

Albania¹

IHF FOCUS: elections; judicial system and independence of the judiciary; torture, ill-treatment and police misconduct; national and ethnic minorities.

The political situation in Albania in 2003 was stable due to the spirit of consensus between the two major parties—the Socialist Party and the Democratic Party—and the opposition. This political consensus, marked by the election of the president in agreement of a wide political range in June 2002, contributed to the improvement of the domestic political life.

In January 2003, the European Union opened negotiations for signing the Agreement of Stabilization and Association with Albania. The Albanian government, in compliance with this agreement, drew up a strategy on institutional reforms, on strategies for combating corruption and organized crime as well as on the decentralization of local governments.

There were a number of improvements in the field of human rights. For example, partly due to measures taken by state authorities, trafficking in women decreased as well as the smuggling of human beings to the Italian and Greek coasts. Nevertheless, many problems still remained. The Albanian Helsinki Committee (AHC), which monitored human rights development in different districts of the country, reported, for example, on excessive use of force by the police and other forms of police misconduct, corruption in the judicial system and health institutions, the failure to execute final court decisions, and unjustified procrastinations of court proceedings.

During 2003 the process of transferring pre-trial detention facilities from the Ministry of Public Order to the Ministry of Justice faced many difficulties. For example, the Ministry of Justice and the General Directorate of Prisons did not have the financial means and infrastructure to make such a transfer possible. For this reason, only one pre-detention facility (in Vlora) was placed under the responsibility of the General Directorate of Prisons. A newly built prison in Peqin was opened, and a considerable number of convicted persons who had unjustly been held in police facilities instead of prisons were moved to the new prison. Nevertheless, as the opening of the new prison could not alone solve the problem of overcrowding, many convicted prisoners still had to stay in pre-trial facilities. Their unacceptable situation was coupled by the fact that physical conditions in pre-trial detention facilities left much to be desired.

While the relationships between different ethnic and national groups in Albania were generally characterized by tolerance and peaceful coexistence, many problems existed in specific minority areas and required attention by competent state authorities.

Elections

On 12 October, local government elections were held in order to elect the mayors and commissioners in 65 municipalities, 11 municipal units in Tirana and 308 communes in the entire territory of Albania. These elections were held under the new Electoral Code, which the Albanian parliament adopted on 19 June 2003. The new law was approved with a consensus reached between members of a bipartisan commission representing the Socialist Party and the Democratic Party.

There were also efforts to improve the Electoral Code. For example, the new code prescribed the bodies responsible for the compilation of the voter lists; provided for the establishment of the

¹ Based on the *Annual Report 2003* of the Albanian Helsinki Committee.

Media Monitoring Board; allowed complaints regarding modifications in the voters' lists; established the Electoral College at the Court of Appeals in Tirana as a final decree for complaints under the code; and regulated the use of public resources during election campaigns. While the AHC voiced concern over several problems and shortcomings of the new code, it noted as a positive issue that the Central Electoral Commission (CEC) generally operated in a professional manner in the 2003 local elections and its work demonstrated transparency and objectivity. An additional positive measure was the educational program initiated by the CEC, which was targeted at citizens to raise their awareness concerning the electoral process.

However, according to the AHC, the CEC's performance was obstructed by inappropriate interference in its work by various political party representatives who were not members of the CEC. Political pressure was exerted on the CEC throughout the electoral process, but it became particularly obvious in the aftermath of the elections when the CEC was to formally announce the final results, based on the counts by Local Government Electoral Commissions (LGECS). Political parties, especially those of the opposition, put pressure on the members of the LGEC not to sign the results. This had also been in cases where no infringements of the provisions of the Electoral Code had taken place. Moreover, it appeared that the LGECs were responsible for the significant delays in announcing the final election results, especially in the district of Tirana. Under these circumstances, the CEC should have intervened more efficiently in their work in order to prevent the delays.

