

# **Country Information and Guidance**

## Albania: Sexual orientation and gender identity

13 October 2014

# Preface

This document provides guidance to Home Office decision makers on handling claims made by nationals/residents of - as well as country of origin information (COI) about - Albania. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether - in the event of a claim being refused - it is likely to be certifiable as 'clearly unfounded' under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Within this instruction, links to specific guidance are those on the Home Office's internal system. Public versions of these documents are available at <https://www.gov.uk/immigration-operational-guidance/asylum-policy>.

## Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the European Asylum Support Office's research guidelines, [Country of Origin Information report methodology](#), dated July 2012.

## Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please email: [CPI@homeoffice.gsi.gov.uk](mailto:CPI@homeoffice.gsi.gov.uk).

## Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office's COI material. The IAGCI welcomes feedback on the Home Office's COI material. Information about the IAGCI's work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's website at <http://icinspector.independent.gov.uk/country-information-reviews/>

It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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# 1. Guidance

## 1.1. Basis of claim

- 1.1.1 Fear of persecution by the Albanian authorities or by non state actors due to a person's sexual orientation/gender identity or perceived sexual orientation/gender identity.

## 1.2. Summary of issues

- Is the person's account a credible one?
- Do lesbian, gay or bisexual, or transgender (LGBT) persons from Albania form a particular social group (PSG)?
- Is the person at real risk from the Albanian authorities or non state actors due to their sexual orientation/gender identity ?
- Is there effective protection for the LGBT community?
- Are those at risk able to internally relocate within Albania to escape any risk?

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## 1.3. Consideration of issues

### Is the person's account a credible one?

- 1.3.1 Decision makers must consider whether the person's account of their actual or perceived sexual orientation/gender recognition/gender identity and of their experiences as such is reasonably detailed, internally consistent and credible as well as being externally credible (i.e. consistent with generally known facts and the country information).

### Do lesbian, gay or bisexual, or transgender (LGBT) persons from Albania form a particular social group (PSG)?

- 1.3.2 LGBT persons are each considered members of a particular social group within the meaning of the Refugee Convention because they share a common and immutable characteristic which is either beyond the power of an individual to change or is so fundamental to their identity or conscience that it ought not be required to be changed and, based on an assessment of the country information, they have a distinct identity in Albania which is perceived as being different by the surrounding society.
- 1.3.3 Although LGBT persons in Albania form a PSG, this does not mean that establishing such membership will be sufficient to make out a case to be recognised as a refugee. The question to

See Asylum Instructions on [Considering the asylum claim and assessing credibility](#)

See asylum instruction on [Sexual orientation issues in the asylum claim](#) and also the process guidance on [Interviewing/assessing the claim](#)

See [country information](#)

See Asylum Instructions on [Considering the asylum claim and assessing credibility](#)

See [country information](#)

be addressed in each case will be whether the particular person will face a real risk of persecution on account of their membership of such a group.

### **Is the person at real risk from the Albanian authorities or non state actors due to their sexual orientation?**

- 1.3.4 Same sex relations have been legal since 1995 and anti-discrimination laws in Albania expressly protect LGBT persons and make hate crimes a criminal offence. The current Albanian Prime Minister has publicly met with LGBT activists at which he voiced his support for the community.
- 1.3.5 The State has attained significant milestones in the legal protection of the LGBT community since 2010 . Freedom of assembly – in particular regular public LBGT gatherings – and several well funded LGBT NGOs attest to the progress Albanian society is making and these developments enjoy support from relevant ministries and the office of the ombudsman.
- 1.3.6 Despite the law and the government’s formal support for LGBT rights, Albania remains a conservative society in which homophobic attitudes persist – particularly in northern areas of the country. There have been incidents of LGBT people in Albania being subject to intolerance, discrimination, physical and psychological violence, job loss, evictions, threats and possible rejection from their families. In addition, transgender people have experienced a denial of healthcare. However in general the level of discrimination is not such that it will reach the level of being persecutory or otherwise inhuman or degrading treatment.
- 1.3.7 This was confirmed in the country guidance case of IM (Risk – Objective Evidence – Homosexuals) Albania CG [2003] UKIAT 00067 (8 September 2003) where the Tribunal concluded that “.. there is no country background evidence which supports a reasonable likelihood that homosexuals as such in Albania are subject to any action on the part either of the populace or the authorities which would amount to persecution for the purposes of the Refugee Convention or would be in breach of their protected human rights.”(para 7).
- 1.3.8 In the more recent country guidance case of MK (Lesbians) Albania CG [2009] UKAIT 00036 (September 2009), the Tribunal concluded that “In our view the evidence supports the proposition that homosexuals known to be members of gay associations and those who visit cruising areas in the centre of Tirana are likely to be harassed and on occasions ill-treated by the police but we are not satisfied that merely being effeminate or butch, being unmarried or living with a person of the same sex who was not a member of the family, would in itself attract the risk of serious harm from the police for reasons of sexual orientation.” (para 339).

See [country information – Legal rights](#)

See [country information - societal treatment and attitudes](#)

See [caselaw](#)

See [country information - treatment by, and attitude of, state authorities](#)

1.3.9 The Tribunal in MK went on to conclude that “In general terms in Albania women of lesbian orientation are able to carry on lesbian relationships discreetly without attracting the risk of serious harm. A lesbian woman, whose sexual orientation becomes known, may be at risk of harm from members of her family, particularly if she is from a traditional family from the north of Albania, but each case must be determined on its merits. In such a case, however, it is likely that there would be an adequacy of state protection.”(para 384)

### **Is there effective protection for the LGBT community?**

1.3.10 The state police have reportedly coordinated with LGBT organisations and provided effective security/protection for LGBT-related events. However, public officials continue to make derogatory homophobic statements, police violence against the LGBT community is reported and there are cases where the police fail to take protective measures when requested to do so by LGBT complainants, in some instances detaining them instead. There are avenues of redress in such circumstances - for example the police ombudsman who process complaints against police officers mainly on arrest and detention problems.

1.3.11 The Commissioner for Protection from Discrimination (CPD) has also reported having registered complaints from LGBT persons and organizations and has issued sanctions.

1.3.12 Since the country guidance cases of IM and MK, Albania has taken further measures to tackle discrimination against LGBT persons. For example in May 2013, the assembly passed an amendment that added sexual orientation and gender identity to the list of classes protected by the country’s hate crime law. Even though this law is a relatively new one, it has started to be enforced by the Government and the Albanian Commissioner against Discrimination.

1.3.13 Albania’s current government, which came to office in September 2013, has further stepped up efforts to tackle discrimination against LGBT persons with it having reportedly prepared draft laws, such as amendments to the Labour Code and Family Code (to obtain legal recognition of same-sex relationships), which are expected to be introduced in the near future to the Parliament, whereby the rights of the LGBT community are further protected.

1.3.14 There are also non governmental organisations in Albania who advocate for LGBT rights and the LGBT community and can potentially assist the person to avail themselves of the protection of the state.

### **Are those at risk able to internally relocate within Albania to escape that risk?**

1.3.15 It may be possible for an open same-sex oriented person (or

See Asylum Instructions on [Considering the asylum claim and assessing credibility](#)

See country information - [Commissioner for protection from discrimination \(CPD\)](#)

See [country information](#)

someone perceived to be such), who is able to demonstrate a real risk in their home area because of their particular circumstances, to relocate internally to a major city, for example Tirana where Albanian LGBT support organisations are mainly based, but only if the risk is not present there and if it would not be unduly harsh to expect them to do so. Decision makers must however take into account that the Supreme Court in the case of [HJ \(Iran\)](#) made the point that a person cannot be expected to modify their behaviour and that internal relocation is not the answer if it depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.

See Asylum Instruction on [Internal Relocation](#)

See [country information](#)

1.3.16 The onus will be on the person to demonstrate why they would be unable to internally relocate to a part of the country where they would not face difficulties even without concealing their sexual orientation in the proposed new location.

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## 1.4. Policy summary

**There are laws prohibiting discrimination against LGBT persons and the government supports LGBT rights.**

**Albania is a conservative society where homophobic attitudes persist, but in general the level of discrimination is not such that it will reach the level of being persecutory or otherwise inhuman or degrading treatment.**

**Personal circumstances place some gay men and lesbians at risk from non state actors but in such circumstances effective protection is in general available.**

**Where it is not provided in individual cases, there are avenues or redress and the Commissioner for Protection from Discrimination (CPD) has registered complaints from LGBT individuals and organisations and issued appropriate sanctions.**

**Alternatively a person could relocate to less conservative areas of the country where they would not face such difficulties even without concealing their sexual orientation.**

**As a consequence, a person who fears persecution on the basis of their sexual orientation or gender identity is unlikely to qualify for the grant of asylum or humanitarian protection.**

**Where a claim falls to be refused, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002 as Albania is listed as a designated state.**

**Where a claim falls to be refused, it is likely to be certifiable as 'clearly unfounded' under section 94 of the Nationality,**

See asylum process guidance on [Non suspensive appeals certification under section 94 of the NIA Act 2002](#)



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## 2. Information

### 2.1 LEGAL RIGHTS

2.1.1 The Council of Europe, in co-operation with British Embassy Tirana, Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity, Legal Report: Albania, dated 23 May 2014, reported that :

‘Significant milestones have been attained in the legal protection of the LGBT community in the period 2010 to 2014. Albania has been a parliamentary democracy since 1991 and, with the repealing of Article 137 of the old Criminal Code, same sex relations have been legal since 1995. Since decriminalization the previous administration was successful in introducing anti-discrimination legislation protecting LGBT individuals as well as making hate crime a criminal offence.

