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"HELP THE CHILDREN"

Electronic Newsletter of the Children's Human Rights Centre of Albania - CRCA /
DCI Section ALBANIA

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EUROPEAN COMMISSION RELEASES THE ALBANIA 2006 PROGRESS REPORT

8 November 2006 - The European Commission released today the Albania 2006 Progress Report, which covers major issues of the democracy, good governance and economy of the country, including a section on human rights situation in Albania.

Although the Progress Report notices several improvements that have taken place in Albania during 2006, it focuses on some of the major concerns related to democracy, government and human rights.

Democracy and the rule of law

Periods of political deadlock in spring and summer 2006 hampered the parliament's efforts to deal with important reform issues, particularly those which require broad political consensus. The poor political climate hindered the work of the parliamentary working group on electoral reform and slow political agreement delayed nomination of members of the Central Electoral Commission. This delayed work on implementing the recommendations of OSCE's Office for Democratic Institutions and Human Rights (ODIHR) following the 2005 parliamentary elections. A political agreement reached in August with international community help ended the summer deadlock. Albania has yet to demonstrate the capacity to achieve domestically generated political co-operation.

Government

However, much remains to be done to ensure wider consensus and the use of all available expertise on reforms. New horizontal teams working directly for the Prime Minister have not always drawn upon government and donor expertise in drafting legislative proposals, resulting in poor drafting. An increase in the number of institutions directly accountable to the Council of Ministers has taken place, and there is a tendency for

direct oversight by the Prime Minister. This centralisation has led to many routine technical decisions being taken at the level of the Prime Minister, which has delayed key actions.

Human Rights

Human rights and fundamental freedoms are guaranteed by Albanian law, and the government generally observes them. However, enforcement of international agreements on human rights in areas such as torture prevention, the rights of detainees and the right to a fair trial remains weak.

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SHORT EXTRACT FROM EU ALBANIA 2006 PROGRESS REPORT ON HUMAN RIGHTS ISSUES

Human rights and fundamental freedoms are guaranteed by Albanian law, and the government generally observes them. However, enforcement of international agreements on human rights in areas such as torture prevention, the rights of detainees and the right to a fair trial remains weak. Details of shortfalls in specific areas are given below.

Civil and political rights

Regarding **prevention of torture and ill-treatment**, Albanias Criminal Code is not yet in line with the standards of the UN Convention against Torture, particularly the definition of torture (see also Prison system).

As regards the **fight against impunity**, prosecution is taking place under criminal law and the code of ethics for the prison system in cases of ill-treatment and torture by law-enforcement bodies. In 2005 and the first quarter of 2006, 40 cases were initiated, 16 cases submitted to court and 3 people so far sentenced. However, those responsible for the ill-treatment of prisoners are often still not charged with appropriately serious offences. Measures are not yet in place to ensure adequate compensation to persons who have suffered ill treatment by law enforcement bodies.

Regarding **access to justice**, Albanian legislation provides for free legal defence for defendants who cannot afford a private lawyer. However, this service does not always

provide timely and appropriate legal assistance. A separate jurisdiction has not yet been established for the trial of juveniles. There are persistent reports of **arbitrary arrest** and mistreatment of homosexuals by the police. As regards human rights in the **prison system**, obligatory training courses on human rights have been introduced for judges, prosecutors, police officers and prison personnel and these issues have been included on the School of Magistrates curriculum.

Cooperation with NGOs on prison monitoring has improved. A new standard regulation covering the pre-trial detention system has been approved. Albania's Ombudsman's office has been playing an increasing role in the protection of individual human rights generally. The scope of its activities has been extended to include unlimited access to prisons. The Ministry of Justice has abandoned a plan to establish a new juvenile detention centre in Pogradec, instead opting for Kavaja, near Tirana, where the centre would be more accessible to family members.

However, little progress has been made overall on improving conditions in prisons and detention centres. The human and material resources available for prison management remain insufficient. Building new prisons and pre-trial detention centres according to the Master Plan for Judicial Infrastructure is advancing slowly. Implementation of the Master Plan for the pretrial detention system is behind schedule. 80 convicted prisoners are still being held in police detention facilities. A new pre-trial detention regulation is a step forward but does not meet international practice, which requires that the pre-trial detention regulation should be made into a law.

