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SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR  
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF THE  
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1

**Albania\***

The present report is a summary of six stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

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\* The present document was not edited before being sent to the United Nations translation services.

## I. BACKGROUND AND FRAMEWORK

### A. Scope of international obligations

1. Defence for Children International (DCI) indicated that Albania ratified the UN Convention on the Rights of the Child (CRC) on 28 March 2002, and that although Albania is not a member of the European Union (EU), it signed the Memorandum of Stabilisation and Association (MSA) with the EU, obligating itself to meet international standards for criminal juvenile justice.<sup>2</sup> DCI noted that knowledge and understanding of the CRC and other conventions to which Albania is party, however, remain low even among officials that work with juveniles on a regular basis. This problem persists despite the fact that the 1998 Constitution mandates the publication of such international conventions and the Committee on the Rights of the Child highlighted this issue in paragraphs 19-20 of its Concluding Observations in 2005.<sup>3</sup>

2. The Albanian Coalition “All Together Against Child Trafficking” (ATACT) indicated that Albania is still far from adequately protecting and promoting children’s rights. One positive change, as reported by ATACT, was the ratification in February 2009 by the Albanian Parliament of the Convention of the Council of Europe on sexual abuse and exploitation.<sup>4</sup>

### B. Constitutional and legislative framework

3. DCI noted that, in theory, in Albania ratified international agreements become domestic law upon their publication in the Official Gazette, avoiding the need for the promulgation of new law. This practice, however, can lead to confusion and contradiction between domestic and international legislation, as laws are often not accompanied by the appropriate legislative instrument containing rules to ensure their implementation.<sup>5</sup>

4. DCI also noted that Albanian law has undergone continuous reform since the early 1990s, particularly with the emergence of a new constitution in 1998. Provisions related to the rights of children, however, remain scattered across numerous codes and statutes, sometimes in a contradictory manner.<sup>6</sup> DCI recommended the development of a more unified, holistic and coherent approach to juvenile justice. The first step in this process is to adopt a comprehensive child rights code that recognizes children as distinct rights holders and contains provisions specific to their level of physical, mental and emotional development in society.<sup>7</sup> ATACT noted that the Albanian Government has initiated a draft framework law on children’s rights.<sup>8</sup>

5. Human Rights Watch (HRW) referred to the law “on the lustration of the figure of high functionaries of the public administration and elected officials”, passed by the Albanian National Assembly in 2008, which bans from Government employment those who worked during the communist-era (1944-1990) in the secret police, the judiciary or prosecutors’ offices. HRW expressed particular concern at the broad categories of officials who may be affected, as well as the fairness and due process of the proceedings and the severity of the foreseen sanctions. HRW further noted that the opposition Socialist Party, the judges’ association and the Albanian Helsinki Committee had filed complaints, arguing that the law is inconsistent with at least 18 articles of the constitution. HRW further reported that on 16 February 2009, the Constitutional Court decided to suspend the implementation of the law pending its decision on the submitted complaints. It also decided to send the law to the Council of Europe Venice Commission for an *amicus curiae* opinion.<sup>9</sup>

6. Amnesty International (AI) urged Albania to take active steps to amend the Criminal Code and introduce a specific offence of domestic violence.<sup>10</sup>

### **C. Institutional and human rights infrastructure**

7. AI reported that there continues to be a lack of mechanisms and procedures to ensure the effective implementation of the law “On Measures Against Violence in Family Relations”, which entered into force on 1 June 2007, accompanied by the “National Strategy on Gender Equality and the Eradication of Domestic Violence 2007-2010”, published by the Ministry of Labour and Social Affairs.<sup>11</sup> AI urged the Government to ensure that a nation-wide system of recording reports of domestic violence is established; that statistics are regularly made public and this information is used to inform government policy in combating domestic violence; to ensure, in partnership with ministries and municipal authorities, awareness of the provisions in the Domestic Violence Law for the issuance of protection orders; to adopt measures to ensure that the protection order mechanism is more effective; to complete the introduction of all remaining supporting legislation required to implement the Domestic Violence Law, and to make funds available to centres providing legal and other assistance to victims of domestic violence.<sup>12</sup>

