¹¹ The terminology used by ECRI to refer to this minority in this report is that which was used during its discussions on the spot with the authorities and with representatives of this minority, who seem to refer consistently to the "Serbo-Montenegrin" minority.

¹² With regard to the differences between national and ethno-linguistic minorities, see below Vulnerable/Target Groups – Greek, Macedonian, Serbo-Montenegrin and Vlach-Aromanian minorities; Bosniac community.

¹³ See below, Vulnerable/Target Groups.

¹⁴ Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Albania, ACFC/OP/II(2008)003, adopted on 29 May 2008, observations relating to Article 15.

contribute to improving the institutional dialogue between the authorities and minorities.

39. ECRI recommends that the Albanian authorities re-examine, in the light of the recommendations of the Advisory Committee on the Framework Convention for the Protection of National Minorities, the institutional arrangements put in place to permit effective participation by persons belonging to minorities in decision-making processes and the way in which the members of the body concerned are appointed. In this connection, ECRI suggests that the authorities, in consultation with the relevant minorities, seek ways to better guarantee the representativity of the members of the State Committee for Minorities, and that the competencies of the latter be reviewed as needed in order to ensure that it is able to fulfil its role effectively.
40. ECRI recommends that the Albanian authorities ensure that the State Committee for Minorities has the necessary financial and human resources to function as effectively as possible, especially as regards the operation of new field offices outside Tirana.
41. It again recommends to the State Committee for Minorities that it devote attention to issues of discrimination, including indirect discrimination.

II. Discrimination in Various Fields

Housing

42. In its third report on Albania, ECRI encouraged the authorities in their efforts to regularise illegal housing situations and assist homeless persons, and recommended that they ensure that Roma and Egyptian communities were duly included in such initiatives. It also recommended that they ensure that Roma or Egyptians who are evicted from their homes have access to the same possibilities of alternate accommodation and housing credits as other Albanian citizens and also ensure that all reports of discrimination connected with evictions are thoroughly investigated.
43. As the Albanian authorities already pointed out in the National Strategy for Improving the Living Conditions of the Roma Community, many Roma families who were victims of the collapse of the pyramid saving schemes at the end of the 1990s lost their homes and were subsequently obliged to improvise makeshift dwellings with no guarantees as to minimum sanitary conditions. As early as 2003 various measures were envisaged under this strategy to improve housing conditions for the Roma. Several fields are covered including the identification and implementation of tangible measures to ensure that each family has decent accommodation, connection of Roma settlement sites to the electricity, drinking water and sewer networks, and, for the most isolated communities, a study of road-building requirements. Needs assessments in these areas were carried out by the Ministry of Public Works, Transport and Telecommunications in 2005; the authorities have indicated that the estimated overall financial resources required to bring Roma housing conditions up to standard amount to ALL 866 million. According to the authorities, the implementation of tangible projects is proving difficult given the variety of public and private suppliers concerned by the studies and the fact that a large number of different participants would be involved in actually performing the work. In October 2007 the government ratified a loan agreement proposed by the Council of Europe Development Bank for a total of EUR 15 million to be used in a number of municipalities with a large proportion of Roma inhabitants for the construction of social housing for 1,100 homeless families. Under the conditions of implementation of this loan programme prospective beneficiaries nonetheless need legal assistance to be included in the scheme. The authorities have also

indicated that, in 2008, for the first time, the government allocated a budget of ALL 30 million (equivalent to about EUR 230,000) to fund projects to build or rehabilitate houses under the Strategy. However, very few municipalities have taken the initiative of submitting projects in this context and those that have in fact launched projects have sometimes subsequently encountered problems on the ground. As a result, only one-third of the budget earmarked has been transformed into tangible results.

44. ECRI welcomes the measures already taken, which are a necessary step towards the improvement of housing conditions for the Roma. It must nonetheless be observed that the living conditions of many Roma families remain deplorable, as they live in dilapidated housing, without access to running water or to sewer and electricity networks and often located on the outer fringe of towns or in isolated areas. The lack of investment, and even of any interest in these problems, on the part of many local authorities, although they are responsible for tangible project implementation, and their failure to take into account the specific needs of the families concerned further hinder progress on these issues. Some of the general medium-term objectives of the Ministry of Labour, Social Affairs and Equal Opportunities, such as broader access to drinking water, improvement of the sewer infrastructure and the building of social housing, are clearly of particular importance to the Roma communities.¹⁵ Although national policies have indeed been devised in these fields, ECRI draws attention to the need nonetheless to reinforce their application at local level. In this connection some actors in this field have argued that it would be desirable to accompany these national policies with binding measures at local level so as to oblige municipalities to take action.
45. Apart from the poor housing conditions and inadequate infrastructure referred to above, representatives of the Roma and Egyptian communities have reported that members of their communities have again been discriminated against by being evicted from their homes. As ECRI already noted in its third report, since the change of regime in Albania in the early 1990s, many people have been occupying land without legal title and have (illegally) built houses on these sites. Among the measures taken by the authorities to address this issue, ECRI also mentioned the adoption of Law No. 9304 on the Legalisation and Urbanisation of Informal Areas; the authorities have also referred to Law No. 9482 of 3 April 2006 on the Legalisation, Urbanisation and Integration of Illegal Constructions. ECRI notes with concern, however, that a number of areas inhabited by Roma are not included in the informal areas covered by this legislation and the implementation of the part of the Strategy concerned with housing consequently continues to pose problems.¹⁶ In addition, according to official statistics, only 4.3% of Roma own the land occupied by their homes; 87% of sites occupied by Roma belong to other private owners and 8.7% to the state.¹⁷ ECRI notes that the Roma are particularly at risk of being evicted and is concerned that certain families have reportedly already been evicted without being rehoused and, finding themselves homeless and without sufficient financial resources, have in some cases been obliged to build a new dwelling – again without permission – that they also occupy under very precarious conditions.
46. ECRI draws the Albanian authorities' attention to the fact that access to decent housing is a key aspect of improving living conditions for the Roma, not only as

¹⁵ Progress Report on the Implementation of the National Strategy for Improving the Living Conditions of the Roma Community, p. 58.

¹⁶ Progress Report on the Implementation of the National Strategy for Improving the Living Conditions of the Roma Community, p. 55.

¹⁷ Progress Report on the Implementation of the National Strategy for Improving the Living Conditions of the Roma Community, p. 56.

a fundamental right but also because it is closely linked to other social rights such as the right to health. It also stresses that access to decent housing is one of the main issues raised with ECRI by Roma representatives.

47. ECRI strongly recommends that the Albanian authorities move forward with the implementation of tangible measures, in consultation with the communities concerned, to ensure that each Roma family has access to decent accommodation, including through the connection of Roma settlement sites to the electricity, drinking water, sewer and road networks. It recommends that the authorities fix clear and ambitious targets in this respect for at least the next two years and publish regular reports on progress made.
48. It also encourages the Albanian authorities to step up their efforts to involve local authorities in the implementation of the parts of the National Strategy for Improving the Living Conditions of the Roma Community pertaining to housing, a field in which local government plays a vital role. In this connection, ECRI encourages the national authorities to envisage introducing measures binding on local authorities, or at least to extend the policy of giving priority, when awarding grants, to projects aimed at ending de facto discrimination.
49. ECRI recommends that the Albanian authorities thoroughly investigate all reports of discrimination connected with evictions. It again recommends that the authorities ensure that Roma or Egyptians who are evicted from their homes receive the same possibilities of alternate accommodation and housing credits as other Albanian citizens.
50. ECRI encourages the authorities in their efforts to regularise illegal housing situations and recommends that they ensure that the Roma and Egyptian communities are duly included in such initiatives. In this connection it recommends that the authorities give special priority to seeking solutions for persons living in areas not covered by Law No. 9304 on the Legalisation and Urbanisation of Informal Areas.

