



# ALBANIA

## AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 19<sup>TH</sup> SESSION OF THE UPR WORKING GROUP, APRIL/MAY 2014

### FOLLOW UP TO THE PREVIOUS REVIEW

During the first Universal Periodic Review of the Republic of Albania on 2 December 2009, reviewing states made recommendations on a range of issues including the introduction of anti-discrimination legislation;<sup>1</sup> violence against women, including domestic violence;<sup>2</sup> the rights of lesbian, gay, bisexual and transgender (LGBT) people;<sup>3</sup> the rights of Roma and other ethnic minorities;<sup>4</sup> and impunity for torture and other ill-treatment by law enforcement officials.<sup>5</sup>

Albania has subsequently undertaken major reforms as a requirement for the country's progress towards membership of the European Union (EU).

In early February 2010, the Albanian Parliament adopted the Law on Protection from Discrimination, which provides for equality under the law and protection from discrimination, and establishes an elected Commissioner for Protection from Discrimination. In May 2013, Parliament adopted an amendment to Article 50 (j) of the Criminal Code, which adds to a list of discriminatory motives to be considered as aggravating circumstances when sentencing, the commission of a crime from motives related to sexual orientation and gender identity.<sup>6</sup>

With respect to the right of Roma and other minorities, some measures have been taken to improve the rights of the Roma population, largely with external financial assistance. However, the previous government's lack of commitment to the implementation of the National Strategy for the Improvement of the Conditions of the Roma Community was lamentable.

The recognition of domestic violence in the Criminal Code in 2012 was a major step forward, but much remains to be done to fully implement the Law on Violence in Family Relations<sup>7</sup> to ensure the protection of victims of family/domestic violence.

Following national elections in June 2013, the new government, under Socialist Party leadership, entered office in September 2013 and undertook to pursue reforms with the aim of obtaining EU candidate membership status. In its programme, the government also specified some measures it intends to take to address a number of human rights concerns, including those related to domestic violence, the social exclusion of Roma and the denial of adequate housing to vulnerable groups.

### THE NATIONAL HUMAN RIGHTS FRAMEWORK

Albania is a signatory to almost all the major international and regional human rights treaties, but as has repeatedly been observed, implementation often lags far behind ratification, as may be seen from the examples highlighted below.

Amnesty International is also concerned that in recent years the authorities have increasingly failed to implement, or indeed respond to, the recommendations of the Ombudsperson (the Albanian People's Advocate). These concerns were reflected by the Human Rights Committee in July 2013, in their consideration of Albania's second periodic report on

implementation of the ICCPR, calling on the state party to “intensify its efforts into responding diligently and promptly to the Ombudsman’s recommendations”.<sup>8</sup>

## THE HUMAN RIGHTS SITUATION ON THE GROUND

As noted above, Albania has undertaken a programme of legislative reform, including measures to enhance the rule of law and respect for human and minority rights. However, existing legislation relevant to the protection and promotion of human rights remains to be fully implemented.<sup>9</sup>

### Access to justice and reparation

Albania continues to deny the victims of serious human rights violations access to justice and reparation.

In November 2012, proceedings before the Serious Crimes Court concerning the enforced disappearance in 1995 of Remzi Hoxha, an ethnic Albanian from Macedonia, and the torture of two Albanian citizens, ended with the conviction of three former state security agents. One of them, Ilir Kumbaro, was convicted in absentia of torturing Remzi Hoxha and of causing his death: he was sentenced in his absence to 15 years’ imprisonment.<sup>10</sup> His two co-defendants were found guilty of ‘arbitrary acts’ and ‘deprivation of freedom’, but as these offences were covered by an amnesty, they were not sentenced and remain free. In March 2013, the Court of Appeals for Serious Crimes confirmed Ilir Kumbaro’s conviction, but acquitted his two co-defendants.

Amnesty International notes the extraordinarily prolonged proceedings in Albania, which delayed justice for Remzi Hoxha’s family. The organization also regrets that the British courts and authorities failed to ensure that Ilir Kumbaro was duly extradited. These failings have ultimately denied Remzi Hoxha’s family justice and reparation. Further, his family has still not been informed of where Remzi Hoxha’s body may be found, so that they may be able to recover his remains, and bury them.<sup>11</sup>

In May 2012, the trial opened of former Republican Guard commander, Ndre Prendi, and former Guard officer, Agim Llupo, charged with the murder of three protesters and the injury of three others. The charges arose from violent clashes between police and protesters during anti-government demonstrations in Tirana in January 2011. In February 2013, both defendants were acquitted of the charges.<sup>12</sup> However, following an appeal by the Prosecutor, on 18 September 2013 Tirana Appeal Court found the two defendants guilty of involuntary manslaughter and sentenced Ndre Prendi to one year’s and Agim Llupo to three years’ imprisonment. Relatives of those killed have protested that they had been denied justice.