### **D. Policy measures**

8. In its third report issued in 2004, the European Commission against Racism and Intolerance (ECRI) of the Council of Europe (CoE) noted that a “National Strategy for the Improvement of Living Conditions of the Roma” that seeks to eliminate discrimination towards Roma has been developed and a Special State Committee on Minorities, mandated to make recommendations to the Government with respect to the promotion of the rights of minorities, has been established. ECRI further reported on a pre-screening procedure that has been put in place in order to determine the status of non-citizens in the country illegally, and ensure that persons who are trafficked, asylum seekers and those seeking repatriation are treated in a manner appropriate to their situation. ECRI also referred to a National Strategy to Combat Trafficking that has also been adopted and indicated that police at all levels have been provided with training in human rights.<sup>13</sup>

## **II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

### **B. Implementation of international human rights obligations**

#### **1. Equality and non discrimination**

9. HRW referred to recent reports documenting human rights violations based on sexual orientation and gender identity in Albania which have been published by the European Commission, the Council of Europe’s Commissioner for Human Rights and The International Lesbian and Gay Association Europe (ILGA).<sup>14</sup> HRW hoped the upcoming Universal Periodic Review will recommend that the Albanian authorities introduce to Parliament a comprehensive, all-inclusive anti-discrimination law, including protection against discrimination on the grounds of sexual orientation and gender identity.<sup>15</sup>

#### **2. Right to life, liberty and security of the person**

10. According to DCI, articles 86 and 87 of the Albanian Criminal Code are incompatible with the definition of torture set out in the UN Convention against Torture and Other Cruel, Degrading or Inhuman Treatment or Punishment.<sup>16</sup>

11. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) indicated that corporal punishment in Albania is lawful in the home. Provisions against violence and abuse in the Criminal Code, the Family Code and the Law on Measures Against Violence in Family Relations are not interpreted as prohibiting all corporal punishment in childrearing.<sup>17</sup> GIEACPC also indicated that corporal punishment is prohibited in schools and in the penal system, but noted that research on juveniles in prisons by the Children's Human Rights Centre of Albania found that corporal punishment was commonly used as a punishment when internal prison rules were broken.<sup>18</sup> There is no explicit prohibition of corporal punishment in alternative care settings, as further noted by GIEACPC.<sup>19</sup>

12. DCI reported that Albanian law mandates that prisoners be separated by sex and age. In reality, overpopulation in prisons and pre-trial detention centres has led to many juveniles being imprisoned with adults. Imprisonment of adults and children together, inadequate sanitation, lack of educational and recreational services, lack of psychologists and social workers, and chronic scarcity of resources are problems throughout the detention system in Albania.<sup>20</sup> Juveniles held in pre-trial detention centres suffer from very poor living conditions and occasionally families are not even made aware of the whereabouts or state of their children.<sup>21</sup>

13. In its 2008 report to the Albanian Government on its visit to Albania, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of the CoE, recommended, *inter alia*, (i) with regard to establishments under the authority of the Ministry of Interior: to redouble efforts to combat ill-treatment by the police; take immediate steps to ensure that persons remanded in custody are always promptly transferred to a pre-trial detention centre or remand prison; review material conditions in all police establishments and; (ii) with regard to establishments under the authority of the Ministry of Justice: to devise and implement a comprehensive regime of out-of-cell activities for remand prisoners in all the pre-trial detention centres visited, as well as at Prison No. 313, and, as appropriate, in other prison establishments in Albania; implement without further delay the provision of outdoor exercise for male adult prisoners at Prison No. 313; take the necessary steps to ensure that all prisoners at Prison No. 313 have acceptable conditions of detention; steps should be taken in all pre-trial detention centres visited to provide more recreational activities to juveniles; take the necessary steps in all prison establishments to ensure a comprehensive medical examination on admission and that all prisoners are provided with information regarding the prevention of transmissible diseases; all medical examinations of prisoners are conducted out of the hearing and –unless the concerned doctor requests otherwise in a particular case – out of the sight of prison officers; individual medical file is opened for each prisoner and upon request, the doctor's conclusions be made available to the prisoner and his/her lawyer; special training be offered to prison doctors on the manner in which medical screening of newly-arrived prisoners is performed and observed injuries recorded.<sup>22</sup>