‘Such changes primarily consist of amendments to the Albanian Criminal Code but also includes legislation on pre-university education. The new administration continues this positive work through working groups, who are currently looking at amendments to the Albanian Family Code to obtain legal recognition of same-sex relationships; a first for the region.

‘This work also extends to reviewing labour laws to encompass the protection of LGBT employees. Freedom of assembly, in particular regular public LGBT gatherings and several well funded LGBT NGOs all attest to the progress Albanian society is making and these developments enjoy support from relevant ministries and the office of the ombudsman. LGBT activists do compete with calls from conservative society for “tradition family values” however this does not resonate amongst the also relatively young faith communities in the same virulent way as in Albania”s immediate neighbours. [...]

‘Work in protecting the rights of LGBT citizens and maintaining the fight against those who discriminate on the grounds of sexual orientation or gender identity remains far from complete in Albania. However the major developments in legislation between 2010 and 2014 remain a positive indicator and act as a catalyst for adapting local perceptions of minority rights to wider views held across Europe.’<sup>1</sup>

2.1.2 Washington College of Law Journals & Law Reviews. "International Legal Updates." Human Rights Brief, 2010, reported that:

‘Human Rights advocacy groups worldwide hailed Albania’s inclusive anti-discrimination law as a victory for equal protection from all forms of discrimination, including discrimination based on sexual orientation and gender identity. [...] The law, which took effect in March [2010], expressly protects lesbian, gay, bisexual, and transgender (LGBT) Albanians, [...] This law comes in response to high levels of homophobia documented in Albania and the previous absence of legal protections for LGBT communities. While human rights groups hail the bill as a major victory, there are concerns that religious groups will try to slow down its adoption into civil society.

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<sup>1</sup> Council of Europe, in co-operation with British Embassy Tirana, Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity, Legal Report: Albania, 23 May 2014 (pg 24) (Hard copy only, available on request) date accessed 29 July 2014

'Due to lobbying by [...] religious groups, a same sex marriage-equality provision, included in the proposed draft of the bill, was omitted from the text of the final law. [...] LGBT communities are frequently subjected to intolerance, physical and psychological violence and police mis-treatment. Thus, human rights groups actively encourage the Office of the Commissioner for the Protection of Equality and the Ministry of Labor to implement an adequate enforcement mechanism, with the staff and expertise needed to fight discrimination and ensure that homosexuality and gender identity are no longer taboo.'<sup>2</sup>

See Republic of Albania, The Assembly, Law no. 10221 dated 4 February 2010 "On Protection against Discrimination"<sup>3</sup> With regards to gay marriage, in October 2013, it was reported that "The debate that was sparked several months ago by the [then] democrat Prime Minister, Sali Berisha who said that gay marriages in Albania could be allowed, is followed by a fresh debate sparked by the People's Advocate, Igli Totozani. He has proposed for gay marriages to be allowed by warning that a bill is ready to be sent to parliament for voting. Totozani said that Albania must become the first country in the Balkan to allow gay marriages.[...] Before the elections, the Socialist Party declared that it agrees with the opening of a debate in the Albanian society on this issue, but has not taken an official stance. On Saturday, right wing politicians have launched strong reactions against gay marriages and the left wing which is in power, kept quiet".<sup>4</sup> In December 2013, it was reported that "Representatives of Council of Europe, Albanian's Ombudsman, Government, opposition and LGBT organizations were present today in a conference in Tirana to present two main legislation initiatives. The first one has to do with the amendment of the Family Code in order to make the civil partnerships more inclusive and legalize the same sex partnerships. The second initiative is a draft law presented today for gender recognition in Albania. [...] The first proposal, the one for same sex partnerships will enter into the government and the Parliament's agenda within 2014. The path for the second one is not yet clear".<sup>5</sup>

2.1.3 History IME.com, the human rights news portal, in a report, Historical for LGBT. Albania has a hate crime legislation, [sic] 05 May 2013, commented upon recent amendments to legislation which directly impacted on LGBT matters. It stated that:

'This amendment makes Albania one of the countries with the most advanced legislation in the region for protection of LGBT people. The first change [...] has to do with the inclusion of crimes motivated by the sexual orientation and gender identity of an individual or group as an aggravating circumstance. The second change which is a real

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<sup>2</sup> Washington College of Law Journals & Law Reviews [http://digitalcommons.wcl.american.edu/WCL\\_journals/](http://digitalcommons.wcl.american.edu/WCL_journals/). "International Legal Updates." Human Rights Brief 17, no.3 (2010): Albania's New Anti-Discrimination Law Protects LGBT Rights 40-52.

<http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1133&context=hrbrief>  
date accessed 28 May 2014

<sup>3</sup> Republic of Albania, The Assembly, Law no. 10221 dated 4 February 2010 "On Protection against Discrimination" [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_178702.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_178702.pdf)

date accessed 28 May 2014

<sup>4</sup> Independent Balkan News Agency <http://www.balkan.eu.com/> Reopening of an old topic triggers fresh debates on gay marriages in Albania, 26 October 2013 <http://www.balkan.eu.com/reopening-topic-triggers-fresh-debates-gay-marriages-albania/>

date accessed 28 May 2014

<sup>5</sup> Historia-ime.com (My Story) <http://historia-ime.com/en/english.html>, Same sex Partnerships and Gender Recognition for Albania. CoE clears the path for it, 04 December 2013 <http://historia-ime.com/en/english/178-same-sex-partnerships-and-gender-recognition-for-albania-coe-clears-the-path-for-it.html>

date accessed 28 May 2014

revolution in Albania concerns the inclusion in the Criminal Code of the concept of crimes against the LGBT community through information technology.[...]

'[...] the Ombudsman Mr. Igli Totozani said that "the approval of amendments to the Criminal Code against homophobia represents a revolution in the Albanian legislation against homophobia".

'A collaboration between the Ombudsman, LGBT organisations, civil society and the Ministry of Justice made possible this amendments that put Albania in the forefront of the region in this regard, he added. Totozani. "So on the way to a more fair, equal and European society. A valuable contribution to a greater protection of human dignity and a more open and European Albania".'<sup>6</sup>

#### 2.1.4 The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), ILGA Europe, accessed 28 May 2014, summarised the legal position thus:<sup>7</sup>

##### AGE OF CONSENT

Equal age of consent for same-sex and different-sex sexual acts	✓
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##### ASYLUM

	Sexual Orientation	Gender Identity
Persecution on the following grounds is explicitly recognised in asylum law	x	x
Policy/other positive measures	x	x

##### BIAS MOTIVATED SPEECH/VIOLENCE

	Sexual Orientation	Gender Identity
Hate crime on the following grounds is recognised in criminal law	✓	✓
Hate speech on the following grounds is recognised in criminal law	✓	✓
Policy tackling hatred	x	x
Hate crime/speech law explicitly refers to intersex people		x

##### EQUALITY AND NON-DISCRIMINATION

	Sexual Orientation	Gender Identity
The Constitution explicitly prohibits discrimination on the following grounds	x	x
Discrimination in employment is explicitly prohibited by law on the following grounds ( <a href="#">click here to download the law text</a> )	✓	✓
Discrimination in access to goods and services is explicitly prohibited by law on the following grounds ( <a href="#">click here to download the law text</a> )	✓	✓
Discrimination in other spheres of life is explicitly prohibited by law on the following grounds ( <a href="#">click here to download the law text</a> )	✓	✓
Equality body/National human rights institution is legally mandated to tackle discrimination on the following grounds	✓	✓

<sup>6</sup> Historia-ime.com (My Story) <http://historia-ime.com/en/english.html>, Historical for LGBT. Albania has a hate crime legislation, 05 May 2013  
<http://historia-ime.com/en/english/143-historical-for-lgbt-albania-has-a-hate-crime-legislation.html>  
 date accessed 28 May 2014

<sup>7</sup> International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) <http://www.ilga-europe.org/>, ILGA Europe, Albania country page, Legal summary in details on Albania, updated May 2014  
[http://www.ilga-europe.org/home/guide\\_europe/country\\_by\\_country/albania/legal](http://www.ilga-europe.org/home/guide_europe/country_by_country/albania/legal)  
 date accessed 28 May 2014

National equality action plan contains measures tackling discrimination on the following grounds	✓	✓
National anti-discrimination law explicitly refers to gender expression		x
National anti-discrimination law explicitly refers to intersex people		x

#### FAMILY

	Marriage	Registered partnership (similar rights to marriage)	Registered partnership (limited rights)	Cohabitation
Forms of legal recognition of same-sex partnerships	x	x	x	x
	Joint adoption	Second parent adoption (adoption of one another's child)	Medically assisted insemination (couples)	Medically assisted insemination (singles)
Same-sex couples are entitled to	x	x	x	x
Trans people can legally marry a person of the other gender				x

#### FREEDOM OF ASSEMBLY, ASSOCIATION & EXPRESSION

No legislation limiting freedom of expression on LGBTI issues (national/local)		✓
	No obstruction	Obstruction
Public events held, no state obstruction (last 5 years)	x	x
Associations operate, no state obstruction (last 5 years)	✓	x

#### LEGAL GENDER RECOGNITION

Existence of legal/administrative procedures for change of name and legal gender	x
Possibility to change one's name to match the gender identity	x
Possibility to change one's gender on official documents to match the gender identity	x
No <i>Gender Identity Disorder</i> diagnosis or medical/psychological opinion needed	x
No compulsory medical intervention required	x
No compulsory surgical intervention required	x
No compulsory divorce (or single status) required	x
No sterilisation (or proof of infertility) required	x

Note: Further background on the ticked boxes can be found at [Legal summary in details on Albania](#).

