

0908213 [2010] RRTA 80 (18 February 2010)

DECISION RECORD

RRT CASE NUMBER: 0908213

DIAC REFERENCE: CLF2009/80673

COUNTRY OF REFERENCE: Albania

TRIBUNAL MEMBER: Lilly Mojsin

DATE: 18 February 2010

PLACE OF DECISION: Sydney

DECISION: The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who claims to be a citizen of Albania, arrived in Australia [in] May 2009 and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa [in] June 2009.
3. The delegate decided to refuse to grant the visa [in] September 2009 and notified the applicant of the decision and his review rights by letter [on the same date]. The delegate refused the visa application on the basis that the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.
4. The applicant applied to the Tribunal [in] October 2009 for review of the delegate's decision.

RELEVANT LAW

5. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.
6. Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol Relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
7. Further criteria for the grant of a Protection (Class XA) visa are set out in Part 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

8. Australia is a party to the Refugees Convention and generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:
owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.
9. The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji*

Ibrahim (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1 and *Applicant S v MIMA* (2004) 217 CLR 387.

10. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.
11. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
12. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
13. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.
14. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.
15. Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.
16. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence.

17. Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

CLAIMS AND EVIDENCE

18. The Tribunal has before it the Department's file CLF2009/80673 relating to the applicant's Protection Visa Application (PVA) and a decision by the Department sent to the applicant [in] September 2009.
19. In his PVA the applicant stated that he was born [in] 1985 in [Town A], Albania. He states that he is an ethnic Muslim Albanian who is able to read, write and speak Albanian and Greek. He lived in Athens, Greece from August 2006 to April 2009 and he departed Greece for Australia. He worked for 2 years in Greece as the holder of a working visitor visa. He said that he worked as a store employee. He lost his job a few days before he came to Australia.
20. In a statement attached to his PVA the applicant states that:

I was born in [Town A]-ALBANIA on [date]; my father was born a Muslim but joined the communist party at an early age and became very committed and loyal to communism. My mother was born Christian but like my father she joined the communist party and was very active and supportive of that undemocratic party.

My parents were not liked in our village because of their loyalty and commitment to communism. The feelings of these people changed to hate after the fall of communism in Albania. Many people accused my father of passing information about them to the Albanian communist authority, and in causing the imprisonment of their children because they did not support communism.

When the communist Regime in Albania collapsed in 1991 a plan of revenge and destruction started in Albania in the name of the fight against communism. Dozens of the factories, hospitals, social and cultural organizations, warehouses were robbed and destroyed. In many regions of the country the graves of the fighter of the national liberation war were destroyed. The memorials to the heroes and heroines of the people in all of Albania, including the memorial of the legendary Enve, Hoxha were torn down.

The people in our village [Village A] after the fall of communism treated my parents, myself my brothers and my sister in a very bad way. They called us names, throw rubbish at our home, wrote slogans against us on our home's wall, and many times when I was young I was beaten up. My brothers and sister were also beaten up. We were treated like disease, no kids wanted to play with us or be our friends. We were always called "the children of the dogs".

During the years in which the Democratic Party Government has been in power, the former communists, the heroes of the people, the political opposition have been slandered, persecuted and imprisoned. There was the tragic death in prison in Tirana of Shefqed Peci, the hero of people, the former chairperson of the National committee of veterans of the Albanians liberation war.

There was also the tragic imprisonment of former Albanian state president Haxhi Lleshi, hero of the people and of the anti-Fascist war. Also the imprisonment of Nexmije Hoxha, widow of Enver Hoxha and the former chairperson of the democratic front of Albania and former fighter in the Albanian war against fascism. The remains of heroes of the people, the commanders and commissars of the war were torn out of their graves. The anniversary of the liberation of Albania from the Nazi fascists, November 29, 1944, for which 28,000 partisan men and women gave their lives, has been stricken from the calendar.

My father was questioned and detained many times by the new secret police; they humiliated him and insulted him just because he was a leader and an activist during the communist regime. My father loved Albania and the people of Albania and at that time he thought he was doing the right thing for Albanian and its people, but be assured that he never hurt anybody and he always helped the others.

I could not continue my education because of the harassment against me at school. I stopped going to school at the age of sixteen years old. For five years I did not find employment in our village because of my parents' past.

When I turned twenty one years old I decided to leave Albania and find a more secure and respectable life somewhere else. After I obtained my passport I left for Greece where I thought my life will be better, where I will be treated equally to any one else, where I enjoy the basic human rights and live with dignity, but my dreams disappeared quickly not long after entering Greece.

For the government and people of Greece, the Albanian migrants in Greece are thieves, criminals and should be sent back to Albania, they ignored the fact that these migrants are mostly political refugees and are in need of assistance and support, and not persecution and ill treatment. Because of the political pressure on Greece from the E.U and the United Nations some Albanians were given work permits with temporary residence visa. I was lucky to be one of those people and obtained a work permit, but this did not mean that I was given a fair wages or worked the daily working hours. My salary if I worked was 20% of the normal salary which was given to the Greek people and I worked double the hours which the Greek people worked.

It is well known that every few months the Greek authority follow the method of massive expulsions of Albanian without any reason. Just before I left Greece to come to Australia I lost my employment for no reason, and because I do not have a job my visa will not be renewed. The police in Greece treat every Albanian as a criminal, the police if they stop you in the street and ask you for identification, and when you give them your passport they tear the page where you have a visa, and if you give them your Albanian identity card they tear it as well, and then they arrest you, accuse you of entering Greece illegally and them deport you back to Albania. Of course when you get deported, you do not take with your personal belonging, money or any document belongs to you.

Many cases of merciless beating of Albanians occurred inside the police stations or detention centers.

In Jan 2009, I was stopped by the police in the street at night after I went out for coffee in a cafe and because I did not have any identity card on me I was taken to the police station where I was beaten heavily, and when they were preparing to expel me form the country I managed to make a phone call from a mobile phone belongs to another person in detention, I called my friend who lived with me and told him to bring my passport to the police station where I was detained.

When my friend brought my passport I was released but the police took all the money which I had in pocket and which was to pay all my expense till the end of month . I was told by the police if I get arrested again I will imprisoned and be deported after that.

In March of this year (2009) there was attack on an immigrant cleaner. Acid was thrown at the immigrant. A protest march was organized, but things went ugly and the demonstrators clashed with the police. After that the police were very aggressive and rough with every immigrant in the street of Athens. For a week I stayed at home because of the fear of being arrested or beaten by the police.

Being an Albanian in Greece is like being an American in CUBA or in the streets of Baghdad. My physical looks show that I am an immigrant, an Albanian. These looks caused me all the pain and humiliation in Greece. Many times I was called "Terrorist" "Criminal" "Thief " "Animal", and told to go home from wherever I came from.

I left Albania my home country because of the political discrimination against me just because I am the son of an ExCommunist parent. I left Albania because the discrimination destroyed my social, economical life and mental health and made me a second class citizen in my own country.

I left Greece and came to Australia to seek refugee in a real democratic country where human rights are respected and protected. I left Greece because I faced racial discrimination due to my Albanian background. I left Greece and came to Australia because I was under the continuous threat of being deported to Albania where also I will face persecution.

I cannot go back to Greece because I lost my job and my visa. I cannot go back to Albania because the persecution which I will be subjected to because of my parents political past, and because of my mother's religion. As I have mentioned before my mother is Christian and the Muslim Albanians do not like

or have any respect for the Christians. Currently there is a big movement in Albania to go back to the religion of Islam which was suppressed under communism. Albanians who are returning to Islam are becoming fanatic and extremists.

The authority in Albania cannot protect me because most people who are in power are against everything belongs or related to the Ex-Communist regime. Since the fall of the communist Government in Albania a policy of anti Ex- Communism is been carried out. The current Government talking now about exposing the secret police who were employed in Albania during the communist regime. The government wants to punish those people who assisted the communist Government then. Opening the files of these secret police or informants will start a civil war in Albania because it is well known in Albania that there were one in four people who worked for the secret police. All these issues will affect my parents and me if I go back to Albania.

My life in Albania will be in danger if I go back for the reasons I mentioned above. The people who are against communism or suffered during the communist regime will be the ones who will hurt me and may be kill me. The authorities in Albania will not protect me because the people who are in power and control the government are the ones who are against people like me, and they are the ones who will persecute me.

21. At a Department interview held [in] September 2009, with the assistance of an Albanian interpreter, the applicant said that he has not been known by any other name except [name deleted: s.431(2)]. His brother [name deleted: s.431(2)] lives in Australia. He said that he went to Greece in February 2006. His sister, father and mother continue to live in the village. His father worked in a government office until 1991. When asked if his father had a government pension he responded that they do not give a pension to people like that. When asked how his family survived he said that his father worked on a farm and around the house. The applicant said that his father would get money from other people, he would beg. The applicant said the family moved from [Town A] to [Village A]. The delegate put to the applicant that they moved prior to the fall of Communism in 1991 and the applicant said that they moved in 1990/1991. When asked why they moved to [Village A] he said that the village is close to the city.
22. In relation to his passport the applicant told the delegate that he went to Albania in August 2007 when his mother was sick and he returned to Greece. When asked if anything happened to him he said that when he went there, he stayed with his father and his sister. The applicant acknowledged that in 2008 he went to Albania again. He said that the purpose of the trip in 2008 was to see his mother again. The applicant confirmed he was never arrested by the police in Albania but they arrested his father many times. His father lives still in the village.
23. He said that the government does not protect people. After 1990 they did not like his father. He was put in jail many times, for 5 or 10 days but they dropped the charges against him. When asked why he would suffer serious harm if he returned he said that if he goes back there is no-one to protect him. He said that he might die or be put in jail or be bashed. When asked if anyone had bashed him previously he said that at school they did not like him, his brother and sister were bashed too. The delegate put to the applicant that the information about Albania does not suggest those persons who were formerly associated with the communist government suffer harm now and whilst initially people were put in jail they are not anymore. He said his father was a communist from when he was 19 years of age and the communists did bad things. He said that his father and mother do not like being called names. The family were called "dogs" His mother is Christian and his father was in a high position. People in [Village A] are all Muslim and they did not like his mother. The delegate asked why they stayed in [Village A] for 20 years if they were being beaten and called names all the

time. The applicant said they had nowhere else to go. His father does not get any pension from the government.

