

# ECRI

European Commission against Racism and Intolerance  
Commission européenne contre le racisme et l'intolérance

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## European Commission against Racism and Intolerance

### Third report on Albania

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## **Foreword**

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

*One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.*

*The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.*

*The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.*

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

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

***The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 17 December 2004, and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.***

### ***Executive summary***

Since the publication of ECRI's second report on Albania on 3 April 2001, progress has been made in a number of the fields highlighted in the report. A "National Strategy for the Improvement of Living Conditions of the Roma" has been developed that sets out to eliminate discrimination towards Roma in different fields of life. A Special State Committee on Minorities has been established and mandated to make recommendations to the government with respect to the promotion of the rights of minorities. Furthermore a pre-screening procedure has been put in place in order to determine the status of non-citizens caught in the country in an illegal situation and ensure that persons who are trafficked, asylum seekers and those seeking repatriation are each treated in the manner appropriate to their situation. A National Strategy to Combat Trafficking has also been adopted. Moreover police at all levels have been provided with training in human rights.

However, a number of recommendations made in ECRI's second report have not been implemented or have only been partially implemented. In particular, ECRI is concerned about the representation and participation of persons belonging to minority groups in public life, an issue which is of special concern to ECRI. There have been few detectable improvements in the situation of Roma and Egyptians who suffer from a situation of particular marginalisation and neglect in Albanian society. Egyptians have also found themselves discriminated, as a result of discussions over their identity, in respect of their opportunities to bring their specific problems and concerns to the attention of the authorities. The reportedly disproportionate number of Roma and Egyptian children who are victims of trafficking is also a problem of particular concern to ECRI. Moreover ECRI notes that a nation-wide census including information on national, ethnic and religious belonging has still not been carried out. ECRI also raises a number of issues relating to the legal framework for combating discrimination, minority language education, registration in the civil register and housing.

ECRI recommends in this report that the Albanian authorities take further action in a number of fields. It calls, *inter alia*, for a wide range of measures aimed at improving the participation and representation of members of some minority groups in political decision-making bodies and political processes at national and local level. ECRI recommends that measures be taken to ensure the full inclusion of Roma and Egyptians in all aspects of social, economic and political life and urges the authorities to take further measures to combat the trafficking of Roma and Egyptian children. It also recommends to the authorities to ensure that Roma are consistently involved in all aspects of the implementation and evaluation of the "National Strategy for the Improvement of Living Conditions of the Roma" at national and local level and that Egyptians do not experience discrimination with respect to their participation and access to State institutions. In addition, ECRI recommends to the authorities to consider the adoption of a specific National Strategy aimed at improving the situation of Egyptians in Albania. ECRI furthermore recommends the collection of data enabling the situation of different minority groups in the country to be assessed. It also recommends the authorities to take further measures to ensure the thorough investigation of allegations of ill-treatment by police and to ensure that the rights of asylum seekers and migrants continue to be guaranteed.

## I. FOLLOW-UP TO ECRI'S SECOND REPORT ON ALBANIA

### International legal Instruments

1. In its second report, ECRI recommended that Albania make a declaration under Article 14 of ICERD, enabling individuals and groups of individuals to file petitions before the Committee for the Elimination of Racial Discrimination. ECRI also recommended that Albania sign and ratify the following international legal instruments: the European Charter for Regional or Minority Languages, the European Convention on the Legal Status of Migrant Workers and the European Convention on the Participation of Foreigners in Public Life at Local Level. In addition, ECRI recommended that Albania ratify the revised European Social Charter and the European Convention on Nationality.
2. ECRI is pleased to note that Albania signed the European Convention on the Participation of Foreigners in Public Life at Local Level. Furthermore it has been informed by the Albanian authorities that the Albanian Council of Ministers adopted a Draft law for the ratification of this Convention which has been sent to the Albanian Assembly for final adoption.
3. ECRI is also pleased to note that Albania has ratified the Revised European Social Charter and the European Convention on Nationality. The Albanian authorities have informed ECRI that a procedure has been set in motion with respect to the declaration under Article 14 of ICERD.
4. Albania has not yet signed the European Charter for Regional or Minority Languages, the European Convention on the Legal Status of Migrant Workers, or the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Albanian authorities have informed ECRI that the Albanian Ministry of Labour and Social Affairs is currently preparing an evaluation report concerning the country's adherence to the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, and intends to complete the adherence procedure before the end of 2006.
5. ECRI welcomes the fact that on 26 November 2004 Albania ratified Protocol 12 to the European Convention on Human Rights (ECHR) and the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

### ***Recommendations:***

6. ECRI recommends that the Albanian authorities bring a swift and successful conclusion to the process of ratifying the European Convention on the Participation of Foreigners in Public Life at Local Level. It also recommends that the authorities make the declaration under Article 14 of ICERD and sign the European Charter for Regional or Minority Languages, the European Convention on the Legal Status of Migrant Workers and the International Convention on the Protection of the Rights of All Migrant Workers.

## **Constitutional provisions and other basic provisions**

7. The Albanian Constitution guarantees the general principle of equality before the law as well as non-discrimination on grounds including race, ethnicity, language, religion, social status or ancestry. It also prohibits organisations that incite and support racial, religious, regional or ethnic hatred. Furthermore it provides an extensive framework for the protection and promotion of the identity of national minorities, and that non-citizens and stateless persons on Albanian territory are covered by Constitutional rights, freedoms and duties, unless particular provisions specifically stipulate that their application is limited to Albanian citizens. In its second report ECRI encouraged the Albanian authorities to ensure that these provisions be reflected in legislation and effectively implemented.
8. Secondary legislation enabling the effective implementation of these wide-ranging Constitutional principles is still lacking to a great extent. ECRI has been informed by the authorities that the Constitutional principles are directly applicable, however there are no examples of these articles having been used in practice.

### ***Recommendations:***

9. ECRI recommends that the Albanian authorities enact the necessary secondary legislation in order to ensure that the Constitutional guarantees relating to racism, equality and non-discrimination may be applied in practice. ECRI also recommends that initiatives be carried out to raise the awareness of the public and legal professionals about possibilities for directly relying upon these Constitutional guarantees.

## **Criminal law provisions**

10. In its second report on Albania, ECRI recommended that it be explicitly provided that racial motivation be taken into account as an aggravating factor by the courts or that racially motivated offences be defined as specific offences. ECRI noted that the Albanian authorities were considering the introduction of a provision in this sense.
11. Since ECRI's second report, further consideration has been given to this matter, but the government has not yet submitted a draft law. The Albanian authorities have informed ECRI that defining racially motivated offences as specific offences would be problematic in the Albanian legal system, and that it would be more feasible to provide that racial motivation be taken into account as an aggravating factor. The authorities have indicated that they intend to make the necessary legislative changes during the course of 2005.

### ***Recommendations:***

12. ECRI reiterates its recommendation to the Albanian authorities to explicitly provide in criminal law that racist motivation constitutes a specific aggravating circumstance for all offences.



13. In its second report on Albania, ECRI encouraged the Albanian authorities to continue efforts to ensure legislation related to racism, discrimination and intolerance is systematically implemented at all levels of the law enforcement system. In this connection, ECRI highlighted the importance of a well-trained and independent judiciary and police force sensitised to issues of racism and discrimination.
14. The Albanian authorities are carrying out a range of measures aimed at improving the functioning of the judicial system. The Albanian authorities have also informed ECRI that judicial police officers, prosecutors and judges are being provided with increased training, including training relating to issues of racism, discrimination and intolerance. However problems remain that affect the implementation of criminal legislation in the area of racism and discrimination, as they do the implementation of criminal legislation more generally. In 2002 and 2003, a total of 5 persons were convicted under Article 265 (instigation of national, racial or religious hatred). Further information was not provided by the Albanian authorities with respect to the implementation of other relevant criminal law provisions, such as: Article 266 (endangering of public peace through inciting hatred towards segments of the population); and Article 253 (unfavourable distinctions made by an employee in a state function or in public service based on a range of grounds including ethnic, national, racial or religious belonging).
15. It is widely recognised that corruption continues to pervade the judiciary and other law enforcement bodies. The Albanian authorities recognise this problem and informed ECRI that they are undertaking initiatives aimed at combating corruption and misbehaviour.