2.1.5 The US State Department 2013 Human Rights Report: Albania (USSD Report 2013), released on 27 February 2014, noted:

‘In May the assembly passed an amendment that added sexual orientation and gender identity to the list of classes protected by the country’s hate crime law. In April then prime minister Sali Berisha met publicly with LGBT activists and reiterated his support for their human rights and inclusion in society. In May then opposition leader and current Prime

Minister Edi Rama also publicly met with LGBT activists in a highly publicized event at which he voiced his support for the community.’<sup>8</sup>

2.1.6 The 2014 ILGA annual review which covers events in 2013 reported that:

‘The Socialist Party, which won the general elections in June, wrote in its programme that it would make “legal amendments [to] provide special attention to disadvantaged groups of women, including [...] women with a different sexual orientation”. It also pledged to strengthen the role of the Ombudsman, and said: “It is the government’s mission to provide every Albanian citizen with [quality] public services, regardless of their [...] sexual orientation”. The Council of Ministers adopted a new Ethical Code in September, stating that Ministers may not “favour or discriminate” based on “gender identity [or] sexual orientation’.<sup>9</sup>

See [Support services](#)

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## 2.2 TREATMENT BY, AND ATTITUDE OF, STATE AUTHORITIES

2.2.1 The Immigration and Refugee Board of Canada (IRB), in a response to an enquiry on the situation and treatment of homosexuals, dated 24 June 2013, reported that:

‘ [...] Country Reports for 2011 reports incidents of police harassment of LGBT.

‘Country Reports for 2012 stated that [t]he government reiterated its support for the LGBT community, and Prime Minister Berisha stated that LGBT activists would be permitted to organize a public demonstration according to their legal rights. The state police coordinated with LGBT organizations and provided effective security for several LGBT-related events during the year.

‘In May 2012, civil society organized a diversity festival to mark the international day against homophobia and transphobia. Agence France-Presse (AFP) reports that the event took place in Tirana, where activists distributed leaflets in order to raise awareness on LGBT rights (ibid.). According to the European Commission, state authorities were present at the festival. AFP also indicates that some politicians joined the event to show their support. However, the European Commission’s report notes that [i]n the run-up to this event, derogatory homophobic statements were made by a member of government and a political party representative. The Prime Minister denounced these statements,

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<sup>8</sup> US Department of State <http://www.state.gov> , Country Report on Human Rights Practices for 2013: Albania, 27 February 2014, section 6, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220247> date accessed 28 May 2014

<sup>9</sup> International Lesbian, Gay, Bisexual, Trans and Intersex Association.(ILGA) <http://www.ilga-europe.org/>, Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2014 Albania, May 2014 <http://www.ilga-europe.org/content/download/30417/187654/file/albania.pdf> date accessed 19 September 2014

and the Commissioner for Protection from Discrimination investigated the cases and issued recommendations.’<sup>10</sup>

### 2.2.2 The report continued:

‘In 2012, the Deputy Defence Minister responded to plans for a gay parade in Tirana by saying that the organizers “should be beaten with clubs”. The Prime Minister denounced his remarks as “unacceptable”. Country Reports for 2012 writes that, although civil society and many citizens criticized the remarks, some political leaders and religious organizations supported the minister’s comments. The report further states that a few days after the incident, a member of the Deputy Defence Minister’s party told an openly gay activist, “If you were my son, I would put a bullet in your head” (ibid., 26).

‘Sources report that a similar incident occurred in March 2013, and Albania’s anti-discrimination commissioner accused the Deputy Defence Minister and a Socialist Party official of using discriminatory language against LGBT persons.’<sup>11</sup>

### 2.2.3 The United States Agency for International Development (USAID), in a report Testing the Waters: LGBT People in the Europe & Eurasia Region, February 2014, stated that:

‘LGBT who were surveyed revealed that they greatly mistrust the police—they are often kept in jail for many hours without knowing the cause of the arrest, humiliated and are subjected to unjustified police violence. In March 2010, a participant on the Albanian live television show Big Brother openly revealed his sexual orientation, sparking protests in his hometown. Threats of violence forced his family to flee the town, but police did not stop the unauthorized protests or address hate speech posted on Internet websites.

‘Police investigating a theft in a park were interviewing people and “amongst the people they were interviewing for the case was also a young man, who is friends with the transgender group, which lives by this park. When the police tried to detain the young man, they faced resistance by one of the transgender people called Paloma”. Six police officers beat her, took her into custody, and continued to perpetrate physical violence against her. “To avoid any bruises on the head and face, she was forced to wear a helmet, while kicking and punching continued all over her body [...]The police took Paloma to Mother Teresa National Hospital (QSUT), where she received immediate aid and was then taken back to the police headquarters of Tirana”.’<sup>12</sup>

### 2.2.4 The 2014 ILGA annual review which covers events in 2013 reported that in March, the former Deputy Defence Minister Eqrem Spahia was quoted in the press declaring that

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<sup>10</sup> Research Directorate, Immigration and Refugee Board of Canada, Ottawa <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspxALB104457.E>: Albania: Situation and treatment of sexual minorities, including legislation, state protection and support services (2011-June 2013), 24 June 2013 <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454634&pls=1> date accessed 28 May 2014

<sup>11</sup> Research Directorate, Immigration and Refugee Board of Canada, Ottawa <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspxALB104457.E>: Albania: Situation and treatment of sexual minorities, including legislation, state protection and support services (2011-June 2013), 24 June 2013 <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454634&pls=1> date accessed 28 May 2014

<sup>12</sup> United States Agency for International Development (USAID) <http://www.usaid.gov/>, Testing the Waters: LGBT People in the Europe & Eurasia Region, 25 February 2014 <http://www.usaid.gov/sites/default/files/documents/2496/USAID%20Testing%20Waters%20Report%20on%20LGBT%20Europe%20and%20Eurasia.pdf> date accessed 28 May 2014

same-sex relationships were “immoral” and “perverse”. As part of their electoral programme, the Legality Movement Party (LMP, right-wing/monarchist) said that “Albanian law must not be allowed to approve homosexuality or abortion”, and the Republican Party (PR, right-wing/conservative) proposed “prohibiting homosexuality [sic]”.<sup>13</sup>

2.2.5 ILGA, in a written submission to the the European Commission’s 2013 Progress Report on Albania, 17 May 2013, reported that:

‘in December 2012, a young gay man was subjected to continuous harassment and intimidation by a group of young men who saw him kissing his boyfriend in a park. The perpetrators threaten the victim with gun and made him undress, filmed him nude with mobile phones, followed him home to identify his home address, where they have waited for him numerous times and threatened him. The victim reported the case to the police and to the Commissioner against Discrimination, but the police didn’t take any action on the basis that the perpetrators are unknown to the victim and cannot be identified. No measures were taken by the Commissioner for the same reason. The ILGA report also notes a case of three transgender friends who were physically and verbally attacked by a group of four young men and women. According to the testimonies of the victims the police did not take note of their complaints.’<sup>14</sup>

2.2.6 The Immigration and Refugee Board of Canada noted in a 2013 research report that:

‘The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) reports that in October 2011, a gay couple from Tirana was “ridiculed” and “insulted” by police officers when they tried to report an attack on them by the brother of one of the victims (ILGA May 2012, 31). ILGA indicates that the victims were detained for 10 hours and no statements were recorded (ibid.).’<sup>15</sup>

2.2.7 The Immigration and Refugee Board of Canada (IRB), in a response to an enquiry concerning the police force, including its structure and location; police corruption; police misconduct; police impunity and procedures to submit a complaint against police, dated 05 October 2011, reported that a functioning system was in place to submit complaints concerning the police service through the police directorate, the Prosecution Office, the Internal Control Service, the Ombudsman, or to local or international human rights organizations. It recorded that “According to the AHRG [Albanian Human Rights Group] lawyer, the most common complaints brought against police officers are for “violence against citizens” or “arbitrary actions” (11 Sept. 2011). However, he noted that most

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<sup>13</sup> ILGA-Europe <http://www.ilga-europe.org/>, Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2014 Albania, May 2014  
<http://www.ilga-europe.org/content/download/30417/187654/file/albania.pdf> date accessed 18 September 2014

<sup>14</sup> ILGA-Europe <http://www.ilga-europe.org/>, ILGA-Europe’s written submission to the European Commission’s 2013 Progress Report on Albania, 17 May 2013  
[http://www.ilga-europe.org/home/guide\\_europe/country\\_by\\_country/albania/ilga\\_europe\\_s\\_submission\\_to\\_2013\\_progress\\_report\\_albania](http://www.ilga-europe.org/home/guide_europe/country_by_country/albania/ilga_europe_s_submission_to_2013_progress_report_albania) date accessed 18 September 2014

<sup>15</sup> Research Directorate, Immigration and Refugee Board of Canada, Ottawa <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx> ALB104457.E: Albania: Situation and treatment of sexual minorities, including legislation, state protection and support services (2011-June 2013), 24 June 2013  
<http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454634&pls=1> date accessed 17 September 2014



complaints against police officers are "not resolved," though he did not provide details as to why (AHRG 11 Sept. 2011)".<sup>16</sup>

2.2.8 The US State Department 2013 Human Rights Report: Albania (USSD Report 2013), released on 27 February 2014, noted:

'Despite the law and the government's formal support for LGBT rights, homophobic attitudes remained. On April 11, the media published an alleged private text message from former justice minister Eduard Halimi to Democratic Party parliamentarian Fatos Hoxha during the ombudsman's appearance at a parliamentary meeting, warning Hoxha to "not mess with the ombudsman because he supports faggots."