In addition, prior to the elections, political parties failed to file their proposals for members of LGECs and Voting Center Commissions (VCC), which led to delays in the establishment of these bodies.² This consequently resulted in the insufficient training of the commissioners. Moreover, the LGECs, which were in charge of verifying the documentation of the candidates for VCCs, in some cases, accepted incomplete documentation submitted by political parties. Furthermore, the failure of political parties to pay necessary attention to the qualifications of their candidates impeded the correct application of the Electoral Code and CEC guidelines. An additional problem regarding the operation of the LGECs and VCCs was the fact that many commissioners withdrew from their work and had to be replaced with people without training. According to the CEC, just prior to the election day, as many as 923 members of local commissions were asked to be replaced.

Regrettable political disputes motivated by party interests and similar reasons between LGEC members also hindered efficient work of the commissions. The announcement of final election results sharpened the disputes between members of some LGECs. For example, the Tirana LGEC had considerable delays in transmitting the results of the vote count to CEC. Additionally, some members of the Tirana LGEC made public statements as party adversaries, failing to observe their role as commissioners. Shortcomings during the election day as well as during the announcement process of the final election results by LGECs, revealed poor knowledge of the law on the part of VCC and LGEC members, and revealed the influence exerted by political parties on these commissions.

The leaders of both the Socialist Party and the Democratic Party at times resorted to statements that were politically incorrect and which occasionally unjustly implied the opponents' participation in criminal activities or unduly interfered in their privacy.

Another concern was the financing of the election campaigns. The decision on public funding of the elections campaign was made as late as 23 September 2003—three weeks after the beginning of the election campaign.

The media coverage of the electoral campaign was generally balanced.

² According to an official report of CEC spokesman, only around 70% of VCCs were established by 2 October, the legal deadline prescribed in the Electoral Code on the establishment of the VCCs.

The irregularities reported by the AHC observers about the election procedure included inaccurate voter lists. For example, names of eligible voters were missing from the voter lists (sometimes even if they had been rightly registered on the pre-published lists of voters), or their names had been registered on the lists of a polling station other than their own. The main reason for these problems appeared to be the fact that civil registration offices were not equipped with a computerized data system—a fact the AHC had pointed to already during earlier elections. The tabulation of votes was generally carried out in an appropriate manner at the polling station observed by the AHC, however, in few cases, had the VCC commissioners argued about technical matters.

A number of irregularities were also recorded in the timely opening of polling stations. Furthermore, the ballot boxes turned out to be too small for the large ballot papers, and the last minute changes in the location of several polling stations resulted in confusion among the voters during the election day.

On a positive note, the State Police carried out its duties adequately and in line with responsibilities prescribed in the Electoral Code for the protection of polling stations. This was a clear improvement from previous elections. Only a few violent incidents were reported during the voting day in the district of Himara, which were settled by the police forces.

For the first time, the Electoral Code provided clear regulations for the procedure of filing and handling of complaints on alleged irregularities, and the CEC in general abided by the prescribed procedure—despite the criticism particularly from some political activists.

Judicial System and Independence of the Judiciary

According to the Albanian Constitution, the judicial power was exercised by the High Court, the courts of appeal and district courts. In 2003, the Serious Crimes Court was established. There had been many efforts and proposals to set up juvenile courts and administrative courts, but the end of 2003 did not witness these initiatives. In addition, the High Council of Justice and the Judiciary Budget Administration Office administered the budget of the courts and supervised the performance of the judges.

In recent years, the judicial system of Albania has undergone a multi-faceted reform aiming at raising their professionalism and efficiency. Despite reforms, in 2003 the judicial system still suffered the lack of independence—politicians' exerted pressure on judges—as well as adequate management and effectiveness. The American Jurists Organization (ABA/CEELI) in 2001³ judged as positive developments in the Albanian judicial system the qualification of the judges and their training; an improvement in the presence of minorities and the gender balance in the judiciary; the judicial control on the administrative practice; the disciplining and dismissal proceedings of judges; the appointing of judges in the country. However, the same evaluation stated that there were still problems regarding further qualification of the judges, the execution of court decisions, the sufficiency of the salaries of the judges, the security of the judges, the objective criteria regarding judges' promotion, the different forms of pressure on the judicial decisions, the limited access of the public and the media in the judiciary process etc.

³ The American Jurists Organization, *Judicial Reform in Albania Index*, December 2001.

