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European Commission against Racism and Intolerance
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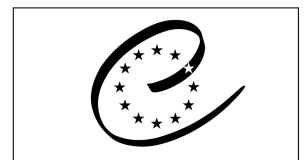
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European Commission against Racism and Intolerance

ECRI's country-by-country approach:

REPORT ON ALBANIA

Strasbourg, 9 November 1999



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INTRODUCTION

The European Commission against Racism and Intolerance (ECRI) was set up in 1994, at the instigation of the first Summit meeting of Heads of State and Government of the member States of Council of Europe, to combat the growing problems of racism, xenophobia, anti-Semitism and intolerance threatening human rights and democratic values in Europe. The members of ECRI were chosen for their recognised expertise in questions relating to racism and intolerance.

The task given to ECRI was to: review member States' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance and their effectiveness; propose further action at local, national and European level; formulate general policy recommendations to member States; and to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

One aspect of the activities developed by ECRI to fulfil its terms of reference is its country-by-country approach, which involves carrying out an analysis of the situation in each of the member States in order to provide governments with helpful and concrete proposals.

The procedure adopted for the preparation of country-specific reports can be summarised thus:

- a. The preliminary collection of information as well as the preparation of the texts of the preliminary draft reports are carried out in small working groups of ECRI. Preliminary sources of information used are wide-ranging, including, *inter alia*, replies provided by governments to a questionnaire sent out by ECRI, input from the relevant national members of ECRI, information on national legislation collected for ECRI by the Swiss Institute of Comparative Law¹, information from international and national non-governmental organisations, various publications and the media.
- b. ECRI examines and discusses the preliminary draft report on each country in plenary session and adopts a draft report.
- c. The report is sent to the relevant government for a process of confidential dialogue conducted through a government-appointed national liaison officer. The draft country report is re-examined and possibly revised in the light of the comments provided by the latter.

¹ *The report prepared by the Swiss Institute (ref: CRI (98) 80), covering relevant legislation in member States of the Council of Europe is available on the web site www.ecri.coe.int and, in hard copy, from ECRI's Secretariat.*

- d. The report is then adopted in its final form by ECRI in plenary session, and transmitted through the Committee of Ministers of the Council of Europe, to the government of the country in question. Two months after this transmission, the report is made public, unless the government of the country concerned expressly requests that it is not made public.

To date, six series of ECRI's country-specific reports have been made public, in September 1997, in March 1998, in June 1998, in January 1999, in March 1999 and in May 1999 respectively². A seventh series of country-specific reports was transmitted to the governments of the countries concerned in September 1999, and is thus now being made public³.

The following report contains ECRI's analysis and proposals concerning Albania.

It should be noted that ECRI is carrying out its country-by-country procedure by preparing reports for all member States of the Council of Europe. With this seventh series of reports, for which the procedure was completed by September 1999, ECRI has concluded its reports on all member States of the Council of Europe⁴.

The publication of this report represents the start of an on-going and active process of exchange between ECRI and the authorities of each of the member States, in order to identify solutions to the problems of racism and intolerance facing Europe. ECRI will also welcome the input of non-governmental organisations and other parties working in this field to ensure that its work is as constructive and helpful as possible.

As from 1999, ECRI has begun a follow-up procedure to its country reports, examining what action governments may have taken on the proposals they contained, updating their contents generally and focusing on specific issues of concern in greater depth. Some 10 countries will be addressed annually in this way, over the period 1999-2002.

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² *The first six series comprise reports on Andorra, Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, "The Former Yugoslav Republic of Macedonia", Ukraine and the United Kingdom.*

³ *Reports on Albania, Croatia, Cyprus, Moldova and Turkey.*

⁴ *Given that Georgia joined the Council of Europe recently (April 1999), the first report on this country will be produced later.*

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INTRODUCTORY NOTE: This text was prepared by ECRI during 1998 and finalised at the end of November 1998. It therefore does not cover the recent dramatic events related to the crisis in Kosovo and the implications of such events in Albania.

REPORT ON ALBANIA⁵

Introduction

Albania emerged from a position of extreme isolation and repression under a strict communist regime with the holding of multiparty elections in 1991 by direct universal suffrage. In 1995, Albania acceded to the Council of Europe, thereby initiating closer links with the rest of Europe.

However, the country suffered a severe setback in 1997, when the collapse of the so-called "pyramid" investment schemes - resulting in economic hardship, social problems and discontent with the government - led to widespread unrest among the population and a period of chaos and anarchy throughout the country. Large sections of the population, including children, gained access to arms, prisoners broke free of the prisons and armed gangs looted and killed. The judiciary and other State bodies were unable to function, although attempts were made to keep control of the situation, and a state of emergency was declared in March 1997. Human rights abuses on the part of the police and the national intelligence service (SHIK) were also reported. It is estimated that around 2,000 people lost their lives during this period.

