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Peqin prison, Albania

The year 2006 was politically characterized by implementation of the Stabilization and Association Agreement (SAA) with the European Union (EU), signed in June, which provides that Albania will have to keep up with a timetable of important reforms required by the EU. The government declared a revised national plan to implement the principles contained in the European Partnership, an instrument of the SAA process between the EU and Albania that was adopted in December 2005.¹ These principles included combating corruption and organized crime, and strengthening the judiciary.²

During 2006, important steps were taken against corruption; their results were soon seen, especially in the operation of customs and tax services and in the notable increase in the number of mid- and high-ranking officials prosecuted for corruption.³

The strained relations between political parties represented in parliament resulted on several occasions in the opposition parties boycotting parliamentary sessions and, finally, led the country to a critical situation of an electoral deadlock on the eve of holding the local elections initially scheduled for January 2007.

Legal reforms

Some well-intended legal reforms were introduced by the government, however, some of the laws passed by the parliament were disputable from the perspective of human rights and rule of law. Lack of consultation with interest groups, legal experts and civil society in the process of drafting laws also resulted in weak legislation, which the Constitutional Court sometimes ruled to be in violation of the constitution. For example:

◆ In January the Council of Ministers adopted three decisions to fight nepotism in public administration, customs and tax sectors. According to them, individuals

having kin relations with high public officials were automatically excluded from employment in those services. On 11 July the Constitutional Court declared that the decisions violated constitutional provisions.

◆ Law No. 9509 of 3 March 2006 "On the Proclamation of the Moratorium on Motor Speedboats in the Republic of Albania" banned the use of speedboats for a period of three years. The law was aimed at fighting different forms of illegal trafficking but in practice restricted the exercise of property rights of the speed boat owners in a manner that was disproportional to the aims pursued.

◆ Law No. 9559 of 8 June 2006 "To Supplement Law No. 7975 of 26 July 1993 'On the Narcotic Medication and Psychotropic Substances'" aimed at combating organized crime in the area of illegal narcotics. The law vested municipal authorities with the task of searching cultivations of illicit narcotic plants and identifying the cultivators, thereby moving police tasks to civil authorities.

Democratic elections

While the right to vote, to be elected, and to establish political parties were protected by the constitution, the enjoyment of these rights continued to be affected both by legal and practical problems, many of which had been identified during the 2005 parliamentary elections.⁴ A parliamentary commission was set up in January to consider and propose reforms, but the reform process was seriously blocked by the lack of good will on the part of all political parties and their continued disputes. The progress achieved was very moderate.

The disputes concerned mainly three issues: the elimination of the so-called temporary voters register⁵; the composition of the Central Election Commission; and the composition of the National Council of the Electronic Media and the

National Council of the Public Radio and Television. Later, the opposition raised other conditions to be fulfilled such as the issuing of special birth certificates to be used only for the elections since the certificates issued prior to November 2006 were allegedly susceptible to forgery.

On 30 August, an agreement was reached between the two leading parties, the Democratic Party (DP) and the Socialist Party (SP), to amend article 154 of the constitution to increase the number of Central Election Commission members from seven to nine so as to secure a proportional representation of all political parties in it. In addition, the two parties agreed to omit all references in the election code to a temporary voters register, and to increase the number of members in the above-mentioned two bodies that oversee the public broadcasters - again, to ensure better political representation in them. However, the latter agreement was not implemented because the opposition insisted on the adoption of a whole package of changes, including recommendations made by the OSCE/ODHIR to amend the code.

Because of constant disagreements, and as a pressure measure against the government, the opposition parties did not register with the Central Election Commission by the set deadline, which meant that they would not be able to participate in the local elections scheduled for January 2007. Despite international pressure on all parties to reach a consensus, the situation remained deadlocked until the final agreement reached during the 13 January roundtable called by President Moisiu, after which he could issue a decree to hold the local elections at a later date, on 18 February 2007.

Right to a fair trial

Both the right to a fair trial and the prohibition of cruel, inhuman or degrading treatment or punishment, were incorporat-

ed in Albanian legislation. Nevertheless, several problems remained in their realization in 2006, with most of them being related to implementation of legislation. The judicial system was generally considered corrupt and thus unable to ensure a fair trial and due process.⁶

The EU Progress Report for 2006 set out that the independence of the judiciary must be ensured, and that the execution of sentences, as well as transparency in judicial proceedings, should be improved.⁷

The procrastination of both civil and penal proceedings to latest allowed legal deadline was common practice. The execution of court decisions, especially in civil cases, was unacceptably slow and sometimes they were not executed at all. The control mechanisms on the execution of court rulings in general remained very weak.