In addition, the judicial system continued to be affected by the low economic level of the country, various social problems, and sometimes the gaps in the laws that had been hastily drafted. The collaboration between the police organs, attorney's offices and prison administration with regard to the execution of final court decisions as well as in their efforts to combat organized crime was inefficient.

Lack of adequate information as well as deficiencies in notifying the parties involved in judicial hearings were also problematic, violating article 33(1) of the Albanian Constitution, which provides everyone the right to be heard before being sentenced. Moreover, unmotivated procrastinations of court proceedings, delays in transferring files to higher courts, ill-founded court decisions, lack of working discipline of court administration, lack of solemnity of the court hearings were among the problems which weakened the public's respect for the judicial system.

The execution of court decisions in criminal cases was another central problem: penal decisions were frequently executed with significant delays. This also led to prolonged remand of sentenced persons in police stations.

Particular critique was addressed to the inefficient operation of the bailiff's offices. According to a study conducted by the AHC in collaboration with the Ombudsman's Office, 86.5% of the interviewees, who had recently dealt with the bailiff's offices, said that they had experienced delays between one and twelve months in the execution of court decisions in their cases. 37.5% out of the 445 persons interviewed said that the service these offices offered was satisfactory while 54.4% were of the opinion that it was either insufficient or dissatisfactory. Moreover, criticism was voiced about the lack of transparency in the execution of the penal decisions and the lack of adequate information to the involved citizens. Only 16.2% of the persons interviewed in the survey affirmed that the operation of bailiff's offices were sufficiently transparent. Moreover, corruption was widespread in those offices: 12.6% of the interviewed affirmed that they have been demanded to give money in exchange to the execution of the decision given in their favor. Over 14% of the interviewed admitted having paid money either upon request or voluntarily in order to have the decision executed. In addition, the cases in which state institutions were parties, authorities frequently put pressure on the bailiff's offices.

The survey showed that not all the persons in contact with the bailiff's offices were aware of the procedures and rules of the execution of decisions. Only 37.8% of the persons interviewed affirmed that they possessed the necessary knowledge on how to start procedures at the bailiff's office. 61% stated that they had little or no knowledge on the respective procedures and 51% had insufficient knowledge about their rights.

The Albanian judicial system inherited a weak infrastructure from the communist era. Many courthouses have undergone reconstruction and repairs, which has contributed to the better functioning of courts. While security measures in courts have been stepped up, they remained insufficient, leading to escapes of arrestees and feeling of insecurity among the court personnel and public. A draft law on witness protection as well as draft provisions providing special protection for judges handling serious crimes was drawn up and was pending in parliament as of the end of 2003.

Considering that over 40% of the Albanian population lived in poor economic situations, most individuals convicted of a crime could not afford to hire a lawyer. Legal aid was offered by the state to citizens against modest fees, and in case the defendant could not afford to pay the costs, the defense costs were covered by the state in criminal cases. Free legal aid was also offered by NGOs. However, all their services were financed by foreign donors and were consequently dependent on the existence of these donors.

Albanian legislation also provided for free of charge alternative conflict solution through reconciliation between the involved parties.

Torture, Ill-Treatment and Police Misconduct

Law No. 7227 of 1993 "On the Adherence of Albania to the Covenant against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment," law No. 7510 of 1991 "On the Adherence of Albania to the International Covenant on Civil and Political Rights" and the ratification of the European Convention on Human Rights were important formal measures that Albania had committed itself to in order to guarantee freedom from torture and ill-treatment and for better respect by the police of the rights of individuals dealing with law enforcement officers.

Article 25 of the Albanian Constitution forbid the use of torture and other forms of ill-treatment by the police, and article 28(5) of the Constitution provided for human treatment to and the respect for dignity of all those deprived of liberty. Article 37 of the law "On the State Police" stated that when performing their duties, police officers were not allowed to carry activities, which were not based on laws, or to resort to torture, ill-treatment and other inhuman or degrading treatment. Article 46 of the same law defined clearly the limits for the use of force. By law, those who violated these provisions were to be prosecuted. Also the Criminal Code prohibited the use of torture and foresaw severe sanctions for those who breached it. In addition, article 314 of the Criminal Code forbid the use of coercion during interrogation. A violation of this provision could be punished with three to ten years of imprisonment.

