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## Amnesty International's Concerns in Albania: January-June 2009

This country entry has been extracted from a forthcoming Amnesty International (AI) report, *Europe and Central Asia: Summary of Amnesty International's Concerns in the Balkans: January-June 2009* (AI Index: EUR 05/001/2009), to be issued later in 2009. Anyone wanting further information on other AI concerns in Europe and Central Asia should consult the full document.

### **Political and legislative developments**

On 1 April the Stabilisation and Association Agreement (SAA) between the European Union (EU) and Albania came into force, paving the way for Albania to apply for EU membership on 28 April. On 4 April, Albania became a member of the North Atlantic Treaty Organisation (NATO).

National elections were held on 28 June; the final official results had not been proclaimed by the end of the period under review. Prior to the elections EU representatives repeatedly emphasised that fair elections were a key condition for Albania's eventual membership. The Organisation for Security and Co-operation in Europe (OSCE), which had some 400 people observing the elections among the 3,000 monitors on the ground, commented the following day, that there had been "tangible progress" compared to the past. However, the OSCE criticized "the politicisation of technical aspects of the process and violations observed during the campaign, which undermined public confidence in the electoral process." The OSCE further noted allegations of pressure on voters, the use of official events for campaign purposes, and family voting.

A "Lustration Law", which had been criticized by opposition parties, the Council of Europe, the OSCE and the US Embassy, came into force in January. The law excludes from public service those who held senior positions in the Albanian communist party and collaborated with the former secret services from 29 November 1944 to 8 December 1990. Those who are likely to be excluded under this law reportedly include a number of senior judges and prosecutors, including several currently in charge of cases involving alleged abuses and corruption by government officials. The "Lustration law" continued to be contested – among others, by the National Associations of Judges and Prosecutors, various non-governmental organizations (NGOs) and the Council of Europe. In February 2009 the Constitutional Court suspended implementation of this law, and decided to consult the Council of Europe's Venice Commission for an opinion, pending a final decision.

In April parliament adopted a law providing for financial compensation for former political prisoners and others persecuted for political reasons under communist rule.

### **The Enforced Disappearance of Remzi Hoxha**

Trial proceedings are continuing before Tirana Serious Crimes Court against three former State Intelligence Service (ShIK) officers on charges related to the enforced disappearance of Remzi Hoxha, an

ethnic Albanian from Macedonia, and the torture of two other men, Abdyl Loshaj and Ziso Kristopulli, in 1995. The fate of Remzi Hoxha, has still not been clarified nearly 14 years later, although the prosecuting authorities believe that he died in 1995 under torture.

One of the three defendants is Ilir Kumbaro, who is being tried in absentia. In September 2008 British police detectives arrested in London a man they believed to be Ilir Kumbaro (on the basis of an Interpol arrest warrant issued in Tirana) and the Albanian authorities requested his extradition to Albania. He denied that he was Ilir Kumbaro, claiming to be an Albanian from Kosovo and to have been wrongly identified. However, on 24 March, at an extradition hearing before Westminster Magistrates' Court in London, the judge concluded that the man in the dock was indeed Ilir Kumbaro, and recommended his extradition (a decision to be taken by the British Home Secretary). Ilir Kumbaro entered the UK in 1996 with false documents and subsequently obtained asylum and British citizenship.

In May, another of the defendants, Arben Sefgjini, was appointed by the Albanian Minister of Justice as Director of the newly established Probation Service. Under Albanian law, he would be debarred from this position only if he were to be found guilty of a criminal offence by a final court decision. Mindful of the importance of the principle of the presumption of innocence, Amnesty International nonetheless considered that to appoint Arben Sefgjini to such a key post at the head of an important new institution within the justice system, while he himself was on trial on charges of human rights violations which are crimes under international law, rather than awaiting the final outcome of the trial before deciding whether to make that appointment, implied a disregard for the courts and the integrity of the justice system.

### **Torture and ill-treatment**

In January the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its report on its visit to Albania in June 2008. The purpose of the visit was to review the implementation of the Committee's recommendations made after visits in 2005 and 2006, in particular with regard to the treatment of persons detained by the police and conditions of detention in remand prisons and pre-trial detention centres.

The majority of people interviewed by the CPT said they had been treated correctly while in police custody, but the delegation received some allegations of serious ill-treatment in police stations in Korça, Pogradec and Elbasan, and at Korça remand centre. The Albanian authorities subsequently informed the CPT that disciplinary measures had been taken against several prison officials at Korça remand centre.