14. With regard to involuntary hospitalization in psychiatric establishments, the CPT requested information on: confirmation that a judicial review procedure has been carried out in respect of all forensic patients who have been subject to involuntary treatment under Section 46, paragraph 1, of the Penal Code for more than a year, as well as information on the outcome of these procedures; clarification as to whether psychiatric patients always receive a copy of the court decision on involuntary placements; and progress made in preparing draft legislation to amend the Mental Health Act.<sup>23</sup>

15. ATACT indicated that exploitation of children for labour, in particular through begging, has long been an issue in Albania. A majority of these children are not registered at the civil status office and, as a consequence, do not attend school and lack access to public services such as healthcare.

There are no official statistics on the number of children who work and beg in the streets. The Albanian legal framework against child exploitation has not been implemented so far and child protection mechanisms at both institutional and community levels are weak or nonexistent, and in most cases fail to protect children from such risks.<sup>24</sup> ATACT also noted that the registration of a child can be extremely complicated in cases where the legal systems of more than one State have to be applied, as is the case for many Albanian children born and/or living abroad. Moreover, the registration of Roma community/children is still a problematic issue.<sup>25</sup>

### **3. Administration of justice, including impunity and the rule of law**

16. HRW indicated that the Albanian authorities have failed to investigate properly allegations that the Kosovo Liberation Army (KLA) abducted and transferred prisoners to Albania after the 1998-1999 Kosovo war.<sup>26</sup> HRW hoped the upcoming Working Group on Universal Periodic Review will recommend that the Albanian authorities a) to conduct a prompt and independent investigation into allegations that the KLA illegally detained Albanians, Serbs and Roma from Kosovo in detention facilities in Albania, where the captives were beaten, tortured, and in some cases killed; b) cooperate with ongoing investigations into the same allegations by the Council of Europe and the War Crimes Prosecutor of Serbia; c) prosecute anyone in Albania found to be party to such crimes, including those who gave the orders.<sup>27</sup>

17. DCI noted that the Criminal Procedure Code entered into force in 1996, but Albania has still not succeeded in creating separate courts for juveniles.<sup>28</sup> DCI indicated that, largely due to the fact that it does not have a separate juvenile justice system, Albania suffers from a severe lack of specialised judges, prosecutors, police, lawyers, social workers and other officials trained in working with juvenile offenders.<sup>29</sup>

18. DCI further indicated that the 1998 Constitution does not specify an age of legal responsibility, which is a troubling gap given that persons under the age of eighteen years make up 40% of the Albanian population.<sup>30</sup> DCI noted that juvenile offences in Albania increased between 2002 and 2004 before declining slightly in 2005.<sup>31</sup> DCI also noted that there is discrimination in tackling juvenile delinquency, and a disproportionately large number of juveniles apprehended are of Roma, Egyptian, or other ethnic minority origin.<sup>32</sup>

19. According to DCI, article 46 of the Criminal Code mandates the provision of education to children under 14 convicted of any criminal offence, and those under 16 convicted of petty crimes.<sup>33</sup>

### **4. Right to social security and to an adequate standard of living**

20. According to information cited by ATACT, the number of children not registered at the civil registry is still a big concern. Many children in Albania remain unregistered because they were born outside of health centres, and did not obtain the Act of Birth Certificate. Other reasons for the lack of registration are: declaration of false/wrong identity of parents; lack of economic means to follow the court procedure in cases where the deadlines provided by the law have not been respected; limited awareness of parents of the importance of registering their child; and an inappropriate registration scheme which is unable to cope with internal migration and other phenomena.<sup>34</sup>