'On May 17, activists participated in a Ride Against Homophobia, a short bicycle ride on Tirana's main boulevard. A group of men attacked the riders at a gathering after the event, throwing tear gas into a cafe where the riders had met and yelling slurs and insults. Police refused to characterize the act as a hate crime because they said no participants were physically injured.'<sup>17</sup>

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## Commissioner for protection from discrimination (CPD)

2.2.9 The US State Department 2013 Human Rights Report: Albania (USSD Report 2013), released on 27 February 2014, noted:

'The law prohibits discrimination against lesbian, gay, bisexual, and transgender (LGBT) individuals. The government's antidiscrimination commissioner registered several complaints from LGBT individuals and organizations. The commissioner issued sanctions against two senior politicians; however, the politicians ignored the sanctions. Enforcement of the law was generally weak.'<sup>18</sup>

2.2.10 The Immigration and Refugee Board of Canada (IRB), in a response to an enquiry concerning the office of the Commissioner for Protection from Discrimination (CPD), dated 07 February 2014, reported that:

'In a report to the UN Human Rights Committee, the Commissioner for Protection from Discrimination (CPD) describes its office as an "independent public institution" that investigates complaints of discrimination in accordance with the 2010 law "For the Protection from Discrimination". The CPD was elected by the Albanian Assembly in 2010 for a five-year term. The CPD office is located in Tirana. [...] In correspondence with the Research Directorate, the Commissioner for Protection from Discrimination explained

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<sup>16</sup> Canada: Immigration and Refugee Board of Canada <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx>, Albania: The police force, including its structure and location; police corruption; police misconduct; procedures to submit a complaint against police and responsiveness to complaints, 5 October 2011, ALB103820.E, available at: <http://www.refworld.org/docid/4f5f1fb92.html>

date accessed 28 May 2014

<sup>17</sup> US Department of State <http://www.state.gov>, Country Report on Human Rights Practices for 2013: Albania, 27 February 2014, section 6, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220247>

date accessed 28 May 2014

<sup>18</sup> US Department of State <http://www.state.gov>, Country Report on Human Rights Practices for 2013: Albania, 27 February 2014, section 6, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220247>

date accessed 28 May 2014

that after determining that a case of discrimination has occurred, the Commissioner gives a Recommendation and the timeframe for its implementation. If this Recommendation is not implemented, then the Commissioner gives sanctions by fine to the subject found responsible for the discriminatory behaviour. As a last measure, the Commissioner proposes to remove the license of the private subject that was found responsible by the Commissioner, after the administrative procedure. (Albania 28 Jan. 2014, 5-6)

'The CPD further explained that claims of discrimination based on sexual orientation can be initiated by individuals, by NGOs claiming discrimination in the name of a group of persons, or ex-officio [by right of their office] after receiving credible information about a violation of the discrimination law. The CPD has signed collaborative agreements with Albanian LGBT organizations (Pink Embassy et al.).'

'[...] The Commissioner indicated that their office handled 104 cases of alleged discrimination in 2012, and 190 cases in 2013; of these cases, there were 7 cases of alleged discrimination on the grounds of sexual orientation in 2012, and 5 cases in 2013 (Albania 28 Jan. 2014, 1). [...] Of the cases alleging discrimination based on sexual orientation, the Commissioner found that there was discrimination in 7 of the cases, and imposed sanctions in 3 of these cases (ibid.). [...] In correspondence with the Research Directorate, the Commissioner noted that in the three cases in which she imposed a fine on the subjects, the fines ranged from US \$100 to US \$200, but that the subjects had not made the payments (Albania 29 Jan. 2014a).

'Reporting on cases that were not determined to be discriminatory by the CPD the same source notes "In March 2012 the Deputy Defense Minister reportedly said that LGBT people "should be beaten with batons" (Pink Embassy et al. 3 Sept. 2013, 5; ILGA Europe 2013, 42). In reaction, two LGBT organizations-Aleanca LGBT and Pro LGBT-registered a complaint with the Commissioner, but the Commissioner closed the case, claiming that there was not sufficient proof that the Deputy Defense Minister made the statement (ILGA Europe 2013, 42; Pink Embassy et al. 3 Sept. 2013). In correspondence with the Research Directorate, the Executive Director of Pro LGBT Albania, a Tirana-based LGBT rights group, noted that the Commissioner declared that she did not have 'access to the facts' of the case, even though media sources covered the statement and the Ombudsman, Prime Minister, and human rights organizations condemned the statement (Pro LGBT 24 Jan. 2014). Without providing details, she noted that the CPD was preparing further actions for the payment of the fines (ibid.)'<sup>19</sup>

#### 2.2.11 The same report noted that:

'In its 2013 Progress Report on Albania, the European Commission said:

'In the area of anti-discrimination, the Commissioner for Protection against Discrimination (CPD) has focused on raising awareness, providing legal recommendations and signing cooperation agreements with central/local government institutions and some civil society organisations. Compared to last year, the number of complaints submitted to the CPD increased as did the number of investigations it initiated ex officio. The CPD imposed five

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<sup>19</sup> Research Directorate, Immigration and Refugee Board of Canada, Ottawa <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx>

ALB104751.E: Albania: Commissioner for Protection from Discrimination, including complaints received based on discrimination against sexual minorities and actions taken by the Commissioner; Anti-discrimination training provided to government authorities, including effectiveness (2012-January 2014), 07 February 2014  
<http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455115&pls=1>  
date accessed 28 May 2014

finances on public institutions for not implementing its decisions and provided legal assistance in two cases. Implementation and enforcement of the Law on protection against discrimination remains insufficient. The level of public awareness of the law and of the complaint mechanism remains low. More cases need to be brought to a final conclusion with, if necessary, adequate penalties for the perpetrators.' Alternative Report To the list of issues to be taken up in connection with the consideration of the second periodic report of Albania, adopted by the Committee at its 106th session (15 October– 2 November)<sup>20</sup>

#### 2.1.12 The report continued:

'According to the joint report submitted by PINK Embassy and other LGBT rights groups to the United Nations Universal Periodic Review (UPR), the Commissioner's recommendations in cases of discrimination against sexual minorities have "not been effective towards the perpetrators".

'In a 12 December 2012 statement, Pro LGBT and the Alliance Against Discrimination expressed "deep disappointment" with the "weak and unprofessional work" of the CPD, faulting the institution for its "slow work," use of "deliberate bureaucratic impediments," and "its prolonged process of investigation." At the time of the statement, the groups' claim was that only one of nine cases of discrimination based on sexual orientation had been concluded by the CPD.' The Pro LGBT Executive Director said that the Commissioner's biggest challenge in addressing discrimination based on sexual orientation is contending with state officials (Pro LGBT 24 Jan. 2014). She expressed the opinion that in discrimination cases against public institutions or high profile politicians, the attitude of the Commissioner's office is "either to close the case or to slow down the process until the public attention is lost" (Pro LGBT 24 Jan. 2014).<sup>21</sup>

#### 2.2.13 The Albanian Rehabilitation Centre for Trauma and Torture (ARCT), in an Alternative Report To the list of issues to be taken up in connection with the consideration of the second periodic report of Albania, May 2013, reported in that:

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

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<sup>20</sup> Research Directorate, Immigration and Refugee Board of Canada, Ottawa <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx>

ALB104751.E: Albania: Commissioner for Protection from Discrimination, including complaints received based on discrimination against sexual minorities and actions taken by the Commissioner; Anti-discrimination training provided to government authorities, including effectiveness (2012-January 2014), 07 February 2014 <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455115&pls=1> date accessed 28 May 2014

<sup>21</sup> Research Directorate, Immigration and Refugee Board of Canada, Ottawa <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx>

ALB104751.E: Albania: Commissioner for Protection from Discrimination, including complaints received based on discrimination against sexual minorities and actions taken by the Commissioner; Anti-discrimination training provided to government authorities, including effectiveness (2012-January 2014), 07 February 2014 <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455115&pls=1> date accessed 28 May 2014

LGBT people, presented by coalitions in Albania, only 1 case has been concluded with recommendations'.<sup>22</sup>

2.2.14 The Council of Europe, in co-operation with British Embassy Tirana, Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity, Legal Report: Albania, dated 23 May 2014, reported that:

'Even though Law 10221 is a relatively new one, it has started to be enforced by the Commissioner and the Government. The Commissioner has [...] issued a number of decisions which may be considered landmark decisions with respect to the subject-matter they have dealt with.'<sup>23</sup>