Education

- *Participation of Roma and Egyptian children*

51. In its third report on Albania, ECRI recommended that a range of initiatives be taken to facilitate Roma and Egyptian children's access to all levels of education and increase their participation.
52. Since ECRI's third report, significant steps have been taken in the field of education, particularly as part of the implementation of the National Strategy for Improving the Living Conditions of the Roma Community. With regard to material conditions of school education, particular efforts have been made, through various initiatives by the national and, in some instances, local authorities, international donors and local civil society organisations, to open and support pre-school education facilities in districts with large numbers of Roma children. Between 2004 and 2006, under an overall scheme to build and rehabilitate schools throughout the country, the Albanian government also funded the rehabilitation and construction of schools in neighbourhoods where the Roma community is in a majority; however, until recently, there were apparently no available data making it possible to assess the impact of these measures on Roma children's access to education. The Ministry of Education and Science has indicated that since 2008, it has been engaged in developing a database on access to education by Roma and Egyptian children, in order to assess the impact of measures taken and to orient future policies. In 2007, the Ministry of Education and Science also implemented a new policy with regard to

school equipment grants, whereby priority is given to projects aimed at assisting vulnerable groups, including the Roma.

53. Other tangible assistance measures are of a more individualised nature. For instance, in 2006, the Ministry of Education and Science adopted a circular¹⁸ specifying that Roma children could be enrolled in school even without a birth certificate; the authorities have indicated that this measure allowed a considerable improvement in the towns most seriously affected by the exclusion from school of Roma children not registered in the civil register (Tirana, Korçë, Durrës and Gjirokastra). Between academic years 2003-2004 and 2006-2007 the authorities also distributed the textbooks required for the years of compulsory schooling free of charge to children both of whose parents were unemployed, including Roma children. From 2007-2008, to improve the management of these grants, a small contribution of 10% of the price per textbook was requested. Some local authorities have taken specific initiatives aimed at facilitating Roma children's enrolment in school: for instance, the municipality of Tirana has increased schools' reception capacities while at the same time reducing the costs associated with sending children to school for the poorest families. Such initiatives by local authorities nonetheless remain rare and the Albanian authorities have stated that there is a need to scale them up throughout the country.
54. In parallel with these concrete support measures, the "Second Chance" school project was launched at the end of 2004 to assist children who have already dropped out in resuming their schooling. According to information provided by the Ministry of Education and Science, over 50% of the 469 pupils participating in this scheme belong to the Roma community.¹⁹ So that fear of finding themselves alone in a class of younger pupils does not dissuade older children from returning to school, so-called "collective" classes (made up of children of different ages) have been set up in certain schools located near Roma neighbourhoods. A number of Regional Education Directorates also plan to create special classes that prepare pupils to join mainstream classes. In addition, Roma associations and the national, and sometimes local, authorities have campaigned to raise Roma parents' awareness of the importance of pre-school education, to combat dropping out and to encourage parents to give their children's education priority over early entrance into the labour market. These efforts nonetheless remain scattered and insufficiently co-ordinated; improved co-ordination is needed to enhance the impact of measures taken by the relevant stakeholders.
55. The Albanian authorities have indicated that, thanks to a global reform of school curricula and, in particular, the possibility of introducing optional lessons, teaching of the Romani language in schools with a high proportion of Roma pupils can now be envisaged. However, very few teachers speak this language and those who do often have only a basic knowledge of it. The Ministry of Education and Science has so far received no applications to set up classes in the Romani language. The Albanian authorities have indicated that the Regional Education Directorates regularly run training sessions on intercultural education and non-discrimination for all teachers working with the Roma community.
56. With regard to Roma children's access to upper secondary school and higher education, no concrete steps have been taken to introduce a grants system or other forms of support for Roma pupils wishing to pursue their studies at upper

¹⁸ Instruction No. 6 of 29 March 2006

¹⁹ Progress Report on the Implementation of the National Strategy for Improving the Living Conditions of the Roma Community, p. 28.

secondary level. The authorities have received very few requests for assistance in this respect, but indicate that they have responded favourably to all requests from Roma associations and that, as regards higher education, Roma students may apply for the grants available to all students from poor families. The authorities have also referred to recent initiatives to establish specific scholarships and quotas to support higher educational attainment of Roma students; ECRI notes this information with interest but considers it premature to analyse the impact of these initiatives.

57. The Albanian authorities do not systematically collect data on children's situation with regard to education and have no breakdown of the figures by ethnic group. A study conducted in 2007 among some 5,000 Roma children between the ages of 3 and 16 and their families nonetheless threw some light on the situation. According to the results of the study, only 13.5% of Roma children between the ages of 3 and 5 attend pre-school and 46.5% between the ages of 6 and 16 attend school. The figures vary greatly from one region to another: in Kuçova, the region with the lowest school drop-out rate, 26.5% of Roma children between the ages of 6 and 16 do not attend school; in Laç-Fushkruja, the percentage rises to 93.30% and in Peqin to 93.80%.²⁰ Overall, there is a 49.8% gap in the enrolment figures between Roma and non-Roma children in the 7 to 15 age bracket.²¹ From the age of 14 for boys and 11 for girls, over half of Roma children have already dropped out of school. 54% of Roma children between the ages of 6 and 16 have not yet successfully completed a single academic year, and 43% of Roma teenagers aged 15 or 16 are illiterate. In addition, some 70% of Roma children do not have all the textbooks and other materials they need for their studies, over 90% have no suitable place at home in which to do their homework and 70% state that their parents are not able to help them.²² Beyond the minimum school leaving age, only 12% of Roma between the ages of 16 and 19 attend upper secondary school, compared with a figure of 78% for the rest of the population, and only 2% of Roma go on to higher education.²³
58. Instances of direct racial discrimination at school are reported. Over 90% of the Roma pupils interviewed during the above-mentioned survey said they had been the targets of racist insults in school. About half of Roma pupils report that they are punished more often than the others and that their teachers call on them less frequently in the classroom and are less often inclined to assist them.²⁴ In some cases these experiences directly feed the phenomenon of so-called "hidden absenteeism", a term which refers to a situation where pupils are physically present in the classroom but unable to follow the lessons because their educational needs are not sufficiently taken into account by their teachers.
59. As ECRI noted in its third report, one of the factors underlying the non-enrolment of Roma children in school is failure to register many children in the civil register. The measures taken in recent years to facilitate the civil registration process are set out below.²⁵ Roma representatives point out that, in some cases, children who have benefited from the latter measures have nonetheless been refused access to school on the ground that they have not been vaccinated; ECRI notes that, although the authorities are aware of this problem, the issue does not yet seem to have been fully resolved. Roma

²⁰ Human Development Center, Educational Situation of Roma Children in Albania, Tirana, 2007

²¹ UNICEF, Breaking the Cycle of Exclusion: Roma Children in South East Europe, Belgrade, 2007, p. 50

²² Human Development Center, Educational Situation of Roma Children in Albania, Tirana, 2007

²³ UNICEF, Breaking the Cycle of Exclusion: Roma Children in South East Europe, Belgrade, 2007, p. 57

²⁴ Ibid.