Basic safeguards against ill-treatment during pre-trial detention such as access to a lawyer and doctor and notification of detention to relatives are not yet regularly applied. The code of ethics for the prison system is not yet rigorously observed and measures to ensure the safety of prisoners are weak. The Supervisory Commission for the Execution of Imprisonment Sentences is not yet operational. This body advises the Minister of Justice on enforcement issues and protection of the rights of prisoners and detainees.

Freedom of religion is guaranteed in law and in practice. According to the Constitution, there is no official religion and all religions are equal. Despite some isolated incidents, Albania continues to provide a valuable example of religious harmony in the region. However, religious communities are adversely affected by the authorities' failure as yet to provide for full restitution of properties and other belongings.

Freedom of expression is constitutionally guaranteed in Albania. Legislation which could have a strong bearing on media freedom is pending in parliament. The status of journalists in the labour code has been improved. Changes to the membership of the National Council of Radio and Television and the Steering Committee Council of Albanian Radio and Television to include experts and NGOs should make media supervision more representative and efficient, and the public service broadcaster more neutral, if implemented in line with European standards (see also Audiovisual Policy).

However, the August political agreement (see Parliament) will have to be implemented with care to avoid limiting the positive effect of this reform. A legal amendment prevents the owners of electronic media from participating in public sector tenders. This could present problems from the acquis point of view in terms of business competition. It should be complemented by a more comprehensive approach to media ownership. Nevertheless it is a strong anti-corruption measure and should contribute to media freedom. A new Council on Media Ethics has the potential to promote media self-regulation and improved journalistic standards. However, overall progress in this field, a key short term European Partnership priority, has been limited. Most media outlets remain subject to political or economic interests. The legal framework for media freedom remains inadequate. Poor implementation of existing legislation is also a major shortcoming. The professional and ethical standards of the Albanian media remain low. Measures to be under discussion with international community partners but have not yet been implemented.

Journalists are still subject to threats of prosecution for libel or defamation, which carry severe penalties. Defamation remains subject to prison sentences of up to three years.

Although prison sentences are no longer applied, and an amendment of the Penal Code to abolish custodial sentences is planned, Albania has not yet adopted appropriate legislation on defamation and needs to amend its penal code to remove imprisonment as an option for punishment for defamation.

The Constitution provides for **freedom of association and assembly**, and the Government generally respects these rights. A liberal law on NGOs has led to a proliferation of Albanian **civil society organisations** which operate without government restriction. There are some examples of successful public campaigns by civil society actors to counter public political apathy. However, civil society actors in Albania suffer from a lack of sustainable resources, a lack of organisational capacity and skills (particularly advocacy skills) and the absence of a tradition of involvement in policy-making. For these reasons NGO dialogue with Albania's government remains weak. Albania would benefit from a government policy which actively encourages NGO involvement in the mainstream decision-making process. Civil society actors would also benefit from forming closer ties with peer organisations regionally.

Economic and social rights

Concerning **women's rights**, legal provisions exist for equal rights in a number of fields of life such as social insurance and education. The 1995 Labour Code (Art. 9) sets out a guarantee of non-discrimination in both the public and the private spheres. The Labour Code and the Gender Equality Act of 2004 refer to the principle of equal treatment of women and men, provide that employers must render equal pay for work of equal value and are applicable to both the public and the private sectors. Labour legislation accords

special protective measures for pregnant and breast-feeding workers over and above the general protective measures in force for all workers. Government financial support promotes women's employment, in particular helping disadvantaged women find long-term employment. These include victims of trafficking, Roma women and girls, the disabled and divorced women with social problems.

However, women are still subject to numerous forms of discrimination in economic and social life and remain under-represented in political and economic decision-making processes. Women's participation in the labour market is low and limited to certain sectors. Although the Gender Equality Act specifically aims to eliminate direct and indirect discrimination, it does not define these concepts. Mechanisms to enforce the principle of equal treatment of women and men, such as the State Committee on Equal Opportunity, are relatively weak. Forced marriage and domestic violence against women are not specifically addressed by government strategy or by legislation and continue to be a serious problem. At least a third of women in Albania are estimated to have experienced physical violence within their families.