2.2.15 The Republic of Albania, People's Advocate, in a Special Report of the activity of the People's Advocate on the rights of LGBT persons in 2012, dated September 2012, set out recommendations for improving the situation of the rights and freedoms of the community and includes a recommendation on the completion of a National Action Plan for measures to protect the rights of LGBT persons. The People's Advocate suggests that this plan be inclusive in terms of institutions that will develop, but also implement it, and to be more complete in terms of activities, measures, indicators, indicators and budgets that will be programmed to implement of each measure.<sup>24</sup>

2,2,16 See also the Republic of Albania, People's Advocate, Annual Report On the activity of the People's Advocate, 1st January - 31st December 2012, February 2013, for further background.<sup>25</sup>

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## 2.3 SOCIETAL TREATMENT AND ATTITUDES

2.3.1 The Immigration and Refugee Board of Canada (IRB), in the response to an enquiry on the situation and treatment of homosexuals, dated 28 September 2010, reported that:

'Media sources and human rights organizations indicate that there are high levels of homophobia in Albania. Media sources report that the gay community has been primarily underground. In a telephone interview with the Research Directorate on 10 September 2010, an LGBT rights activist ... stated that there are no gay clubs or neighbourhoods in Albania and that hardly anyone is public about being LGBT. According to Balkan Insight, an online publication produced by the Balkan Investigative Reporting Network (BIRN),

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<sup>22</sup> Albanian Rehabilitation Centre for Trauma and Torture (ARCT) <http://www.arct.org/>, Alternative Report To the list of issues to be taken up in connection with the consideration of the second periodic report of Albania, adopted by the Committee at its 106th session (15 October– 2 November) May, 2013

[http://www.ecoi.net/file\\_upload/1930\\_1375965413\\_arct-albania-hrc108.pdf](http://www.ecoi.net/file_upload/1930_1375965413_arct-albania-hrc108.pdf) date accessed 17 September 2014

<sup>23</sup> Council of Europe, in co-operation with British Embassy Tirana, Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity, Legal Report: Albania, 23 May 2014 (pg 24) (Hard copy only, available on request) date accessed 29 July 2014

<sup>24</sup> Republic of Albania, People's Advocate <http://www.theioi.org/europe/albania/people-s-advocate>, Special Report of the activity of the People's Advocate on the rights of LGBT persons in 2012, (p20) September 2012 <http://www.theioi.org/downloads/dfls7/Peoples%20Advocate%20Special%20Report%20on%20LGBT%20rights.pdf> date accessed 28 May 2014

<sup>25</sup> Republic of Albania, People's Advocate <http://www.theioi.org/europe/albania/people-s-advocate>, Annual Report On the activity of the People's Advocate, 1st January - 31st December 2012, May 2013 <http://www.theioi.org/downloads/5clq6/Peoples%20Advocate%20Annual%20Report%202012%20-%20EN.pdf> date accessed 28 May 2014

most homosexuals in Albania do not reveal their sexual orientation, "fearing that if it is discovered their safety will be endangered".<sup>26</sup>

### 2.3.2 The same report continued:

'According to human rights observers, LGBT people in Albania are subject to "intolerance, physical and psychological violence". [...] Balkan Insight similarly states that those who are open about their sexual orientation have faced job loss, threats and possible rejection from their families.'<sup>27</sup>

### 2.3.3 The IRB, in a response to an enquiry on the situation and treatment of homosexuals, dated 24 June 2013, reported that:

'Sources state that Albanian society is homophobic. The US Department of State's Country Reports on Human Rights Practices for 2012 also reports that "homophobic attitudes" continue to be present in Albania. Sources note that sexual minorities hide their sexual orientation because they fear for their "safety". Sources report that sexual minorities in Albania face "discrimination".

'The European Commission's Albania 2012 Progress Report indicates that sexual minorities, especially transgender persons, experience difficulty in accessing social and health services.'<sup>28</sup>

### 2.3.4 PINK Embassy/LGBT Pro Albania and other NGOs in their report, The Universal Periodic Review, The situation of lesbian, gay, bisexual and trans (LGBT) people in Albania, 03 September 2013, stated that:

'The preliminary results of the European Social Survey, which was conducted for the first time in Albania in December 2012, found out that 53 percent of the Albanian public do not think that gay and lesbian people should be free to live their lives as they like. This puts Albania on the bottom list of the European countries surveyed. [...] Qualitative surveys conducted by students of Social Sciences reveal trends of low acceptance from society on homosexuality, same sex union and high levels of discrimination and bullying in the school environment.'<sup>29</sup>

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<sup>26</sup> Immigration and Refugee Board of Canada <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx>, Albania: Situation and treatment of homosexuals; state protection and support services (2007- September 2010), 28 September 2010, [ID 148536] (available at [ecoi.net](http://www.ecoi.net)) [http://www.ecoi.net/local\\_link/148536/249718\\_en.html](http://www.ecoi.net/local_link/148536/249718_en.html)

date accessed 28 May 2014

<sup>27</sup> Immigration and Refugee Board of Canada <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx>, Albania: Situation and treatment of homosexuals; state protection and support services (2007- September 2010), 28 September 2010, [ID 148536] (available at [ecoi.net](http://www.ecoi.net)) [http://www.ecoi.net/local\\_link/148536/249718\\_en.html](http://www.ecoi.net/local_link/148536/249718_en.html)

date accessed 28 May 2014

<sup>28</sup> Research Directorate, Immigration and Refugee Board of Canada, Ottawa <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx> ALB104457.E: Albania: Situation and treatment of sexual minorities, including legislation, state protection and support services (2011-June 2013), 24 June 2013 <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454634&pls=1>

date accessed 28 May 2014

<sup>29</sup> PINK Embassy/LGBT/Pro Albania et al <http://www.pinkembassy.al/en>, The Universal Periodic Review, The situation of lesbian, gay, bisexual and trans (LGBT) people in Albania, 03 September 2013 [https://www.google.co.uk/url?q=https://uprdoc.ohchr.org/uprweb/downloadfile.aspx%3Ffilename%3D695%26file%3D%26EnglishTranslation&sa=U&ei=cMmFU8rrl8ewPPTEglL&ved=0CB4QFjAA&usq=AFQjCNHwlpGM7ex\\_pduTAR7\\_IP-0PqColg](https://www.google.co.uk/url?q=https://uprdoc.ohchr.org/uprweb/downloadfile.aspx%3Ffilename%3D695%26file%3D%26EnglishTranslation&sa=U&ei=cMmFU8rrl8ewPPTEglL&ved=0CB4QFjAA&usq=AFQjCNHwlpGM7ex_pduTAR7_IP-0PqColg)

2.3.5 The United States Agency for International Development (USAID), in a report Testing the Waters: LGBT People in the Europe & Eurasia Region, February 2014, discussed Socio-economic human rights violations in Albania and stated that in:

‘Education: Schoolbooks refer to homosexuality as a disorder requiring treatment. There was a report of a gay teenage boy being refused access to education.

Employment: There are few data available, but the general attitude is ‘don’t ask, don’t tell.’ There is some evidence that persons not conforming to gender norms are prone to workplace discrimination.

Housing: Young LGBT people have been forced to leave home by their families.

Asylum: “There have been several cases of LGBT persons from Albania having applied, and been granted, asylum in other countries”.<sup>30</sup>

2.3.6 In a February 2013 report on LGBT access to the health systems, Aleanca LGBT & Pro LGBT expressed concern that:

[...] there are still families that believe that their homosexual children can be cured through hormones, and what is more disturbing there are still doctors who take the responsibility to try to do this! We have had two concrete cases related with two male gays of the community whose parents have sent them to public and private hospital doctors asking them to “cure” their children with hormones. The behavior of the doctors in these cases has been not ethical. (...) In one of the cases the person who has been taking these cures has suffered severe psychological and physical damage’.<sup>31</sup>

2.3.7 Monitoring and recordings of human rights violations of lesbian, gay, bisexual and transgender people, conducted by PINK Embassy / LGBT Pro Albania, in the years 2011, 2012 and 2013 reveal trends of violence against transgender people, violence in the family environment and discrimination due to appearance or behaviour in settings such as schools, bars and streets. Annual Reports by the Children’s National Helpline, Alo 116, reveal that one of the major causes of discrimination and bullying in schools is due to a youngster being perceived as gay or lesbian and that discrimination has been recorded in the family environment, political speeches, public debates in the media etc. On one specific occasion, PINK Embassy received the testimony of a 19 year old student who was evicted from the apartment he was renting, once the landlord found out he was gay. Due to widespread prejudice and homophobia, most LGBT people in Albania refrain from coming out in their family, at school or in the workplace.<sup>32</sup>

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date accessed 28 May 2014

<sup>30</sup> United States Agency for International Development (USAID) <http://www.usaid.gov/>, Testing the Waters: LGBT People in the Europe & Eurasia Region, 25 February 2014  
<http://www.usaid.gov/sites/default/files/documents/2496/USAID%20Testing%20Waters%20Report%20on%20LGBT%20Europe%20and%20Eurasia.pdf>

date accessed 28 May 2014

<sup>31</sup> ILGA-Europe <http://www.ilga-europe.org/>, Finally the left wing SP talks about LGBT in the Albanian Parliament, 28 February 2013  
[http://www.ilga-europe.org/home/guide\\_europe/country\\_by\\_country/albania/finally\\_the\\_left\\_wing\\_sp\\_talks\\_about\\_lgbt\\_in\\_the\\_albanian\\_parliament](http://www.ilga-europe.org/home/guide_europe/country_by_country/albania/finally_the_left_wing_sp_talks_about_lgbt_in_the_albanian_parliament)

date accessed 28 May 2014

<sup>32</sup> PINK Embassy/LGBT/Pro Albania et al <http://www.pinkembassy.al/en>, The Universal Periodic Review, The situation of lesbian, gay, bisexual and trans (LGBT) people in Albania, 03 September 2013