In practice however, violence by police officials was a cause for concern also during 2003. The AHC received several reports from victims or their family members about the unjustified use of violence during police procedures, mainly at the moment of arrest or during arbitrary house search.

- In January, a man was arrested by police officers in Korca and later his death in custody was reported. There were reasons to suspect that the death resulted from police ill-treatment. On this occasion, the minister of public order admitted that there had been cases of illegal use of violence by police forces. This particular case was being investigated as of this writing and the police officers were disciplined.
- In April, the Chief Alderman of Borje village in the district of Kukes reported to the AHC that the villagers had complained about the brutal behavior of the police on the occasion of the escape of two prisoners from Kukes pre-detention facility. The local police apparently believed that the villagers had helped the detainees escape. This resulted in strained relations between the population and the police.
- In May, former political prisoners assembled in a peaceful manifestation in Tirana during which the police reportedly used excessive force against the protestors.
- On 24 August, police officers in the district of Mat (North Albania) forced their way into a house and, in the presence of the family members, hit the two brothers with heavy objects, inflicting them serious physical injuries. The victims were brought to the police station immediately after the beatings where they were once again ill-treated. They were later hospitalized in Burrel.
- In November, the minister of public order hit an independent journalist during a social event organized by the Socialist Party at which media representatives had also been invited. According to reports, the incident took place in the presence of many witnesses who confirmed the incident.
- In November, police ill-treated a young man in the district of Fier. He was stopped by the police and asked to follow them to a police commissariat. The man refused to obey, insisting

to be informed about the reason for the arrest. A police officer forced him into the van where officers hit him. An AHC representative confirmed signs of violent treatment on his back, ankle and on his face.

Almost all the above cases led to police investigations and in some of these cases, officers were either disciplined or were dismissed from their jobs. The minister of public order was removed from office and the case was still under investigation at the time of writing.

A hotline of the public relations office at the Ministry of Public Order was in operation and received complaints from the public about police misconduct. An office of internal control at the ministry investigated the complaints. In addition, the cases were subsequently submitted to the Prosecutor's Office.

National and Ethnic Minorities

Albania has ratified the Framework Convention for the Protection of National Minorities and the Convention on the Elimination of All Forms of Racial Discrimination. In 2003, Albania did not have a separate domestic legislation on minorities but it had adopted legal provisions on the protection of minorities as part of another national legislation.

According to the Institute of Statistics, the total number of members of all national minorities in Albania was 42,892, out of which 41,647 were Greek, Macedonian, Serbian-Montenegrin and Arumun/Vlach minorities.

National and ethnic minorities in Albania were recognized as "national minorities", "linguistic minorities", "communities" or communities without state recognition. These definitions were based on facts, such as individuals speaking another language, namely distinguishing them from the majority population, having a kin state, following other customs and specific cultural differences to those of the majority population etc. The varying definitions, however, did not bring with them different rights or privileges. The Albanian Constitution did not make a difference regarding their status: article 20 of the Constitution stated that persons who belong to national minorities can exercise their human rights and freedoms in full equality before the law. Furthermore, the article guaranteed minorities the right to express their ethnic, cultural, religious and linguistic affiliation. They had the right to preserve and develop their culture and language, to study and to be taught in their mother tongue, as well as to unite in organizations and associations for the protection of their ethnic interests and identity.

Prior to 2003, three minorities had the status of "national minorities": the Greek minority, the Macedonian minority, and the Serbian-Montenegrin minority. In 2003, the Roma minority officially gained the same status, although Roma had been treated as a minority for some time already through special efforts and measures taken by the state. The Vlach/Arumun minority received the status of a "linguistic minority" in 2003. In addition to the above-mentioned minorities, some minorities such as Egyptians ("Gypsies") were recognized as "communities" while the Union of the Egyptians of Albania urged to be granted a national minority status. The union claimed to represent 200,000-250,000 Egyptians—a figure officially disputed—and claimed their origin in Egypt. Albanian authorities refused to grant a minority status to Egyptians, among other reasons, on the ground that they did not have a language of their own and that they allegedly lacked specific ethnic, cultural, and religious peculiarities. According to the Union of Egyptians, Egyptians had distinguished anthropological features, namely their own rituals, habits and customs as well as ethnic consciousness.