#### **Recommendations:**

16. ECRI reiterates its recommendation to the Albanian authorities to carry out the necessary measures so that criminal provisions relating to racism, discrimination and intolerance may be effectively implemented. In addition to general measures aimed at improving the functioning of the criminal justice system, ECRI reiterates the importance of providing all of those involved in the criminal justice system – police, prosecution, and judiciary – with specific training on relevant provisions in national law as well as raising officials’ awareness of issues of racism, discrimination and intolerance.
17. ECRI also recommends that further data be collected with respect to the implementation of criminal law provisions in this area so that their effectiveness might be assessed.

#### **Civil and administrative law provisions**

18. In its second report on Albania, ECRI noted that provisions providing for equal rights exist in a number of fields of life such as social insurance and education. It also noted the guarantee of non-discrimination in both the public and private spheres set out in the Labour Code (Article 9). However, it recommended to the Albanian authorities to further strengthen the legal framework in this area by introducing a comprehensive body of anti-discrimination legislation aimed at combating discrimination in all fields of life, *inter alia* housing, employment, education, access to benefits and access to public places. ECRI highlighted the

educative and preventive function that such legislation could serve and its usefulness in revealing discrimination.

19. There have been no developments with respect to civil and administrative legislation aimed at combating discrimination. ECRI draws the attention of the Albanian authorities to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, which contains detailed recommendations on the provisions which ECRI considers should feature in an effective body of civil and administrative legislation against racial discrimination. ECRI wishes here to highlight the fact that its recommendation emphasises that this legislation should apply not only to direct, but also to indirect discrimination, and sets out a range of measures in order to facilitate implementation of legislation in this area, including a shifting of the burden of proof.

#### ***Recommendations:***

20. ECRI reiterates its recommendation to the Albanian authorities to further strengthen the legal framework in this area by introducing comprehensive legislation aimed at combating discrimination, direct and indirect, in key fields of life. In so doing ECRI recommends that the authorities take into account its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination. ECRI again notes the educative and preventive function that such legislation can serve and its usefulness in revealing discrimination.

#### **Administration of justice**

21. In its second report, ECRI noted that problems with the functioning of the judicial system hinder the application of legislation in the area of racism and discrimination as they do the application of legislation in other areas.
22. Since ECRI's second report, the Albanian authorities have undertaken a range of measures aimed at improving the functioning of the judiciary. These have included measures aimed at combating corruption, further developing the necessary infrastructure, and developing a case management system. However despite these measures, there continue to be problems with the functioning of the judicial system.

#### ***Recommendations:***

23. ECRI recommends to the Albanian authorities to continue and reinforce their efforts to improve the functioning of the judicial system.

#### **Specialised bodies and other institutions**

24. In its second report, noting the important role that specialised bodies may play in addressing problems of discrimination, as well as in revealing hidden patterns of discrimination in various fields, ECRI recommended to the Albanian authorities to develop the competence of the newly created Office of the People's Advocate (Ombudsman) in this field.

25. Since ECRI's second report, the Office of the People's Advocate has begun functioning and has been receiving an increasing number of complaints. The Office has indicated that in 2003 it received 4400 complaints out of which 25% were resolved positively in favour of the complainant. The Office has reported that to date it has found no violation of human rights in cases amongst minority groups. It treated one case that it believes involved discrimination resulting in the death of a Roma woman during child birth. This appears to ECRI to be a small number considering the neglect and marginalisation that it believes affects Roma and Egyptian communities in various fields.
26. The Office has not given consideration to setting up a specific section focusing on problems of racism and discrimination. At present, it is setting up a new section that will be focused upon violations of the rights of children. ECRI is pleased to note that according to the Office, this will include a particular focus upon the human rights of Roma children. ECRI is also pleased to note that the Office is in the process of establishing regional branch offices in order to more effectively reach those living outside of the capital.

#### ***Recommendations:***

27. ECRI recommends that the Office of the People's Advocate accord special attention to the possible discriminatory aspects of complaints and cases brought to its notice, especially as such aspects are not always immediately apparent, even to the victim, particularly when they involve indirect discrimination. Particular training for staff in the Office with respect to the different ways in which racism and discrimination may manifest themselves would therefore be most opportune.
28. ECRI also recommends that the Office of the People's Advocate consider recording the ethnic or national origin of complainants as part of its normal operational practice, particularly as such data could be crucial in revealing to the Ombudsman patterns of discrimination, both direct and indirect.
29. ECRI encourages the Office of the People's Advocate in its plans to give special attention to the rights of Roma children, and urges it to also give special attention to the rights of Egyptian children.
30. ECRI encourages the Albanian authorities to consider setting up an independent body specialising in combating racism and racial discrimination, drawing inspiration from its General Policy Recommendations No. 2 and No. 7.

#### ***- Special State Committee on Minorities***

31. ECRI is pleased to note that on 11 March 2004, the government approved of the establishment of a Special State Committee on Minorities. This newly created Committee is tasked with making recommendations to the government with respect to the promotion of the rights of minorities in all fields of life. Its composition includes one member from each minority officially recognised as a national minority, Greek, Montenegrin and Macedonian, and one member from each minority officially recognised as a cultural/linguistic minority, Aromanian/Vlach and Roma. ECRI is concerned that due to its non-recognition

by the Albanian authorities, the Egyptian minority is excluded from participation in this Committee.<sup>1</sup>

32. At the moment, the Committee is functioning without a Secretariat or other support and according to information that ECRI has received, it is operating with minimal financial resources. ECRI here registers its concern over the lack of adequate consultation of different segments and interests within each minority, discussed in detail in section II of this report.<sup>2</sup>

#### ***Recommendations:***

33. ECRI recommends that the Special State Committee on Minorities devote attention to issues of discrimination, including indirect discrimination.
34. ECRI recommends that the Albanian authorities ensure that the Special State Committee on Minorities has the necessary financial and human resources to function as effectively as possible.

#### **Reception and status of non-citizens**

##### **- *Refugees and asylum seekers***

35. In its second report, ECRI encouraged the Albanian authorities to continue their efforts to implement an effective asylum system as swiftly as possible. ECRI also urged the authorities to ensure that border guards and officials who are involved in the asylum procedure receive adequate training, including training in human rights and relevant legislation in this field.
36. The asylum procedure in Albania now functions, although the system still depends heavily on the United Nations High Commissioner for Refugees (UNCHR), and NGOs supported by the UNCHR to carry out responsibilities that will eventually be taken over by the Albanian authorities. For instance, identity cards are provided by the UNHCR upon the request of the Ministry of Public Order, health and social care is provided by an NGO, legal aid is provided by an NGO, and assistance in enrolling children in the education system is also provided by an NGO. The reception centre in Tirana in which asylum seekers are housed was run by the UNCHR until October 2004 when it was handed over to the Albanian authorities. Key secondary legislation still needs to be developed. This, along with a lack of financial resources, remain significant obstacles hindering the ability of the Albanian authorities to take over full responsibility of all aspects of the asylum procedure. The Albanian authorities are undertaking steps to develop the necessary secondary legislation.
37. ECRI has been informed that different officials involved in the asylum procedure, including border police, public order police, and trafficking police have been provided with training on asylum procedures and the rights of asylum seekers. International organisations have thus far played an important role in these training initiatives. Such training is also part of the qualification course at the police academy.

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<sup>1</sup> See below under 'Discrimination related to Egyptian identity'

<sup>2</sup> See below under 'Participation of minorities in public life', 'Consultation and involvement of minorities.'

**Recommendations:**

38. ECRI recommends to the Albanian authorities to continue to enact the additional necessary secondary legislation and take other requisite steps to enable it to take over responsibility for different aspects of the asylum procedure.
39. ECRI encourages the Albanian authorities to ensure that training in the asylum procedure and the rights of asylum seekers continues to be provided during initial and continuing education of relevant officials.