24. The applicant could not find a job in Albania and so when he was 20 years of age he went to Greece. The Greek police did not like them and the Albanians were paid 20% less. The delegate informed the applicant that what happened to him in Greece was not relevant to his claims. The applicant claims that he cannot return to either Albania or Greece.
25. The delegate refused the visa finding that the applicant was able to return to Albania and relocate to another village. The independent information relied upon by the delegate in support of the decision to refuse the applicant a protection visa is:
 - *Country Reports on Human Rights Practices 2008 - Albania, Bureau of Democracy, Human Rights, and Labor, US State Department, March 2009*
26. I have had regard to the evidence contained in that report as is relevant to the present application.
27. In his appeal to the Tribunal the applicant said that:

The case officer was wrong when stated in item 7 - Reason and Findings - in the third paragraph of page 4 "that it is open to him to return to Albania and relocate to a village, town or city apart from [Village A] where his personal background might not be so readily known, and so escape any stigma he feels may continue to derive from his family background. This statement from the case officer is completely wrong and not acceptable because of firstly, the case officer said "MIGHT" and this word confirmed that if I go back to Albania and settle in any place other than "[Village A]" I will for sure not be recognized and resulting in the continuation of the persecution which I faced in Albania before departing it and seeking safety and security in Greece then in Australia.

In the same statement the case officer was also mistake as my family and myself already moved from our town "[Town A]" to "[Village A]" seeking safety and running away from the persecution which we all faced in "[Town A]" after the collapse of the Communist regime.

Another important issue was also ignored by the case officer which she admitted in page 3 under the headline, " is the harm feared for a convention reason?" that my claim arises for the convention reason of political opinion and in another part of her letter that members of the Albanian Communist Party were persecuted after the collapse of the Communist regime in Albania. After the fall of Communism in 1991 myself and siblings were harassed, treated like criminals, forced to isolation, deprived from any income especially my father's pension, and the detention of my father on several occasions. All these issues affected me psychologically and left a beg scar in my mind and feelings. I left school at an early age as I could not take any more harassment from other students at my school. My parent's political opinion affected my life, education, my career and future. I did not move to another town to escape persecution as the case officer suggested, I left Albania as a whole to look for safety, security and respect for what I am. The case officer neglected the fact that the pain and suffering I faced in my childhood will never go away and I will never be healed from it if I live in Albania. The persecution was so strong and hurtful and I need to live in a secure and safe environment for forget the trauma I suffered while I was living in Albania.

The case officer was also wrong in her finding when she stated that there was no evidence to support a claim of an ongoing campaign against individuals or families with links to the former communist regime. In my applications for Protection Visa I have attached reports from International and Independent News Agencies about opening secret Communist - era files. This move will affect thousands of Albanians including my parents who were committed and dedicated communists and reports any activity committed by other Albanians and considered against the Communist regime. The threat of opening these files and persecuting the excommunist is still on the table and might happen any day. Please see attached document "Albania opens Secret Communist Files".

Opening these files in any day is contrary to what the case officer mentioned in her decision of refusal when she said that "there is no evidence to support a claim of an ongoing campaign against individuals or families with links to the

former communist regime", and that means I will not get any protection from the Albanian Government as the Government who want to persecute ex-Communists.

Another important factor which the case officer did not mention is that my life in Albania will not be secure and safe for another reason which is the rise of the fanatic and radical Muslims who are against the ex-communists and non Muslims. I face persecution from these Islamists as my mother is Christian and I do not follow Islam as required by the Quran and teaching of Islam. I was brought up by two communist parents who did not believe in any religion even my father calls himself a Muslim and my mother calls herself a Christian. Being a son of an excommunist Christian woman and myself did not follow Islam means the Islamists will consider as an infidel and an enemy. These extremists fanatic Muslims do not stop at any means to pursue their goals and target. They are brutal and they eliminate any person whom they know that he/she is not following their teaching or considered by them as an enemy to their aims and believe. Please see attached document "Blood Feuds Trap Albania in the Past", and the document which has the article "Albania: Imam Killing exposes Muslim Divisions".

The war in Kosovo opened the doors of Al-Qaeda members and other Jihadists to enter Albania and establish bases there. These fanatic Jihadists are on a campaign to teach Islam and fight non Muslims, in Albania. Please see attached document "Albania and the Perils of the 21st Century". This document shows that Albania is not a safe place for me because of my non-religious beliefs and my family's past which connects me to communism.

28. The applicant also submitted a number of articles to the Tribunal being:
 - Bloods Feuds Trap Albania in the Past – an article about the Kanun
 - Albania Opens Secret Communist Files – Albania voted to open secret communist files to screen candidates for office. The new law denied public office to ex-members of those that ordered violence during the previous regime
 - Albania: Imam Killing Exposes Muslim Divisions – information in relation to the shooting of an Imam in 2003
 - Albania and the Perils of the 21st Century – discusses the rise of Islam
29. The applicant appeared before the Tribunal [in] December 2009 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Albanian and English languages. The applicant confirmed that he understood the interpreter and he did not, at any time during the hearing, suggest that he did not understand the interpreter.
30. A detailed summary of the evidence given by the applicant is provided below. It is not a transcript.
31. The applicant said that he was born [in] 1985 in [Town A]. His father was born in [Town A]. His grandparents are not alive. His mother was born in [location deleted: s.431(2)], near [Town A]. The family left [Town A] in 1991 because of the communists and racism. His father held the position of secret agent working for a Minister. His father did secret service work. It was known at the time who worked with the communists.
32. The family moved to [Village A]. His family moved there because after the downfall of communism his father became hated. I asked again why they moved to [Village A] and he said that they knew it was a place that had been stronger communists and it was further away from the north. The family rented 500 square metres of land and later built a house. They bought the house in 1994. His parents still live there with his sister. His sister is not married and no one is employing her. His father is unemployed and has been unemployed since 1991.

His father supported the family on basic means by loans and then working his land. His father had money and bought land. I put that there are lots of families that have a subsistence living in Albania He said for the most part those people were pursued because of political issues.

33. I put to the applicant that the independent evidence before me indicates that Albania remains the poorest transition economy outside the Commonwealth of Independent States (CIS) and more live in extreme poverty. I put to the applicant that this information did not suggest that the poor were former communists. He said that it is a poor country and they suffer because of poverty but in his situation it was the direct result of communism. His parents experience was because they were communists and not able to obtain a pension and they were arrested by the secret police. His parents were imprisoned. In 1995, 1998 and 2002 his father was imprisoned for activities pre-1991, he was interrogated and kept for a week or a month. I asked why and he said the secret police wanted him to expose the secrets. His father was listed on a police file. I put to the applicant that the independent evidence did not suggest the new Albanian government pursued low profile former communists. He said it did not fade after 1991 and people were still questioned. I asked what his father did about it and he said there were no rights. He did not complain to anyone. I put to the applicant that the Albanian Ombudsman was appointed in 2000. He agreed that the Ombudsman was available but no-one would take him on. It is like a known criminal being followed by the police. His father is under continuing surveillance by the secret police. I suggested to the applicant that this was an expensive exercise for the Albanian police for a person who did not have a high profile as a communist.
34. I put to the applicant that the former Communist Party became the Socialist Party in 1991. I put to the applicant that between 1997 to 2005, Albania was ruled by the Socialist Party (PS). I put to the applicant that the claimed arrests of his father in 1995 and 2002 would not have happened as the Socialists were in government. He responded that there are several others who had those experiences.
35. The applicant confirmed that after 2002 nothing happened to his father. The applicant left Albania in 2006 to work. He returned to Albania on a number of occasions because of his mother who needed medical assistance at a hospital in [Village A]. The applicant said that she had to go to a private doctor. It is not free The applicant confirmed my view that his mother was not refused medical assistance. Her medical treatment was paid by the applicant and brother in Australia.
36. I put to the applicant that nothing happened to him when he returned from Greece. He said that he would go out during the night and he was not visible during the day because they were always known as 'kids of dogs' They were bullied and maltreated. I asked why his parents did not move and he said they had no money. It was not bad enough and quite dangerous for the children.
37. I put to the applicant that I considered it implausible that his father had no political profile yet 2 different Albanian governments arrested and detained this man. He disagreed. The applicant told the Tribunal that he was neither Christian religion nor Muslim. I put to him that it is common in Albania that Albanians are of mixed Catholic/Muslim religion or do not have a religion. He disagreed.
38. I put to the applicant that there was no independent evidence before me to suggest that the government wants to punish people who assisted the formed communist government. He responded that he does not know, they break windows on his house and scream out they are

dogs, this still goes on. I asked why he and his brother did not pitch in and buy them some where else to live. They cannot afford to assist his parents to get out of a situation which is most distressful and dramatic for them. He worked for a supermarket and had difficulty to make ends meet. His brother came to Australia in 2002.

39. I put to the applicant that by returning to Albania from Greece suggested he did not have a subjective fear of harm. He said that it was desperate circumstances he was going through
40. I asked why he cannot go back to Albania now and he said that for Albanians living in Greece it is like living in Cuba. He cannot go back to Albania because he would end up shot imprisoned or incapacitated with no means to live because his parents were Communists. I put to him that he went back on a number of occasions. He said he was very careful. He said that the people who were maltreated under the Communist regime hold that grudge against him even though his father cared about the people.
41. I put to the applicant that inter religious marriage in Albania is common and there is no societal discrimination of those people or their children. He responded that in the place where he lived the majority of the population is Muslim and he was called all sorts of names. They consider his father to be a non religious person.
42. I put to the applicant that he would not suffer harm for his mother's religion or coming from a mixed family. He said that not if you isolate that from the other things. Up until 2002 it occurred but the pressure from the people continues.
43. I put to the applicant that employment was difficult to find when he finished school for many especially those who had not finished school and had little or no tertiary education. He said no one would employ him as soon as they knew his father and I put that they did not employ others. I put that reduced employment rates in the 1990s were a result of declining public sector employment mainly due to mass privatisation of state-owned enterprises. Youth and long-term unemployment rates in Albania are relatively high. Youth unemployment could be attributed to the rapid population growth in previous decades and the fact that severe contraction and lack of new opportunities in the public sector prevent many young people from finding jobs. He said that if we put that aside, the people constantly hound us.
44. I put to the applicant him that he could go and complain to the police. He said that he complained to the police during school and everyone hated them and they were bullied. No one was interested. I put to him that he did not inform the Department in his PVA that he complained to the police. He said that they did not ask him. I put to the applicant that there was an Ombudsman who investigates abuses of public authorities. He said that it is not like complaining about job treatment and he said it is about revenge killings. He said he cannot speculate what will happen if he returned.
45. I put to the applicant that the police were improving and that whilst I accept that there is corruption in the police force, the independent evidence does not suggest that he would not receive protection. He said that they received no government support. I put that does not suggest protection was withheld from former Communists or their children. He said they have never had that protection. They are targeted people. I asked him when his brother went back to Albania and he said it was in 2007 and he stayed 10 days only.
46. I discussed with the applicant a number of articles he had submitted to the Tribunal. In relation to the article about Blood Feuds, the applicant said that there are blood feuds against

his mother and dad for what they have done. But he said it is not announced as such. They are a source of revenge. It is a blood feud between one person and another and some people still practise it and against them there is no Kanun but the threats and constant slurs and beatings point to a serious risk.