21. ATACT also made reference to the national law “On status of orphans – Law no.8153 – 31.10.1996”, indicating that children granted the status of orphan are entitled to various supports, such as financial payments, scholarships and free access to other basic services. In reality, the

available economic support is insufficient and there is also poor implementation regarding support services for orphans. After-care services are not available once they leave public residential institutions, and there are no follow-up processes to monitor progress or support educational, employment, or welfare and housing.<sup>35</sup> AI urged Albania to fulfil the rights of orphans to “special protection” throughout their childhood (that is, up to age of 18), as well as their other rights, including to education, and to protection from neglect, ill-treatment and sexual abuse or exploitation, as set out in the Convention on the Rights of the Child.<sup>36</sup>

22. ATACT also reported on the lack of any legal definition for “children at risk of losing parental care”. In the absence of such a definition, it is not possible to properly identify and collect relevant data, and to consequently support families or children at-risk due to poverty.<sup>37</sup>

### **5. Minorities and indigenous peoples**

23. In 2008, the Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) of the CoE noted the following efforts to enhance the implementation of the Framework Convention: establishment of a State Committee on Minorities to formulate recommendations on improvements of minority protection; agreements, signed between central and local authorities, in order to find solutions regarding place names and topographical indications in minority languages. The Advisory Committee also noted that in the field of non-discrimination, an amendment to the Criminal Code was adopted, making racial motivation for criminal offences an aggravating factor. More recently, a law on personal data protection, which provides legal guarantees in relation to future ethnic data collection, was also adopted.<sup>38</sup>

24. The ACFC indicated that more resolute action in the field of minority protection is still required; there are no reliable statistics as yet on the ethnic composition of the country or on the socio-economic position of national minorities; the practice of the mandatory recording of ethnic belonging still appears to occur in respect of some minorities (Greeks and Macedonians), raising problematic issues, in particular with regard to the principle of self-identification; territorial restrictions *de facto* restricting access to minority rights outside “minority zones”. This is particularly the case with regard to the Greeks and the Macedonians, as well as the Serbs and Montenegrins, whose requests for minority language education are still pending. Persons belonging to the so-called “ethno-linguistic” minorities, the Roma and the Vlachs/Aromanians, face particular difficulties to maintain their cultural and linguistic identity and, as persons belonging to “ethno-linguistic” minorities, are subject to different treatment.<sup>39</sup>

25. The ACFC indicated that further dialogue is needed between the authorities and the Egyptian and Bosnian communities to accommodate their protection needs adequately. The Albanian legislative framework needs to be completed and made sufficiently clear, *inter alia*, with regard to minority language use in relations with administrative authorities, place names and topographical indications and broadcasting in minority language. The ACFC noted that implementation of the National Strategy on Roma is regrettably slow and lacks overall adequate State funding, effective involvement of local authorities, proper coordination and evaluation tools. Lack of civil registration of the Roma is still reported to be widespread in Albania, has negative repercussions for their access to social and other rights, and increases the risk of their children becoming victims of trafficking. Participation of persons belonging to national minorities in public administration is still reported to be low. While the authorities appear to have taken steps to recruit minorities in the police, efforts remain to be made to promote greater inclusion of national minorities in the public service. The institutional framework for minority participation in public affairs needs to be revised: a better articulation of minority interests

should be supported, promoting minority self-organisation, and a governmental sector that consults national minorities on issues affecting them, should have decision-making powers.<sup>40</sup>

26. In its 2004 report, ECRI called, inter alia, for a wide range of measures aimed at improving the participation and representation of members of some minority groups in political decision-making bodies and political processes at national and local level. ECRI recommended that measures be taken to ensure the full inclusion of Roma and Egyptians in all aspects of social, economic and political life; urged the authorities to take further measures to combat the trafficking of Roma and Egyptian children. It recommended ensuring that Roma are consistently involved in all aspects of the implementation and evaluation of the “National Strategy for the Improvement of Living Conditions of the Roma” at national and local level. In addition, ECRI recommended consideration of the adoption of a specific National Strategy aimed at improving the situation of Egyptians in Albania; the collection of data enabling the situation of different minority groups in the country to be assessed; and the introduction of further measures to ensure the thorough investigation of allegations of ill-treatment by police and to ensure that the rights of asylum seekers and migrants continue to be guaranteed.<sup>41</sup>