**- Migrants in an illegal situation**

40. In its second report ECRI recommended to the Albanian authorities to ensure that different categories of migrants – economic migrants, asylum seekers and women being trafficked into prostitution – were not treated in the same way. In this connection, it encouraged the Albanian authorities to ensure that individuals caught illegally in Albania not be treated as criminals.
41. ECRI is pleased to note that in 2001 a pre-screening procedure was put in place in order to determine the status of foreigners caught in the country in an illegal situation. According to this procedure, run jointly by the Ministry of Public Order and several international organisations, when a non-citizen is caught illegally in the country, the case is referred to a pre-screening team who carry out a preliminary interview with the person concerned in order to make an initial assessment of the person's situation. Persons who are trafficked, asylum seekers and those seeking repatriation are each treated in the manner appropriate to their situation. The Albanian authorities have informed ECRI that initiatives are being undertaken to ensure that Albanian officials in contact with migrants are trained in relevant international standards. Furthermore, according to information that ECRI has received from the Albanian authorities as well as the UNHCR, Criminal Code provisions penalising illegal crossing of a state border are not applied.
42. The UNHCR has informed ECRI that the pre-screening procedure currently applies to non-citizens intercepted in Albania, but plans involve extending the programme to border areas as well. Police figures indicate that in 2003, 69 persons of different nationalities were refused entry in the country at the border points. ECRI has received reports indicating that the absence of fully trained police officers, unavailability of qualified translators and poor infrastructure makes it practically impossible that a person in need of international protection is given access to the asylum system at the borders or 'buffer zones' adjacent to them and this could result in the *refoulement* of persons in need of international protection. Despite existing centres, victims of trafficking are not granted the assistance they require.

**Recommendations:**

43. ECRI recommends to the Albanian authorities to continue to ensure that non-citizens found in Albania in an illegal situation are not treated as criminals.
44. ECRI strongly recommends that the principle of non refoulement be strictly respected and that persons in need of international protection and assistance be

given appropriate access. In this connection, ECRI recommends to the Albanian authorities to extend the pre-screening procedure to border areas and 'buffer zones' adjacent to them as swiftly as possible.

### **Education and Awareness Raising**

45. In its second report on Albania ECRI recommended to the authorities to include in the school curriculum at all levels materials focusing on issues of tolerance and respect for difference and the contributions to society made by ethnic minorities, and to ensure teachers be provided with relevant training. ECRI also highlighted the importance of ensuring that history is taught in such a manner as to encourage appreciation of cultural diversity.
46. The Albanian authorities have informed ECRI that they are in the process of developing new school curricula and textbooks for the nine levels of obligatory education, and that they intend to include information about the culture of different minorities in Albania and their history. Furthermore they have informed ECRI that civil education is part of the teaching plan of each school. As far as history teaching is concerned, the Albanian authorities have informed ECRI that an Instruction was issued by the Ministry of Education and Science requiring that when explaining the position of the regional and neighbouring states with respect to Albania, teachers should present to pupils a message of understanding, harmony, tolerance and co-operation in relations between the regional countries and nations. The Albanian authorities have indicated that this message will be included in new textbooks being developed. Representatives of the Greek minority have, however, informed ECRI that they believe that existing history books contain chauvinistic references to Greeks. A joint intergovernmental Commission is reportedly working on this issue.

### ***Recommendations:***

47. ECRI encourages the Albanian authorities in their efforts to review school curricula, and in this connection reiterates its recommendation that at all levels the curriculum should include materials focusing on issues of tolerance and respect for difference as well as the contributions made to society by ethnic minorities. Teachers should also be given special training in such subject matter.
48. ECRI also recommends that the authorities ensure that teaching materials, particularly history manuals, do not promote negative stereotypes or intolerance towards any ethnic communities, and instead encourage an appreciation of cultural diversity. In addition, ECRI recommends that the representatives of different ethnic communities should be involved in this process.

### **Registration in the Civil Register**

49. ECRI is concerned about reports that a disproportionate number of Roma and Egyptian children are not registered in the civil register. This problem impinges upon the rights of these persons in many sectors of life, such as their access to various services, including education, social services and healthcare as well as their ability to exercise civil rights, such as voting. According to Albanian law, all citizens have the obligation and right to register their children at the civil registry office within 45 days of the child's birth. In order to be registered, parents must

present a range of documents, such as: the child's birth certificate or testimonial proof of the birth and birth certificates of the parents in cases where parents are not legally married. Following the 45-day-period, registration requires a court procedure and there is also a fine for late registration.

50. While the criteria and procedures are the same for all, in practice they indirectly discriminate against Roma and Egyptian communities as they have the effect of excluding a disproportionate number of Roma and Egyptian children. According to various civil society sources, problems stem in part from a lack of awareness amongst Roma and Egyptian parents of the need to register children within 45 days of birth. However, even where parents are aware of this, sometimes it is difficult for them to provide the necessary documentation. Roma organisations also informed ECRI that another problem is the fact that Roma tend to marry and have children before the legal age and therefore do not believe that they can register their children. Once the 45-day period is over, Court costs and problems with functioning of the justice system prove prohibitive for most Roma and Egyptians.
51. ECRI is pleased to learn of certain initiatives, such as those undertaken by the Municipality of Tirana, to register Roma children. These include awareness raising initiatives about the registration process specifically directed at Roma communities and efforts to actively identify Roma children who are not registered and facilitate their registration directly at the civil registry office even after the 45-day period. Other positive initiatives involve the waiving by the Albanian authorities of fees involved in registration until 28 February 2005.

#### **Recommendations:**

52. ECRI urges the Albanian authorities to take steps to ensure that all Roma and Egyptian children are registered in the civil register. These could include positive measures such as targeted awareness raising campaigns, an extension of the 45-day time-limit for registering, prolonging the fee waiver, or other similar facilitative measures.

### **Housing**

53. In addition to poor living conditions and inadequate infrastructure, discussed below<sup>3</sup>, Roma and Egyptian representatives have reported to ECRI that they believe that members of their communities experience discrimination with respect to evictions from land that they occupied illegally. Since Albania's transition to democracy, a large number of persons occupied land with no legal title, and built houses upon this property. The Albanian authorities are currently attempting to address this issue, notably through passing Law No. 9304 "On the Legalisation and Urbanisation of Informal Areas". However, in a certain number of cases, particularly in Tirana, authorities have destroyed houses and evicted residents. The Municipality of Tirana has informed ECRI that they only do so in situations where the land is needed for public works. They also state that there is absolutely no discrimination, that all persons are treated in the same manner regardless of their ethnicity. On the other hand, Roma and Egyptian representatives informed ECRI of cases, mostly in Tirana, where members of their communities were

<sup>3</sup> See section II, Specific Issues, 'the Marginalisation and neglect of Roma and Egyptians.'

evicted from houses in which they had been living for many years, and were not given the same possibilities of an alternate location to live or housing credits as their non-Roma or non-Egyptian counterparts in a similar situation. They were thus rendered homeless.

54. The Albanian authorities have informed ECRI that in December 2004 a new law "On Housing Social Programs" entered into force. A National Housing Committee has been established that will be responsible for implementing this law. In addition, a monetary fund has been created in order to provide housing for all categories considered as homeless.

#### ***Recommendations:***

55. ECRI recommends that the authorities ensure that Roma and Egyptians who are evicted from their homes receive the same possibilities of alternate accommodation and housing credits as other Albanian citizens. ECRI also recommends that all reports of discrimination connected with evictions be thoroughly investigated.
56. ECRI encourages the authorities in their efforts to regularise illegal housing situations and assist homeless persons, and recommends that they ensure that Roma and Egyptian communities are duly included in such initiatives.