²⁵ See below, Vulnerable/Target Groups – Roma: Civil registration

representatives also underline that the social and economic difficulties confronting the Roma in Albania, albeit significant, do not alone suffice to explain the problems encountered by Roma children in the field of education or their high drop-out rate; account must also be taken of proficiency in the Albanian language, an area in which access to pre-school education is of key importance.

60. As regards Albanian Egyptians, no specific study of their access to education has been carried out and no particular measures have been taken. The Egyptian community itself reports a number of problems in this field: although there is apparently no mass phenomenon of Egyptian children dropping out from compulsory schooling, relatively few of them continue their studies at upper secondary level and even fewer in higher education, since, on account of the economic difficulties with which the community is faced, many young Egyptians begin work from the age of 17, or even earlier. Like their Roma counterparts, Egyptian pupils are often to be found sitting at the back of the classroom; in addition, teachers generally have little understanding of the specificities of the culture of Albanian Egyptians and are consequently not always in a position to facilitate these pupils' integration within their classes.
61. In view of this situation, and despite the Albanian authorities' considerable efforts in the field of education in recent years, ECRI can but note that Roma children's access to education remains very unsatisfactory. In school, Roma children have to contend with direct discrimination and "hidden absenteeism". The number of Roma children attending school remains very much lower than that for children belonging to the majority population, and the vast majority of Roma children drop out of school well before the minimum leaving age provided for by law; generally speaking, their school results are disastrous and this has a devastating impact on their future choices in life and employment prospects. Dropping out of school also makes them particularly vulnerable to trafficking.²⁶ The situation of Egyptian children with regard to the school system, albeit less clear as there has not yet been any detailed study on the subject, also remains a cause for concern.
62. ECRI recommends that the Albanian authorities take all the necessary steps to ensure that no child is excluded from school for purely administrative reasons; to this end it recommends that they pay particular attention to the due implementation of the provisions permitting Roma children's enrolment in school even without a birth certificate, and refers in this context to its recommendations made elsewhere in this report regarding civil registration.²⁷ It also recommends that the Albanian authorities ensure that, if a child first attending school has not been vaccinated, the vaccination will be provided rather than the child being banned from the school.
63. ECRI recommends that the Albanian authorities step up their efforts to increase Roma and Egyptian children's participation in all levels of education. In this context it stresses the need to maintain, and possibly reinforce, the financial support measures for the most disadvantaged families; to continue raising parents' awareness of the importance of sending their children to school; to recruit and train teachers and school directors of Roma or Egyptian origin; and to provide special training for teachers to heighten their awareness of discrimination issues and of the needs of Roma and Egyptian children.
64. ECRI again recommends that the Albanian authorities ensure the implementation at local level of the measures developed under the National

²⁶ See below, Trafficking of Roma and Egyptian Children

²⁷ See below, Vulnerable/Target Groups – Roma: Civil registration.

Strategy for Improving the Living Conditions of the Roma Community in order to increase the participation of Roma children in all levels of education. It underlines the importance of enabling the involvement of Roma organisations at local level in the development and application of measures suited to their community's needs.

65. ECRI recommends that the Albanian authorities speed up the establishment and support the operation of pre-school facilities enabling Roma children to improve their proficiency in the Albanian language before they enter primary school; it also invites the Albanian authorities to support the implementation of non-governmental initiatives that have given good results in this field.
66. ECRI again recommends that the authorities ensure that there is no discrimination against Roma and Egyptian children in school.

Employment

67. According to the most recent figures provided by the Albanian authorities, the overall unemployment rate in Albania is 13.1%, but it is far higher for the Roma population.²⁸ Of the approximately 9,000 persons belonging to disadvantaged groups registered as jobseekers in Albania, some 3,000, or one-third, are Roma. However, the number of unemployed Roma is in fact far higher and they suffer especially from long-term unemployment. According to the Albanian authorities, factors such as the very low level of education of the Roma population,²⁹ their settlement in the poorest regions, discrimination and the ineffectiveness of the action taken have contributed to this phenomenon.³⁰
68. The Albanian authorities have indicated that there is no specific policy to combat potential forms of discrimination targeting Roma in the field of employment; from a legal standpoint, all those belonging to disadvantaged groups enjoy the same rights to protection and social assistance and are treated on an equal footing. The Roma can accordingly benefit from the various schemes implemented, for instance, in the field of vocational training and guidance if they belong to one of the priority groups already identified and on condition that they are registered as unemployed. Some interesting local-level initiatives have been taken but these are still thin on the ground and fall far short of the Roma community's real needs. They are also sometimes ill suited to labour market demands. Generally speaking, local authorities, which under the National Strategy for Improving the Living Conditions of the Roma Community are required to assist Roma with their integration in the labour market, have only rarely performed a detailed analysis of the employment situation of Roma coming within their jurisdiction, although such an approach is essential for devising and implementing effective measures.
69. While acknowledging that the Roma community is far from being the sole group concerned by problems of access to employment in Albania, ECRI draws the Albanian authorities' attention to the fact that the serious inequalities between this minority and the rest of the population, and the need to overcome these inequalities, show that policies in this area must be strengthened. ECRI notes with regret the authorities' insistence on formal equality in the employment policy field, although it is the only area of everyday life in Albania where the need to combat racial discrimination has at least been recognised through the

²⁸ See Progress Report on the Implementation of the National Strategy for Improving the Living Conditions of the Roma Community, p. 43. A World Bank study conducted in 2002, cited in this report, gave a figure of 71% for unemployment among the Roma population at the time, while the national unemployment rate was only 15.8%.

²⁹ See above, Discrimination in various fields - Education

³⁰ National Strategy for Improving the Living Conditions of the Roma Community, p. 20.

adoption of legal provisions affording remedies for individual victims of discrimination. It moreover recalls that positive action is sometimes needed to remedy de facto inequalities.³¹

70. ECRI strongly encourages the authorities to enhance their efforts to improve the employment situation of the Roma community and underlines that, in view of the endemic nature of the disadvantages the Roma encounter in the labour market, specific measures are necessary to eliminate the inequalities they suffer in access to employment.
71. ECRI recommends that the authorities periodically appraise the effectiveness of the measures taken to improve the employment situation of the Roma, review as necessary their system to monitor the impact of the measures taken, and, if need be, adapt these measures to increase their effectiveness.