Children's rights are generally protected by current legislation. A National Plan of Action for Children is in place and a focal point for children has now been designated at the Ministry of Labour, Social Affairs and Equal Opportunities. However, in practice protection is limited. Several cases of child trafficking and child abuse, including sexual abuse, have been reported. Children kept at home are deprived of their right of education. Article 7 of the European Social Charter concerning the right of children and young persons to protection is not fulfilled in that the authorities' measures to protect minors from sexual exploitation have so far had limited effect. Establishing a national child protection system and strengthening efforts to combat poverty could improve the situation. Albania achieved full enrolment in basic **education** at the start of transition, but began with among the poorest enrolment rates in secondary and tertiary education in the region. In the last three years, modest improvements in enrolment rates have been made at all education levels. Many private schools have opened, mostly in the larger towns. The government has announced major reforms to improve Albania's low education levels. Limited measures have been taken to increase wages in the public education system. The government has announced plans to greatly increase the education budget.

However, on average children only attend school for 9.6 years: this is almost 5 years below the OECD average. Measures are not in place to control the quality of private education at primary, secondary and tertiary levels (see also Education under Social Policies.)

Concerning **socially vulnerable persons**, blood feuds and related crime continue, in particular in the north of the country. The main grounds for feuds remain disputes over property and trafficking in persons. Implementation of a law providing for the establishment of a national coordination council to develop a national strategy against the problem and to coordinate activities of relevant government agencies has not yet begun. Concerning **disabled persons**, initial steps have been taken for the implementation

of the National Strategy on People with Disabilities. A contact group has been set up to co-ordinate ministries involved. A decision has also been taken to increase state benefits for disabled people. However, much further work is needed. The setting up of a community centre in Tirana has allowed admissions to institutions for stationary mental health care to be reduced by 40%. It is intended to replicate this model.

Minority rights, cultural rights and the protection of minorities

In the area of **cultural rights**, Albanian legislation recognises three national minorities (Greek, ethnic Macedonian and Montenegrin) and two ethno-linguistic minorities (Vlach and Roma). The Greek minority is the largest group, led by its cultural association Omonia. A spirit of tolerance in relation to minorities prevails. Protection of minorities has been recently placed under the direct responsibility of the Prime Minister. Albania has made some effort to create a legal framework to protect minorities, and it has provided schools and classes for certain minorities in specific areas. Albania recently signed the UNESCO Convention on the protection and the promotion of the diversity of cultural expressions. However, implementation of the Council of Europe Framework Convention for the Protection of National Minorities remains incomplete. Minority language education is not yet available in all areas where there is a demand. There has been little progress on the administrative use of minority languages, use of traditional names and access to media for minorities. The lack of reliable statistical data on the size of minorities hinders the development of policies to protect them. The work of the Special State Committee on Minorities continues to be hampered by a lack of clear rules concerning its composition and mandate. Albania has not signed the European Charter for Regional and Minority Languages.

There are an estimated 95,000 Roma in Albania. A National Strategy for the Improvement of Living Conditions of the **Roma** Minority is in place. Initiatives on labour integration, education and children's registration have targeted specific Roma groups under the strategy. Regional information activities and discussion round tables have been held. However, the disparity between the social and economic situation of Roma and that of the rest of the population is increasing. 78% of the Roma population are living in poverty and 39% in extreme poverty. Only 12% of the Roma are enrolled in secondary school, compared to a national average of 81%. The situation of the Roma community in Tirana has notably worsened in recent months. There are currently about 40,000 Roma people in need of social and economic support in Tirana. The government's Roma strategy suffers from a lack of human and financial resources for implementation. The Ministry of Labour and Social Affairs (MoLSA) has allocated three civil servants to monitor its implementation. Five other ministries are involved in the implementation of parts of the Strategy (Ministries of Health, Culture, Education, Transport and Interior).

Public information on the existence and content of the Strategy remains weak in Albania's twelve regions. The Roma community suffers from a lack of acknowledgement by local authorities in the regions of their situation and a lack of civil society organisations to

represent their interests. Social factors and the mobility of certain groups make lack of access to education and health services, especially vaccination, a particular problem. Weak or nonexistent birth registration of Roma children as well as lack of personal documents makes them particularly vulnerable to human trafficking.

If you wish to read the full Albania 2006 Progress Report (in English), please visit:

http://www.delalb.cec.eu.int/en/news/prog_report_2006.htm

Overview of Electronic Newsletter

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