A Government of National Reconciliation was formed in March with representatives from all political parties, and in June 1997, elections were held which international monitors declared as adequate and acceptable. Since the formation of the new government, the situation has stabilised, although conditions remain very difficult. A new Constitution entered into force in November 1998, and the government has declared its intention to restore Albania to a state governed by the rule of law. Major reforms remain necessary to ensure that human rights and the rule of law are fully respected in Albania. Furthermore, the highly volatile conflict in neighbouring Kosovo⁶, where the population is predominantly of ethnic Albanian origin, may also impact on the stability of Albania.

⁵ *Note: Any development subsequent to 28 November 1998 is not covered by the following analysis and is not taken into account in the conclusions and proposals.*

⁶ *Kosovo is, constitutionally, an autonomous province of the Republic of Serbia, which is part of the Federal Republic of Yugoslavia.*

ECRI's report and suggestions should therefore be set in the context of the current situation as described above, bearing in mind that minority groups may be particularly vulnerable in such instances.

Although there is uncertainty⁷ regarding the actual figures concerning minority groups, the Greeks constitute the largest minority group in the country. Macedonians, Montenegrins, Serbs, Roma/Gypsies and Vlach also have constituent populations but of a considerably smaller size. Very few Jewish people remain in Albania; many families left for Israel in 1990-1991. The three main religions are Muslim, Orthodox and Catholic.

Some of the key areas identified by ECRI as meriting particular attention include:

- the lack of a fully-developed legal framework to combat racism and racial discrimination;
- the precarious situation of the Roma/Gypsy community and the need to counter discrimination, including police discrimination, against members of this community;
- the need to obtain reliable information, including statistical data, about the situation of minority groups in Albania and to take further measures to ensure that these groups have adequate opportunities to develop their identity and culture, including the establishment of an appropriate governmental infrastructure to this effect.

⁷ *The last official census was held in 1989*

I. LEGAL ASPECTS⁸

A. International legal instruments

1. Albania has ratified many of the relevant international instruments. The European Charter on Regional or Minority Languages has not yet been signed, while the revised European Social Charter has been signed but not ratified. The Framework Convention for the Protection of National Minorities has been signed, but not ratified, despite a commitment to do so within one year of entry into the Council of Europe. ECRI hopes that all the relevant instruments will be ratified as soon as possible. ECRI also considers that Albania should make a declaration under Article 14 of the Convention for the Elimination of All Forms of Racial Discrimination, recognising the competence of the Committee for the Elimination of Racial Discrimination (CERD) to accept individual complaints.
2. The Constitution provides that international law binding upon Albania constitutes part of the internal juridical system and has superiority over laws of the country that are not compatible with it (Article 122).

B. Constitutional provisions

3. The recently-adopted Constitution of the Republic of Albania establishes that the Albanian State is based on and respects a number of principles, including religious co-existence, as well as co-existence with, and understanding of Albanians for, minorities (Article 3). Article 18 of the Constitution states the principle of equality before the law without discrimination for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status or ancestry. Freedom of conscience and religion is also guaranteed (Article 24, paragraph 1). In conformity with Article 16, the fundamental rights and freedoms and the duties contemplated in this Constitution for Albanian citizens are also valid for non-citizens and stateless persons in the territory of the Republic of Albania. It is also stated that political parties and other organisations which incite and support racial, religious, regional or ethnic hatred are prohibited (Article 9).
4. The rights of national minorities are set out in Article 20 of the Constitution, whereby it is established that persons belonging to national minorities exercise in full equality before the law human rights and freedoms (paragraph 1). They have the right to freely express, without prohibition or compulsion, their ethnic, cultural, religious and linguistic belonging. They have the right to preserve and develop the latter, to study and be taught in their mother tongue, as well as unite in

⁸ *A full overview of the legislation existing in Albania in the field of combating racism and intolerance is provided in the publication CRI (98) 80, prepared for ECRI by the Swiss Institute of Comparative Law (see bibliography)*

organisations and associations for the protection of their interest and identity (paragraph 2).