### Violence in the family

Amnesty International continues to be concerned at Albania’s failure to prevent family violence and to protect the victims of such violence,<sup>13</sup> as required under international<sup>14</sup> and regional<sup>15</sup> treaties. This results in continued impunity for the perpetrators of domestic violence, and fails to provide the victims with protection, as set out in domestic law.<sup>16</sup>

Despite the reforms which have been undertaken, domestic violence continues to be a major scourge. For example, between 26 May and 14 September 2013 eight women were killed by their husbands or partners, as was widely reported in the Albanian media. During the same period many more women were reportedly seriously injured, burned, beaten, or threatened with weapons by their husbands, partners or former partners. In 2012, at least 23 women were reported to have been murdered in the context of domestic violence.<sup>17</sup> According to statistics issued by the State Police, there were more than 1,200 reports of domestic violence in the first six months of 2013.

In September 2013, the new government promised to strengthen measures against domestic violence, to register and monitor incidents, to set up a national call line for victims of domestic violence, and to offer social housing, employment, vocational training and social services to victims.

### Criminal Prosecution

Amendments to the Criminal Code, which entered into force in April 2012, criminalize violence in the family as a separate criminal offence, under Article 130/a.<sup>18</sup> It is as yet early to fully evaluate the impact of this reform. According to Tirana Court records for 2012, only 35 cases of domestic violence were registered under Article 130/a. Some 23 of these cases had been concluded by the end of 2012: five perpetrators received sentences of up to one year's imprisonment, and three had their sentences suspended. However, proceedings against the remaining 15 perpetrators were stopped because they benefited by a general amnesty which covered offences committed up to 30 September 2012 punishable by up to two years' imprisonment.<sup>19</sup>

On 2 May 2013, Parliament adopted further amendments to the Criminal Code, which included provision for heavier sentences for certain offences, among them the "intentional killing of a person who is a spouse, former spouse, cohabitant or former cohabitant, or a close relative of the offender by blood or marriage". These offences are now punishable by imprisonment of not less than twenty years or by life imprisonment. Further, jurisdiction for this crime has been assigned to the Serious Crimes Court, signalling the gravity of this offence. Another amendment criminalizes forced sexual relations with a spouse or cohabitee, effectively criminalizing rape within a marriage or a cohabitating relationship.<sup>20</sup>

### **Protection orders**

The Law on Violence in Family Relations enables victims of domestic violence to apply to the courts for an order guaranteeing them some form of protection from the perpetrator. However, although the number of such petitions has increased year on year, relatively few protection orders are granted by the courts. For example, according to statistics published by Tirana Court, in 2012 some 643 protection orders were requested (including around 70 petitions carried over from the previous year). Some 595 cases were concluded: only 155 petitions were granted. Some petitions were rejected (26). The great majority (414) were dropped because the petitioner withdrew, or failed to appear in court. Both Tirana Court and the State Police have commented on this trend and in August 2013 the State Police specifically called on women not to withdraw their petitions for protection orders.

Amnesty International has repeatedly called on the authorities to address the factors that result in the withdrawal of petitions. These appear to include family pressure, fear of social disapproval, women's economic dependence on their spouses and their inability to afford legal advice and representation. The organization therefore welcomed the adoption by Parliament on 2 May 2013 of amendments to the Law on Legal Aid, providing for free legal aid and exemption from associated expenses, including taxes, for vulnerable groups, including victims of domestic violence. If implemented, these provisions may reduce the number of abandoned cases.

Amnesty International remains concerned that where protection orders have been granted, mechanisms to ensure their implementation remain weak, and it is not uncommon for perpetrators to break the conditions of the order, and to commit a new attack on their victim, sometimes with fatal results. The sanctions provided for under the Law on Violence in Family Relations for perpetrators who break the conditions of protection orders are not consistently implemented.