#### **Access to Education**

##### ***- Participation of Roma and Egyptian children***

57. In its second report, ECRI encouraged the Albanian authorities to make special efforts to address the high drop-out rate amongst Roma and Egyptian children and to increase the participation of members of these groups at all levels of education. In this connection, ECRI also suggested that an investigation could be carried out into the role that stereotypes and prejudices of teachers might play in adversely affecting the participation of these children. Furthermore, ECRI recommended that training be offered to teachers, including information about the particular needs and expectations of Roma and Egyptian children and guidance in how to assist and support children from these groups in participating successfully in the school system.
58. ECRI is concerned that there remains a problem of low attendance and high drop out of Roma and Egyptian children from school. Civil society organisations have highlighted that key prohibitive factors are the poverty of families who need their children to generate income, and the costs associated with sending the children to school (workbooks, school materials, clothing, etc.). Roma organisations have also highlighted problems related to registration in the civil register and the lack of birth certificates. Furthermore, in some areas, Roma children's inadequate knowledge of the Albanian language upon entry into school reportedly presents a problem. Roma organisations also noted the importance of introducing their language as a second language in those communities where Roma live, which can have a positive impact on their success in school. ECRI also again notes the role that can be played by factors such as the prejudices and stereotypes of teachers, and school textbooks that portray Roma and Egyptians in a negative manner and do not reflect their culture or contribution to society.



59. The Albanian authorities recognise the problem of low participation and a high drop-out rate amongst children from these communities and have indicated to ECRI their intention to address these problems. Improving the access of Roma children to education is an objective under the “Strategy for the improvement of the living conditions of the Roma”. The authorities have informed ECRI that steps have been initiated largely under this Strategy, including: research by the Ministry of Education in order to collect data about the situation of Roma in education; projects for teaching of the Roma language in elementary schools by teachers from this community; reconstruction of schools with a high concentration of Roma children; awareness raising of parents of Roma children to encourage their children to frequent schools; and the distribution of free textbooks to the poorest segments of society (including the Roma). ECRI notes that it has been informed from a variety of sources that the measures being implemented under this Strategy are, thus far, few, and that Roma communities are being inadequately involved in developing and carrying out the necessary measures. Furthermore civil society sources have emphasised that for those families with financial obstacles to sending their children to school, it is not enough to distribute textbooks, as the costs of other school materials remain prohibitive. They stress the need in this respect to develop initiatives that address the financial needs of families. It seems that the majority of initiatives that have been implemented with respect to Roma education have been developed by non-governmental organisations and supported by outside donors.

#### ***Recommendations:***

60. ECRI recommends that a range of initiatives be undertaken without delay in order to increase the participation of Roma and Egyptian children at all levels of education. Such measures could include: financial provision to assist poorer families in covering the costs associated with education; awareness raising of parents as to the importance of sending their children to school; recruitment of Roma and Egyptian teachers and school directors; special training for teachers to raise their awareness of discrimination and the needs of Roma and Egyptian children; ensuring textbooks do not promote negative stereotypes about Roma and Egyptians and instead include information about Romani and Egyptian culture and the positive contribution of these communities to Albanian society.
61. ECRI recommends that the Albanian authorities ensure the grassroots implementation of measures developed under the “National Strategy for the improvement of living conditions of the Roma” in order to increase the participation of Roma children in all levels of education. ECRI recommends that Roma organisations and communities at the grassroots level be thoroughly involved in the development and implementation of measures targeting their community. In addition to the measures mentioned above, measures could include, where necessary, preparatory and supplementary training in the Albanian language and possibilities for learning the Romani language. ECRI also urges the authorities to resolve any problems of registration and documentation that prevent children from attending school, and ensure that children may attend school during this process.
62. ECRI encourages the authorities to support and extend successful non-governmental initiatives, such as kindergarten, to all communities where the need exists.
63. ECRI recommends that the authorities ensure that there be no discrimination in

schools against Roma and Egyptian children, for example putting children at the back of the class.

- **Minority language education**

64. In its second report ECRI recommended to the authorities to consider concerns expressed by representatives of the ethnic Macedonian community with respect to mother-tongue education in various regions where members of their community are allegedly not recognised as such.
65. ECRI notes that Macedonian as well as Greek representatives informed ECRI of their concern that members of their communities are unable to receive mother-tongue education in public schools due to the fact that they live outside of areas previously categorised as “minority zones”<sup>4</sup>. According to Albanian law in order for minority language schools to be established a sufficient number of parents must request such a school and they must be recognised as belonging to that ethnicity. The Albanian authorities indicated to ECRI that they check the civil registry in order to determine ethnicity. However, those members of minority groups living outside of areas previously categorised as “minority zones” have difficulties registering their ethnic belonging in the civil registry.<sup>5</sup> Furthermore, representatives of other minority groups, such as Montenegrin, Aromanian/Vlach and Roma have also expressed their wish for their children to be able to receive mother tongue education.

**Recommendations:**

66. ECRI recommends to the Albanian authorities to consider extending possibilities for minority language education. ECRI also recommends to the Albanian authorities to adopt an approach that encourages the interaction and communication of children from different ethnicities, and thus also consider different models of minority-language education, such as bilingual schools or classes, and accepting children of non-minority ethnicity or of mixed ethnicity into such programmes.

**Media**

67. In its second report on Albania, ECRI recommended that the Albanian media take measures to ensure that it continues to promote an atmosphere of general tolerance and understanding between members of different ethnic communities. In particular, ECRI recommended that the media adopt a code of self-regulation to combat racist, xenophobic and discriminatory reporting and to promote coverage that is balanced and impartial.
68. ECRI has received no information indicating that the Albanian media has developed a code of ethics or other means of self-regulation with respect to the manner of reporting about different ethnic groups, and of sanctioning reporting that fuels discrimination, racism, interethnic tensions and hostility. ECRI notes that

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<sup>4</sup> “Minority zones” existed both during and before the former communist regime, covering areas where national minorities lived traditionally.

<sup>5</sup> See below under ‘Monitoring the situation’.

there have been initiatives to provide journalists with training with respect to reporting on diversity.

69. The Albanian media are generally said to avoid promoting racism and discrimination, although on some occasions they promote negative stereotypes about minority groups, particularly Roma. ECRI has also received information indicating that the media sometimes stir up negative feelings about the Greek, Macedonian and Montenegrin minorities. On the other hand, the Albanian media reportedly does not give sufficient coverage to the daily lives, problems and concerns of members of minority groups. Furthermore, representatives of different minority groups have expressed concern to ECRI that they are not given adequate possibilities for access to the electronic or print media.

#### ***Recommendations:***

70. ECRI recommends to the Albanian authorities that they impart on media professionals the need to adopt codes of self-regulation to combat reporting that fuels racism, discrimination and intolerance and instead promote coverage that is balanced, impartial and promotes an atmosphere of appreciation of diversity.
71. ECRI recommends that the Albanian authorities inform media professionals of the need to strive to give adequate coverage to the daily lives, problems and concerns of members of minority communities.
72. ECRI also recommends that members of minority groups be given adequate opportunities for access to the electronic and print media.

#### **Conduct of law enforcement officials**

73. In its second report on Albania, ECRI recommended that an independent mechanism be charged with the task of investigating all allegations of ill-treatment by police officers. It also recommended that the response of internal control mechanisms to such allegations be improved. Furthermore ECRI encouraged the Albanian authorities to continue their efforts to provide human rights training to the police forces.
74. ECRI is pleased to note that the Albanian authorities created an Office for Internal Control (OIC) responsible for combating in-house corruption and other forms of official misconduct. Despite this step, ECRI has not received any information indicating that internal investigations into ill-treatment by police have improved. Reports indicate that police are rarely punished for their misbehaviour. As concerns judicial proceedings reports indicate that cases against police officers accused on grounds of ill-treatment are generally stopped before the trial stage, with an effective investigation rarely being carried out. Victims of ill-treatment also hesitate to bring forward complaints, particularly due to a lack of confidence that their complaints will lead to action.
75. ECRI is pleased to note that training in human rights has reportedly been offered to the police at all levels. NGOs have played a key role in these initiatives. Reports also indicate that since ECRI's second report there is a decrease in instances of police misbehaviour. However, abuse and ill-treatment nonetheless continue to be serious problems.