On 4 April Edison Lleshi, a 15-year-old boy, threw himself out of the third-floor window of the police station in Peshkopi, breaking a leg and sustaining other injuries. Commissioners from the Albanian Ombudsperson's Office shortly afterwards went to Peshkopi to investigate this case. They concluded that the boy had taken this drastic action after being beaten on the legs and threatened by police officers who had questioned him in connection with a theft. On 17 April the Ombudsperson recommended that disciplinary proceedings be taken against the police officers concerned, and that one of them, a judicial police officer, be investigated on charges of "arbitrary actions" and "torture". Four days later, the Director of the State Police and the Ombudsperson appeared together at a press conference at which the Director announced that seven police officers had been disciplined for administrative and legal violations. A judicial investigation was also started.

On 20 May, the Ombudsperson's Office, in the role of the National Mechanism for the Prevention of Torture entrusted to it in 2008, under the UN Optional Protocol to the Convention against Torture, carried out, together with representatives of the Albanian Helsinki Committee (AHC), interviews with all 16 minors remanded in Prison 313 in Tirana on 20 May. Of the 16, 12 alleged that they had been physically and psychologically ill-treated by police officers during arrest or in police vans and by judicial police officers during questioning, with the aim of punishing them and forcing them to confess to a crime. Most alleged that they had been beaten more than once, and by more than one officer, in the presence of other police officers, with objects including a computer cable, baseball bat, metal rod and

rubber truncheon. Seven said they had complained of their ill-treatment to a prosecutor or to a judge (while being remanded in custody), but had been met with indifference. Three claimed to have asked to see a doctor, but only one was offered medical care. Key legal provisions concerning their rights as detainees were apparently ignored: according to their accounts, none of them had been informed of their legal rights, nor were their parents or a psychologist present at their questioning. In only two cases was a lawyer present. While in police custody 13 of the minors were allegedly held in cells together with adults. Of the four who said they had not been ill-treated, three had voluntarily given themselves up to the police and immediately admitted their offence.

In response, the head of Tirana police denied these allegations, and complained that the Ombudsperson had not attempted to verify them. The Prosecutor General, however, responded by sending a directive to all prosecutors reminding them to rigorously respect legal provisions guaranteeing the rights of minors in criminal proceedings.

## **Prison conditions**

In its report published in January (see above) the CPT noted significant improvements to conditions in remand centres (although there was still overcrowding), as well as major investment in the construction of new detention facilities. However, the CPT was concerned that hardly any progress had been made to improve conditions in police cells, and that some detainees were still kept for up to a month in police custody, pending transfer to a remand centre, in cells that were very small, lacking in light and with poor hygiene. The CPT recommendations included the provision of better medical, dental and psychiatric care for detainees.

In February 2009 classes were started in Peqin prison (and subsequently in several other prisons) for prisoners who are illiterate or who had dropped out of primary school and wished to complete their primary education. Regulations have also been introduced providing for improved pay for prisoners' work.

A new penal institution for both remand and convicted prisoners (with capacity for 245 detainees) was inaugurated on 9 June in Durres. It has additional, separate sections for detained minors and for prisoners with mental illnesses. Some 90 mentally ill prisoners, detained by court order for compulsory medical treatment, and held in Tirana prison hospital, are reportedly to be transferred to this institution when it is adequately equipped and staffed.

Despite such progress, many problems remained. The Ombudsperson carried out inspections in seven prisons and some 20 police stations, and concluded that conditions in many were below national and international human rights standards for the detention of prisoners, despite an EC-funded programme for penitentiary reform. In a series of reports and recommendations to the relevant authorities, the Ombudsperson drew attention in particular to overcrowding, lack of outdoor exercise, buildings in poor repair and poor hygiene, and called for the closure of Burrel prison, a dilapidated remnant of Albania's communist past. The prison authorities reportedly replied that it could not be closed for at least two years, until new prisons were built.

In April the government approved the establishment of a Probation Service and the Ministry of Justice started staff recruitment. A law had been adopted in November 2008 providing for alternative, non-custodial sentences for certain categories of offenders (those who have committed lesser offences, in particular minors, women, the elderly), but had not been applied for lack of a probation service. The Service was reportedly due to start functioning in June and the first requests by prisoners for alternative sentences were filed with the courts. Apart from promoting the rehabilitation of offenders, non-custodial sentences would, it was hoped, reduce prison overcrowding.

## **Domestic violence**

Domestic violence remained widespread; in May 2009 the Ministry of Labour and Social Affairs and the Ministry of Interior reported that in the previous six months there had been 852 reported incidents of

domestic violence, an increase in comparison with the same period the previous year. This was at least in part due to an increase in reporting. Women, particularly in the capital, Tirana, were more likely than in the past to report their abusers, and to request protection under the Law on Measures against Violence in Family Relations, adopted in December 2006. However, as in the past, it is believed that many incidents went unreported, in particular outside the main urban centres. This was because women were less aware of their rights to protection from domestic violence, the limited provision of legal advice, counselling, shelter and other assistance, as well as traditional attitudes to women and family roles. However, programmes to raise awareness amongst victims and to increase the expertise of police, prosecutors, judges and health and social workers continued.