### **Right to adequate housing**

#### **Forced eviction of Roma**

On 7 August 2013, 37 Roma families, including 88 children, were forcibly evicted from the site of the former Centre for the Realization of Works of Art in Rruga Kavaja, in Tirana.<sup>21</sup> At the time the competent authorities did not provide them with any adequate alternative housing, and they remained on the street without adequate shelter and with increasing concerns about their health and safety. At the end of September 2013, the new government offered them accommodation in a former military barracks at Shishtufinë (Tirana). On 29 September, it was reported that they had accepted this offer; however it was subsequently reported that ownership of the site is in dispute.<sup>22</sup> The new government also promised them medical care and the enrolment of their children in schools.

The forced eviction of these Roma families was conducted by contractors working for a development company, with none of the protections and guarantees required under international standards to which Albania is a state party. The forced eviction was also carried out in violation of Albanian law.<sup>23</sup>

Over the past three years, Amnesty International has documented a number of forced evictions,<sup>24</sup> or threat of forced eviction,<sup>25</sup> of Roma in Tirana. In 2011, Roma families were forced to move from their homes near Tirana railway station after an arson attack. After being evicted from their temporary tented accommodation, they were eventually, in 2012, transferred to disused military barracks at Sharrë on the outskirts of the city. However, due to the very poor accommodation there, which failed to meet even the minimum standards for adequate alternative housing, and insufficient police protection from threats and attacks by the neighbouring community, most of them felt obliged to leave again.

### **Forced eviction and property restitution**

Amnesty International is also concerned that considerable numbers of people may be, or have already been, rendered homeless as a result of the restitution of property to former owners.

In September 2012, Parliament passed a 'Normative Act' providing that tenants living in property confiscated from its owners by the state under communist rule were obliged to vacate this property by November 2012 in favour of the former owners.<sup>26</sup> Earlier, in 2009, a scheme had been introduced enabling families who faced homelessness on vacating such properties to obtain long-term, state-subsidized interest-free loans to buy an apartment on the open market. Those who are unable to meet the minimum income criteria for obtaining these loans have, by law, priority access to social housing; however, in reality there is no, or very little, such housing in most municipalities.<sup>27</sup> Faced with this situation, a number of low-income families have resisted vacating their homes. In response, the former owners have taken these cases to court requesting that the provisions of the Normative Act be duly executed, and their property restored to them. The subsequent forced evictions have rendered some families homeless, with no offer of adequate alternative housing.

In March 2013, the Ombudsperson reported that he had received several hundred complaints from tenants who had been made homeless, or were in danger of being rendered homeless. They included families who had been refused state-subsidized interest-free loans, because they could not meet the minimum income criteria, and families who had applied to their municipality for social housing, but had not even received a reply. The Ombudsperson also noted that he had been approached by municipalities which did not have funding for social housing, or had not been allocated funding by central government to assist municipalities in implementing the Normative Act.<sup>28</sup>

In September 2013, the new government pledged to find a solution to the housing of people left homeless as a result of the Normative Act of 2012, but did not provide any details of how this was to be achieved.

### **Orphans**

Amnesty International is also concerned about the continued lack of adequate housing for homeless registered orphans, who are among the most vulnerable citizens of Albania. State institutions have failed to fulfill their legal obligations to give them priority with employment and housing.<sup>29</sup>

Despite legal provisions guaranteeing their right, up to the age of 30, to priority access to social housing, young people leaving social care remain at risk of homelessness. Many continue to live for years in dilapidated disused school dormitories in degrading conditions that do not meet minimal international standards for adequate housing. Others struggle to pay for low-grade private rented accommodation, in some cases with limited and temporary financial support from international humanitarian organizations.

In September 2013, the new government undertook to ensure adequate housing and employment for all orphans currently homeless and unemployed, as well as for those who will risk homelessness and unemployment when they leave social care. Amnesty International notes that previous governments made similar promises.

## **RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW**

### **Amnesty International calls on the government of Albania:**

*National human rights framework*

- To fulfil its legal requirement to respond to communications and recommendations made to it by the Ombudsperson (People's Advocate).

#### *Access to justice and reparation*

- To guarantee the rights of the family of Remzi Hoxha to justice and reparation, including to be informed about his fate and the whereabouts of his mortal remains, and to receive adequate reparation, including compensation, for the pain and suffering caused to them by the failure of the authorities to clarify his fate for the past 18 years;
- To ensure that all victims of serious human rights violations and crimes under international law, and their families, have access to justice and reparation without discrimination on political or other grounds.