### **Recommendations:**

76. ECRI recommends the Albanian authorities to ensure that allegations of police ill-treatment of members of minority groups are thoroughly investigated and perpetrators of criminal acts brought to justice. ECRI recommends that the procedure related to the investigation of complaints be conducted by an independent investigatory mechanism, whereby all phases of the investigation are conducted and overseen by a body independent of the Police and Ministry of Public Order.
77. ECRI stresses that allegations of ill-treatment by police which are brought to court should be dealt with as rapidly and thoroughly as possible, and perpetrators appropriately sanctioned, in order to transmit the message to society that such behaviour on the part of the police is not tolerated and will be punished.
78. ECRI recommends to the Albanian authorities to ensure that human rights training of the police is included in initial and continuing education, and covers information about racism and discrimination, as well as applicable legislation relating to these issues.

### **Monitoring the situation**

79. In its second report, ECRI strongly urged the Albanian authorities to include a question pertaining to ethnic identity in the general census, respecting the principle of voluntary self-identification. ECRI also suggested that representatives of ethnic minority groups should be involved in the various stages of this process.
80. Questions related to national, ethnic and religious belonging were not included in the 2001 census. The Albanian authorities have informed ECRI that the National Statistics Institute (INSTAT) did, however, carry out a study focused on the economic situation, life and poverty level of the population that included a question on national belonging. ECRI notes that such a study cannot replace a nation-wide census in which all Albanians would have the opportunity to self-identify with respect to their national, ethnic and religious belonging. Representatives of different minority groups expressed to ECRI their concern that their numbers are significantly underestimated by the Albanian authorities and that they therefore attach great importance to the carrying out of a census that would more accurately reflect their percentage of the Albanian population.
81. ECRI notes in this connection, particular concerns expressed by the Greek and Macedonian communities that they are only recognised as a minority in zones previously categorised as minority zones. They noted that outside of these zones, they are unable to register their national belonging in the civil register and consequently unable to benefit from various minority rights.

### **Recommendations:**

82. ECRI reiterates its recommendation to the Albanian authorities to carry out a national census in which a question is included pertaining to ethnic identity, respecting the principles of confidentiality and voluntary self-identification. Representatives of ethnic minority groups should be involved in various stages of

the process.

83. ECRI furthermore recommends to the Albanian authorities to ensure that certain persons are not denied the possibility of having their ethnic identity officially recognised simply due to their geographic location in the country outside of areas previously categorised as minority zones.
84. In its second report ECRI encouraged the Albanian authorities to consider ways of establishing a coherent and comprehensive means of data collection to enable the situation of various minority groups living in Albania and the extent of manifestations of racism and discrimination to be assessed.
85. ECRI is unaware of any efforts to collect data that would make it possible to assess the situation of ethnic minorities in different fields of life. ECRI notes that this lack of data makes it difficult to identify the extent of discrimination experienced by these groups as well as the impact of any measures put in place to improve their situation.

#### ***Recommendations:***

86. ECRI reiterates its recommendation to the Albanian authorities to establish a monitoring system that enables the collection of information about the situation of various minority communities, the assessment of the extent and causes of discrimination and the evaluation of actions intended to combat it. This system should pay due respect to the principles of confidentiality and the voluntary self-identification of persons belonging to a particular group. Such monitoring should also take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.

## **II. SPECIFIC ISSUES**

### **The marginalisation and neglect of Roma and Egyptians**

87. ECRI is deeply concerned over the deplorable living conditions, extreme poverty and social and economic marginalisation of many Roma and Egyptians in Albania. A large number of Roma and Egyptians live in ramshackle shacks in neighbourhoods lacking basic utilities, with particularly high rates of unemployment and difficulties in accessing social services, such as health care. Furthermore, there is an especially high rate of school drop-out of children from these communities and they are particularly vulnerable to becoming victims of trafficking<sup>6</sup>. While such problems are also shared by other segments of the Albanian population, Roma and Egyptians evidently experience such situations of extreme disadvantage to a disproportionate extent. It seems that adding to the general difficulties and problems experienced by all Albanians related to the political, social and economic changes, these communities have suffered the additional burden of marginalisation and neglect. Their inadequate representation and participation in public life, discussed below<sup>7</sup>, has clearly exacerbated this situation.

<sup>6</sup> See below 'Trafficking of Roma and Egyptian Children'.

<sup>7</sup> See under 'Participation of Minorities in Public Life'.

88. In its second report on Albania, ECRI recommended to the Albanian authorities to analyse the manner in which vulnerable groups, such as the Roma and Egyptians, may experience forms of indirect discrimination in various fields of life connected to the manner of functioning of Albanian society and institutions, such as by existing corruption or their lack of adequate representation in public institutions. It also recommended that attention be paid to negative stereotypes and prejudices that may lead to discrimination in individual cases. Furthermore ECRI suggested that it might prove necessary to implement special measures to ensure that members of these vulnerable groups have the same access to public services and basic facilities as other Albanians.
89. ECRI has received no information indicating that since its second report research has been carried out by the Albanian authorities into indirect discrimination, nor into the impact of negative stereotypes upon the situation of Roma and Egyptians. On the contrary, on many occasions during its visit, the Albanian authorities emphasised to ECRI that all citizens are equal according to Albanian law, and that Roma and Egyptians therefore have the same possibilities as any other citizen when it comes to housing, education, employment, social services or any other sector of life. Furthermore the conclusion was frequently drawn that this means that there is no discrimination in Albanian society. ECRI notes, however, that the fact that in law persons belonging to minority groups are guaranteed the same rights as other citizens does not in practice guarantee an absence of discrimination. ECRI emphasises in particular that remedying inequality may, in fact, require treating persons belonging to minority groups differently from others, through targeted measures aimed at addressing their specific situation, and also through ensuring that laws, policies and practices that appear neutral do not have a disproportionately negative impact upon members of minority groups.
90. ECRI is pleased to note in this connection that, as concerns Roma, the authorities have developed a “National Strategy for improvement of the living conditions of the Roma” that sets out to eliminate all forms of discrimination towards Roma and encourage this community to take an active part in the economic, cultural, social and political life of the country. The authorities have informed ECRI that the Strategy sets out to reach these goals through positive actions in the areas of education, culture, media, civil society, employment, housing, public order, health, justice and economy. ECRI notes, however, that according to information it has received, there does not seem to have been adequate research carried out into the particular problems faced by different Roma communities at the grassroots level during the process of developing this Strategy. Furthermore concerns have been raised by civil society sources that the Strategy is being inadequately implemented. In particular, there seems to be a lack of clear mechanisms for translating the measures set out in the Strategy into specific local initiatives, as well as for monitoring its implementation. As discussed below<sup>8</sup>, a further problem is the inadequate involvement of Roma in the implementation and monitoring of the Strategy.

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<sup>8</sup> See below, ‘Participation of Minorities in Public Life’, ‘Implementation of the National Strategy for the Improvement of the Living Conditions of the Roma Community’.

### **Recommendations:**

91. ECRI reiterates its recommendation to the Albanian authorities to analyse the manner in which Roma and Egyptians may experience forms of indirect discrimination in different fields of life, as well as to assess the impact of negative stereotypes and prejudices towards these minority groups.
92. ECRI recommends to the Albanian authorities to take steps to ensure that Roma and Egyptian communities are not discriminated against through their neglect by decision-makers and other public officials. Instead, ECRI urges national and local decision-makers and other officials to ensure that due attention is paid to the particular problems and needs of these communities in all fields of life and to ensure their full inclusion in economic, social and political life. ECRI stresses that targeted measures may be necessary in order to ensure that Roma and Egyptian communities benefit from equality in practice.
93. ECRI recommends to the authorities to continue and reinforce their efforts to implement the “National Strategy for improvement of the living conditions of the Roma,” and in particular to ensure that the Strategy is effectively monitored and implemented at local level.