The lack of official statistics on minorities in general impaired the application of related policies and practices and hence gave way to polemics.

Greek Minority

The Greek minority, settled in the southern part of Albania, is considered the largest minority. Most ethnic Greeks live in the districts of Gjirokastrë, Sarandë and Delvinë. In the district of Sarandë there are also a considerable number of predominantly ethnic Greek villages. In addition, almost half of the villages in the Delvinë district are nearly entirely ethnic Greek.

According to the latest official census in 1989, the Greek minority numbered about 60,000 people (while the Greeks themselves cited the figure of 400,000). Following the collapse of communist regime, the majority of the Greek population moved to Greece, and the total number of the Greek minority was unclear and disputed in 2003.⁴

Most political activists of the Greek minority participated in political life in the ranks of the Party of the Union for Human Rights, which was represented in parliament. The number of the Greek minority representatives in the public administration and police forces had grown steadily, being largely proportionate to their total number, although Greek minority organizations stressed that there was still room for improvement.

Greek-language education was organized by the state in all public schools: in the elementary schools most subjects were taught in Greek, in the high-school level pupils were given Greek language classes. However, the lack of textbooks on the subjects of general history and history of the Greek nation remained a problem as well as up-to-date textbooks in general. On the other hand, the AHC expressed concern over the poor level of knowledge of the Albanian language among many Greek pupils, a fact that would later impair their integration and higher studies. The Greek Language Department "Eqerem Çabej" at the University of Gjirokastra, which gave instruction in the Greek language and literature, was established in 1993-1994.

Local radio stations transmitted programs in Greek in contrast to public television, which stated that it lacked funds to do so.

Macedonian Minority

The Macedonian minority is concentrated in the Prespa area, near Korça, southeast Albania. The minority numbers approximately 4,180 people, living in nine minority villages, which constitutes the administrative unit of a commune, called Liqenasi.

The Macedonian language was taught at elementary school, namely in the areas where most minority members live. Again, the lack of textbooks in the Macedonian language due to lack of financing was a concern. An additional issue raised by the representatives of the Liqenasi commune was that pupils were overburdened by the fact that they had to study a number of parallel subjects in both the Albanian and the Macedonian languages.

In order to avoid such overlapping and unnecessary overburdening, the Liqenasi commune suggested that Albanian literature be taught in the Albanian language and Macedonian history in the Macedonian language.

⁴ During 2002, the Institute of Statistics, INSTAT, carried out a survey on minorities in Albania, based on the data gathered during the population census and registration of homes during 2001 as well as on the Living Standard Measurement Survey carried out with the help of World Bank. According to the INSTAT survey, there was a significant decrease in the figure of the minority population compared to that of the population census carried out in 1989.

Roma Minority

The Roma minority is widely scattered over Albania. Roma origins are to be found in several tribes, some of which settled down in Albania centuries ago. They include the Meckar, Fushe-Kruje, Karbuxhijte, Cergaret and Kurtofet, the first two being the largest Roma minorities.

Albanian Roma life remains characteristically nomadic, although the construction of immobile domicile increases steadily. Roma speak various dialects of the same language and 60-70% of the Roma settled in central Albania speak Albanian as their first language.

Most Roma earn their living as vendors of second-hand clothes or craftsmen while some live on begging. The standard of living of most Roma is very low. While the Albanian state has not openly promoted discriminatory policies against Roma—but has rather taken efforts to offer equal opportunities to them in social, economic, political fields—no specific measures have been taken to promote their integration into Albanian society. In 2003 the Albanian government approved the National Strategy for Roma Minority, the implementation of which should take 15 years. This strategy covers all areas of life where problems are in general encountered, as well as a focus on the problems education.

Education in Romani language is provided through courses financially supported by the Roma communities themselves.

In 2003 there were reports that Romani children faced discrimination in Albanian public schools; for example, teachers often placed Roma children in the last rows of classrooms, thus apart from other pupils. Due to this, Roma children did not receive proper attention in classrooms, and thus had even more difficulties understanding the Albanian language. Consequently, Roma children started to abandon school. An additional reason for many Roma children not attending school was the long and dangerous distances to school.