#### *Violence in the family*

- To ensure that all reports of domestic violence are thoroughly investigated and that the perpetrators are brought to justice in accordance with the law;
- To identify and overcome the factors which result in the majority of petitions for protection orders being withdrawn, and to ensure that, when granted, protection orders effectively secure the safety of victims, and that perpetrators who break such orders are sanctioned in accordance with the law;
- To ensure that the Ministry of Justice monitors and reports on the implementation of all provisions in the Criminal Code and the Law on Violence in Family Relations relating to domestic violence.

#### *The right to adequate housing*

- To protect citizens from forced evictions carried out without due process of law, and to ensure that those lawfully evicted who would otherwise be homeless are provided with adequate alternative housing;
- To ensure that central government and local authorities implement domestic legislation granting priority in access to social housing to vulnerable groups and individuals, allocating housing without discrimination and according to transparent, fair and expeditious procedures;
- Where social housing is lacking, to ensure that the most vulnerable families and individuals are nonetheless given priority in access to adequate and affordable accommodation;
- To implement the National Strategy for the Improvement of Conditions of the Roma Community and to provide "opportunities for Roma to access housing and infrastructure services in compliance with the state standards", as set out in Albania's Action Plan for the Decade of Roma Inclusion.<sup>30</sup>

## ENDNOTES

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<sup>1</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Albania*, A/HRC/13/6, recommendations 67.12-13, 67.39, 67.40, 67.43 (Norway, Slovakia, Egypt, Brazil, Netherlands), <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/G09/176/85/PDF/G0917685.pdf?OpenElement>

<sup>2</sup> A/HRC/13/6, recommendations 67.18 -19, 67.21-22, 67.25, 67.32, 67.40, 67.42, 67.53-58, (Chile, Czech Republic, Austria, Spain, Israel, Norway, Brazil, Ukraine, Algeria, Canada, Russian Federation, Sweden, Slovenia, Malaysia).

<sup>3</sup> A/HRC/13/6, recommendations 67.19, 67.23, 67.43. (Czech Republic, Netherlands, Netherlands).

<sup>4</sup> A/HRC/13/6, recommendations, 67.80-85, (Canada, France, Germany, Israel, Bosnia and Herzegovina, Argentina).

<sup>5</sup> A/HRC/13/6, recommendations, 67.45-48, (France, Denmark, Germany, Norway).

<sup>6</sup> Article 50 (j) "when the offence is committed due to reasons related to gender, race, color, ethnicity, language, gender identity, sexual orientation, political opinions, religious or philosophical beliefs, health status, genetic predisposition, or disability".

<sup>7</sup> Adopted in 2006, entered into force in 2007.

<sup>8</sup> Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations on the second periodic report of Albania*, (CCPR/C/ALB/CO/2) 108th session, 8–26 July 2013, para.6.

<sup>9</sup> In December 2012, the European Council postponed the granting of EU candidate status to Albania, conditional on further reform.

<sup>10</sup> Ilir Kumbaro had been granted bail, but an electronic tagging measure had been lifted, enabling him to leave his home unnoticed and go into hiding. Ilir Kumbaro remains at large after fleeing extradition proceedings in London in December 2011. One of his co-defendants, Arben Sefgjini, was appointed in 2009 to a senior post in the Ministry of Justice, as head of the National Probation Service, at a time when he was still being prosecuted for his participation in these most serious crimes.

<sup>11</sup> In accordance with Albania's obligations under the International Convention for the Protection of All Persons from Enforced Disappearance, Parliament on 2 May 2013 adopted an amendment to the Criminal Code making 'enforced disappearance' a criminal offence, punishable in the event of the death of the victim, by 28 years' imprisonment or life imprisonment. Albania ratified the convention in November 2007; entered into force, 2010, <http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>. Article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance, defines 'victims' as both the disappeared person and "any individual who has suffered harm as the direct result of an enforced disappearance". It provides that "Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person". Further if the victim is deceased each signatory state is obliged to, "to locate, respect and return their remains"...and to ensure that the victims have the "right to obtain reparation and prompt, fair and adequate compensation".

<sup>12</sup> In an unusual intervention, the US ambassador to Albania expressed astonishment and disapproval at the verdict, noting that the court had failed to take into account expert [ballistic] reports provided at the request of the Prosecutor General by the FBI.