47. In relation to the article he had produced about the Albanian government voting to open secret Communist police files and how this would affect those who were candidates for political office, the applicant agreed he was not a candidate for office nor was his father.
48. In relation to the other articles I put that they do not suggest the applicant will be harmed on his return to Albania. He stated that there is a 99% assurance he is exposed to risk.
49. I asked the applicant if he had anything further to put to the Tribunal and he said that his sister is still exposed to hatred and cannot walk out to the shops without abuse.

BACKGROUND INDEPENDENT INFORMATION

50. According to *Atlademia* by way of background <http://www.atlademia.com/online/countries/albania.htm>

Albania was proclaimed a republic on Jan. 11, 1946. In 1955 Albania was admitted to the UN as part of a general agreement between the East and West. Soviet influence was replaced by a strong political alliance with China which led to several billion dollars in financial aid, although China cut off the aid in 1978. From 1985 to 1990 diplomatic relations with most European nations as well as the former USSR and the US were resumed. In 1990 the government announced plans for gradual democratization with the lifting of religious restrictions and the freedom to travel abroad. By the close of 1990 the regime agreed to free multiparty elections to take place in Mar. 1991. Within days after the elections, protests and general industrial strikes forced the communist cabinet to resign and share power with the Democratic Party which pledged to introduce a free market economy and raise the standard of living. In Jan. 1991 some 15,000 refugees fled to Greece while in March some 24,000 boat people left for Italy. In Aug. 1991 another exodus of 18,000 people for Italy resulted in their subsequent forced repatriation and in a step up in Italian governmental aid for Albania. In Dec. 1991 after continuing food riots resulted in a number of deaths a nonpartisan, Vilson Ahmeti was named to head a new government. On Mar. 22, 1992 landslide elections were won by Democratic Party over the Socialist Party. On April 9, 1992 Sali Berisha became the first democratically elected President in 70 years. In July 1992 local elections were held in which the Socialist Party made gains and held local administrative control over the countryside while the Democrats continued to hold control over most of the large cities. In Nov. 1992 a rift developed within the Democrats with the split resulting in the formation of a new party, the Democratic Alliance. Also during 1992, the massive humanitarian aid program by the Italian government continued. During 1993, former Communist leader Ramiz Alia, the Socialist Party leader Fatos Nano and most of the former Politburo members were under arrest awaiting trial on charges of abusing their office. Economically, the government had actively pursued its program of stabilizing the economy, although it would still have to rely heavily on foreign aid to ensure the program's successful completion. In Apr. 1993 Pope John Paul II made a historic visit, the first since visit since the last pontiff died en route in 1464.

51. According to Freedom in the World 2009 – Albania
<http://www.unhcr.org/refworld/publisher,FREEHOU,,ALB,4a6452d7a,0.html>

Ruling from World War II until his death in 1985, communist dictator Enver Hoxha turned Albania into the most isolated country in Europe. The regime began to adopt more liberal policies in the late 1980s, and multiparty elections in 1992 brought the Democratic Party (PD), led by Sali Berisha, to power. Continuing poverty and corruption weakened Berisha's government, and in 1997, the collapse of several popular pyramid investment schemes resulted in widespread violence.

From 1997 to 2005, Albania was ruled by the Socialist Party (PS). In the 2005 legislative elections, the opposition PD ultimately obtained 56 of 140 seats, with another 24 controlled by its allies. While the poll was not free from fraud, it was praised for bringing Albania's first post-communist rotation of power without significant violence.

The intense rivalry between the PD and PS caused systematic paralysis in advance of the February 2007 local elections, and the voting was criticized by the Organization for Security and Cooperation in Europe (OSCE).

Although the PD won in most races, the PS overwhelmingly won mayoral posts in larger cities. In July 2007, the parliament elected PD candidate Bamir Topi as Albania's new president.

Berisha's government was plagued throughout 2008 by corruption scandals, including two involving Albania's Hoxha-era munitions stockpile. On March 15, a series of explosions at a weapons depot near Tirana killed 26 people, injured 300, and displaced some 3,000 others. Later that month, press reports implicated the leadership in an illegal scheme to export aging Chinese-made ammunition to Afghanistan as part of a U.S. government contract. Facing considerable international pressure, the parliament in June lifted the immunity of Fatmir Mediu, who had resigned as defense minister in March. In July, Prosecutor General Ina Rama filed murder charges against the head of Albania's arms-trading agency and two private contractors for the depot explosions. The death of a key witness in the export scandal in September fed the opposition's claims of a government cover-up, though an investigation later deemed the death accidental. Critics of two bills passed with government support in December said they would undermine judicial independence and hamstring the ongoing corruption probes. The proper dismantling of the munitions stockpile was one of the conditions for accession to NATO. Nevertheless, the alliance formally invited Albania to join in April 2008, and induction was expected in 2009. Meanwhile, the country was attempting to implement judicial and anticorruption reforms as part of a 2006 Stabilization and Association Agreement with the European Union (EU). An EU progress report in November 2008 found that corruption, including in the judiciary, remained a serious challenge.

Political Rights and Civil Liberties

Albania is an electoral democracy. However, parliamentary elections held in 2005 were judged to have complied only partially with international standards. Of the 140 seats in the current unicameral Kuvendi Popullor (People's Assembly), 100 were filled through single-member district races and 40 by proportional representation. All members serve four-year terms. The prime minister is designated by the majority party or coalition, and the president – who does not hold executive powers but heads the military and plays an important role in selecting senior judges – is chosen by the parliament for a five-year term.

Despite their sharp, personality-driven rivalry, the two major political parties, the PD and the PS, cooperated in April 2008 to pass constitutional amendments replacing the parliament's single-member districts with a regional proportional-representation system that would disadvantage smaller parties. The electoral commission in June rejected a bid by opponents of the changes to submit them to a referendum. A new electoral code was passed in December, implementing the new system and stipulating that party leaders would select the slates of candidates. In the last elections, the PD and PS took a combined 98 of the 140 seats. The new code also allowed for the election of the president by a simple majority – rather than the previous supermajority – of the parliament, reducing the need for multiparty consensus. The country's Greek minority is represented mostly through the Union for Human Rights party, which has three seats. Other minorities are poorly represented and participate minimally in public life.

Corruption is pervasive, and the EU called for rigorous implementation of anticorruption measures in its 2008 progress report. Prime Minister Sali Berisha, his family, and other top officials were suspected of profiting from the arms-export scheme unveiled in March 2008. In separate cases of corruption related to road-building projects, former deputy transport minister Nikolin Jaka and several other officials received short prison sentences in May, and former transport minister Lulzim Basha – the current foreign minister – was charged in November. Prosecutor General Ina Rama has pursued these and other corruption cases despite government resistance; her predecessor was removed by Berisha and the parliament in 2007 after he sought to lift Basha's parliamentary immunity. In December 2008, the parliament passed a bill that granted the government and legislature more oversight of prosecutors and their investigations, potentially limiting the independence of Rama's office. Albania was ranked 85 out of 180 countries surveyed in Transparency International's 2008 Corruption Perceptions Index.

While the constitution guarantees freedom of expression, the intermingling of powerful business, political, and media interests inhibits the development of independent outlets. Suits against journalists for legitimate criticism are common, and reporters are still subject to intimidation and physical attacks by those facing media scrutiny. Berisha routinely denigrates the media, and his government has placed financial pressure on critical outlets. In September 2008, broadcast regulators fined television station News 24 for airing an advertisement by a nongovernmental organization (NGO) that derided Berisha's use of public funds to produce progovernment ads. The station was accused of violating a law banning political ads outside campaign periods. In December, the government moved to evict a critical newspaper, Tema, from its offices in a state-owned building. The government does not limit internet access.

The constitution provides for freedom of religion, and it is usually upheld in practice. The government generally does not limit academic freedom, although the education minister controls the appointment of university officials. It was reported in March 2008 that the Education Ministry had certified fake degrees, including a law degree for a member of parliament; the politician allegedly assaulted a reporter who confronted him on the issue.

Freedoms of association and assembly are generally respected. Independent NGOs are active, and their influence on the government is slowly growing. The constitution guarantees workers the rights to organize and bargain collectively, and with the exception of military personnel, civil servants, and the police, all workers have the right to strike. However, effective collective bargaining remains limited, and contracts are often difficult to enforce.

The constitution provides for an independent judiciary, but the courts are subject to political pressure. The judiciary and law enforcement agencies are inefficient and prone to corruption, and judicial proceedings can be unjustifiably delayed. Enforcement of court decisions is weak, especially when they go against government interests; President Bamir Topi has reportedly complained that a third of all court orders are not enforced. In December, the parliament narrowly passed a vaguely worded lustration law that would allow a five-member commission to purge judges and prosecutors based on their role in the communist regime. Opposition lawmakers boycotted the vote, and the bill was criticized by the Council of Europe and the OSCE. Opponents said it could result in the unconstitutional dismissal of many top judges and cripple ongoing corruption cases. The 2008 EU progress report found that much greater enforcement was needed to reduce excessive force and ill-treatment by police. It also noted very poor prison conditions, including overcrowding, and praised Albania's human rights ombudsman, who had clashed with police over brutality cases.

High-level crimes associated with the Balkan wars of the 1990s have gone unpunished. In 2008, current tax-service chief Arben Sefgjini was facing trial along with three former security-service colleagues for the 1995 torture and murder of a man who may have witnessed conversations between then president Berisha and Yugoslav leader Slobodan Milosevic about oil smuggling. In May 2008, Berisha appeared to admit to Italian journalists that he had violated a UN arms embargo by shipping munitions to friendly parties during the Balkan wars.

Weak state institutions have augmented the power of crime syndicates, and Albania is reportedly a key transshipment point for drug smugglers. Traditional tribal law and revenge killings are practiced in parts of the north.

52. According to Frosina Information Network,

Also in 1991, pluralism was legally permitted in Albania, and the general elections that year saw the former communists, now known as the Socialist Party, win a majority of the seats in the parliament with the Democratic Party winning only about 34%. That government fell almost immediately because of the lack of cooperation by the Democratic Party members of parliament but, in large measure, because of the massive and disruptive student strikes in Tirana. As a result, new elections were held, and in 1992, the Democratic Party of Albania won a decisive majority of votes, about 66%, and assumed control of the government. That government is still in power and, like many other former iron-curtain countries, has received some criticism for assuming some of the autocratic methods of leadership of the former communist government such as restricting the power of the press and attempting to muzzle opposition candidates. However, many democratic advances have been made in Albania such as the privatization of land, rule of law, encouragement of foreign investments, and a free market economy. <http://www.frosina.org/culturehistory/lectures.asp?id=4>

53. According to 2008 US State Department Country Reports on Human Rights Practices February 25, 2009, Albania

The Republic of Albania is a parliamentary democracy with a population of approximately 3.6 million. Legislative authority is vested in the unicameral People's Assembly (parliament), which elects both the prime minister and the president.