2.3.8 The OHCHR compilation for the Universal Period Review, stated “The HR Committee noted the 2013 amendment of the Criminal Code, widening protection against discrimination on the basis of sexual orientation. However, it was concerned at stereotypes and prejudices against lesbian, gay, bisexual and transgender (LGBT) persons and negative statements by public officials against them.”<sup>33</sup> A 2014 Freedom House report notes that despite the legislative reforms “bias against gay and transgender people remains strong in practice”.<sup>34</sup>

2.3.9 The Immigration and Refugee Board of Canada cites the Commissioner for Protection from Discrimination as stating that the treatment of LGBT issues by the media has been an obstacle in combatting discrimination based on sexual orientation (Albania 28 Jan. 2014, 10) and that, while some media sources promote LGBT rights, it is more common for homosexuality to be characterized as “deviant behaviour or even as a disease” (ibid.).<sup>35</sup> The 2012 People’s Advocate report notes that “the European Progress Report for Albania in 2012 highlights that “...several cases of violence and ill-treatment targeted at the LGBT community are identified, while homophobia keeps being widely present, even amongst the public officials”.<sup>36</sup>

2.3.10 In August 2014, Gay Star News reported that:

‘A global survey of attitudes towards gays and lesbians found that “The least friendly European countries to gays and lesbians were Albania, with only 3% saying their community was welcoming to them, followed by Moldova and Kosovo where 7% of the peopled survey said gays and lesbians were welcome – lower than many African nations”’.<sup>37</sup>

2.3.11 The 2013 ILGA annual report noted that:

‘Albania continued to make progress at the institutional level towards greater recognition and protection of LGBTI people. [...] At the same time, homophobia and transphobia remain widespread, and unfortunately at times fuelled by public officials, as was the case with the Deputy Defence Minister’s call for violence against LGBT people and the Justice

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[https://www.google.co.uk/url?q=https://uprdoc.ohchr.org/uprweb/downloadfile.aspx%3Ffilename%3D695%26file%3D%26EnglishTranslation&sa=U&ei=cMmFU8rrl8ewPPTEglL&ved=0CB4QFjAA&usg=AFQjCNHwlpGM7ex\\_pduTAR7\\_IP-0PqColg](https://www.google.co.uk/url?q=https://uprdoc.ohchr.org/uprweb/downloadfile.aspx%3Ffilename%3D695%26file%3D%26EnglishTranslation&sa=U&ei=cMmFU8rrl8ewPPTEglL&ved=0CB4QFjAA&usg=AFQjCNHwlpGM7ex_pduTAR7_IP-0PqColg) date accessed 17 September 2014

<sup>33</sup> UN Human Rights Council <http://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx> Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21; Albania [A/HRC/WG.6/19/ALB/2], 13 February 2014 paragraph 10

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/ALSession19.aspx> date accessed 17 September 2014

<sup>34</sup> Freedom House <http://www.freedomhouse.org/>, Freedom in the World 2014 - Albania, 23 January 2014

<http://freedomhouse.org/report/freedom-world/2014/albania#.VBn-5PIdWSo> date accessed 17 September 2014

<sup>35</sup> Research Directorate, Immigration and Refugee Board of Canada, Ottawa <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx> ALB104751.E: Albania: Commissioner for Protection from Discrimination, including complaints received based on discrimination against sexual minorities and actions taken by the Commissioner; Anti-discrimination training provided to government authorities, including effectiveness (2012-January 2014), 07 February 2014

<http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455115&pls=1> date accessed 17 September 2014

<sup>36</sup> Republic of Albania, People’s Advocate <http://www.theioi.org/europe/albania/people-s-advocate>, Annual Report On the activity of the People’s Advocate, 1st January - 31st December 2012, May 2013

<http://www.theioi.org/downloads/5c1g6/Peoples%20Advocate%20Annual%20Report%202012%20-%20EN.pdf> date accessed 17 September 2014

<sup>37</sup> Gay Star News, <http://www.gaystarnews.com/>, Gallup global poll finds 28% of people on Earth think their community is gay friendly, 28 August 2014

<http://www.gaystarnews.com/article/gallup-global-poll-finds-28-people-earth-think-their-community-gay-friendly280814> date accessed 18 September 2014

Minister's homophobic remarks. In this context, the level of social stigma remains high, including among young people who harbour high levels of negative attitudes." ILGA-Europe documented various cases of physical violence and of death threats targeting LGBT people'.<sup>38</sup> See also COWI, The Danish Institute for Human Rights, Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity Sociological Report: Albania, 2010, which provides further background and elaborates on many of the issues.<sup>39</sup>

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## 2.4 SUPPORT SERVICES

2.4.1 The Immigration and Refugee Board of Canada (IRB), in their response to an enquiry on the situation and treatment of homosexuals, dated 28 September 2010, reported that:

'According to the LGBT Rights Activist, services for LGBT people in Tirana are very limited; there are no social supports or counsellors and little assistance for people facing difficulty ... According to the LGBT Rights Activist, there are no LGBT organizations outside Tirana, and the current LGBT organizations have little capacity to do outreach beyond Tirana (LGBT Rights Activist 10 Sept. 2010). She characterized the situation for LGBT people in these areas as "bleak" (ibid.). The LGBT Rights Activist expressed the opinion that someone facing threats because of his or her sexual orientation would have difficulty finding security in a different region or city of Albania (ibid.). In her view, Albania is a small country which is 'intensely social networked,' and people are identified by their accents and recognized through connections with their hometowns and families (ibid.). She believes that it would be difficult for someone to remain anonymous and find a way to make a living, since unemployment is high and most jobs are found through social connections rather than based on merit (ibid.). This information could not be corroborated by the sources consulted by the Research Directorate.<sup>40</sup>

2.4.2 The IRB, in a response to an enquiry on the situation and treatment of homosexuals, dated 24 June 2013, reported that:

'According to its website, the Pink Embassy advocates for LGBT rights in Albania and organizes social events, discussion groups and other activities that "empower [the LGBT] community to become spokespersons and defenders of their own rights". In January 2012, the Pink Embassy opened a shelter for LGBT community. According to the organization, it is the first emergency shelter for LGBT persons in Albania.

'Aleanca LGBT is an Albanian NGO that advocates for LGBT community by raising awareness, lobbying and organizing meetings and public lectures, among others.

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<sup>38</sup> ILGA <http://www.ilga-europe.org/>, Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2013 Albania, 17 May 2013  
[http://www.ilga-europe.org/home/guide\\_europe/country\\_by\\_country/albania/review\\_2013](http://www.ilga-europe.org/home/guide_europe/country_by_country/albania/review_2013) date accessed 18 September 2014

<sup>39</sup> COWI, The Danish Institute for Human Rights <http://www.cowi.com/>, Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity Sociological Report: Albania, 2010  
[http://www.coe.int/t/Commissioner/Source/LGBT/AlbaniaSociological\\_E.pdf](http://www.coe.int/t/Commissioner/Source/LGBT/AlbaniaSociological_E.pdf)  
date accessed 28 May 2014

<sup>40</sup> Immigration and Refugee Board of Canada <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx>  
Albania: Situation and treatment of homosexuals; state protection and support services (2007- September 2010), 28 September 2010, [ID 148536] (available at [ecoi.net](http://www.ecoi.net))  
[http://www.ecoi.net/local\\_link/148536/249718\\_en.html](http://www.ecoi.net/local_link/148536/249718_en.html)  
date accessed 28 May 2014



Aleanca LGBT has been created in 2009 by a group of LGBT people who work as volunteers.<sup>41</sup>

2.4.3 The United States Agency for International Development (USAID), in a report Testing the Waters: LGBT People in the Europe & Eurasia Region, February 2014, stated that:

‘Health care professionals lack training and skills in delivering care to LGBT people and often exhibit discriminatory attitudes. The belief within the medical profession that homosexuality is an illness is real.’<sup>42</sup>

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## 2.5 LESBIANS

2.5.1 Pink Embassy, in its Shadow report: Lesbian, Bisexual and Transgender Community Situation in Albania, 2010’ stated that:

‘Even though Albanian society sometimes viewed as somewhat tolerant towards lesbians and bisexual woman, the everyday reality has not shown this. Most lesbians have to hide their sexual orientation. The few that have the courage to be out and be physically affectionate towards one another in public spaces have experienced verbal and physical abuse and have been thrown out of bars or restaurants. Some of the main concerns of the lesbian and bisexual woman are:

‘Family pressure: Because of Albanian traditions and the economic situation, most young and unmarried (to a man) lesbian and bisexual women live with their family. Due to social pressure, the fear of stigmatization and the fear of losing their families (by being thrown out of the house) most are not out. One of the main concerns of the lesbian and bisexual women is the pressure they face from the family to have a fiancé and get married. This social obligation intensifies with age. This pressure forces them to repress their sexual orientation and do what is more accepted by society. Some lesbians and bisexual women get engaged or married but continue having relationships with other women.

‘Discrimination in employment: Lesbians who do not conform to societal gender norms report that it is almost impossible to get a job.