<sup>13</sup> See also, *Amnesty International, Albania: Ending domestic violence in Albania: The next steps*, 25 March 2010, <http://www.amnesty.org/en/library/info/EUR11/001/2010/en>

<sup>14</sup> In July 2013, the UN Human Rights Committee (Committee), raised serious concerns about domestic violence in Albania, see HRC, *Concluding observations, ibid*, para.11.

<sup>15</sup> Albania is a signatory to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), and in 2013 was one of the first states to ratify the convention

<sup>16</sup> Law on Measures against Violence in Family Relations (Law on Family Violence).

<sup>17</sup> During 2012, the Ministry of Interior reported that some 2,526 incidents of domestic violence were reported to the authorities, 345 more than in the previous year; the majority of victims were women.

<sup>18</sup> While the offence is punishable by up to two years' imprisonment (up to three or five years' imprisonment in aggravated cases), there is no minimum sentence for such offences, except when they are committed repeatedly, and prosecutions can only be initiated on the basis of a victim's complaint.

<sup>19</sup> Amnesty International does not have national statistics relating to prosecutions under Article 130/a (the above relates to Tirana district only).

<sup>20</sup> In July 2013, Chief Prosecutor General Adriatik Llalla instructed the country's prosecutors to apply for harsher punishments against perpetrators of family crimes.

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<sup>21</sup> *Albania: Authorities have an obligation to assist forcibly evicted Roma*, 7 August 2012, <http://www.amnesty.org/en/library/info/EUR11/002/2013/en>

<sup>22</sup> *Shqiptarja*, 29 September 2013.

<sup>23</sup> Amnesty International understands that although the police initially followed orders to intervene if the construction company continued demolishing the homes, pending a resolution of the situation through the appropriate legal process, this order was subsequently disregarded and the police failed to intervene to prevent the remaining homes on the site from being demolished by construction workers.

<sup>24</sup> See for example, *Albania: Further information: Forced eviction for Roma families*, 30 May 2012, <http://www.amnesty.org/en/library/info/EUR11/007/2012/en>; 3 February 2012; *Albania: Temporary solutions are no solutions for evicted Roma families in Tirana*, 3 February 2012, <http://www.amnesty.org/en/news/albania-temporary-solutions-are-no-solutions-evicted-roma-families-tirana-2012-02-03>; *Albania: Stop forced evictions of Roma in Albania*, 1 February 2012, <http://www.amnesty.org/en/library/info/EUR11/001/2012/en>;

<sup>25</sup> In December 2012, eight Roma families living in shacks close to Tirana train station reported that they been warned, more than once, to leave their homes, by individuals allegedly accompanied by police officers in civilian clothes. The families were in the process of legalizing their homes and at the time of the threats were awaiting the official publication of their names as the owners of legalized buildings, *Shqip*, ["Roma families in danger of being evicted", trans] p. 20, 6 December 2012.

<sup>26</sup> The act set out the procedures by which former owners could obtain a court enforcement order if necessary. Despite challenges and appeals by tenants resisting eviction, the Constitutional Court ruled in favour of its constitutionality on 31 October 2012.

<sup>27</sup> Between December 2012 and January 2013, five municipal councils published statements that they had received no, or almost no, funding from central government and had no funds of their own for social housing. This is the case for almost all municipal councils apart from Tirana (which has only 350 apartments available for social housing). Indeed, most do not even have the human resources to draw up a feasible 10-year-plan, as required by law, much less the finance to invest in social housing.

<sup>28</sup> <http://www.avokatipopullit.gov.al/wp-content/uploads/2013/03/REKOMANDIM1.pdf>

<sup>29</sup> See, for example, *Albania: Memorandum to the Albanian Government: Orphans and other children deprived of parental care*, 20 May 2010, <http://www.amnesty.org/en/library/info/EUR11/002/2010/en>.

<sup>30</sup> This includes, [the] "building of new houses and reconstruction of uninhabitable dwellings for Roma families in need" (1.2) and "Adopting and implementing local social housing programmes for Roma families in need (social housing for rent; low-cost housing; sale of land served with infrastructure and permission to build a house)" (1.6);, [http://www.romadecade.org/files/downloads/Decade%20National%20Action%20Plan\\_Albania.pdf](http://www.romadecade.org/files/downloads/Decade%20National%20Action%20Plan_Albania.pdf)