Health

72. Although few detailed statistics are available in the health field, it is generally recognised that the Roma community is in a disadvantaged situation in these matters, as regards both individuals' state of health and access to care and treatment. According to some sources, Roma life expectancy is ten years lower than that of the rest of the population. Only 25% of the Roma state that they have enough money to buy medicine, in a national context where only 39% of the population has some form of health insurance cover.³² Measures have been taken to remedy these inequalities, notably by mapping the geographical distribution of Roma settlements and of health care centres throughout Albania and by establishing itinerant health care centres with the aim of reaching even the most isolated groups. A programme to immunise Roma children has also been launched, which is important not only to improve the children's state of health but also to facilitate their admission to school. However, not all Roma children have yet been vaccinated,³³ and doubts subsist as to whether children not entered in the civil register can really benefit from this scheme.
73. ECRI welcomes the progress made but notes that it is difficult at this stage to assess the impact in practice of the measures taken; in the light of the available information, it nonetheless seems clear that these efforts must be pursued.
74. ECRI strongly encourages the Albanian authorities to pursue their efforts to reduce inequalities with regard to health status and access to health care in Albania and to monitor the impact of these measures on the Roma population from the point of view of its members' state of health and access to health care, so as to adapt these measures and enhance their effectiveness if necessary.

III. Racist Violence

75. With regard to racist violence in Albania, it is difficult to obtain a precise idea of the situation due to the lack of comprehensive statistics on the application of the relevant provisions of the Criminal Code and of reliable data broken down by ethnic group. In the absence of such information there is unfortunately no

³¹ See also Permanent Court of International Justice, *Minority schools in Albania*, Advisory Opinion 26, PCIJ, Ser. A./B., No. 64, 1935, where the Court, referring to an earlier opinion, said, "There must be equality in fact as well as ostensible legal equality in the sense of the absence of discrimination in the words of the law.' Equality in law precludes discrimination of any kind; whereas equality in fact may involve the necessity of different treatment in order to attain a result which establishes an equilibrium between different situations."

³² See Progress Report on the Implementation of the National Strategy for Improving the Living Conditions of the Roma Community, p. 52, and World Bank (2003), *Albania Poverty Assessment*, p. 76, cited in UNICEF, *Breaking the Cycle of Exclusion: Roma Children in South East Europe*, Belgrade, 2007, p. 31.

³³ See above, *Discrimination in various fields - Education*

reliable basis for making a realistic assessment of the frequency of incidents of racist violence in Albania, taking effective preventive action against such violence and countering it when it arises. In this connection, it can be noted that, although acts of racist violence are rarely reported, that does not mean that no such acts are ever perpetrated, since victims are sometimes reluctant to come forward or to report the racist aspects of an offence because they feel ashamed, are afraid of reprisals or think it unlikely that any serious follow-up action will be given to this aspect of their complaint.

76. ECRI recommends that the Albanian authorities take the necessary steps to implement a system of full, systematic monitoring of all incidents which may qualify as racist violence and, in this connection, draws their attention to its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, in particular Part III thereof on the role of the police in combating racist offences and monitoring racist incidents. In this context ECRI also refers to the recommendations made in other parts of this report concerning monitoring of the situation in matters of racism and racial discrimination.

IV. Racism in Public Discourse

77. In its third report, ECRI recommended that the Albanian authorities impart to media professionals the need to adopt codes of ethics to combat reporting that fuels racism, discrimination and intolerance.

78. The main concern voiced by all non-governmental players with regard to the media in Albania is the lack of independence of some of the principal television channels, rather than issues of racist discourse. ECRI notes with interest, however, that a Code of Ethics for the audiovisual media was adopted in 2006, which covers, inter alia, the need for the media to respect opinions of all kinds while countering any form of discrimination on grounds of gender, race, nationality, language, religion or convictions. Complaints regarding breaches of the principles laid down in the Code can now be lodged with the Council on Media Ethics; it is nonetheless too soon for ECRI to assess the impact on the functioning of the media of the new Code and of the Council's competencies to deal with complaints regarding alleged breaches of the provisions of the Code related to discrimination.

79. ECRI recommends that, without interfering with the independence of the media, the Albanian authorities encourage the latter to ensure compliance with ethical standards, verify that the new Code of Ethics constitutes an effective means of combating all forms of racist discourse in the media and strengthen it if necessary.

Access to media

80. In its third report, ECRI recommended that the Albanian authorities inform media professionals of the need to strive to give adequate coverage to the daily lives, problems and concerns of members of minority groups. ECRI also recommended that members of minority groups be given adequate opportunities for access to the electronic and print media.

81. Some minority groups, such as the Greek and Macedonian minorities, have access to television channels, radio stations and print media in their mother tongue, but this does not apply to all minority groups. With regard to discourse in or by the general-interest media in Albania concerning the various minority groups living in the country, the Roma minority and the Egyptian community receive scant media coverage.

82. ECRI encourages the Albanian authorities to ensure that all the minorities and communities living in Albania are given the possibility of disseminating information on their cultures in the public media.

V. Vulnerable/Target Groups

83. To understand the various situations of the different minority groups in Albania, it is important to bear in mind that whereas the Greek, Macedonian and Serbo-Montenegrin minorities are recognised as “national minorities”, the Roma and Vlach/Aromanian minorities are recognised as “ethnolinguistic minorities”. The authorities have not recognised the Bosniac community as a national minority; moreover, they consider that persons belonging to the Egyptian community do not have a distinct language or kin-state and cannot therefore be considered as a minority.

Roma

- *Civil registration*

84. In its third report, ECRI strongly recommended that the Albanian authorities take steps to facilitate in a very tangible way the inclusion of Roma children in particular in the civil register, so that all children were registered.
85. Since ECRI’s third report, the impact of non-registration of children in the civil register in Albania, in particular as regards their access to social rights, has been mentioned on many occasions in reports by international or national bodies.³⁴ As stated above,³⁵ in 2006 the Ministry of Education and Science adopted a circular permitting Roma children to be enrolled in school without a birth certificate. In 2008 the Albanian authorities amended the legislation governing civil registration so as to eliminate the principal obstacles to registration of children outside the time-limit. It is now no longer necessary to initiate a court procedure to register a child’s birth after the statutory period has expired and fines are no longer imposed for late registration. It has been stated to ECRI that the new system is devised to provide incentives rather than to be repressive: the registration period has been increased from 45 to 60 days and, if the birth is registered within this sixty-day period, the family receives an ALL 5,000 bonus. According to information provided by the authorities, thanks to the new provisions, 6,926 children were able to be registered between 15 July and 15 September 2008.
86. ECRI welcomes these new measures, which should make it possible to settle a large number of cases. It nonetheless draws the authorities’ attention to other difficulties that may subsist, for example in the case of children born of parents who were themselves never registered, or in the event of the return from abroad of children not yet registered in the Albanian civil register who had left the country without identity documents. ECRI also stresses the need to inform all the relevant stakeholders of the new measures so that all children can benefit from them as soon as possible and thereby also enjoy improved access to social rights, for instance in the fields of education and health. ECRI has also been informed of a recent initiative of the Ministry of the Interior, within the framework of which administrative and legal procedures have been launched with the aim of allowing all Roma (especially children) who have not yet been

³⁴ See, for example, Committee on the Rights of the Child, Final observations: Albania, CRC/C/15/Add.249, 31 March 2005; Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Albania, ACFC/OP/II(2008)003, adopted on 29 May 2008; Annual activity reports of the Albanian Ombudsman.

³⁵ See above, Discrimination in Various Fields – Education

registered to be included in the civil register; ECRI hopes that this initiative will contribute in a tangible way to resolving the remaining difficulties in this field.

87. ECRI strongly encourages the Albanian authorities to continue their efforts with regard to the registration of children in the civil register and calls on them to take as soon as possible all the necessary measures to ensure that no child of Roma origin is without identity documents.