‘Societal pressure and attitudes, combined with internal struggles with sexual orientation can combine to create difficult situations for lesbian and bisexual women. As mentioned earlier, some women cope with the social expectations and internal conflict by getting engaged and marrying men.’<sup>43</sup>

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<sup>41</sup> Research Directorate, Immigration and Refugee Board of Canada, Ottawa <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx>

ALB104457.E: Albania: Situation and treatment of sexual minorities, including legislation, state protection and support services (2011-June 2013), 24 June 2013

<http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454634&pls=1>

date accessed 28 May 2014

<sup>42</sup> United States Agency for International Development (USAID) <http://www.usaid.gov/>, Testing the Waters: LGBT People in the Europe & Eurasia Region, 25 February 2014 (p18)

<http://www.usaid.gov/sites/default/files/documents/2496/USAID%20Testing%20Waters%20Report%20on%20LGBT%20Europe%20and%20Eurasia.pdf>

date accessed 28 May 2014

<sup>43</sup> Pink Embassy <http://www.pinkembassy.al/en>, Shadow report: Lesbian, Bisexual and Transgender Community Situation in Albania, 2010

<http://pinkembassy.al/sites/default/files/Shadow%20Report%20final.pdf>

2.5.2 COWI, The Danish Institute for Human Rights, in a Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity Sociological Report: Albania, 2010 stated that:

‘The survey conducted by the LGBT NGO GISH in 2006 shows that of the 87 LGBT persons questioned, 91% are not out to their families and 90% are not out to their friends. The fact that it is so hard for LGBT persons to come out is directly linked to the low level of acceptance regarding LGBT. The 8%, who are out to their families, and the 10% who are out to their friends are, according to the survey, primarily people with a high level of education, demonstrating that it takes a high level of self awareness, (financial) independence and self esteem to come out as gay, lesbian, transgender or bisexual in Albanian society.[...] According to the GISH, the situation of lesbian and bisexual women is more difficult than that of gay and bisexual men. The survey shows that only 3 (out of 87) of the respondents were women. (...) Being a lesbian only worsens the situation of women in Albania, making them more vulnerable, invisible and dependent.’<sup>44</sup>

See also [Sofia Hultin – “I’m Every Lesbian” Audio Tour](#) which is a city walk focussing on lesbian history in Tirana.<sup>45</sup>

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## 2.6 TRANSGENDER PERSONS

2.6.1 The Immigration and Refugee Board of Canada (IRB), in a response to an enquiry: Situation and treatment of homosexuals; state protection and support services (2007- September 2010), dated 28 September 2010 stated that:

‘According to the LGBT Rights Activist, transgender people face particular difficulties in Albania; the few people who are visibly transgender are regularly denied services and have few opportunities for employment other than prostitution.’<sup>46</sup>

2.6.2 The United States Agency for International Development (USAID), in a report Testing the Waters: LGBT People in the Europe & Eurasia Region, February 2014, discussed Socio-economic human rights violations in Albania and stated that in:

‘Many transgender people participate in sex work and experience violence and abuse.’<sup>47</sup>

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date accessed 28 May 2014

<sup>44</sup> COWI, The Danish Institute for Human Rights, Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity Sociological Report: Albania, 2010 [http://www.coe.int/t/Commissioner/Source/LGBT/AlbaniaSociological\\_E.pdf](http://www.coe.int/t/Commissioner/Source/LGBT/AlbaniaSociological_E.pdf)

date accessed 18 September 2014

<sup>45</sup> [Sofia Hultin – “I’m Every Lesbian” Audio Tour](#)

<http://www.aleancalgbt.org/en/news/31-sofia-hultin-i-m-every-lesbian-audio-tour>

date accessed 28 May 2014

<sup>46</sup> Immigration and Refugee Board of Canada <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx>, Albania: Situation and treatment of homosexuals; state protection and support services (2007- September 2010), 28 September 2010, [ID 148536] (available at ecoi.net) [http://www.ecoi.net/local\\_link/148536/249718\\_en.html](http://www.ecoi.net/local_link/148536/249718_en.html)

date accessed 28 May 2014

<sup>47</sup> United States Agency for International Development (USAID) <http://www.usaid.gov/>, Testing the Waters: LGBT People in the Europe & Eurasia Region, 25 February 2014 <http://www.usaid.gov/sites/default/files/documents/2496/USAID%20Testing%20Waters%20Report%20on%20LGBT%20Europe%20and%20Eurasia.pdf>

date accessed 28 May 2014

2.6.3 PINK Embassy/LGBT Pro Albania and other NGOs in their report, The Universal Periodic Review, The situation of lesbian, gay, bisexual and trans (LGBT) people in Albania, 03 September 2013, stated that:

'Transgender people remain the most discriminated and vulnerable group amongst the LGBTQ community in Albania. For years, before and after the LGBT movement was established, transgender people have remained the most marginalized. Many of them are sex-workers, an illegal activity according to Albanian law, many also are homeless and have no social support from the Municipalities and other institutions in the jurisdictions where they live. In 2009, the first reported case of hate crime against a transgender person resulted in the death of the latter. The police failed to consider it a hate crime and the perpetrator said that he did it in a moment of shock after finding out that the prostitute was a 'man'. Testimonies from other trans workers, however, reveal that the person was very much aware of the victim's gender identity and he had been following her for several days in a row.

'In many other instances trans people have been victims of aggressions and discrimination from random citizens, but also from police officers and health practitioners. Overall, there is a tendency to confusion between the issues of gender identity and those of sexual orientation, as for many years the media and the general public reported the situation of this community making no difference with the situation of homosexual people.'<sup>48</sup>

2.6.4 ILGA-Europe, in an article, Finally the left wing SP talks about LGBT in the Albanian Parliament, 28 February 2013, presented an Aleanca LGBT & Pro LGBT report: The access of LGBT community in the health system and its problems, which stated that:

'It's difficult sometimes even impossible for the transgender community to have access to health care. During August 2011, Xheni Karaj, Director of Aleanca LGBT together with a transgender woman went in the Mother Theresa hospital for a medical visit. The doctor of the emergency said to the activist: "Why don't you leave this people die" and refused to treat the transgender woman. Another doctor who decided to treat the transgender was staying like 1 meter away from her because she was afraid to even touch her. 'During all our visit in the hospital the doctors used a derogatory language and ironic jokes towards us", recalled Karaj.

'Based on the last report of Transgender Europe, ILGA Europe and the Commissioner for Human Rights Discrimination on grounds of sexual orientation and gender identity in Europe, Albania is listed among the member states whose medical services make no provision for gender reassignment treatment, and where recovery of costs for such treatment is "highly problematic". It also states that Albania is one of the member states where it has failed to identify any legislation regulating legal gender recognition.

'The failure of the Albanian authorities to provide the medical facilities for gender reassignment treatment (or the alternative of such treatment abroad), and to ensure that medical insurance covers, or contributes to the coverage of such medically necessary

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<sup>48</sup> PINK Embassy/LGBT/Pro Albania et al <http://www.pinkembassy.al/en>, The Universal Periodic Review, The situation of lesbian, gay, bisexual and trans (LGBT) people in Albania, 03 September 2013 [https://www.google.co.uk/url?q=https://uprdoc.ohchr.org/uprweb/downloadfile.aspx%3Ffilename%3D695%26file%3DEnglishTranslation&sa=U&ei=cMmFU8rrl8ewPPTEgIgL&ved=0CB4QFjAA&usq=AFQjCNHwlpGM7ex\\_pduTAR7\\_IP-0PqColg](https://www.google.co.uk/url?q=https://uprdoc.ohchr.org/uprweb/downloadfile.aspx%3Ffilename%3D695%26file%3DEnglishTranslation&sa=U&ei=cMmFU8rrl8ewPPTEgIgL&ved=0CB4QFjAA&usq=AFQjCNHwlpGM7ex_pduTAR7_IP-0PqColg)

date accessed 28 May 2014

treatment, on a non-discriminatory basis, are evidence that Albania does not meet the requirement to provide effective access to health care for all, without discrimination.’<sup>49</sup>

2.6.5 The United States Agency for International Development (USAID), in a report Testing the Waters: LGBT People in the Europe & Eurasia Region, February 2014, discussed Socio-economic human rights violations in Albania and stated that in:

‘Two transgender women sex workers were initially refused hospital treatment after being stabbed and then were treated in a degrading manner by health staff.’<sup>50</sup>

2.6.6 PINK Embassy/LGBT Pro Albania in their Universal Periodic Review, The situation of lesbian, gay, bisexual and trans (LGBT) people in Albania, 03 September 2013, stated that:

‘In addition, there have been no cases of transsexuals requesting change of sex or other medical operation in Albania, neither have they requested recognition of legal gender change. However, the national health scheme in Albania does not cover such treatments and operations; they are not available even because of technical issues since Albania is not able to provide such treatments. The national Albanian health scheme does not cover medical operations for transsexuals.

‘According to the Law No. 10129 dated 11 May 2009 “On Civil Status”, is not provided anything regarding the legal change of sex, meanwhile the change of name, according to this law, is permissible only when the person’s name is inappropriate, but should be defined as such by the same law. The General Directorate of the Civil Status has a list of inadequate names which does not mention the situation of trans people.