Serbian-Montenegrin Minority

The Serbian-Montenegrin minority mainly lives in the Shkodra region. Those of its members who confess the Orthodox religion are known as Serbian-Montenegrs while those confessing Islam are called the "Podgorica people."

The actual number of the Serbian-Montenegrin minority families, according to the Institute of Statistics is small; approximately 678 people, but they have well preserved their cultural features and ethnic identity.

In 2003, there were no schools teaching in the native language of the Serbian-Montenegrin minority. This has been officially justified because of the small size of this minority, thus not meeting the main criteria for opening a so-called minority school.

The AHC received complaints from the representatives of this minority claiming that they were more discriminated against by the state than any other minorities in Albania (in terms of opening schools in their mother tongue, having radio and TV programs in their language like other national minorities), and alleging that the official figure regarding the number of population of this minority was not realistic.

According to the leader of the minority association, the minority was not appropriately represented either in the local government bodies or in the central government. There were two representatives of the Serbian-Montenegrin minority in the Shkodra Municipality Council. However, it had no representatives in the District Council because the council consists of members of the political parties who won in the local elections and who had no Serbian-Montenegrin members. For the same reason, there were no civil servants of this minority in the Shkodra city hall. Meanwhile, in the public administration structures of Malesia e Madhe (one of the main areas in which the minority lives) the minority population was represented in many departments of the local administration, including in the Public Service Department and in the Finance Department.

The Serbian-Montenegrin association "Moraca-Rozafa" mediated in efforts to solve minority problems. Members of this minority had the right to study and apply for scholarships in the universities of Serbia-Montenegro. In addition, cultural exchange had been organized with Serbia-Montenegro, including concerts, artistic activities, etc., aiming at preserving the native traditions.

Vlach-Arumanian Minority

The Vlach-Arumanian has the status of a "linguistic minority" in Albania. According to Vlach association representatives, they settled down in Albania around the year 1600. They are largely integrated into Albanian society and the number of Vlach speakers has been steadily reducing. Still, in addition to their language, Vlachs have preserved many of their customs and traditions.

Most Vlach-Arumanian members are settled in Southern and Central Albania. In the early 1990s they established a cultural association, which organized various artistic activities. Despite the fact that Vlach speakers are steadily decreasing, Vlach-Arumanians have also published books about their history and literature in the Arumun language.

Vlachs can practice their Orthodox religion, and in the city of Korca, their religious services have been performed in their own language. The community has substantially contributed to literature, art, science and politics of Albania. Their integration in Albanian society has reached a point where they sometimes cannot be clearly distinguished as a separate ethnic group.

Of all parties represented in parliament, most Vlachs were members of the Union for Human Rights.

According to the AHC, the main problematic issue for this minority is that a considerable state assistant would be needed to support Vlach-language education. In 2003, the Vlach-Aruman communities themselves only financially supported it. In addition, the government of Romania invested in the education of the Arumunians in a number of districts of the country.

Egyptian Minority ("Gypsies")

Just like Roma, the Egyptian minority is scattered over Albania. A small number of them live in the rural areas while the majority of them are located in specific and more urban neighborhoods bearing characteristic "Gypsy" names. Over 95% marry within their own ethnic group and have large families.

Egyptians are known to be good craftsmen working in traditional trades such as blacksmiths, shoemakers, and tinsmiths. Many children are however beggars. Many of those who have managed to create a career in Albania prefer not to disclose their ethnic background due to the fear of discrimination. While Egyptians' educational level remained generally low, they have also become known as celebrities in arts, music, cinematography, intellectuals of different fields, teachers, etc.

The main problem of the Egyptian community is the lack of education and extreme poverty, most of them namely living at a subsistent level. Egyptians have big housing problems and an extremely high unemployment rate. As a result of all these basic problems, they suffer from several chronic diseases such as rheumatism, ulcer and anemia. The manifold of problems has also led to increasing violence, including domestic violence.

Most Egyptian children do not attend school, partly due to poverty and partly due to the fact that the awareness of the need of education by the parents for their children is extremely low. Even those children that start school usually drop out soon and fail to go through junior high.