The overall performance of law enforcement remained weak. Unprofessional behavior and corruption remained major impediments to the development of an effective civilian police force. The Ministry of Interior started a new recruiting system with standardized procedures. In combination with the new system of police ranks, authorities expect this to improve the overall performance of the police.

However, low salaries and widespread corruption throughout society made police corruption difficult to combat. The government prosecuted corrupt officials and managed complaints regarding corrupt police through the ombudsman. During the year the Ministry of Interior reported that it dealt with 68 corruption cases and 276 cases of general misdemeanors and abuses by public administration employees. A total of 153 government officials were investigated (including police officers), and 72 were arrested. During the year the ombudsman received 154 general complaints from citizens against the police mainly on arrest and detention. At year's end 118 complaints had been processed and the ombudsman concluded 26 in favor of the complaining citizen. These included 17 complaints of physical mistreatment. Only one complaint was found valid, and recommendations were issued for disciplinary measure for three police officers of Commissariat 1 in Tirana.

The constitution provides for an independent judiciary; however, political pressure, intimidation, widespread corruption, and limited resources sometimes prevented the judiciary from functioning independently and efficiently. The judicial system is composed of district courts, the serious crimes court, military courts, and appellate courts. There are both a High Court and Constitutional Court. The High Court hears appeals from the appellate courts which hear cases on appeal from the district courts. The Constitutional Court primarily reviews those cases involving constitutional interpretation and conflicts between branches of government and cases of individuals alleging denial of due process.

The president heads the High Council of Justice, which has authority to appoint, discipline, and dismiss district and appeals court judges. Judges dismissed by the High Council have the right to appeal to the High Court. The High Council includes the justice minister, the head of the High Court, nine judges selected by the National Judicial Conference, and three members selected by the parliament. As in past years, police, prosecutors, and the judiciary continued to blame each other for failures that allowed criminals to avoid imprisonment. In May 2007 the prosecutor general, minister of interior, minister of finance, and the director of SHISH signed a Memorandum of Cooperation to form the Joint Investigative Unit to Fight Economic Crime and Corruption (JIU) to improve investigation and prosecution of public corruption and other financial crimes. The JIU uses a team structure to concentrate capacity and foster communication necessary for effective investigations and prosecutions. Since its inception in 2007, the JIU opened 224 cases and has successfully convicted the deputy minister of transportation and the general secretary of the Ministry of Labor on corruption charges. Other high-profile cases include the arrest of several prominent physicians for accepting bribes to provide medical services, the arrest of a prosecutor for agreeing to bribe a judge for the reduction of a defendant's sentence, and the extensive investigation and arrest of 17 defendants in a wide-ranging ATM fraud scheme.

Due to its success, the JIU now receives direct referrals from citizens. Furthermore, the JIU was recognized on September 23 by Transparency International (TI) in its 2008 Corruption Perception Index where its rank jumped 20 places to 105. The TI report specifically singled out the JIU stating that an official task force created to fight corruption and economic crime has increased the number of officials prosecuted and sentenced for corruption, also building confidence among the public that corruption can be punished in Albania. Due to the success of the JIU, the government, with funding from the U.S. Millennium Challenge Corporation, is expected to create six regional JIUs.

The constitution and law provide for the right to a speedy trial; however, limited material resources, lack of space, and insufficient and overworked staff prevented the court system from adjudicating cases in a timely fashion.

The constitution and law provide for freedom of religion and the government generally respected this right.

The predominant religious communities, Sunni Muslim, Bektashi Muslim, Orthodox, and Roman Catholic, enjoyed a greater degree of official recognition (for example, national holidays) and social status than some other religious groups. The government does not require registration or licensing of religious groups.

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated and responded to their views.

The government did not fund specific programs to combat domestic violence or assist victims, although non-profit organizations did. Women to Women, a Swedish NGO, reported that there were approximately six domestic violence hot lines that operated throughout the country. The hot lines, serving mainly the northern part

of the country received approximately 24 calls per month from women reporting some form of violence. Shtreheza, an NGO that operated two shelters for battered women in Tirana, reported an increase in cases of domestic violence, primarily due to increased awareness of services.

In 2006 the parliament, with the assistance of the Women's Legal Rights Project, enacted an expansion of the law against domestic violence, adding administrative penalties such as protection orders. This law helped raise awareness of the issue and assistance available for victims through the legal system and nonprofit organizations. Implementation of the law is still in the nascent stages, and has been sporadically enforced. The government reported greater awareness of this issue by the population, and 466 complaints were made by citizens regarding domestic violence. Implementation of the restriction orders started during the year with 340 requests for restrictions and 740 citizens placed under police protection. The Ministry of Interior reported 17 murder cases in families occurred during the year.

54. According to *US State Department Report International Religious Freedom Report 2008 Albania*.

The Constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion.

The Government generally respected religious freedom in practice. There was no change in the status of respect for religious freedom by the Government during the period covered by this report.

There were no reports of societal abuses or discrimination based on religious affiliation, belief, or practice.

The country has an area of 11,100 square miles and a population of 3.6 million. No reliable data were available on religious participation or membership; the last official census including such data was held in 1939. The majority of citizens do not actively practice a faith; however, the four traditional religious groups are Muslim (Sunni), Bektashi (a particularly liberal form of Shi'a Sufism), Orthodox Christian (the Autocephalous Orthodox Church of Albania), and Roman Catholic. In addition, there are substantial numbers of Protestant denominations, Baha'is, Jehovah's Witnesses, members of the Church of Jesus Christ of Latter-day Saints (Mormons) and other religious groups.

The State Committee on Cults reported a total of 245 religious groups, organizations, and foundations in addition to the four traditional religious groups. This number includes 34 Islamic organizations and 189 Protestant organizations, mostly associated with the Albanian Evangelical Alliance (VUSH). The Constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion. The law at all levels protects this right in full against abuse, either by governmental or private actors.

There were no reports of societal abuses or discrimination based on religious affiliation, belief, or practice, nor were any substantial acts of vandalism reported.

55. Report 'Employment Policy Review' by International Labour Organisation states <http://www.coe.int/t/dg3/socialpolicies/socialrights/source/EmploymentPolicyReviewAbania.pdf>

Albania remains the poorest transition economy outside the Commonwealth of Independent States. As shown in table 1, in 2003, the country had an estimated GDP per capita (at purchasing power parity) of about US\$4500.20 This is below the per capita GDP of Serbia and Montenegro, Bosnia and Herzegovina and "the former Yugoslav Republic of Macedonia", and only 43% of Croatia's. A Living Condition Survey (LCS) carried out in 1998, showed that 29.6% of Albanians were poor, whereas more than half of them lived in extreme poverty.

This means that almost one out of every three Albanians or some 917,000 people were poor, with over 500,000 individuals falling within the extremely poor category. In absolute terms, 46.6% of the Albanians were below the poverty line of US\$2 per capita per day, while 17.4% were below the poverty line of US\$1 per capita per day. According to the Albania Growth and Poverty Reduction Strategy (GRSP), the probability of living in poverty increases with size of family because the dependence coefficient is higher, the correlation of poverty with family size being more evident in rural areas. There is also a clear correlation between being unemployed and being poor: according to the LSC, more than half of the families whose head is unemployed fall below the poverty line. Furthermore, the incidence of poverty is much higher among households headed by women- whether with or without children – than those headed by men (see table below).

.....

.....reduced employment rates in the 1990s were a result of declining public sector employment mainly due to mass privatisation of state-owned enterprises. Youth and long-term unemployment rates in Albania are relatively high. Youth unemployment could be attributed to the rapid population growth in previous decades and the fact that severe contraction and lack of new opportunities in the public sector prevent many young people from finding jobs.

56. According to the People's Advocate of Albania Reports to Parliament http://www.avokatipopullit.gov.al/English/Reports/Report_2000.PDF and according to Ombudsman Information Network http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=4391&lang=en&t_style=tex&l_style=default

In Albania the ombudsman institution is envisaged in the [Constitution](#) and its organization and functions are set out in detail in the [Statute on People's Advocate](#) of 1999. The first Albanian ombudsman was appointed in 2000. The People's Advocate is elected by three-fifths of all members of the Assembly for a five-year period, with the right of reelection. Any Albanian citizen with higher education, and with recognized knowledge and recognized activity in the field of human rights and law may be the People's Advocate. The People's Advocate may be discharged only on the reasoned complaint of not less than one-third of the deputies. In this case, the Assembly makes a decision with three-fifths of all its members.

The People's Advocate enjoys the immunity of a judge of the High Court. He is not liable to criminal proceedings for his actions when exercising his powers. He may not take part in any political party and carry on any other political, state or professional activity.

The People's Advocate presents an annual report before the Assembly. The Albanian Ombudsman has the right to make recommendations and to propose measures when he observes violations of human rights and freedoms by the public administration.

The expenses of the People's Advocate form the subject of a separate section of the State budget. Donations are also admissible. The donations may not include conditions that might affect the independence or impartiality of the People's Advocate's activity. The donations are declared and registered in a registry held for this purpose by the Office of the Albanian Ombudsman.

There are three ombudsmen in Albania. Each of them is independent and has his own area of responsibility. The office of the Ombudsman incorporates three specialized divisions, headed by commissioners. They are assisted by a bookkeeping department and other technical staff. The total number of the personnel of the Albanian Ombudsman is 47 people.

57. Tirana, Albania: 2006 Crime and Safety report 25 April 2006
<http://www.osac.gov/Reports/report.cfm?contentID=46032&print>

Overall Crime and Safety Situation

The overall security situation in Albania continues to improve. In the spring of 1997, the collapse of pyramid schemes caused a significant financial crisis and resulted in considerable unrest. It is estimated that 526,000 weapons were looted from government arms depots during this time. In 1998, a Democratic Party leader was assassinated, sparking a two-day period of civil unrest in Tirana and other parts of the country.

Since this time, the Albanian government has improved the country's law enforcement and security institutions, and criminal activity has greatly decreased. In 1999, there were 458 murders committed in all of Albania. In 2000, that number fell to 258 and, in 2001, it was further reduced to 208. In 2002, there were 179 murders and, in 2003, the number did not exceed 150. Furthermore, a number of the murders committed in 2003 were a result of rivalries between organized crime families. Many of the weapons looted from the armories have been exported or confiscated by police but some weapons remain with unauthorized civilians. Albanian police forces have become increasingly successful at combating the illegal arms trade.