### **Participation of Minorities in Public Life**

#### **- *Participation in Political Decision-Making***

94. ECRI is concerned over the lack of effective participation of persons belonging to some minority groups in the country’s decision-making processes at the national as well as local levels. A lack of statistical information makes it impossible to assess the extent of the problem, however reports indicate that persons belonging to minority groups, and in particular Roma and Egyptians, are grossly under-represented in political decision-making bodies. Even in municipalities and regions where Roma and Egyptians constitute a significant portion of the population, their communities tend to either not be represented within local councils, or be represented in a very limited manner. ECRI is particularly worried that this situation has led to the marginalisation and neglect of these communities, leading to less attention and resources being devoted to Roma and Egyptian neighbourhoods and interests.
95. This situation seems to be exacerbated by the generally low participation of Roma and Egyptians in the political process, as representatives of political parties and as voters. Reports following the last local elections indicate that there was a very low turnout by registered voters from minority groups, especially Roma and Egyptians. In addition, many Roma and Egyptians are not registered to vote. This low participation seems at least in part to be connected to a lack of trust in political parties and a feeling that these parties do not represent the interests of their communities. Furthermore ECRI received reports concerning different parts of the country indicating that electoral candidates exploit the poverty, difficult living conditions and low levels of education of many Roma and Egyptians by buying votes or making promises before elections only to forget about these voters once they come to power.

**Recommendations:**

96. ECRI recommends that the Albanian authorities take steps to ensure that minority groups, including Roma and Egyptians, are effectively represented within political decision-making bodies at national and local level.
97. ECRI recommends that initiatives be carried out to increase the participation of Roma and Egyptians in political processes, including research into the reasons why many Egyptians and Roma are not registered to vote and measures to address problems.

**- Representation in State Institutions**

98. In its second report, ECRI noted concerns of minority groups over their under-representation in state institutions, such as the public service, the police, and the military, and urged the Albanian authorities to consider measures to monitor and to improve this situation.
99. No data is available that makes it possible to have a clear idea as to the representation of persons belonging to minority groups in different public bodies. However ECRI has not received information that would indicate an increase in their representation in state institutions since its second report. Furthermore, according to information that ECRI received from representatives of minority groups this remains an issue of concern to the different minority groups in the country. Numbers of Egyptians and Roma in state institutions seem particularly low, with those few persons that are employed in the public sector for the most part filling functions such as cleaning and maintenance. It has been stressed to ECRI that this cannot be explained purely by education levels as there are qualified and educated people within Roma and Egyptian communities. Greek representatives have indicated that they are represented within the police and judiciary, however this is only in the Gjirokastër and Sarandë areas.
100. The Albanian authorities have informed ECRI that formal barriers do not exist that would hinder the participation of persons belonging to minority groups in state institutions. However no specific initiatives have been carried out aimed at increasing minority representation in the public service, the military or the judiciary. With respect to the police, the Albanian authorities have informed ECRI that a working group responsible for the revision of legislation in this field has recommended a revision of the law in such a manner as to promote a wider participation of persons belonging to minority groups in the public order bodies, in the areas where they live in considerable numbers. One of the amendments being considered would allow for the establishment of quotas for the participation of persons belonging to minority groups in public order bodies in these areas.

**Recommendations:**

101. ECRI recommends to the Albanian authorities to take steps to increase the representation of persons belonging to the countries' different minority groups within state institutions, such as the public service, the military, the judiciary and the police, at national and local levels. ECRI also encourages the authorities to ensure that such initiatives not be limited to zones previously categorised as minority zones.



- **Consultation and involvement of persons belonging to minority groups**

102. The possibilities for persons belonging to minority groups to participate in decision-making are also restricted by a lack of adequate mechanisms for consultation at national and local level, even when minority interests are directly affected. This problem is linked to the limited notion of consultation that seems predominant in official circles whereby a single representative or organisation is deemed to represent the needs and interests of a given minority group. Thus as a rule public officials responsible for developing or carrying out policies do not view it as necessary to take steps to consult with the various segments and interests within a given minority group, including the most marginalised, whose needs and interests may often not be “represented” by dominant elites. For instance, ECRI was told by various officials that minority groups would now be represented through the person from their ethnic background on the Special State Committee on Minorities. ECRI stresses that minority groups do not have singular interests and that consultation needs to involve different voices within minority groups.
103. ECRI notes in this respect the importance of ensuring that persons belonging to minority groups are adequately prepared to effectively articulate their needs and effectively take part in political decision-making. There seems to be a significant need in Albania for members of minority groups, particularly the more marginalised Roma and Egyptians, to be supported in developing the necessary knowledge, skills and structures in order to participate effectively in public decisions. However, information ECRI has received indicates a contrary tendency to, for instance, implement initiatives aimed at assisting Roma communities without involving these communities in the development, implementation and evaluation of these measures. Thus the measures themselves reportedly often do not adequately meet the needs of members of these communities and, in addition, they further exclude them from public life rather than contributing to their political and social integration.

**Recommendations:**

104. ECRI recommends that formal and informal mechanisms be developed in order to ensure that different segments and interests within minority groups are consulted and are able to participate in decision-making at national and local level.
105. ECRI urges Albanian public officials to ensure that they do not rely solely on a single or limited number of representatives included in State bodies or dominant at the national level to express the interests of different minority groups, but also actively seek out other voices at the grassroots level, particularly those directly affected by particular decisions and measures.
106. ECRI recommends to the Albanian authorities to promote and support education and training initiatives aimed at strengthening the capacity of Roma and Egyptians to effectively take part in political decision-making. Training in civic education and capacity building of grassroots civil society organisations would be particularly opportune.
107. ECRI recommends to the Albanian authorities to encourage and support the involvement of grassroots minority communities and organisations in the development, implementation and evaluation of projects and measures that directly affect them.

- **Implementation of the National Strategy for the Improvement of Living Conditions of the Roma**

108. ECRI is deeply concerned that mechanisms are not in place at national or local level in order to ensure the effective involvement of Roma in the implementation and assessment of the “National Strategy for the Improvement of Living Conditions of the Roma”. ECRI received no information that indicates in a clear manner how the implementation of the Strategy is to take place at local level and what role members of Roma communities and grassroots Roma organisations are to play in its implementation and evaluation. On the contrary, ECRI received numerous reports from Roma organisations and representatives indicating that the Strategy is being implemented with limited active participation by Roma in the development of specific measures, their implementation and their assessment.
109. The Ministry of Labour and Social Affairs, responsible for monitoring the Strategy, has informed ECRI that a network of leaders of Roma associations has been established and will be included in monitoring in order to set a balance between central institutions and associations. However ECRI notes that the exact role that this network will play in the monitoring of the Strategy is not clear. Furthermore, it is not clear how frequently this network will meet and whether its membership extends to the local level and involves the diverse Roma communities that are to be covered by the Strategy. ECRI received no other information that indicates how Roma are to be involved in implementing and monitoring the Strategy.

**Recommendations:**

110. ECRI recommends that the Albanian authorities ensure that Roma are consistently involved in all aspects of the implementation and evaluation of the “National Strategy for the Improvement of Living Conditions of the Roma” at national and local level. It urges the authorities to ensure that those involved include Roma communities directly affected by the Strategy as well as diverse grassroots Roma organisations.

**Trafficking of Roma and Egyptian Children**

111. ECRI is deeply concerned over the relatively widespread phenomenon of trafficking in Albanian children for purposes of exploitation. More specifically, ECRI is concerned that a disproportionate number of Roma and Egyptian children are victims of this phenomenon. In fact, according to governmental and non-governmental actors, a majority of those children trafficked come from Roma and Egyptian communities.
112. The children are generally taken to neighbouring countries, particularly Greece and Italy. Some children are trafficked internally, from rural areas into the major cities, especially Tirana and Dures. Trafficked children tend mostly to be exploited as a source of labour, for instance sent to beg or sell small items in the streets, or to wipe car windows. Sometimes they are also used for illegal activities, in particular drug dealing or organised theft. Some children, especially adolescent girls, are also exploited for prostitution. The children that are most vulnerable come from broken families that also suffer from extreme poverty and high rates of illiteracy. In many cases, the trafficker is a relative or acquaintance of the family,

however the families are unaware of the conditions experienced by their children once in the hands of the trafficker. At present many children are reportedly missing with no information as to their whereabouts. ECRI notes that the disproportionate number of Roma and Egyptian children that fall victim to this phenomenon reflects the particular marginalisation and neglect of these minority groups within Albanian society<sup>9</sup>.