5. ECRI encourages the Albanian authorities to implement the new Constitution as speedily as possible.

C. Criminal law provisions

6. The only provision explicitly taking racial motivation into account is Article 265 of the new penal code, which penalises the instigation of national, racial or religious hatred. Article 266 penalises the endangering of public peace through calling for hatred towards segments of the population. Further relevant provisions are found in Article 73 (crime of genocide) and Articles 131 to 133, concerning conduct against freedom of religious faith. ECRI feels that further criminal law provisions in the field of combating racism and intolerance should be introduced: for example, the introduction of the specific crime of racist offences.
7. At present, the implementation of legislation is generally problematic: there is a need for a well-trained and independent judiciary and more training for law enforcement officials. ECRI notes that co-operation is currently underway with the Council of Europe on such issues, and encourages the Albanian authorities to continue their efforts to ensure that the legislation in force is properly and systematically implemented at all levels of the law enforcement system.

D. Civil and administrative law provisions

8. As regards discrimination in employment, Article 9 of the Labour Code states that any kind of discrimination in the field of employment and occupation is prohibited. Race, colour, religion and nationality are among the possible grounds of discrimination specified in this Article. ECRI feels that special attention should be given to the implementation of legislation in force in this area (see paragraph 19).
9. As regards education, Article 3 of the Law on Pre-University Education provides that the citizens of the Republic of Albania are entitled to equal rights regarding education at all levels of the educational system covered by this law, notwithstanding their social situation, nationality, language, sex, religion, race, political convictions, health condition and economic situation. The right of minorities to education in their mother tongue is also enshrined in this Law.
10. There are no civil and administrative law provisions in Albania prohibiting discrimination in the fields of health, housing and social security. ECRI feels that consideration should be given to establishing a legislative framework against discrimination in these areas, given that merely relying upon the basic principle of equality before the law is not always sufficient or effective in order to ensure the adequate protection of all groups in society.

E. Specialised bodies

11. There is no specialised body in Albania to combat racism and intolerance, and no governmental infrastructure covering issues relating to minority groups. ECRI understands that the establishment of a general human rights ombudsman is planned, and hopes that this body will soon come into existence.
12. The infrastructure on minorities which was attached to the government (the Office for Minorities) ceased to exist in 1996, and no decision has as yet been reached to re-establish this body. ECRI feels that the Albanian authorities should take steps to ensure that issues relating to minority groups are covered by an appropriate governmental body, and that issues of racism and discrimination are given special attention.

II. POLICY ASPECTS

F. Reception and status of refugees and immigrants

N.B. ECRI recalls that this text was prepared by ECRI during 1998 and finalised at the end of November 1998. It therefore does not cover the recent dramatic events related to the crisis in Kosovo and the implications of such events in Albania.

- 13.. The recent events in Kosovo have led to a massive influx of refugees from Kosovo to Albania over the period June to October 1998, and it is likely that still more refugees will enter the country if the situation in Kosovo is not resolved. No exact official number of refugees exists, since the incoming refugees have moved freely around Albania and settled in different districts. The number is however estimated at between 15 000 and 20 000 persons. Many of the refugees are lodged with families. In order to deal with the registration, accommodation and provision of food and assistance to these refugees, a number of structures have been set up, such as a Governmental Commission, an Office for Refugees, a government plenipotentiary and a number of local groups. The actions of the Albanian authorities have been carried out in co-ordination with several international bodies.

ECRI encourages the Albanian authorities to continue their efforts to develop structures to deal with the situation of refugees from Kosovo, and to ensure that the local populations particularly affected by the influx of refugees are given adequate financial and social support in order to prevent possible tensions from building up.

14. Apart from special measures to deal with refugees from Kosovo, there is no formal refugee policy in Albania. It is reported that illegal smuggling of persons without visas is a problem in Albania: this concerns mainly Kurds, Pakistanis, Chinese, Turks and others from the Middle East and Asia en route to Western Europe⁹. ECRI feels that this situation should be monitored and appropriate steps taken to combat the illegal smuggling of non-citizens. Furthermore, measures should be taken to ensure that non-citizens present within Albania – both legally and illegally – are adequately protected.

G. Education and training

- *School education*

15. The right of minorities to teach and be taught in their mother tongue is enshrined in the Law on pre-university education N° 7952 of 21 June 1995. Furthermore, specific decisions of the government deal with the education of minorities. As regards the Greek minority, a network of Greek-language schools exists in those areas where the majority of ethnic Greeks live. In 1996, the Government opened three new first-year classes in the same area. As regards the Macedonian minority, mother tongue classes are available in the districts bordering "The Former Yugoslav Republic of Macedonia". Members of the Montenegrin minority have expressed the wish for education in the Montenegrin language for their children. ECRI has found little information pertaining to education for other minority groups living in Albania.
16. The whole educational infrastructure was severely affected during the period of unrest. The Government is planning new programmes and texts for minority education, and teacher training for minority education classes. Four new minority schools are now functioning and other schools damaged during the period of unrest are being reconstructed. At present, there appears to be a shortage of qualified teachers for minority schools. ECRI encourages the Albanian authorities in their efforts to develop the provision and quality of minority education.
17. Within the school system as a whole, ECRI hopes that teaching in human rights will be developed as a matter of priority, with special emphasis on the dangers of racism and intolerance.