88. ECRI recommends that the Albanian authorities run information and awareness-raising activities targeting the Roma communities, in co-operation with their representatives and other relevant actors, so that all families are informed of the new measures in force.

- *Implementation of the National Strategy for Improving the Living Conditions of the Roma Community*

89. In its third report, ECRI urged the Albanian authorities to ensure that Roma were directly involved in all aspects of the implementation and evaluation of the National Strategy for Improving the Living Conditions of the Roma Community, notably through the regular participation of members of Roma communities and various Roma organisations active at local level.

90. Many measures implemented under this Strategy are described in other parts of this report.³⁶ The unit responsible for monitoring the Strategy's implementation, set up in 2004, has been attached directly to the Ministry of Labour, Social Affairs and Equal Opportunities and now has two staff members, including one Rom. It is tasked with establishing and maintaining contacts with the national and local authorities involved in implementing the Strategy and co-operating with the relevant international organisations and civil society, in particular Roma NGOs. As part of its activities aimed at guaranteeing that the Strategy will be taken into account by all the parties concerned and be implemented in practice, the unit has organised information campaigns and round-table discussion sessions; the unit has also indicated that, since Albania joined the Decade of Roma Inclusion in 2008, its co-operation network has been reinforced. The monitoring unit has also devoted a considerable share of its efforts to strengthening its monitoring capacities. Meanwhile, the Albanian authorities have indicated that work is progressing towards the adoption of a national action plan in the context of the Decade of Roma Inclusion.

91. Despite these efforts, Roma representatives point out that the policies announced in the Strategy have not been given sufficient concrete follow-up. Some representatives express the view that the progress report on the Strategy's implementation, published in December 2007, is more a litany of regrets than a description of achievements. The unit responsible for monitoring the Strategy's implementation still has very few resources compared with the workload created by the Strategy. The authorities have stated that efforts are under way, through the creation of an inter-ministerial working group, to give greater impetus to the work of the various ministries involved in the implementation of the Strategy and to improve their co-ordination; ECRI hopes that these efforts will rapidly bear fruit.

92. ECRI notes with interest the critical approach adopted in the Progress Report on the Strategy's implementation and considers that an approach of this kind is necessary to confront the difficulties encountered and move things forward. It also notes that the implementation of both the policies devised at national level and the projects supported by the international community often depends on the

³⁶ See, inter alia, the sections on Discrimination in Various Fields – Housing, – Education, – Employment, – Health.

goodwill of local authorities and on initiatives taken by the latter; in view of the scale of the problems with which the Roma are faced, ECRI considers that it could be helpful for the national authorities to reinforce not only the monitoring unit's resources but also the means used to bring local authorities to participate in tangible implementation of the Strategy.

93. ECRI recommends that the Albanian authorities pursue and intensify their efforts to ensure the implementation in practice of the National Strategy for Improving the Living Conditions of the Roma Community. To this end, it recommends that they consider means enabling the national authorities to take action beyond the confines of their traditional policy-making and co-ordinating role, so as to oblige local authorities to take account of the priorities laid down in the Strategy.
94. ECRI encourages the Albanian authorities to enhance the system for prioritising local projects aimed at remedying situations of indirect discrimination when allocating national grants and to envisage making it compulsory to take account of this priority in the grant application and award procedure.
95. ECRI recommends that the Albanian authorities further reinforce the resources allocated to monitoring the Strategy's implementation so that all the ministries and authorities concerned, and Roma representatives, are actively involved in all stages of the implementation process.

Albanian Egyptians

96. In its third report, ECRI urged the Albanian authorities to ensure that the principle of non-discrimination was fully respected with regard to Egyptians in Albania, particularly as regarded their participation in and access to official state institutions dealing with the needs and concerns of the countries' minorities, not least the State Committee for Minorities. ECRI recommended that the Albanian authorities devote specific attention to the problems faced by Egyptian communities and develop, in co-operation with these communities, measures targeted to their particular needs.
97. ECRI notes that the situation of the Egyptian community has changed very little since its third report. The community's request to be recognised as a minority and to be granted a seat in their own right in bodies such as the State Committee for Minorities continues to be turned down by the authorities, who argue that the existence of a kin state and a specific language are essential elements without which a community cannot be recognised as a national or "ethno-linguistic" minority. While the State Committee for Minorities has indicated its willingness to give all due attention to the concerns and interests of the Egyptian community despite the fact that there is no Albanian Egyptian member of the Committee, this is perceived as at best a provisional solution. The insistence of the authorities that it is impossible to recognise the Egyptian community as a minority reinforces the feeling of exclusion among Albanian Egyptians, who, while they assert their specific culture and identity, do not have the same opportunities to preserve and promote them as are afforded to the recognised minorities. From these standpoints, the Egyptians complain of being excluded from the country's political life and of being guaranteed no minimum media coverage in order to make their culture better known.
98. Moreover, although it is generally acknowledged that the Egyptians' economic and social circumstances place them at a far greater disadvantage than the majority population and that they often live in poverty, very little data are collected on the subject. There is no precise information on the situation of Albanian Egyptians with regard to access to housing, education, the labour

market and health care, just as there is no overall strategy to attempt to address these problems.

99. ECRI strongly recommends that the Albanian authorities ensure that Albanian Egyptians are not the victims of discrimination as regards their participation in and access to public institutions dealing with the needs and concerns of the country's minorities. To this end it recommends that they strengthen dialogue with the Egyptian community so as to identify solutions enabling them to play an active role in decisions concerning them and to foster an improved knowledge of their culture and identity.
100. ECRI again recommends that the Albanian authorities pay specific attention to the problems faced by the Egyptian community, conduct in-depth studies on this subject and develop, in co-operation with Albanian Egyptians, measures targeted to their particular needs, including measures to address any indirect discrimination or racism they experience. As mentioned in ECRI's third report, the Albanian authorities may wish to consider the adoption of a specific national strategy aimed at improving the situation of Egyptians in Albania.

Greek, Macedonian, Serbo-Montenegrin and Vlach/Aromanian minorities; Bosniac community

101. As stated above,³⁷ in Albania the Greek, Macedonian and Serbo-Montenegrin minorities have the status of "national minorities"; the Vlach/Aromanian minority is recognised as an "ethno-linguistic" minority because, like the Roma minority, it is considered not to have a kin state. Representatives of the Vlach/Aromanian minority have indicated that this difference in designation, albeit based on an objective criterion, unfortunately engenders within this minority a strong sentiment of being treated as inferior and the impression of being reduced to a linguistic identity alone. According to the authorities the fact that a minority is recognised as a national minority or an ethno-linguistic minority is in no way related to the scope of the rights conferred on it. ECRI draws the authorities' attention to the fact that the manner in which a group is designated can nonetheless have a significant impact on its members' sense of identity.
102. Bosniacs are not recognised as a minority in Albania. They argue that they are as well integrated in society as the Greek, Macedonian, Serbo-Montenegrin and Vlach/Aromanian minorities and wish to benefit from the same level of legal recognition as the minorities already recognised and, in particular, the same possibilities of access to education in their mother tongue.
103. ECRI notes that legislation providing for minority language education has been adopted and that there are classes taught in Greek and Macedonian. The authorities have indicated that the opening of classes or schools allowing education in the minority languages has been requested not only in the areas inhabited by a large number of people belonging to these minorities but also in the big cities, such as Tirana. Under the relevant legislation, at primary school entrance level 90% of classes are taught in the minority language and 10% in Albanian; the percentages are then gradually evened out so that, by the ninth and final year of compulsory schooling, 60% of classes are taught in the minority language and 40% in Albanian. The representatives of the various minorities nonetheless draw attention to a number of problems, for example difficulties of access to school textbooks in the minority languages or a lack of celerity in the application by educational authorities at regional level of orders issued by the Ministry; some minorities consider that the arrangements in place do not fully answer their needs.