### **III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS**

N/A

### **IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS**

N/A

### **V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE**

N/A

*Notes*

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<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org). (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

*Civil society*

AI	Amnesty International* London, United Kingdom
ATACT	The Albanian Coalition ‘All Together Against Child Trafficking’ (report prepared by the BKTF in collaboration with ASOS Children’s Village), Albania
DCI	Defence for Children International, Geneva, Switzerland
GIEACPC	Global Initiative to End All Corporal Punishment of Children
HRW	Human Rights Watch*, New York, USA

*Regional intergovernmental organization*

COE	Council of Europe, Strasbourg, France
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1. CPT: Report of the Albanian Government on the visit to Albania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 16 to 20 June 2008 (CPT/Inf (2009)6)
2. CPT: Report of the Albanian Government on the visit to Albania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 May to 3 June 2005 (CPT/Inf (2006)24).
3. CPT: Response of the Albanian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Albania from 23 May to 3 June 2005 (CPT/Inf (2006)5).
4. ECRI: European Commission against Racism and Intolerance (ECRI), Third report on Albania, adopted on 17 December 2004 (CRI(2005)23).
5. Conclusions 2008 (Albania). European Committee of Social Rights, European Social Charter (revised), November 2008.
6. CMN: Committee of Ministers (CMN), Council of Europe, Resolution ResCMN (2005)2 on the implementation of the Framework Convention for the Protection of National Minorities by Albania, adopted on 11 May 2005.
7. ACFC: Second Opinion on Albania, adopted on 29 May 2008 by the Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC/OP/II(2008)003).

<sup>2</sup> DCI, page 1.

<sup>3</sup> DCI, page 1.

<sup>4</sup> ATACT, page 1.

<sup>5</sup> DCI, pages 1-2.

<sup>6</sup> DCI, page 1.

<sup>7</sup> DCI, page 5.

<sup>8</sup> ATACT, page 1.

<sup>9</sup> HRW, page 4.

<sup>10</sup> AI, page 8.

<sup>11</sup> AI, pages 3-4.

<sup>12</sup> AI, page 8.

<sup>13</sup> ECRI, Executive Summary.

<sup>14</sup> HRW, pages 4-5.

<sup>15</sup> HRW, pages 4-5.

<sup>16</sup> DCI, page 2.



- <sup>17</sup> GIEACPC, page 2.
- <sup>18</sup> GIEACPC, page 2.
- <sup>19</sup> GIEACPC, page 2.
- <sup>20</sup> DCI, pages 3-4.
- <sup>21</sup> DCI, pages 3-4.
- <sup>22</sup> CPT Appendix, pages 26 to 30.
- <sup>23</sup> CPT Appendix, page 31.
- <sup>24</sup> ATACT, page 1.
- <sup>25</sup> ATACT, pages 2-3.
- <sup>26</sup> HRW, page 1.
- <sup>27</sup> HRW, page 5.
- <sup>28</sup> DCI, page 2.
- <sup>29</sup> DCI, page 4.
- <sup>30</sup> DCI, page 2.
- <sup>31</sup> DCI, page 2.
- <sup>32</sup> DCI, page 2.
- <sup>33</sup> DCI, page 4.
- <sup>34</sup> ATACT, page 2.
- <sup>35</sup> ATACT, pages 3-4. See also AI submission.
- <sup>36</sup> AI, pages 5-7.
- <sup>37</sup> ATACT, page 4. See also AI submission.
- <sup>38</sup> ACFC Second Opinion, Executive Summary. See also CMN resolution.
- <sup>39</sup> ACFC Second Opinion, Executive Summary. See also CMN resolution.
- <sup>40</sup> ACFC Second Opinion, Executive Summary. See also CMN resolution.
- <sup>41</sup> ECRI, Executive Summary.

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