While overall criminal activity has decreased in recent years, reports of domestic violence and sexual assault have increased; however, it is unclear whether there is an actual increase in these criminal acts or if there is just an increase in reporting. Armed robberies have also increased in Tirana but generally do not result in violence.

Following the July 2005 elections, there was an increase in crimes of opportunity. This phenomenon can most likely be attributed to the simultaneous power vacuum resulting from the change of power and the influx of tourists during the summer months. Most of these incidents were reported outside city limits with no harm to property or persons.

Albania is sometimes known as the country of revenge. Some Albanians, particularly in the north, follow a code of honor allowing isolated incidents of violence to grow into family or clan feuds. Often, these clashes are related to organized crime and turf battles, and, in recent years, they have led to numerous blood killings in Tirana and other northern cities.

Police have a visible presence throughout Tirana and Albania's other larger cities. Police vehicles are often seen patrolling in these areas and respond to the American community when called. However, the police are poorly paid, with the average police salary ranging from \$100 - \$200 a month. Thus, corruption and limited resources dilute the effectiveness of their efforts.

58. The European Commission's 2005 Report on Albania in relation to the Police
http://www.delalb.cec.eu.int/en/news/documents/docs_prog_rep_2005.htm

There has been some progress in enhancing the effectiveness of the Albanian State Police (ASP) during the reporting period.

The Albanian State Police was completely reorganised following an administrative decision of September 2004, which entered into force in October 2004. Key elements of the restructuring were the creation of a fully-fledged Organised Crime Directorate and the strengthening of the Internal Control Office. The new organisational structure of the police is more in line with those of EU law enforcement agencies. It will now have to prove its operational effectiveness.

Significant progress has been made in the fight against corruption within the police, following the launch in early 2004 of the "Order within Order" reform and the adoption of several legal amendments aimed at enhancing the internal control powers of the police. These measures have resulted in the dismissal of a large number of police officers (304 during the reporting period) and in a dramatic increase in the number of criminal proceedings against police officers brought by the police to the prosecutor's office (323 in 2004 compared to 190 in 2003), one third of which involved high- or middle-ranking officials.

Albania must make renewed efforts to improve the management of the police, in particular as regards human resources and transparency, in order to make further progress towards European standards. The police should also be given the power to manage independently its financial and material resources, which are currently controlled by the Ministry of Public Order, in order to enhance its autonomy and to minimise the risk of political interference. The police should also ensure the full implementation of the law on ranks. The question of succession planning for key posts should be addressed more effectively in order to ensure the continuity and effectiveness of the reform process. Albania should continue to improve the administration of police records, including access to records by middle management.

Albania should continue to examine the 1999 State Police law with a view to updating it in order to better meet Albania's needs. Albania should speed up efforts to reach an agreement with Europol: in January 2005 Europol suggested a two-step approach starting with a "strategic agreement" and moving on in due course to operational co-operation, but since then little progress has been made.

Overall, the Albanian State Police has made progress in adopting a potentially more effective structure with improved internal regulation mechanisms and better results in fighting internal corruption. However, Albania has considerable room for improvement in legislation, management, infrastructure and international co-operation related to police work.

Albania has passed new legislation in important areas such as property restitution and compensation, amending the Electoral Code, and the fight against organised crime.

59. According to Balkan Investigating Reporting Network <http://birn.eu.com/en/1/110/2989/>
Albania Divided About Move to Open Collaborators' Files, by Karolina Risto in Tirana
(Balkan Insight, 14 Dec 06)

Albania has embarked on major initiatives to reveal the crimes committed by collaborators with the secret police in the communist era.

Moves to open up the secret files on their activities and expose those who once allegedly spied on their fellow citizens follow precedents set by other states in the region, including Montenegro, Poland and Bulgaria.

The aim is to find out who was involved in the spying activities that led to the jailing of 27,000 Albanians for political offences, the killing of 6,000 and the deportation of 12,500 families to concentration camps.

Early in November, three bills were proposed to parliament, dealing with the work of former spies.

Each is the initiative of a different party, reflecting the desire of both government and the opposition to be seen to be tackling an issue of great interest to voters.

The proposal of the opposition Socialists is much more limited in scope than that of the ruling Democrats.

It would not, for example, permit the publication of names of former collaborators if they admit their crimes in private to a special commission. "If the person does not accept this condition, his pseudonym and file will be made public," the bill reads.

The proposed legislation put forward by the ruling Democratic Party is far more sweeping, reflecting their conviction that many former collaborators lurk in the ranks of the Socialists.

The bills are now before parliament's Law Commission, which will discuss them with a view to coming up with a common draft. If this is not possible, the Democratic Party bill will go to a vote in parliament, as this party holds a majority in the Law Commission.

However, many question whether any of the proposed laws is the right way to address the issue of former collaborators.

Sceptics think none of the drafts will help, firstly as those in power had more than 16 years to destroy incriminating files.

Important witnesses have claimed that the key files were long ago altered or totally destroyed.

These include former heads of the secret service and former government ministers, such as ex-interior minister in 1992-3, Bashkim Kopliku and former deputy prime minister Dashamir Shehu.

Shehu said the Socialists burned thousands of files in the early 1990s just after the communist regime collapsed.

Some non-governmental groups believe a better way to reach the truth about this era would be to create a powerful truth commission instead of passing a bill in parliament.

The NGO that represents former victims of political persecution in Albania, called "The organisation of the communists victims in Albania" is among the groups that oppose opening and publicising files on collaborators.

It says the police forced many innocent people into collaboration and if the secret files are now opened, it risks inflicting further harm on those who were in fact victims of communism.

Thanas, an 88-year-old former lieutenant-colonel, who was the chief military authority in several cities in the communist era, says most collaborators were not communists in any case.

"Police officers contacted them and forced them to collaborate in exchange for a normal life," he said.

"Even those who were no use at all ended up with their name in the files.

"There are hundreds of thousand of files like this. There may be even as many as a million."

Sami Repishti, of the organisation representing victims of political persecuted Albanians, said opening all the files might cause chaos, exposing old wounds in a society that was fiercely divided for more than 50 years

between “good communists” and the enemy.

However, the “spy” phenomenon remains an important, unresolved issue for many Albanians. Newspapers and television news programmes address the topic almost every day.

A search for the word “spiun”, (spy in Albanian) on Google reveals almost 12,000 entries, while “dosjet” (files) calls up more than 80,000. There are countless websites on the issue, some headlined “Are Albanians a ‘spying’ people?”

The country followed with interest the condemnation of the crimes of the communist regimes by the Council of Europe in January 2006. The resolution, approved after 99 delegates voted in favour, 42 opposed and 12 abstained, called on relevant states to review their history books and erect monuments to victims. The resolution also said that there was “no essential difference between communism and Nazism”.

Albanian parliament ratified the resolution on October 29.

However, Albania’s remaining communists feel unrepentant. Many, like Thanas, formed their political opinions during the Second World War in the fight against enemy occupation and say they have nothing to apologise for.

Thanas likes to show off the big scar on his chest, which is the legacy of wounds in the war, and when he rolls up his trouser leg, he reveals a bullet that lodged in his leg and which doctors say has become “part of his body” and does not need to be removed.

Asked if he admits being part of a criminal regime, he answers, “I’m a war veteran and the Albanian people know I deserved my medals. Even this state gives me a pension for fighting the Nazis.

“I think I’m an hero, not a criminal.”

With such entrenched views on both sides of the political spectrum, it is hard to see how Albania will ever reach a consensus on communist crimes.

Significantly, Albania’s school history books have nothing to say on the subject. Most condense the 50 years of communism into a few lines, mainly devoted to the liberation war. “Enver Hoxha guided Albania for 41 years,” they say, as if a whole half-century never existed.

Whether any of the bills now before parliament can change that state of affairs remains to be seen.

60. Another article Albania Ponders Opening Its Secret Police Files by [Adam Tanner](#) dated 18 September 2008, <http://uk.reuters.com/article/idUKGOR32900320080913?sp=true>

TIRANA (Reuters) - In the early 1970s, Spartak Ngjela spoke out against the Stalinist government of Albania. He spent 14 years in prison for taking such liberties.

Today a member of parliament, he is fighting to open up the files of the Sigurimi secret police, 18 years after Europe's most hardline communist regime under Enver Hoxha collapsed.

"I want to open all the files of these agents, these spies, everyone who is involved in the state terror," he said passionately in the Albanian capital Tirana. "Without the Sigurimi, Enver Hoxha was nothing. The secret service at that moment was his right hand."

Years after other ex-communist states in Eastern Europe dealt with their secret police files, Albania is grappling anew with the records of the Sigurimi.

The Balkan country has certainly made tremendous advances since communism. Tirana's roads have steady traffic where private cars were once banned, and a construction boom across Albania is giving a new face to the country. Still, the past casts a shadow as the ex-communist maverick moves towards NATO membership and dreams of joining the European Union.

"This is a never-ending soap opera since the first day of the falling of communism," Edi Rama, mayor of Tirana and the Socialist opposition leader, said in an interview. "Communism in Albania was like an atomic bomb on the mindset of the people. The explosion has ended but the radiation still hurts."

During Stalinist rule, the secret police employed 800 staffers, including operatives and clerks, according to a former Sigurimi official who did not want to be named. Yet they also relied on a vast web of unpaid informants, some of whom were blackmailed into helping keep tabs on fellow citizens.

"Why did they collaborate? The government was really powerful here," said the official, who oversaw a network of informers in Tirana and elsewhere. "There was no money at all, it was all built on ideological principles, an obligation to pay back for one's mistakes."

No one seems to know exactly how many Albanians worked as informants or helped the Sigurimi, but lawmaker Ngjela estimates it involved 17 percent of the population. In the 1960s one communist official once said one in four people were involved.

For now, most officials are not calling for an opening of all files to those who were monitored, a system used in former communist eastern Germany. The Albanian files were opened selectively before the 1996 elections, allowing scrutiny of potential candidates, but no permanent rules have been set.

"I am not in favour to open up for everybody," Prime Minister Sali Berisha told Reuters on Thursday.

"You see, we were a rural society. It would create big problems if we open in such a way. I am in favour to open for those who have been elected and high-ranking people.

"It is not to blame (people). What is very important is to close the chapter."

One issue complicating a full unveiling involves current politicians, some of whom could be embarrassed if skeletons in their closets are revealed.

"Truth is always very important for a democracy and the future, and everything that has to do with truth must be revealed," Anastasios Yannoulatos, the Orthodox archbishop of Albania, said in an interview on Friday.

"And don't forget that those in the leadership, they did not get there suddenly," he said, hinting at their involvement in the communist past. "They were born here and were here even before 1990. That means they were born in another atmosphere, another ideological environment."