⁹ Cf US Department of State report, 1997

H. Police training

18. Excessive use of force and ill-treatment by law enforcement officials is still a problem, as is lack of prosecution of the perpetrators of such acts¹⁰. Members of minority groups may be particularly vulnerable to such abuses: it is reported that the Roma/Gypsy community is often the subject of police harassment, arbitrary arrests and violence¹¹. ECRI stresses that it is important that law enforcement officials receive appropriate training in human rights and the treatment of minority groups, and that perpetrators of crimes are systematically and rapidly prosecuted, in order to restore public confidence in the forces of law and order. The appointment of police officers from minority communities might also help to ease tensions and improve confidence between these groups and the police.

I. Employment

19. There have been complaints from members of the Greek minority concerning discrimination in employment in the public sector.¹² ECRI feels that these complaints should be investigated and appropriate measures taken where necessary to combat discrimination.

J. Statistics

20. Reliable information about the size and situation of the different minority groups in Albania seems scarce. In order to provide adequate provision in a number of fields for minority groups, and to combat any discrimination they may be facing, ECRI considers that the Albanian authorities should set up systems of information collection in this field, in conformity with international legislation and standards on data protection and the protection of privacy, and in consultation with the groups concerned.

K. Vulnerable groups

- *Roma/Gypsy community*

21. The Roma/Gypsy community in Albania is particularly vulnerable to marginalisation and discrimination and particularly to human rights abuses, often committed by the forces of law and order. There are reports that the police target Roma/Gypsy communities for arbitrary arrests and searches, and often demand payment of "fines" for release. Unlawful arrests have been carried out on family members of suspected criminals who cannot be located. There have also been cases of physical abuse on the part of the police against members of

¹⁰ Cf Department of State report, 1997

¹¹ cf "No record of the case", European Roma Rights publication

¹² CF International Helsinki Federation for Human Rights report, 1997

the Roma/Gypsy community, in some instances leading to death in custody¹³. ECRI feels that the general measures which are urgent to put an end to abuses of human rights and malpractice on the part of police should pay particular attention to the especially vulnerable position of members of the Roma/Gypsy community, who are often afraid to come forward with complaints. Human rights training for the police should emphasis the rights of all groups in society to fair and lawful treatment and should educate police in the responsibility they bear for protecting the more vulnerable groups in society.

22. The Roma/Gypsy community is often marginalised by Albanian society. Many prejudices and preconceptions exist which foster this marginalisation: for example, the Roma/Gypsy community is sometimes portrayed as being very rich, or the preservation of its "traditional culture" is evoked as a justification for its non-access to basic social and welfare services. Since the privatisation of land, many Roma/Gypsies have also faced the problem of forcible and sometimes violent eviction from land where they were living. There have been incidents of hostile treatment from public bodies such as the military, hospitals, schools and municipal authorities, and unequal access to basic services such as social welfare payments or health care¹⁴. ECRI feels that the problems faced by the Roma/Gypsy community should be addressed as a matter of urgency, and draws attention in this respect to ECRI's General Policy Recommendation N° 3 which proposes a series of measures to be taken to combat racism and discrimination against Roma/Gypsies.

L. Racial violence and harassment

23. Apart from the incidence of violence and harassment perpetrated against members of the Roma/Gypsy community as mentioned above, some isolated incidents of violence have occurred against members of minority groups and against non-citizens residing in Albania.¹⁵ ECRI feels that firm measures should be taken to identify and punish the perpetrators of such acts. It also feels that the authorities should take a firm public stand against incidents of this kind.

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¹³ Cf "No Record of the Case", publication by the European Roma Rights Centre

¹⁴ Cf "No Record of the Case", publication by the European Roma Rights Centre

¹⁵ Cf Six-Month report of the Albanian Committee against Violence, Racism and Intolerance. An attack against the chairman of the Arumun Society of Albania is documented, as is an attack on a Chinese citizen.

General data as supplied by national authorities

For reasons of consistency, ECRI, in its CBC reports, has, in this box, reproduced statistical data only from the replies of Governments to ECRI's questionnaire. The questionnaire was sent to the Albanian government on 26 March 1996. The Albanian authorities did not reply to ECRI's questionnaire.

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