113. ECRI is pleased to note that the Albanian authorities have in recent years recognised this problem and an interministerial group has developed a National Strategy to Combat Trafficking. As part of this strategy a special police unit was created in order to fight against trafficking. This unit has reportedly been quite active in seeking out and taking actions against trafficking networks. This National Strategy also includes a range of other measures, such as the reintegration of children. The Albanian authorities have also informed ECRI that a particular strategy aimed at combating trafficking in Roma children is being developed. However, reports from civil society sources indicate that despite the positive intentions of the central authorities, considerably more initiatives are required in order to: raise awareness of trafficking amongst society and especially vulnerable populations; prevent trafficking; effectively bring back trafficked children; offer them appropriate protection and assistance once they return; and reintegrate them into society. Furthermore there appear to be considerable problems in the implementation of the National Strategy at local level, with key local actors, such as those involved in social assistance, unaware of their responsibilities under the Strategy and lacking awareness about this problem.
114. ECRI is concerned over information indicating that despite the fact that Roma and Egyptian communities are disproportionately affected by trafficking, they are not adequately consulted or involved in developing and carrying out measures. ECRI stresses that in order to effectively prevent the trafficking of Roma and Egyptian children, the Albanian authorities need to work with these communities to develop effective initiatives that address the high levels of poverty, illiteracy, and school drop-out within these communities as well as their lack of opportunities and their marginalisation.

#### ***Recommendations:***

115. ECRI recommends to the Albanian authorities to continue and reinforce their efforts to combat the trafficking of children. These efforts should devote sufficient attention and resources to awareness raising, prevention, return of missing children, victim protection and care once they are returned as well as reintegration.
116. ECRI strongly recommends that representatives of Egyptian and Roma communities be directly involved in developing and carrying out measures aimed at combating the trafficking of their children.
117. ECRI recommends to the Albanian authorities to co-operate with Egyptian and Roma communities in order to develop effective awareness raising initiatives to inform these communities about this phenomenon as well as to create effective preventive measures aimed at addressing root problems such as poverty, lack of economic opportunities and low levels of education.

<sup>9</sup> See above 'The Marginalisation and neglect of Roma and Egyptians'.

118. ECRI stresses the urgent need for the Albanian authorities to take the necessary steps in order to ensure that the “National Strategy to Combat Trafficking” may be effectively implemented at the local level. In this respect ECRI encourages the Albanian authorities to ensure that relevant local public officials are aware of their responsibilities in this area, have sufficient resources in order to effectively carry out these responsibilities, and receive targeted training in order to prepare them for these responsibilities. Furthermore ECRI considers that it would be useful to develop a mechanism in order to coordinate and monitor the actions of local officials in carrying out the National Strategy.

### **Discrimination related to Egyptian Identity**

119. In its second report on Albania, ECRI encouraged the Albanian authorities to consider concerns by leaders of the Egyptian community over the non-recognition of their identity.

120. The Albanian authorities have informed ECRI that they have considered this issue and do not recognise the Egyptians as a minority. Egyptian representatives have brought to ECRI’s attention their continued concerns with respect to this matter. ECRI notes that *de facto* Egyptians seem to be perceived as a distinct minority in Albanian society, by the public, the media as well as some Albanian officials, who perceive Egyptians as distinct and commonly refer to them with specific group designations. In this connection ECRI is concerned that the specific terms by which Egyptians are designated in Albanian society often contain pejorative connotations, and may refer simply to their dark skin colour.

121. ECRI is deeply concerned that this situation has resulted in the discrimination of Egyptians as compared to other minorities in Albania with respect to their ability to bring their specific problems and concerns to the attention of the authorities. The Egyptians therefore face a position of particular marginalisation in public life as well as a general neglect of their specific problems and needs by the Albanian authorities. The Egyptians seem to be overlooked in the development of policies in different fields of life. This has meant that no steps have been taken to determine whether Egyptian communities face direct or indirect discrimination in different fields of life or suffer from racism in society. Consequently it has not been possible to develop targeted measures to address such problems.

122. Furthermore Egyptians tend to be excluded from state structures specifically established in order to address the needs of the countries’ minorities. For instance, the Special State Committee on Minorities responsible for making recommendations to the Government on minority issues does not include a representative of the Egyptian minority.<sup>10</sup> The Committee explained to ECRI that this is due to the fact that this minority is not legally recognised in the country and therefore cannot be represented on the Committee. The Office of National Minorities similarly informed ECRI that it does not meet with Egyptians nor deal with their problems as they are not a legally recognised minority.

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<sup>10</sup> See above under ‘Specialised bodies and other institutions’, ‘Special State Committee on Minorities’.

**Recommendations:**

123. ECRI urges the Albanian authorities to ensure that the principle of non-discrimination is fully respected as concerns Egyptians in Albania.
124. ECRI recommends to the Albanian authorities to ensure that there is no discrimination against Egyptians with respect to their participation and access to official State institutions dealing with the needs and concerns of the countries' minorities. In particular, ECRI recommends that the Egyptians be represented on the Special State Committee on Minorities, and be taken into account by the Office of National Minorities.
125. ECRI recommends that the Albanian authorities devote specific attention to the problems faced by Egyptian communities, and develop in co-operation with these communities measures targeted to their particular needs, including measures to address any indirect discrimination or racism that they experience. The Albanian authorities may wish to consider the adoption of a specific National Strategy aimed at improving the situation of Egyptians in Albania.

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## APPENDIX

### **The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Albania**

ECRI wishes to point out that the analysis contained in its third report on Albania, is dated 17 December 2004, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on Albania was subject to a confidential dialogue with the Albanian authorities. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Albanian authorities requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.



## “COMMENTS AND OPINIONS ON THE THIRD DRAFT REPORT FOR ALBANIA

1. The Government of the Republic of Albania appreciates the work of European Commission against Racism and Intolerance (ECRI) for adopting the third draft report for Albania and the respective recommendations, as well, which provide the systematic attention of this Commission relating to the national minorities issue that live in the territory of the Republic of Albania. We also appreciate the fact that ECRI constitutes progress in some fields, the problematic of which is dealt in its second Report (April 2001).

2. In Albania, the good relations, tolerance, co-operation and good understanding of the Albanian people with the national minorities that live in its territory have historic tradition, which could serve as a model for the entire Balkans region.

3. Appreciating the issue of respecting the rights of minorities, the Albanian government is committed to undertake any initiative, which helps in the improvement of their conditions, preservation and the development of their national, cultural identity, their traditions and their language.

4. Further on we submit our comments and suggestions for some of the issues and recommendations of the Draft Report that we think must be reconsidered or corrected.

5. Relating to the recommendation for the signature and ratification of European Chart “On Regional or Minorities Languages” (paragr.6), we deem that our official position should be taken into consideration for not having signed this document, which is based on arguments as further goes:

- The respect and protection of minority rights is guaranteed perfectly by the actual domestic legislation, beginning with the Constitution of the Republic of Albania and many other laws. As well as in other fields this legislation is being improved and being completed continuously.
- The Framework Convention “On the Protection of National Minorities”, which after being ratified is considered an integral part of the domestic legislation, is valued as a continues guaranty for the protection of minority rights in Albania.
- Based on the actual situation in the Albanian state administration, the signing of the European Chart “On Regional and Minority Languages” would bring considerable difficulties regarding to its implementation from the part of local and central institutions.
- The request for signature of this chart is never expounded by the representatives of minority organizations or experts who deal with issues of minority rights. For this reason this issue is artificially reflected and has no ground on the actual situation.

## Domestic legislation

6. During the last years, there have been a small number of criminal proceedings for criminal offences of racial nature (articles 253, 265, and 266 of the Criminal Code). This is a positive indicator of the obvious lack in Albania of the attitudes, opinions and behaviors of racial discriminative and xenophobic nature.

7. Despite this fact in function of respecting democratic principles of Albanian criminal legislation and evaluating as an important element in accordance with progressive European standards, the inclusion of "racial motivation" as an aggravating circumstance is foreseen as one of the most important legislative steps, which will be realized during the year 2005.