Ngjela accused Prime Minister Berisha of having denounced people during his time as a Communist Party official. In the interview, Berisha denied that he or any member of his cabinet had any secret police links and added anyone who did should not be in his government.

Another question surrounds the completeness of the secret service records, with government officials and outside experts saying parts have already been destroyed. In addition to the hand-written main files, an additional register exists with names of informants, code names and how long they served, the former Sigurimi official said.

"No one would be able to find out exactly what these people had done," he said. "Anyway, society should not penalise these people today. Many of these people made a contribution to their homeland."

Elsa Ballauri, executive director of the Albanian Human Rights Group, expressed disappointment civil society was not paying more attention to the issue, but said she expected the parliament to pass some sort of law. "I don't know how much of it will be implemented," she added.

61. Other information sourced from Albania News states:

<http://albanianews.wordpress.com/2008/12/28/albania-passed-a-law-that-envisages-dismissal-of-former-secret-agents/>

Albania passed a law that envisages dismissal of former secret agents
December 28, 2008

Tirana. Albania passed a law that envisages dismissal of former secret agents from public and high-ranking posts, media report. The new act was approved with 72 votes. 63 of Albanian MPs voted against it, while only one abstained. According to Prime Minister Sali Berisa, Albania must "take the shame out of the communism". The new act affects all former members and collaborators to the secret police which was active from November 1944 till December 1990. The opposition boycotted the vote, declaring the act will be used by Berisa in the combat against the political rivals.

62. According to information provided by the applicant to the Tribunal 'New Information and Key Trends Regarding Islamic Extremist Groups in the Balkans by Christopher Deliso

Chapter 2 discusses the recent past of Albania, mainly the exploits of various Islamic radicals and groups like Egyptian Islamic Jihad in the 1990s. However, I also argue that while those actors have left the stage, the danger in Albania is by no means over- actually, it has changed shape, as I explain in my book.

Basically, what happened? In 1990, Albania was emerging from Communism after the death of dictator Enver Hoxha five years before. The US was naturally very eager to bring it out of Communism and nurture the 'pro-democratic' political elements. This involved supporting the campaign of Sali Berisha of the Democratic Party, and even parading him around America at events with William Ryerson, who would become the first American ambassador to Albania since the Communists took over after Berisha won, and who is now an Albanian lobbyist.

Berisha, who is again in power right now, was a classic opportunist, presiding over a very poor country that obviously needed all the help it could get. He got aid from the West, the US, the EU and NATO, but also from the Islamic world. In fact, under his initiative Albania even joined the Organization of Islamic Conferences (OIC), the only country in Europe to have done so, and without parliamentary approval. Iran, Saudi Arabia, Kuwait and other countries started making major investments, setting up banks, etc, but also building hundreds of mosques and inviting Albanian students to study Islamic theology in their countries.

At the same time, the US was training the Albanian secret service, the SHIK, which was headed by a hardcore Islamist, Bashkim Gazidede, who had been the president of an Islamic group in Tirana previously. Gazidede was very sympathetic to the Islamist cause and under his tenure extremist and terrorist groups related to bin Laden and Ayman al-Zawahiri were allowed to enter Albania and flourish. So at the same time the CIA was training its Albanian colleagues and modernizing their service, it was also allowing anti-American forces to set up shop. Because of Albania's lawlessness and poverty, the jihadists, many of whom were on the run from authorities in countries like Egypt, considered the country a 'safe hotel' where they could plot undisturbed. The CIA actually ordered various operations against these characters, but it was somewhat self-defeating, since important figures in the Albanian leadership were supporting the same people the US was trying to take action against.

On this note it's interesting to point out that, though the Bush administration is frequently accused of being the creator of the 'rendition' program by which terrorists suspects are kidnapped and flown off to undisclosed locations where they are interrogated and sometimes tortured, this program was actually pioneered in Albania in the mid-1990's. And maybe you recall Abu Omar, the unfortunate Muslim cleric kidnapped by the CIA off of a Milan street in 2004. He had actually been part of these Islamic groups in Albania during the period when that program was being set up.

63. Another article provided by the applicant 'Islam in Albania' by Miranda Vickers

Today, despite decades of secularism, Albania is considered a predominantly Muslim country. Yet, although it is uncertain how many of Albania's 3.4 million inhabitants are actually practising Muslims, it is widely acknowledged that around 70 per cent of Albanians are Muslim, 20 per cent follow the Greek Orthodox Church and 10 per cent are Roman Catholic. Before the end of the one-party state in 1991, Albania was the world's only officially declared atheist state. Since then the practice of religion has been gradually reintroduced into Albanian society following the complete ban imposed in 1967 on all forms of religious worship. Today a considerable number of Albanians have a secular identity, or no clearly defined religious identity.

With the lifting of the ban on religion missionaries of all faiths flocked to Albania This resulted in a gradual revival of religious practice together with the restoration and rebuilding of churches and mosques.

Historically, the Albanians are the only Balkan people whose national consciousness has not been shaped or identified by their religious affiliation. Instead, Albanians have defined their national identity through language.

So far, Albania's post-communist religious revival has been relatively smooth and harmonious. At present there are few signs of conservative Islam in Albania Despite a gradual increase in the number of veiled women and bearded men, and the recently emerged issue of the wearing of headscarves and beards in state schools, the majority of Albania's Muslims still pride themselves on their tradition of religious tolerance and moderation.

At present, the threat from extreme Islamists is more real in Bosnia, the Sandzak and Macedonia than in Albania. Supporters of the Selefi, however, are increasing all the time as more young men return to Albania to

work for a stricter and more rigorous implementation of the Prophet's teachings in line with Arab countries. The number of Albanian students studying in universities of Islamic countries with known radical orientation should not be ignored and should strengthen the resolve of the government to assist in the opening of an Islamic higher education facility as soon as possible.

Attempts by foreign extremists to impose a very different brand of Islam have to date been successfully resisted. As a result, today religion plays a sensible and moderate role in Albanian life. It has not entered the political arena as a determinant factor and the separation of state and religion is being maintained. Nevertheless, with several of Albania's mosques and Islamic NGOs now operating outside the control of the Albanian Muslim Community, there remains a threat to the country's traditional Muslim values. Property issues are certainly a source of much of the inter-Muslim conflict. Indeed with the fierce competition for sensational stories in the Albanian media, journalists have undoubtedly exaggerated the extent of inter-faith tensions. Nevertheless, as a number of recent events have shown, there are worrying undercurrents that have the potential to undermine both inter-faith and inter-religious harmony.

Attempts by foreign extremists to impose a very different brand of Islam have to date been successfully resisted. As a result, today religion plays a sensible and moderate role in Albanian life. It has not entered the political arena as a determinant factor and the separation of state and religion is being maintained. Nevertheless, with several of Albania's mosques and Islamic NGOs now operating outside the control of the Albanian Muslim Community, there remains a threat to the country's traditional Muslim values.

Is peaceful inter-faith co-existence under threat in Albania? For the present the answer must be no. The chances of serious religiously-motivated conflict in Albania are slim due to the secular, modernistic ethos of post-communist Albania, and the sensible, moderating guidance of the Albanian Muslim Community Chairman, Selim Muca. The great challenge for Albania's Sunni and Bektashi leaders today is to maintain the independence of their faiths from foreign interference and to preserve the delicate balance of religious co-existence in multi-faith districts such as Shkoder, otherwise the serious divisions that remain between moderate and radical elements will have long term consequences for Albania's Muslims and their relations with other religious communities.

64. The IHF is a unique community of 46 human rights NGOs in the OSCE region, working together internationally to insist on compliance with human rights standards. The IHF reports on Albania. http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057

2005 was a year of important political developments aimed at strengthening the rule of law and efforts to improve the general human rights situation, which, however, were only partially successful. Albania's human rights record improved in some areas, partly as a result of implementation of the new government's program. The positive developments included more democratic elections, measures to ameliorate prison conditions, success in the fight against corruption and organized crime, and progress in the implementation of the governmental strategy to address the situation of the Roma. Steps were also taken to strengthen the rule of law and the independence of the judiciary.

65. According to the CIA World Factbook, Albania <https://www.cia.gov/library/publications/the-world-factbook/> states that the economy is bolstered by annual remittances from abroad representing about 15% of GDP, mostly from Albanians residing in Greece and Italy; this helps offset the towering trade deficit. The agricultural sector, which accounts for over half of employment but only about one-fifth of GDP, is limited primarily to small family operations and subsistence farming because of lack of modern equipment, unclear property rights, and the prevalence of small, inefficient plots of land. The report also suggests that the unemployment rate is 12% (2009) as noted by official rates, but actual rates may exceed 30% due to preponderance of near-subsistence farming.
66. A report by I Telo 'Reform of the state pension system in Albania' in SEER SouthEast Europe Review for Labour and Social Affairs (SEER SouthEast Europe Review for Labour and Social Affairs), Law No. 7703 On Social Insurance in the Republic of Albania www.ceeol.com/aspx/getdocument.aspx?logid=5&id states that all active individuals, including those who are self-employed and independent farmers – must contribute into the social insurance scheme. Employers, their employees and the self-employed pay a certain

contribution based on their salary and benefits, while self-employed individuals and farmers pay a fixed sum contribution as well as a set amount of their profits.

67. Blood feuds or Kanun is a 16th Century legal code
http://www.gendercide.org/case_honour.html

The institution of the blood feud is most virulent in the *malësi* (mountain regions) of northern Albania, spilling over into the territory that is today the Yugoslav province of **Kosovo**. The institution has its roots in the *Kanun* (canon) of Lek Dukagjin, a legal code compiled in the fifteenth century that enshrined "many customary practices which went back much further into the past," according to Noel Malcolm. Malcolm writes that

The importance of the *Kanun* to the ordinary life of the Albanians of Kosovo and the Malësi can hardly be exaggerated. ... One leading scholar has summed up the basic principles of the *Kanun* as follows. The foundation of it all is the principle of personal honour. Next comes the equality of persons. From these flows a third principle, the freedom of each to act in accordance with his own honour, within the limits of the law, without being subject to another's command. And the fourth principle is the word of honour, the *besë* ... which creates a situation of inviolable trust. Gjeçov's version of the Kanun ["the fullest and most authoritative text"] decrees: "An offence to honour is not paid for with property, but by spilling of blood or a magnanimous pardon." And it specifies the ways of dishonouring a man, of which the most important are calling him a liar in front of other men; insulting his wife; taking his weapons; or violating his hospitality. ... This was very much a man's world. ... Women had their honour, but it existed through, and was defended by, men. (Malcolm, *Kosovo: A Short History* [London: Papermac, 1998], pp. 18-19.)