The Law on Measures against Violence in Family Relations marks a significant advance in the prevention of domestic violence and it appears that increasing numbers of victims petition for protection orders. In mid-March the Albanian press reported that since the beginning of the year police had assisted 400 victims (nation-wide) in filing requests for court protection orders against abusive partners or relatives. Nonetheless, in many cases courts were not able to issue these orders and proceedings were stopped because complainants either subsequently withdrew their petitions or failed to respond to summonses to appear in court. For example, in the first six months of 2009 Tirana district court received 252 petitions for a protection order; however, the court issued only 55 protection orders; 168 other cases were dropped, while 16 petitions were rejected by the court (the remainder were on-going cases). According to an NGO working with victims of domestic violence, the great majority of whom are women, the main reasons for withdrawal lay in the economic dependence of women and their children on their abusers and in their fear that the police would not be able to provide round-the-clock protection.

Domestic violence is not a specific crime under the Albanian Criminal Code.

On 8 March (International Women's Day) an Albanian NGO – the Office for the Protection of Citizens – called on parliament to introduce severer penalties for physical and psychological violence against women, and stressed the need for a law punishing sexual harassment. On the same day the leader of the Socialist Party, Edi Rama, stated that it was his party's policy to make domestic violence a criminal offence.

Relatively few cases of domestic violence lead to criminal prosecutions, unless they result in death, serious injury or threats to life, in which case there is a duty on the prosecutor to initiate a prosecution. If the physical injury inflicted is light (defined, under Albanian law, as an injury which makes the victim unfit for work for less than nine days), the public prosecutor is not required to initiate a prosecution, it is the victim who must initiate the prosecution. Victims are often reluctant to do this for fear of reprisals or other family pressures, and few such cases are heard by the courts.

In the absence of a specific criminal offence, cases of domestic violence are prosecuted under applicable offences defined in the Criminal Code, for example, murder, assault and threat. According to police sources, in Tirana between January and May 2008, criminal proceedings related to incidents of domestic violence were started against 51 men; in most cases the perpetrators remained free pending investigation. No figures were available to show the outcome of these investigations.

Although there are a number of centres which provide counselling to victims of domestic violence, there are very few shelters. In December 2008 the government announced plans to establish in Tirana a new shelter and rehabilitation centre for female victims of domestic violence. By the end of June it had not yet opened, and a smaller NGO-run shelter was closing for lack of funding.

### **Lesbian, Gay, Bisexual and Transgender (LGBT) Rights**

On 17 May, the International Day against Homophobia, some 20 Albania NGOs and the Ombudsperson's Office issued an open appeal to the Albanian government, state institutions, civil society, the general

public and families to combine efforts to stop discrimination against people on the basis of their sexual orientation.

### **Access to housing – adults who were orphaned as children denied the right to adequate housing**

The state continued to fail to implement domestic law which requires that orphans, on completing secondary education or reaching adulthood, should be given priority in accessing housing. Over 300 adults who were orphaned as children continued to live in dilapidated sections of former secondary school residence halls or other inadequate housing. They shared rooms, and had no individual privacy, nor did they have security of tenure. With few qualifications, they were often unemployed or did casual labour for low wages, surviving on minimal state assistance. They could not afford to buy or rent housing on the open market.

On the eve of National Orphans' Day (20 May), and with national elections due at the end of June, Amnesty International called on whichever government was to be elected to honour promises to improve provision for orphans. In particular, it called on the state to ensure that students who had been raised in state orphanages, and who were due shortly to graduate from high school, were granted their right, under Albanian law, to housing and employment. At present the only provision for the accommodation of those who have no relatives they can return to on completing their education is to allow them to remain in student dormitories, although they are no longer part of the student community.

The Council of Europe Development Bank has part-funded a social rental housing programme to build a total of 1,100 apartments in seven cities, and construction has reportedly started in Tirana and Durrës. However, there will be many thousands of vulnerable and homeless families competing for these apartments, for which in any case there are income criteria which many orphans may not be able to meet. Amnesty International continues to urge the Albanian authorities to ensure that adult orphans are among the vulnerable groups who will benefit from this housing.

### **Reports and other public documents**

Albania: Amnesty International Submission to the UN Universal Periodic Review (AI Index: EUR 11/001/2009.)

Albania: Promises to orphans should be a serious commitment (AI Index: EUR 11/002/2009.) 15 May 2009 Public statement.