‘Matters regarding the partner of transgender/transsexual persons on the right to pension, health insurance or social security are not regulated by law.’<sup>51</sup>

2.6.7 The United States Agency for International Development (USAID), in a report Testing the Waters: LGBT People in the Europe & Eurasia Region, February 2014, stated that:

‘Access to and delivery of health services to transgender people are serious problems across the region. There is anecdotal evidence of medical professionals refusing to treat transgender women. In Albania, for example, treatment of an injured transgender woman was delayed for 45 minutes by a guard denying entry to a hospital and a doctor allegedly saying “one pederast less, let him die”.

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<sup>49</sup> ILGA-Europe <http://www.ilga-europe.org/>, , Finally the left wing SP talks about LGBT in the Albanian Parliament, 28 February 2013  
[http://www.ilga-europe.org/home/guide\\_europe/country\\_by\\_country/albania/finally\\_the\\_left\\_wing\\_sp\\_talks\\_about\\_lgbt\\_in\\_the\\_albanian\\_parliament](http://www.ilga-europe.org/home/guide_europe/country_by_country/albania/finally_the_left_wing_sp_talks_about_lgbt_in_the_albanian_parliament)  
date accessed 28 May 2014

<sup>50</sup> United States Agency for International Development (USAID) <http://www.usaid.gov/>, , Testing the Waters: LGBT People in the Europe & Eurasia Region, 25 February 2014  
<http://www.usaid.gov/sites/default/files/documents/2496/USAID%20Testing%20Waters%20Report%20on%20LGBT%20Europe%20and%20Eurasia.pdf>  
date accessed 28 May 2014

<sup>51</sup> PINK Embassy/LGBT/Pro Albania et al <http://www.pinkembassy.al/en>, The Universal Periodic Review, The situation of lesbian, gay, bisexual and trans (LGBT) people in Albania, 03 September 2013  
[https://www.google.co.uk/url?q=https://uprdoc.ohchr.org/uprweb/downloadfile.aspx%3Ffilename%3D695%26file%3D%20EnglishTranslation&sa=U&ei=cMmFU8rrl8ewPPTEglL&ved=0CB4QFjAA&usq=AFQjCNHwlpGM7ex\\_pduTAR7\\_IP-0PqColg](https://www.google.co.uk/url?q=https://uprdoc.ohchr.org/uprweb/downloadfile.aspx%3Ffilename%3D695%26file%3D%20EnglishTranslation&sa=U&ei=cMmFU8rrl8ewPPTEglL&ved=0CB4QFjAA&usq=AFQjCNHwlpGM7ex_pduTAR7_IP-0PqColg)  
date accessed 28 May 2014

'Reports indicate that medical gender reassignment is not easily accessible in the region. In most countries, the process, whether officially prescribed or not, is complex and bureaucratic. [...] [In] Albania, Azerbaijan, Armenia, and Republic of Macedonia, service is piecemeal or nonexistent.'<sup>52</sup>

2.6.8 The Immigration and Refugee Board of Canada, in report : Albania: Situation and treatment of sexual minorities, including legislation, state protection and support services (2011-June 2013), 24 June 2013 stated that:

“Several sources indicate that in 2011, the police used violence against transgender people (ibid.; Pink Embassy 15 Aug. 2011; ILGA May 2012, 31). For instance, two LGBT organizations indicate that in August 2011, a transgender person was assaulted by police officers who were investigating a theft in a park (Pink Embassy 15 Aug. 2011; ILGA May 2012, 31). According to both sources, the transgender person intervened when police attempted to arrest an individual in the course of the investigation (ibid.; Pink Embassy 15 Aug. 2011). The transgender person was detained and reportedly beaten while in police custody (ibid.; ILGA May 2012, 31). The victim was taken to the hospital and thereafter taken back to the police station (ibid.; Pink Embassy 15 Aug. 2011). According to both sources, the victim was not offered legal representation and, while not being able to read or write, was requested to sign several documents (ibid.; ILGA May 2012, 31).<sup>53</sup>

See also the [Submission by Aleanca LGBT, Transgender Europe and ILGA-Europe on the 8th report by Albania on the implementation of the revised European Social Charter \(Article 11 -- The right to protection of health - Access by transgender persons to gender reassignment treatment\)](#). This source highlights the failure of the Albanian authorities to provide the medical facilities for gender reassignment treatment (or the alternative of such treatment abroad), and to ensure that medical insurance covers, or contributes to the coverage of such medically necessary treatment, on a non-discriminatory basis.<sup>54</sup>

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<sup>52</sup> United States Agency for International Development (USAID) <http://www.usaid.gov/>,, Testing the Waters: LGBT People in the Europe & Eurasia Region, 25 February 2014 (p18) <http://www.usaid.gov/sites/default/files/documents/2496/USAID%20Testing%20Waters%20Report%20on%20LGBT%20Europe%20and%20Eurasia.pdf>  
date accessed 28 May 2014

<sup>53</sup> Research Directorate, Immigration and Refugee Board of Canada, Ottawa <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx> ALB104457.E: Albania: Situation and treatment of sexual minorities, including legislation, state protection and support services (2011-June 2013), 24 June 2013 <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454634&pls=1> date accessed 17 September 2014

<sup>54</sup> European Social Charter <http://hub.coe.int/>, Comments from the Albanian LGBT Network and ILGA Europe on the 8th Report by Albania on the implementation of the European Social Charter (RAP/RCha/ALB/8(2013), 18 January 2013 [http://www.coe.int/t/dghl/monitoring/socialcharter/Reporting/StateReports/CommentsILGAAIbانيا2013\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Reporting/StateReports/CommentsILGAAIbانيا2013_en.pdf)  
date accessed 28 May 2014

## Annex A: Map of Albania

Map of Albania, dated 2013, extracted from Mapsofworld.com.<sup>55</sup>

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<sup>55</sup> Maps of World <http://www.mapsofworld.com/>, Political Map of Albania, updated on 23 March 2013, <http://www.mapsofworld.com/albania/albania-political-map.html> date accessed 07 May 2014



Description: Albania Political map showing the international boundary, counties boundaries with their capitals and national capital.

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# Annex B: Caselaw

## Supreme Court. HJ & HT v SSHD [2010] UKSC31 7 July 2010

The Supreme Court hereby established the test which should be applied when assessing a claim based on fear of persecution because of an applicant's sexual orientation which is as follows:

- (i) Is the applicant gay or someone who would be treated as gay by potential persecutors in the country of origin?
- (ii) If yes, would gay people who live openly be liable to persecution in that country of origin?
- (iii) How would the applicant behave on return? If the applicant would live openly and be exposed to a real risk of persecution, he has a well-founded fear of persecution even if he could avoid the risk by living discreetly.
- (iv) If the applicant would live discreetly, why would he live discreetly? If the applicant would live discreetly because he wanted to do so, or because of social pressures (e.g. not wanting to distress his parents or embarrass his friends) then he is not a refugee. But if a material reason for living discreetly would be the fear of persecution that would follow if he lived openly, then he is a refugee [paragraph 35]

## MK (Lesbians) Albania CG [2009] UKAIT 00036 9 September 2009

The Tribunal found:

- (1) It cannot be said that without more there is a real risk that a woman without family support in Albania would suffer destitution amounting to inhuman or degrading treatment resulting in a breach of her rights under article 3 of the ECHR or persecution, but each case must be determined on its own facts.
- (2) Although it is no longer illegal for consenting adults to have homosexual relations in private, homosexual men known to be members of gay associations and those who visit cruising areas in the centre of Tirana are likely be harassed and on occasions ill-treated by the police and in individual cases homosexual men may be at risk of harm from members of their families.
- (3) In general terms, lesbian women do not frequent cruising areas and do not join LGBT organisations. Therefore there is lacking the opportunity for them to be harassed or persecuted by the police.
- (4) In general terms in Albania women of lesbian orientation are able to carry on lesbian relationships discreetly without attracting the risk of serious harm. A lesbian woman, whose sexual orientation becomes known, may be at risk of harm from members of her family, particularly if she is from a traditional family from the north of Albania, but each case must be determined on its merits. In such a case, however, it is likely that there would be an adequacy of state protection.
- (5) In any particular case where the safety of the return of a lesbian woman to Albania is in issue, it will have to be determined whether she is likely to behave discreetly upon return and if so whether "discretion" is something that she can reasonably be expected to tolerate, in the light of all of the circumstances of the case, including the social norms and religious beliefs commonly held in Albania. Such a person will only establish a right to refugee status if she can



establish that the apprehended violation of her fundamental rights is likely to attain a substantial level of seriousness.

IM (Risk – Objective Evidence – Homosexuals) Albania CG [2003] UKIAT 00067 Heard 15 July 2003, promulgated 8 September 2003.

After a review of the available, albeit limited, objective evidence the The IAT concluded that apart from incidents in 1994 when three members of Shoqata Gay Albania (SGA) were detained and severely beaten in Tirana police station and in 2001 a Jordanian citizen, who was Secretary General of the SGA, and a friend, who was a transvestite, were assaulted in Tirana by four members of the Republican Guards, “Beyond that there is no evidence whatsoever produced on behalf of the appellant to suggest that there is generalised treatment of homosexuals in Albania which is of a persecutory nature or in breach of their protected human rights [...] So far as the question of the treatment by the police of homosexuals is concerned there is equally no evidence at all that they are treated adversely (apart from the single incident in 1994 referred to above),” (paragraphs 5 and 6).

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