³⁷ See above, Anti-discrimination bodies and other institutions - State Committee for Minorities

104. In April 2009, in his capacity as a representative of the public authorities, a mayor belonging to a national minority was sentenced at first instance to six months' imprisonment, an ALL 500,000 fine and a three-year ban on holding public office for having ordered the removal of road signs in the Albanian language, on the ground that that they were not also written in the minority language spoken by a large number of inhabitants of the region. ECRI notes that this decision is not final since the mayor has stated that he intends to appeal against it; whatever the outcome of this case, ECRI draws the Albanian authorities' attention to the fact that a clarification of the legal provisions governing the use of topographical indications in minority languages in Albania could contribute to good relations between the various minorities and the majority population; it refers to the conclusions of the Advisory Committee on the Framework Convention for the Protection of National Minorities on this subject.³⁸
105. ECRI recommends that the Albanian authorities reinforce their dialogue with the representatives of the Vlach/Aromanian minority and with the Bosniacs living in Albania so as to identify solutions enabling their specific demands to be better taken into account.
106. ECRI strongly encourages the Albanian authorities to pursue their efforts to promote education in minority languages and, in this connection, encourages them to reinforce their dialogue with the representatives of the various minority groups concerned so as to find the best solution in each case.

Migrants, refugees and asylum seekers

107. In its third report, ECRI recommended that the Albanian authorities continue to take the requisite steps with a view to taking over full responsibility for the asylum procedure. It also encouraged the Albanian authorities to ensure that the competent public officials continued to receive training concerning asylum procedure and asylum seekers' rights. It also strongly recommended that the Albanian authorities strictly comply with the principle of non-refoulement and that persons in need of international protection and assistance be given appropriate access. In this connection, it recommended that the Albanian authorities extend the pre-screening procedure to border areas and 'buffer zones' adjacent to them as swiftly as possible.
108. Albania receives few asylum claims: according to the figures provided by the authorities, 18 claims were lodged in 2005, 11 in 2006, 27 in 2007 and 13 in 2008. Applications are examined at first instance by the Directorate for Citizenship and Refugees at the Ministry of the Interior, whose decisions are open to judicial appeal. ECRI has been informed, however, that a high turnover amongst staff responsible for the asylum procedure and the lack of a legal specialist within the Directorate for Citizenship and Refugees have in some cases hampered the system's proper functioning. ECRI notes with interest the information provided by the authorities that a legal specialist has recently been appointed within the Directorate, and hopes that this appointment will contribute to improving the functioning of the asylum system.
109. The Albanian authorities took over responsibility for the pre-screening procedure, previously performed by the UNHCR, with effect from April 2006. The aim of this procedure is to identify persons in need of international assistance and protection (asylum seekers, trafficking victims, etc.) upon their arrival at the border and refer them to the appropriate procedure as quickly as

³⁸ Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Opinion on Albania, ACFC/OP/II(2008)003, adopted on 29 May 2008, observations relating to Article 11.

possible. Eleven provisional reception centres located near the country's borders have been refurbished, and support has been given to the National Centre for Trafficking Victims in Linza and the National Centre for Asylum Seekers in Babrru. Training sessions have been held for officials of the migration and border police to raise their awareness of the human rights issues that may arise, in particular the principle of non-refoulement, and assist them in mastering the new procedures. However, here too frequent staff changes have reportedly had a negative impact on the effective implementation of pre-screening procedures.

110. All asylum seekers who have insufficient resources to care for their own needs are accommodated in the National Centre for Asylum Seekers in Babrru. The legislation in force grants persons with recognised refugee status a number of rights in accordance with the Geneva Convention, not least the right to education, the right to work, rights to social protection and housing and the right to family reunification. However, not all the statutory or regulatory instruments necessary to the application of these provisions have been adopted as yet.
111. ECRI recommends that the Albanian authorities enact as soon as possible the statutory or regulatory instruments necessary to the proper functioning of the asylum system in Albania, ensuring full respect for asylum seekers' rights.
112. ECRI strongly encourages the Albanian authorities to pursue their training and awareness-raising efforts in respect of the migration and border police, so as to ensure that all the officials concerned master the new pre-screening procedures and are fully capable of guaranteeing respect for human rights and the principle of non-refoulement. In this connection it also recommends that the Albanian authorities give due consideration to the reasons for the reportedly relatively high turnover of staff working in the asylum and immigration field and take all necessary steps to ensure that new officials are quickly fully operational.

VI. Marginalisation and Neglect of Roma and Egyptians

113. In its third report, ECRI recommended that the Albanian authorities analyse the manner in which Roma and Egyptians may experience forms of indirect discrimination in different fields of life and assess the impact of negative stereotypes and prejudices towards these minority groups. It recommended that they take steps to ensure that Roma and Egyptian communities are not discriminated against through neglect by decision-makers and other public officials and stressed that targeted measures might be necessary in order to ensure that Roma and Egyptian communities benefit from equality in practice.
114. ECRI notes that, since its third report, numerous measures have been taken either under the National Strategy for Improving the Living Conditions of the Roma Community or in the more general context of measures to combat poverty and social exclusion. Despite these measures, ECRI remains deeply concerned about the extreme poverty and social and economic marginalisation of large numbers of Roma and Egyptians in Albania. As stated above,³⁹ many of them are living in precarious conditions, in dwellings that are often without access to potable water, electricity and sewer networks, and in areas with still very limited health care provision. Alongside extremely high rates of unemployment, the school drop-out rate among Roma children in particular remains disastrous, making them highly vulnerable to becoming victims of trafficking. While such problems are also shared by other segments of the Albanian population, Roma and Egyptians clearly experience such situations of extreme disadvantage to a disproportionate extent. In addition, the indifference

³⁹ See above, Discrimination in Various Fields – Housing, – Education, – Employment, – Health.

towards these communities shown by certain politicians - notably at local level - and their under-representation in the country's political and public life exacerbate their marginalisation and hinder resolution of the problems with which they have to contend.