The blood feud was the result of perceived violations of this code of "honour." It "is one of the most archaic features of northern Albanian society," notes Malcolm. "... What lies at the heart of the blood-feud is a concept alien to the modern mind, and more easily learned about from the plays of Aeschylus than from the works of modern sociologists: the aim is not punishment of a murderer, but satisfaction of the blood of the person murdered -- or, initially, satisfaction of one's own honour when it has been polluted. If retribution were the real aim, then only those personally responsible for the original crime or insult would be potential targets; but instead, honour is cleansed by killing any male member of the family of the original offender, and the spilt blood of that victim then cries out to its own family for purification." The blood feud granted blanket exemption to females, the killing of whom was seen as a profound violation of a *man's* personal honour. "The strongest taboo of all concerned the murder of women, and any woman could walk through raging gunfire in the knowledge that she would never be shot at." (Malcolm, *Kosovo: A Short History*, pp. 19-20.)

In his study of the blood-feud in the Yugoslav province of Montenegro, Christopher Boehm gives a vivid picture of the surreal lengths to which this gender-selectivity is carried:

In the old days, women were free to come and go as they chose under feuding conditions, since taking their blood did nothing to help the blood score and also counted as a dishonor, morally speaking. Thus, their normal daily activities could continue. But men were sorely pressed when it came to doing any work other than herding, which allowed them to stay under cover with a rifle ready at all times. In 1965 [at the time of field research] it was for this reason that women still did so much of the heavier work in the fields, so I was told by the slightly apologetic Montenegrin "male chauvinists," who viewed this as a once-necessary custom formed in an earlier era. ... Whatever might happen to the men during a feud, the women were always free to keep the household economy going because the rules of feuding were taken so seriously by the opposing party.

With respect to the sanctity of women, it was even possible for them to enter directly into combat during the first stage of a feud, when the killer's clan shut itself in and the victim's clan attacked the fortified stone farmhouse, which had loopholes [for firing rifles] everywhere. With no fear of being harmed, women could carry straw and firebrands up to the house to try to burn it. Also, women of a besieged house could go outside at night carrying torches, to light up the enemy so that their own men could shoot at them. This exemplifies the strength of these particular rules: to shoot a woman was a source of shame (*sramota*) for the entire clan. (Boehm, *Blood Revenge: The Anthropology of Feuding in Montenegro and Other Tribal Societies* [Lawrence: University Press of Kansas, 1984], pp. 111-12.)

The death-toll exacted by the blood feud has historically been heavy for Balkans men. "At the end of the Ottoman period it was estimated that 19 percent of all adult male deaths in the Malësi were blood-feud murders,

and that in an area of Western Kosovo with 50,000 inhabitants, 600 died in these feuds every year." (Malcolm, *Kosovo: A Short History*, p. 20.) In Albania, the feuds gave rise to another enduring institution: the "sworn virgin," women who "cut their hair short, wear trousers and drink fiery local brandy with the men." According to Julius Strauss, "The tradition of the sworn virgins was born of necessity in this barren land racked by war, blood feuds and intense poverty. In times past when the male line of a family was wiped out, such a virgin was entitled to take over as the head of the family." (Strauss, "The Virgins Who Live Like Men," *The Daily Telegraph* [UK], February 6, 1997.)

Blood feuds generally declined in the Balkans after the Second World War, as the authoritarian rulers of Albania (Enver Hoxha) and Yugoslavia (Josip Broz Tito) clamped down on practices that were seen as a legacy of the feudal past. In Albania, however, the blood feud has returned with -- one might say -- a vengeance. It has also spread from the traditional heartland of the Malësi to Tirana, the capital, and to the south of the country.

The origins of the current blood-feud crisis in Albania date to the collapse of the communist regime in 1991, and the weakness of the quasi-democratic government that replaced it. From 1992 to 1996, "press reports in Tirana" spoke of "more than 5,000 murders linked to vendettas in the past four years." (Branko Jolis, "Honour Killing Makes a Comeback," *The Guardian* [UK], August 14, 1996.) It is worth noting that this rate of approximately 1,250 men killed in blood feuds annually is slightly greater than the number of known "honour" killings of women in Pakistan -- in a country with about 1/35th the population. Estimates of fatalities are made difficult by the fact that many blood-feud murders go unreported. As one Albanian clan leader told *The New York Times*, "People don't want to report killings to the police because then the accused would be protected by the state in prison instead of being available to kill." (Jane Perlez, "Blood Feuds Draining a Fierce Corner of Albania," *The New York Times*, April 15, 1998.)

In March 1997, the post-communist regime was rocked by "the collapse of enormous, government-endorsed pyramid investment schemes. The public looted army weapons depots as furious investors clashed with security forces. Roughly 1 million firearms are said to be in circulation in a Balkan nation of only 3.2 million." (Michael J. Jordan, "In Albania, A Return to 'Eye for Eye'", *The Christian Science Monitor*, August 7, 1997.) Between 1,600 and 5,000 Albanians died in the ensuing six months, and "revenge killings skyrocketed." (Perlez, "Blood Feuds.") In 1998, Gjin Mekshi, a leader of the Committee of Blood Reconciliation in the town of Shkoder, stated that "In some families there are no men left," although "So far no women have been killed." (Owen Bowcott, "Thousands of Albanian Children in Hiding to Escape Blood Feuds," *The Guardian* [UK], September 30, 1998.)

In addition to the thousands killed, tens of thousands of men live in fear and seclusion as a result of the blood feuds. Mihaela Rodina cites estimates by Albanian non-governmental organizations that "the men of some 25,000 families in northern Albania live thus, never going out of the house for fear of being victims of ... feuding. The women, who are unaffected by the *kanun*, are left alone to provide for the family's needs." (Rodina, "Blood Code Rules in Northern Albania," Agence France-Presse dispatch, June 30, 1999.) In 1997, *The Christian Science Monitor* interviewed one man in Shkoder who "ha[d] been homebound for six years ... The man says he dreams of escaping with a visa to America 'This is actually worse than prison,' he says, standing in his fenced-in garden. 'At least in prison I'd know that one day I could get out.'" Even school-age boys must remain cloistered: "up to 6,000 children [were] said to be hiding" in 1998. (Bowcott, "Thousands of Albanian Children.")

The resurgence of the blood feud has led Gjin Mekshi and others to join forces in an attempt to reconcile feuding families. "The Committee of Blood Reconciliation has 3,000 members in Albania and is pressing the government to accept its arbitrations as part of the legal process. 'I have a good reputation and my father was a man of good reputation, too,' says Mr. Mekshi. 'I am approached to arrange truces by those who are in hiding and dare not go out during the day. When we agree a deal, we sanctify the arrangement with a procession led by the local priest.'" (Bowcott, "Thousands of Albanian Children.") Albanian Radio reported in August 2000 that "Seven hundred and fifty-six blood feuds have been reconciled, allowing the people involved to put an end to self-confinement at home." (BBC Worldwide Monitoring, August 10, 2000.) In neighbouring Kosovo, a similar campaign was mounted in the 1990s by Anton Çetta. (Malcolm, *Kosovo: A Short History*, p. 20.) Nonetheless, according to Deutsche Presse-Agentur, the success of such campaigns has been "only limited." ("Albanian Blood Feuds Affect 210,000," Deutsche Presse-Agentur, March 11, 2000) "The feuds have very deep roots," said Perlat Ramgaj, mayor of the town of Koplik "They're ingrained on our souls, and in this period of transition people feel free to do just about anything." (Quoted in Helena Smith, "Lost Land Where Vengeance is Written in Blood," *The Guardian* [UK], February 12, 1995.)

FINDINGS AND REASONS

68. I find that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. I find that the applicant has made a valid application for review under s.412 of the Act.
69. The applicant resided in Greece from 2002 and was given a work permit with a temporary residence visa. He claims that he lost his job in Greece and is unable to obtain another work permit. I have no information before me to suggest that the applicant has renewed his work permit or that he has a right to return to live in Greece I give the applicant the benefit of the doubt and I accept that the applicant is unable to return to Greece.
70. I accept that the applicant is a citizen of Albania and for the purposes of the Convention I assess his claims against Albania as his country of nationality.
71. The applicant briefly claims that his parents were Communist Party activists who after the fall of Communism suffered ongoing serious harm amounting to persecution. This harm has continued since 1991 and the harm is directed against all members of their family. The applicant claims that he escaped Albania in 2006 and went to work and live in Greece due to the harm he suffered because of his family's political profile. He departed Greece to come to Australia in May 2009
72. By way of background, [Library of Congress Call Number [DR910 .A347 1994](#) History of Albania <http://lcweb2.loc.gov/frd/cs/altoc.html>] the Communist Party of Albania became known as the Socialist Party (SP) in June 1991 after the former Communist regime had agreed to free multiparty elections in March 1991. The regime was forced to resign and share power with the Democratic Party (DP), which pledged to introduce a free market economy and raise the standard of living. During 1993, former Communist leader Ramiz Alia, the Socialist Party leader Fatos Nano and most of the former Politburo members were under arrest awaiting trial on charges of abusing their office. From 1997 to 2005, Albania was ruled by the Socialist Party (SP). In the General Election of 3 July 2005 the PD formed government and continues to hold government whilst the SP is the leading opposition party in Albania.
73. The applicant told the Tribunal that he was not arrested and harmed in Albania but now fears returning to Albania. The applicant left Albania in 2006 to work in Greece and whilst living in Greece he returned to Albania on a number of occasions. When asked why he returned to Albania, he said that it was because of his mother who needed medical assistance at a hospital in [Village A]. He said that he would go during the night and he was not visible during the day because they were always known as 'kids of dogs' He said that it was desperate circumstances he was under and he was very careful. I reject his explanation. The applicant confirmed that after 2002 nothing happened to his father. The applicant said that he was not arrested or harmed in Albania. I am satisfied that the applicant's return to Albania from Greece indicates a lack of a subjective fear of persecution.
74. The applicant's mother, who he claims suffered discrimination for her support of the former Communist regime, had to go to a private doctor when she was ill. When I put to the applicant that his mother had not been refused medical assistance, he agreed. I accept that her medical treatment was paid for by the applicant and brother in Australia. But I am not satisfied that being required to pay for medical treatment and attending a private doctor for treatment suggests that the applicant's mother suffered discrimination in Albania.