8. But we have to explain that the determination of racial motivated offences as an aggravating circumstance cannot be applied for all crimes but only for those, which are committed for racial reasons. Therefore we consider not correct the phrase "..for all offences.." included in the respective recommendation (paragr.12) and we require dismissing (omit) this phrase.

9. Relating to the recommendation for the strengthening of legal framework aiming the elimination of direct or indirect discrimination in the civil and administrative field (paragr.20), we emphasise that in the Action Plan for the Implementation of Priorities of European Partnership are provided even the further legislative measures:

- The amending of laws "On Police of State" and "Ethic Police Code", aiming to review the complaint procedures for violations in general and discrimination especially in the police bodies.
- The review of the law "On Police of State" in function of a more extended participation of minority members in the public order bodies, especially in those areas where they live in a considerable number.
- The indication of the criteria relating to the right for the use of minority native language into the regional traditional denominations and other topographic indicators in the areas where they live.
- The approval of Rules from local governmental units for the promotion of information of minority members for the rights acknowledged to them by the local governmental bodies.
- The use of minority language during the electoral campaign in the areas where they live, like the distribution of the brochures and pamphlets in their language.

10. Taking into consideration the above expressed opinions in paragraph 18-20 of the Draft-report on the domestic, civil and administrative level of legislation, we assess that our legislation in these fields responds to the scope of elimination and prevention of any form of discrimination in all social and economical aspects like: employment, education, access in the public services etc.

11. For these reasons we think that in paragraph 20, the first sentence of this recommendation must be changed as further goes:

*"ECRI encourages Albanian authorities to continue the strengthening of the legal framework in this field through a complete legislation conducted on the fight against direct and indirect discrimination in the most important life fields..."*

## Reception and status of non-citizens

12. The domestic legislation and the daily practice as well confirm that the illegally coming foreigners in Albania are not penalized and treated as criminals. This is already a consolidated situation. For this reason we think that the recommendation about this issue (paragraph 43) is not necessary.

## Access to Education

13. In the scholar books or any kind of literature there are no phrases, events, or elements of content, which incite the racial discrimination and xenophobia for Roma and Egyptian community or for minorities in general. This fact doesn't constitute a phenomenon in Albania. For this reason we assess that in the respective recommendation (paragr.59) the phrase "... Ensuring textbooks do not promote negative stereotypes about Roma and Egyptians..." must be dismissed as inappropriate.

## Monitoring the situation

14. Relating to the ascertainment in the paragraph 79 of the Draft Report about the non inclusion of the question on ethnic belonging during the population census in year 2001, as well as the recommendation about organizing another census where must be included the question about the ethnic belonging (paragraph 81), we explain that:

- a) The political, economical and social changes under which Albania is passing through during this transition period that brought a different concept and point of view from the past on how to show the interests of the population. The concept and the tendency of the free movement of people, especially abroad for employment reasons, have created different mentality, which because of the realization of these interests would not reflect the reality in the questionnaire.
- b) The indication of ethnic origin only through the self-declaration, is deemed as inappropriate because based on the above-mentioned reasons, a part of the population would not express the reality in the individual self-declaration, aiming to benefit in function of their interests and for this reason the result of this process would be deformed.
- c) Taking into consideration the above-mentioned factors this question should be accompanied with other additional questions like the religious belonging or mother tongue, which had their own technical difficulties on the formulation of the respective questions. Thus, such a process was difficult to be accomplished.
- d) Many individuals, for their own interests have used the Civil Status Office where through informal payments (bribery) in favor of particular officers, could easily change the characteristics and individual data, including even the change of the nationality. This fact rendered difficult to provide realistic objective information.
- e) The gathering of this information was difficult because of the lack of a correct legal definition for the national minorities.

- f) From the formal legal point of view, the Framework Convention “On the protection of minorities”, doesn’t determine any expressed obligation for the state parties to undertake a similar process for the identification of the ethnic belonging of citizen.

All these reasons altogether brought about a questionnaire, which identifies only the citizenship.

15. The Statistic Institute (INSTAT) Study about minorities, which evaluates the minority percentage in 1.4 % of the general number of population, has completed the vacuum that exists since a long time about the official data for ethnic structure in Albania. By this study one of the main engagements of the Albanian government in the framework of Stabilization-Association Process with EU is fulfilled.

#### Minority participation in the public life and state institutions

16. Relating to the recommendation about assuring an effective representation of minorities in the political life (paragraph 95), we emphasize that the participation of individuals in legislative and executive decision taking bodies, central and local, is opened for all the stratum categories without any discrimination or limitation by ethnic, racial or religious character.

17. Political, economical and social interests for minorities in general are protected by all the Albanian political parties, in which adhere a considerable number of individuals who belong to national minorities. Also, in Albania exercises its activity the Party "The human rights union" which represents the minority interests (another similar party is created lately), in which individuals or different minority groups adhere. So from this point of view the minority groups are not limited from their opportunities to be represented in legislative central or local bodies.

18. In every legislature of Albanian Assembly there have been on the average 5-10 deputies who belong to minorities (especially the Greek one). In Parliament there is a special committee for human rights and minorities that is conducted by a minority representative. We express the same fact even for the representation of minorities in the local governmental bodies.

19. Relating to the registration of citizens who belong to these communities (paragraph 94) we emphasize that the Law no.9296, dated 21.10.2004 “On the verification, identification and registration of citizen by the Local Governmental Units” creates many facilities about the registration of persons who belong to these groups, because of their participation in elections.

20. According to the domestic legislation also in the daily practice do not exist elements or limiting or discrimination criteria for minorities. At the other hand should be taken under consideration even the fact that the participation in the legislative and executive bodies, central or local in any kind of level requires at any cost the fulfillment of some criteria relating to the educative, intellectual, professional level of the individuals. Meanwhile, another determinative element is the will and the self-stimulation of any individual to be engaged in the public life. All Albanian citizen who posses these elements despite their ethnic belonging, have open and equal opportunities without any discrimination.

#### About the status of “Egyptians” community

21. Relating to the status issue of Egyptian community we emphasize that in the determining as national minority of a certain group, except the subjective criterion which undermines the personal choice to be part of this minority, exist even some objective criteria provided in international acts like as:

- a. existence in this group of ethnic, cultural, religious, linguistic, characteristics
- b. the obvious will to keep the culture, tradition, religion or their language.

22. Historically “gypsies” have arrived in Balkans (including Albania) from India through Egypt and this fact is the sole element, which relates them with this country. Differently from roma who have ethnic characteristics and their own language, the gypsies are sedentary and spread in many areas of Albania. In the home language they are called “jevgj” and their origin is disputable. They do not have their own language and can speak only in Albanian language. They have been integrated completely in the Albanian population and their only difference from the other part of Albanian people is the color of their skin.

23. The allegation of a group of people that is so called “Egyptian” and requires to be considered as minority group exists only in Albania. In no other country of Balkans region and Europe does exist such minority group. If we consider ECRI reports for all the member states (second or third report), we ascertain that are present issues about “roma community” or “roma /gypsies community” and is not evidenced any Egyptian community. If this would be real, this community, big or small, would exist even in other neighbour states with Albania.

24. For this issue we mention again the fact which is expressed even before that the Embassy of the Arabian Republic of Egypt in Tirana has declared that does not acknowledge any Egyptian minority in Albania and this community which lives in Albania has no ethnic relation to the Egyptian people.

25. Based on all the international acts regarding to the national minorities and considering objective and subjective criteria determined in them for the status of national minorities, criteria accepted even from the Council of Europe, we consider that there do not exist fundamental elements which can oblige the Albanian state to acknowledge to Egyptian community the status of national minority.

26. The arguments and comments on the Draft-report submitted above reflect the serious engagement of the Albanian Government in combating the racism, intolerance, discrimination and xenophobia. We express our opinion that the evaluation of these results must be taken into consideration in the eventual improvements of the Draft-report during its final approval process.

27. Expressing again our appreciation for the work done by ECRI, we emphasize once more the consequent position of the Albanian Government in favor of respecting and guaranteeing the minority rights and the continuous improvement of this process.”