115. Since ECRI's third report, an in-depth study of the educational situation of Roma children in Albania⁴⁰ has been conducted and has shown not only that they suffer de facto discrimination but also that they are affected by the consequences of prejudice and other exacerbating factors. However, this study remains an isolated initiative; overall, there are still very few clear data concerning indirect discrimination or the impact of negative stereotypes on the situation of Roma and Egyptians. As was the case during ECRI's previous visit, representatives of the Albanian authorities, however, emphasised on many occasions that, according to Albanian law, all citizens are equal and that Roma and Egyptians therefore have the same possibilities as any other citizen when it comes to access to social rights or any other sector of life; further, the conclusion was still frequently drawn that this means there is no discrimination in Albanian society. ECRI points out in the strongest terms that, in view of the different circumstances of different groups, purely formal equality or the neutrality of legislation on its face do not always suffice to guarantee different groups equal access to the same rights. To remedy de facto inequalities positive action is sometimes necessary. Although the National Strategy for Improving the Living Conditions of the Roma Community fits in with this logic, the difficulties encountered with its implementation⁴¹ are doubtless linked, at least in part, to the disinterest for such action shown by many of those concerned, including by key players.
116. ECRI underlines that, in view of the particularly disadvantaged situation of the members of the Roma and Egyptian communities, the problems with which they have to contend cannot be solved overnight but will require a long-term effort. In this context it is all the more important that all the players concerned clearly comprehend that what is at stake is the possibility for Roma and Egyptians to participate in Albanian society on an equal footing, a possibility they are currently denied despite the apparent neutrality of the legislation in force. It is equally essential that their situation and the impact of the measures taken should be monitored on a regular basis. This is indispensable, first, to allow the adoption of appropriate targeted measures, and second, to show both the majority population and the Roma and Egyptian communities that progress, albeit necessarily slow, is indeed being made.⁴²
117. ECRI reiterates its recommendation to the Albanian authorities that they analyse the manner in which Roma and Egyptians may experience forms of indirect discrimination in different fields of life. It again stresses that targeted measures may be necessary in order to ensure that the Roma and Egyptian communities benefit from equality in practice and urges the authorities to envisage adopting such measures whenever necessary.
118. ECRI urges national and local decision-makers and other officials to ensure that due attention is paid to the particular problems and needs of these communities in all fields of life and to guarantee their full inclusion in the country's economic, social and political life.

⁴⁰ Human Development Center, Educational situation of Roma children in Albania, Tirana, 2007.

⁴¹ See above, Vulnerable/Target Groups – Roma: Implementation of the National Strategy for Improving the Living Conditions of the Roma Community.

⁴² The issue of minorities' participation in decisions affecting them is dealt with below; see Participation of Minorities in Public Life.

119. ECRI again recommends that the Albanian authorities carry out research into stereotypes and prejudices towards these minority groups and consider adopting targeted measures to combat such stereotypes and prejudices.

VII. Participation of Minorities in Public Life

Participation in political decision-making

120. In its third report, ECRI recommended that the Albanian authorities take steps to ensure that minority groups, including Roma and Egyptians, are effectively registered to vote and represented within political decision-making bodies at national and local level.

121. The legislation governing registration on voter lists and minorities' representation in the Albanian Assembly is discussed above.⁴³ With regard to minorities' representation in political decision-making bodies at local level, ECRI notes that the situation varies considerably depending on the minority concerned. For example, persons belonging to the Greek minority hold office as mayor or regional prefect in the areas of Albania where the Greek minority is concentrated; members of the Bosniac community have also been elected to their municipal councils. However, with regard to Roma and Egyptians, no information has come to light that gainsays the analysis made by ECRI in its previous report that these groups are grossly under-represented in political decision-making bodies, even in municipalities and regions where Roma and Egyptians constitute a significant portion of the population; these minority groups are consequently not well placed to defend their interests at a political level. ECRI reiterates that the political under-representation of Roma and Egyptians – partly due to a certain lack of trust in political parties among members of these minority groups and to a feeling that the parties do not represent these groups' interests – may serve to reinforce the marginalisation of Roma and Egyptians and the neglect from which they suffer.

122. ECRI again recommends that the Albanian authorities take steps to increase the participation of Roma and Egyptians in political processes at local level and ensure that minority groups, including Roma and Egyptians, are effectively represented within local political decision-making bodies.

Representation in state institutions

123. In its third report, ECRI recommended that the Albanian authorities take steps to increase the representation of persons belonging to the countries' different minority groups within state institutions, including the public service, the military, the judiciary and the police, at both the national and local levels.

124. The authorities have again informed ECRI that there are no formal barriers that would hinder the participation of persons belonging to minority groups in state institutions; in this connection, they have also for instance argued that the very small number of Roma police officers could not be the outcome of any form of discrimination since the rules and procedures for joining the police are open and are the same for all Albanian citizens.⁴⁴ So far, few initiatives aimed at increasing minority representation in the public service, the military or the judiciary seem to have been taken; however, the Albanian authorities have acknowledged that awareness-raising campaigns to arouse an interest in employment opportunities with the police and, more generally, in the public service sector could help enhance Roma representation in these fields.

⁴³ See above, Existence and Implementation of Legal Provisions – Electoral law provisions.

⁴⁴ Progress Report on the Implementation of the National Strategy for Improving the Living Conditions of the Roma Community, p. 64.

125. ECRI recommends that the Albanian authorities step up their efforts to enhance representation of the currently under-represented minority groups in state institutions. These efforts should aim to arouse an interest in employment opportunities within such institutions; ECRI also invites the Albanian authorities to consider the possibility of taking positive action in this field.

Consultation and involvement of persons belonging to minority groups

126. In its third report, ECRI made a series of recommendations aimed at ensuring that different segments and interests within minority groups are consulted and are able to participate in decision-making at national and local level.

127. With regard to consultation and participation at national level, ECRI refers to its analysis of the situation earlier in this report.⁴⁵ Under the National Strategy for Improving the Living Conditions of the Roma Community, efforts have been made to reinforce grassroots Roma associations' capacities with regard to representation of their communities' interests and to programme management; Roma associations were also involved in the preparation of the Progress Report on the Implementation of the National Strategy for Improving the Living Conditions of the Roma Community, in particular via consultation and discussion processes. ECRI notes with regret that, despite these efforts, Roma associations still consider that their proposals are not duly taken into account, that local authorities' priorities disregard the Roma communities' needs and that they are excluded from the decision-making process; the decisions taken are still often incomprehensible for Roma associations. ECRI underlines that dialogue must be further reinforced at all decision-making levels; although it is clearly not possible for all communities' wishes to be granted all the time, enhancing their possibilities of influencing decisions can improve both the quality of these decisions and the prospects of arriving at solutions acceptable for all concerned.

128. ECRI encourages the Albanian authorities to pursue their efforts aimed at reinforcing Roma associations' capacities with regard to representation of their communities' interests and to programme management.

129. ECRI recommends that the Albanian authorities strengthen their dialogue with the Roma and Egyptian communities to ensure that greater consideration is given to their concerns at all levels.

130. ECRI again recommends that the Albanian authorities encourage and support the involvement of minority groups and grassroots organisations in the development, implementation and evaluation of projects and measures that directly affect them.

VIII. Trafficking of Roma and Egyptian Children

131. In its third report, ECRI recommended that the Albanian authorities continue and reinforce their efforts to combat the trafficking of children at both the national and the local levels and establish a structure to co-ordinate these efforts. It emphasised the need to devote sufficient attention and resources to awareness-raising, prevention, return of missing children, post-return victim protection and care, as well as reintegration. ECRI strongly recommended that representatives of Egyptian and Roma communities be directly involved in developing and carrying out such measures.

⁴⁵See above, Anti-discrimination bodies and other institutions - State Committee for Minorities.