The Albanian Helsinki Committee also noted that the presumption of innocence was not always respected. This was demonstrated, for example, in public statements by high government officials and an investigating parliamentary commission against the general prosecutor, labeling him as corrupt and as nurturing links to criminal organizations before a final court decision in his case had been pronounced.⁸

Detainees' rights

Subsidiary legislation regulating the operation of penitentiary institutions underwent changes,⁹ however, the 1999 Regulation of the Ministry of Public Order on the treatment of detainees that continued to be applied in 2006 was no longer in compliance with the new regulations and violated the rights of persons deprived of their liberty. The difficulties encountered ranged from poor physical conditions of detention to violations of detainees' legal rights.¹⁰ The problems were attributable to the fact that a considerable number of pre-trial detention facilities remained under the Interior Ministry due to the previous and

present government's failure to transfer all of them to the Justice Ministry, as prescribed by the law.

While the state has been investing time and money to the building of new detention and prison facilities, AHC monitoring of especially pre-trial detention facilities under the Interior Ministry clearly showed that more needs to be done to improve conditions in the old facilities. Both the infrastructure as well as living and working conditions in most police stations monitored failed to meet the minimal standards required for a pre-trial detention facility.¹¹

Some pre-trial detainees also complained that they had not been informed of their rights at the time of arrest or detention, nor of charges brought against them, nor were they provided legal assistance until their first court hearing.¹² They also claimed that police officers had used violence against them at the time of arrest.

While such complaints were difficult to verify, two prison officials of Kruja prison were suspended from their duties and prosecuted for alleged ill-treatment.

No separate pre-trial facilities existed for women and juveniles, nor were specialized staff trained for their treatment by the Interior Ministry. However, their situation was much better in pre-trial institutions under the Justice Ministry.

Despite some efforts taken by the general prison administration, the quantity and quality of food was far from the required standards, and the standard of medical care - especially the supply of medication - remained an issue of serious concern in almost all prisons and pre-detention centers. Mentally disturbed prisoners were still left without adequate psychiatric care, prescribed by legislation, because the construction of a specialized institution for them was still underway.

SOURCES FOR FURTHER INFORMATION:

- ♦ Albanian Helsinki Committee, www.ahc.org.al

Publications:

- ♦ European Commission, *Albania 2006 Progress Report*, 8 November 2006, at http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/fyrom_sec_1387_en.pdf
- ♦ Albanian Helsinki Committee, *Report on the progress of the general elections process of July 3, 2005 in Albania*, 4 July 2005, at www.ahc.org.al/kshh/te_tjera/raport.perfundimtar.zgjedhjet.pdf
- ♦ OSCE/ODIHR, *Needs Assessment Mission Report*, 8 November 2006, at www.osce.org/documents/odihhr/2006/11/22210_en.pdf
- ♦ CPT, "Council of Europe Anti-Torture Committee Visits Albania," at www.cpt.coe.int/documents/alb/2006-04-06-eng.htm

Endnotes

- ¹ European Commission, *Albania 2006 Progress Report*, 8 November 2006, at http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/fyrom_sec_1387_en.pdf.
- ² Government program 2005 – 2009, presented in the Assembly of the Republic of Albania, 9 September 2005, at www.keshilliministrave.al/english/programi/default.asp.
- ³ European Commission, op. cit.

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- ⁴ See OSCE/ODIHR, *Needs Assessment Mission Report*, 8 November 2006, at www.osce.org/documents/odihhr/2006/11/22210_en.pdf. See also AHC, *Report on the progress of the general elections process of July 3, 2005 in Albania*, 4 July 2005, at www.ahc.org.al/kshh/te_tjera/raport.perfundimtar.zgjedhjet.pdf.
- ⁵ The temporary votes register consisted of names of individuals in their secondary places of residence. With its abolition, voting is allowed only in the place of permanent residence.
- ⁶ Transparency International, *Transparency International Annual Report 2005*, 1 June 2006, at www.transparency.org/publications/annual_report.
- ⁷ European Commission, *op.cit.*
- ⁸ Albanian Helsinki Committee, "Presumption of innocence should not be violated," 18 April 2006, at www.ahc.org.al/kshh/eng/ark/1804violented.html.
- ⁹ A new Regulation on Pre-trial approved by the Ministry of Justice, No. Prot. 3705/1, adopted on 11 May 2006, which was in line with international standards. A draft law was pending on the employment and remuneration of prisoners and another on the improvement of the quality and quantity of meals in prisons and pre-trial facilities.
- ¹⁰ Albanian Helsinki Committee, "Respect for the rights of pre-detained persons – issues of the law and of practice," 14 April 2005, at www.ahc.org.al/kshh/eng/prison/round_table.html.
- ¹¹ IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America: Report 2006 (Events of 2005)*, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4255.
- ¹² Ibid