75. The applicant claims that he could not continue his education because of the harassment against him at school and he stopped going to school at the age of sixteen. For five years he did not find employment in their village because of his parents' past. When I put to the applicant that employment was difficult to find in Albania he responded that no-one would employ him as soon as they knew about his father. As the independent evidence before me indicates that the agricultural sector in Albania accounts for over half of employment but only about one-fifth of GDP and is limited primarily to small family operations and subsistence farming and as the applicant left school without finishing his education and as his evidence is that his father's farm was hardly able to support the family I do not accept that the applicant's lack of employment in Albania was due to his father's adverse political profile. I am not satisfied that the applicant suffered discrimination in employment for a Convention related reason.
76. The applicant said that he was bullied at school. When I put to him that he could have complained to the police he said that he complained to the police but no one was interested. When I put to him that he did not inform the Department in his PVA that he had complained to the police about his treatment at school, he said that they did not ask him. I reject his claim. It is for the applicant to make his claims for protection to the Department in his PVA. I am of the view that it is a late invention made in order to enhance his claims to the visa sought.
77. Even if I accept that his father worked in a government office until 1991 and lost that position and was unemployed from 1991 and his sister is unemployed, the applicant's father worked on a farm and around the house though he had difficulty making a sufficient living from that work. The independent evidence before me indicates that Albania remains the poorest transition economy outside the Commonwealth of Independent States. In 2003, the country had an estimated GDP per capita (at purchasing power parity) of about US\$4500.20. A Living Condition Survey (LCS) carried out in 1998, showed that 29.6% of Albanians were poor, whereas more than half of them lived in extreme poverty. Almost one out of every three Albanians or some 917,000 people were poor, with over 500,000 individuals falling within the extremely poor category and 46.6% of Albanians were below the poverty line of US\$2 per capita per day, while 17.4% were below the poverty line of US\$1 per capita per day. The independent evidence before me does not suggest that former Communist party members, supporters, spies or infiltrators suffer discrimination in employment. Furthermore the independent evidence, cited above, indicates that many former spies and infiltrators have attained public office. The independent evidence, before me, does not suggest that people are unemployed for a Convention related reason.
78. The applicant claims that currently there is a big movement in Albania to go back to the religion of Islam which was suppressed under communism. Albanians who are returning to Islam are becoming fanatic and extremists. The independent evidence before me indicates that the practice of religion has been gradually reintroduced into Albanian society following the complete ban imposed in 1967 on all forms of religious worship. Today a considerable number of Albanians have a secular identity, or no clearly defined religious identity. The information provided by the applicant [cited above] suggests that at present, the threat from extreme Islamists is more real in Bosnia, the Sandzak and Macedonia than in Albania. Supporters of the Selefi, however, are increasing all the time as more young men return to Albania to work for a stricter and more rigorous implementation of the Prophet's teachings in line with Arab countries.
79. The applicant also claims that he faces persecution from Islamists as his mother is Christian and he does not follow Islam as required by the Quran and teaching of Islam. He claims that

he was brought up by two communist parents who did not believe in any religion, his father calls himself a Muslim and his mother calls herself a Christian. He claims that Muslim Albanians do not like or have any respect for the Christians. Whilst the applicant claims that society does not accept inter-married couples or children from such marriages and the Muslim community is becoming more fundamentalist the independent evidence (cited above) does not support this claim. I prefer to rely on the independent evidence that indicates that the Constitution provides for freedom of religion and the government generally respected this right in practice. There is no official religion. The predominant religious communities (Sunni Muslim, Bektashi Muslim, Orthodox, and Roman Catholic) enjoyed de facto recognition that gives them the legal right to hold bank accounts, own property and buildings, and to function as legal entities based on their historical presence in the country. The government was secular, and religion was not taught in public schools. Relations among the various religious groups were generally amicable. I accept the independent information (cited above) that the generally amicable relationship among religions in society contributed to religious freedom in Albania. Society is largely secular. Intermarriage among members of different religions is extremely common. Religious communities take pride in the tolerance and understanding that prevail among them.

80. The applicant claims that those people who are in power are against everything belonging to or related to the ex-communist regime. Since the fall of the communist government in Albania a policy of anti ex-communism has been carried out. The current government is talking now about exposing the secret police who were employed in Albania during the communist regime. The independent evidence before me indicates that the Sigurimi secret police force was abolished in 1991 and replaced by the National Information Service. During communist rule, the secret police relied on a vast web of unpaid informants, some of whom were blackmailed into helping keep tabs on fellow citizens, which involved about 17 percent of the population. In the 1960s one communist official once said one in four people were involved. In September 1992 former leader Alia and 18 other former communist officials, including Hoxha's widow, Nexhmije, were arrested and charged with corruption, abuse of power, and other offences. Nexhmije was sentenced to 11 years in jail. In October 2006 Albania's parliament adopted a resolution to open the country's Communist-era secret police files. In 2008 the government led by Berisha passed a law for dismissal of former secret agents from public and high-ranking posts.
81. I accept that the Albanian government arrested and sentenced high profile Communist party activists in the first few years post 1991, but I have no evidence before me to suggest that the Albanian government arrested and detained former Communist collaborators or former secret agents after 1991 and continue to harass and watch them, as claimed by the applicant. Rather the independent evidence indicates that former secret agents were employed in the government and whilst the applicant lived in Albania, the Albanian government had not opened the secret police files. The SP (former Communist party) had been in government from 1997 to 2005. The applicant claimed his father had been arrested in 1995 and in 2002. When I put to the applicant my view that it was implausible that his father had been arrested during the time that the Socialists were in government, he responded that there are several others who had those experiences. I reject his explanation. I am of the view that had the SP government arrested pre-1991 communist party supporters and/or secret agents some mention would have been made in sources such as the US State Department Reports, UK Home Office Reports and Amnesty International. Furthermore, the evidence before me it was not until December 2008 that the Albanian government passed legislation to open the secret police files. I find that the applicant's father was not listed on a police list, he was not a pre-

1991 Communist supporter, infiltrator or secret spy nor was he arrested or harmed for being a pre-1991 Communist supporter, infiltrator or secret spy or that the applicant and his family suffered discrimination because of his father's political profile. Nor do I accept that the applicant's father was under, and continues to be under, surveillance by the secret police or that there is ongoing harassment of the applicant's family including people breaking windows on his house and people screaming out they are dogs.

82. Even were I to accept that the applicant's father was a Communist Party supporter or infiltrator or spy and the applicant and his family were discriminated against by villagers forcing them to move to [Village A] from [Town A], the applicant and his family continue to reside in [Village A]. The family initially rented 500 square metres of land and later built a house on land which they bought in 1994. His parents still live there with his sister, albeit that his sister is unemployed. The applicant claims that nothing has happened to his father since 2002.
83. As for the applicant's father not obtaining a pension because of his pre-1991 political affiliations by the post 1991 government, according to independent evidence before the Tribunal pensions in Albania are based on contributions paid. This does not suggest that the applicant's father suffered discrimination in obtaining a pension.
84. I accept that the applicant's father is an Albanian Muslim. I accept that his mother was born Christian. Even were I to accept that the applicant's parents were not liked in their village because of their loyalty and commitment to Communism and even if I accept people accused his father of passing information about them to the Albanian communist authority after the fall of Communism in Albania or that the family were all called names, rubbish was thrown at their home, slogans were written against their home and the applicant and his siblings were beaten up, the applicant's family did not complain to the police about their treatment. There is a Peoples Advocate or Ombudsman who hears complaints against excessive government acts.
85. I accept on the basis of the independent evidence that Albanians have a feudal customary law code of Lekë Dukagjini (the 'Kanun'). I accept that in many societies such as Australia and other western countries this law is considered barbaric. With the collapse of the Communist regime in Albania in 1991 and ensuing lawlessness, customary Albanian law known as the Kanun, or the Code of Leke Dukagjini, which had been suppressed under the Communist regime re-emerged. Blood feuds, which are a recognised part of the Kanun is today followed throughout northern Albania. The rules of a blood feud require a male member of one family to be killed as a matter of honour where a member of that family had been involved in the killing of a member of another family. Under the blood feud, the family of the victim is to "take blood" by seeking revenge against any male relative on the other side (UK Home Office: Albania Assessment, April 2003, Section 6). The applicant claims that there are blood feuds against his mother and father for what they have done. But it is not announced as such. The evidence before me does not suggest that a Kanun, as described above, has been proclaimed. The applicant later stated that against his parents there is no Kanun but the threats and constant slurs and beatings point to a serious risk. I am satisfied that his claim about a Kanun against his parents is a late invention made to enhance his claims.
86. I do not accept that the applicant is a witness of truth. I am satisfied the applicant has created his claims in order to obtain the visa sought.

87. As the Convention looks to the future I am required to consider the situation if the applicant returned to Albania now, or within a reasonably foreseeable future. I accept the applicant is a Muslim Albanian from a Muslim/Catholic family who are largely secular.
88. Independent country information states Albania is a republic with a multiparty parliament, and a Prime Minister and a President both elected by Parliament. In October 2003, local elections were held throughout the country, which were judged to be an improvement over previous elections, with only a few isolated incidents of irregularities and the Albanian Government ratified enabling legislation for a "Peoples Advocate" (Ombudsman) in February 1999, and the first Ombudsman was appointed in February 2000. The Ombudsman investigates inappropriate, inadequate, or illegal actions on the part of the Government.
89. The People's Advocate acts as a watchdog for human rights and its most common cases included citizen complaints of police and land disputes. There has been a concerted effort since 1996 to deal with the problem of blood feuds and there were reconciliation efforts and Albanian officials appear to have recognised the problems posed by the Kanun and have pledged to address them. The Albanian government has enacted strong legislation in an attempt to eradicate the blood feud tradition, penalties for blood feud killings are now more severe than for other murders, and even a credible threat of revenge or blood feud is punishable by up to three years in prison. This showed the government was making serious efforts to address the issue of blood feuds.
90. I accept that the independent evidence indicates that Albania is poor and there are corrupt officials in Albania But the evidence before me indicates that the Albanian authorities can and do arrest and charge persons who commit criminal acts in Albania I accept that the legal system also suffers from corruption but the independent evidence does not suggest that this corruption does not affect all Albanian citizens or is discriminatory toward persons for a Convention related reason. The independent evidence (cited above) indicates that the Albanian government is making concerted efforts to improve the judiciary, the police service and to attack corruption within its own ranks.
91. The evidence before me does not suggest that mixed religion married couples or their children suffer harm in Albania or do not receive the protection of the Albanian authorities. The evidence before me does not suggest that secular Muslims of secular Albanians whose families are mixed Christian Muslim suffer harm in Albania. I am not satisfied the applicant will suffer harm for his family's mixed marriage on his return to Albania from family, the people of [Village A] or Albanians generally.
92. I am satisfied the applicant does not have a well-founded fear of persecution for a Convention reason. I am satisfied the applicant is able to return to Albania. I am satisfied that the applicant does not have a real chance of harm in Albania in the reasonable foreseeable future.

CONCLUSION

93. The Tribunal is not satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant satisfy the criterion set out in s.36(2)(a) for a protection visa.

DECISION

94. The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

I certify that this decision contains no information which might identify the applicant or any relative or dependant of the applicant or that is the subject of a direction pursuant to section 440 of the *Migration Act 1958*.

Sealing Officer: PRMHSE