132. ECRI remains deeply concerned about the phenomenon of trafficking in Albanian children with a view to their exploitation, which it described in its third report on Albania and of which a disproportionate number of victims are Roma and Egyptian children. ECRI notes with interest that, since its third report, Albania has signed and ratified the Council of Europe Convention on Action against Trafficking in Human Beings, which entered into force on 1 February 2008. The authorities have also strengthened the criminal law provisions against trafficking and adopted measures to afford enhanced protection to victims. However, local authorities and the social services are still too little involved in these efforts, and children remain vulnerable to the phenomenon of exploitation and trafficking. This applies in particular to those who do not attend school, are illiterate and have no identity documents - a situation which disproportionately affects Egyptians and, above all, Roma.
133. ECRI encourages the Albanian authorities to continue and reinforce their efforts to combat the trafficking of children. It strongly recommends that the authorities directly involve representatives of the Egyptian and Roma communities in developing and carrying out measures aimed at combating the trafficking of their children so as to develop effective information and awareness-raising initiatives as well as to devise effective preventive measures.
134. ECRI strongly encourages the Albanian authorities to raise awareness among local public officials and the relevant social services with regard to their responsibilities in this field, ensure that they have sufficient resources to fulfil their responsibilities effectively and provide them with targeted training preparing them to assume these responsibilities.

IX. Conduct of Law Enforcement Officials

135. In its third report, ECRI made a number of recommendations concerning the conduct of law enforcement officials, in particular that all allegations of police ill-treatment of members of minority groups should be thoroughly investigated by an independent body. It underlined that allegations of ill-treatment by the police which are brought to court should be dealt with rapidly and thoroughly, and the perpetrators appropriately sanctioned. It also recommended that the Albanian authorities ensure that human rights training and training in prevention of racism and discrimination are included in the initial and in-service training dispensed to the police.
136. The Albanian authorities have pointed out that significant reforms of police training have been implemented. Since 2005, new recruits have been required to undergo 22 weeks' theoretical training, which obligatorily covers questions of ethics, diversity and respect for human rights, not least with regard to countering discrimination, followed by 22 weeks' practical training, during which the way in which they put their theoretical knowledge into practice is assessed.
137. ECRI notes that about 10% of complaints lodged with the Ombudsman's Office concern the police and that all complaints about police conduct are dealt with thoroughly by the Ombudsman.⁴⁶ It also notes that, during its delegation's visit in 2008, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) observed a number of significant improvements, although, as regards ill-treatment by the police, the indication at this stage was simply that the general trend suggested the beginning of an improvement.⁴⁷

⁴⁶ 274 out of 2,792 complaints processed in 2007; 215 out of 2,555 in 2006; see the Ombudsman's annual activity reports.

⁴⁷ CPT/Inf(2009)6

138. ECRI welcomes these positive steps but regrets that, since there is no collection of data on persons coming into contact with the police, analysed according to their ethnic or national origin, religion, language or nationality, it is impossible to assess how the measures taken affect the various groups. It also regrets that no progress has been made towards the introduction of a system guaranteeing that all allegations of ill-treatment by the police will be subject to a thorough investigation by an independent body. It points out that members of minority groups are often reluctant to file complaints against law enforcement officials and, in this connection, draws attention to a lack of trust in the judiciary and the police among the Roma, as mentioned in the progress report evaluating the implementation of the National Strategy for Improving the Living Conditions of the Roma Community.⁴⁸ This lack of trust may also be due, in the view of some members of minority groups, to the corrupt practices of some civil servants.
139. ECRI recommends that the Albanian authorities ensure that all allegations of police ill-treatment of members of minority groups are thoroughly investigated by a body independent of both the police and the prosecuting authorities and that perpetrators of criminal acts are brought to justice. It stresses that such allegations should be dealt with as rapidly and thoroughly as possible, and perpetrators appropriately sanctioned, in order to transmit the message to society that such behaviour on the part of the police is not tolerated and will be punished. It draws the authorities' attention to its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.
140. ECRI strongly encourages the Albanian authorities to pursue their efforts to ensure that training in human rights and respect for diversity is part of the initial training dispensed to all police officers and that such training covers information on racism and discrimination and the legislation applicable in these matters. It also recommends that the authorities ensure that these issues are dealt with as part of police officers' in-service training.

X. Monitoring Racism and Racial Discrimination

141. In its third report, ECRI recommended that the Albanian authorities, first, carry out a national census including a question pertaining to ethnic origin and, second, establish a monitoring system that enables the collection of information about the situation of the various minority groups, an assessment of the scale and the causes of discrimination and the evaluation of the measures intended to combat it. It stressed in this context the need to pay due respect to the principles of confidentiality and voluntary self-identification.
142. For various historical reasons, no question relating to ethnic origin was included in the most recent census, carried out in 2001. The most recent official statistics therefore date from the previous census, performed in 1989, and contain precise indications only with respect to the Greek, Macedonian, Serbo-Montenegrin and Vlach/Aromanian minorities. Moreover, the accuracy even of this information is strongly contested by certain representatives of these minorities. Nor are any data collected on access to rights by the various minority groups present within the country. The authorities consequently have no precise information on these minorities' situations and it is difficult for them to devise targeted measures to improve the situation of certain groups and monitor the effectiveness of the action taken.

⁴⁸ See Progress Report on the Implementation of the National Strategy for Improving the Living Conditions of the Roma Community, p. 63.

143. ECRI is aware that collection of ethnic data is a sensitive issue. It underlines that compiling ethnic statistics in order better to identify problems of direct or indirect racial discrimination and to devise appropriate solutions thereto is of value provided that certain essential rules are complied with - the data collected must be anonymous, confidential, be used solely for the purposes for which they are collected and be gathered on a basis of voluntary self-identification.
144. ECRI again recommends that the Albanian authorities carry out a national census including a question pertaining to ethnic identity, while respecting the principles of confidentiality and voluntary self-identification; it strongly recommends involving representatives of ethnic minority groups in the different stages of this process.
145. ECRI reiterates its recommendation that the Albanian authorities establish a complete, coherent system for the collection of data enabling an evaluation of the situation of the various minority groups in Albania and an assessment of the scale of direct and indirect discrimination. In this connection, it recommends that the authorities envisage collecting data broken down by categories such as national or ethnic origin, religion, language and nationality so as to identify manifestations of discrimination, ensuring that collection of such data is in all cases performed in accordance with the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. This system should be devised in close co-operation with all the relevant actors, including civil society organisations. It should also take into consideration the possible existence of cases of double or multiple discrimination.

INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations for which ECRI requests priority implementation from the Albanian authorities are the following:

- ECRI reiterates its recommendation that the Albanian authorities strengthen the legal framework in the field of civil and administrative law by introducing comprehensive legislation aimed at combating discrimination, both direct and indirect, in all key fields of life. In this connection it refers to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.
- ECRI strongly recommends that the Albanian authorities move forward with the implementation of tangible measures, in consultation with the communities concerned, to ensure that each Roma family has access to decent accommodation, including through the connection of Roma settlement sites to the electricity, drinking water, sewer and road networks. It recommends that the authorities fix clear and ambitious targets in this respect for at least the next two years and publish regular reports on progress made.
- ECRI recommends that the Albanian authorities speed up the establishment and support the operation of pre-school facilities enabling Roma children to improve their proficiency in the Albanian language before they enter primary school; it also invites the Albanian authorities to support the implementation of non-governmental initiatives that have given good results in this field.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.

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