

Universal Periodic Review for Albania

Submission by the UN Country Team (main text)

Tirana
13 September, 2013

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The following submission is made by members of the United Nations Country Team¹ in Albania, currently engaged in a Programme of Cooperation with the Government of Albania under the “Delivering as One” framework. The submission provides information on the promotion and protection of human rights in Albania relating to the mandates of the various agencies and programmes comprising the UNCT. As such, the compilation does not attempt a comprehensive overview of the human rights situation in Albania.

I. Human rights frameworks and mechanisms

Albania’s legal and institutional frameworks

An extensive description of Albania’s constitutional and legislative framework addressing issues of human rights protection is provided in Albania’s Common Core Document and its Annex updated in March 2012 and accessible at: <http://www2.ohchr.org/english/bodies/coredocs.htm>. Chapter 3 of the Core Document describes the country’s institutional infrastructure and respective policy measures intended to strengthen the human rights dimension in national policies and their implementation practices.

In general, Albania should be commended for having strengthened its institutional infrastructure for human rights protection in the past few years, with the role of such institutions as, for example, the Commissioner on the Protection from Discrimination² and Ombudsman (People’s Advocate) becoming more vocal and influential, initiating inspections and revealing situations of discrimination (as it was the case in the most recent forced eviction of Roma families from one of their settlements in Tirana in July 2013 due to planned construction works). A lot of technical capacity building and advocacy efforts supported and should continue for the gradual maturing of these institutions.

Also, a number of national councils, state and inter-ministerial committees exist to oversee national action in support of specific vulnerable population groups, such as Roma and Egyptian minorities, people with disabilities, women and children, migrants, victims of trafficking and/or domestic violence, etc. However, none of these bodies have been politically active and technically strong enough to ensure tangible and sustainable results of corresponding strategies and action plans so far. There has not been sufficient pressure coming neither from the Parliament nor from the society, as Albania’s public awareness and demand for human rights respect and active protection is still to be formed.

With the Parliamentary elections held in June 2013 and formation of the new Government, Albania has a chance to revisit its national development priorities (to be shaped by a new National Strategy for Development and Integration until 2020, accompanied by a number of sector-specific and cross-sectoral strategies) through the lens of human rights and democratic principles, to benefit the Albanian society and facilitate the country’s EU accession.

UNCT recommendation:

To continue fostering the culture of democratic governance, the Government of Albania should take concrete measures to activate the role of the Parliament in overseeing implementation of the country’s obligations under various human rights instruments, ensure timely and wide dissemination of recommendations issued upon revision of national reports in Albanian language and actively promote citizens’ larger utilization of existing human rights protection and complaints mechanisms.

Cooperation with treaty bodies

Overall, Albania is respectful of its reporting and cooperation obligations with international treaty bodies, although the timeliness and quality of national reports varies. The presence of high-level public officials is not always secured during hearings (as it was the case with the latest review of the national report to the CRC Committee in 2012), thus creating an impression of a somewhat formalistic approach by the Government. Follow up on recommendations issued on national reports is weak, with a high number of recommendations remaining un-addressed from one

¹ Resident Agencies, Funds and Programmes participating in the “Delivering as One” UN Initiative in 2012-2016 are: ILO, IOM, UNAIDS, UNDP, UNFPA, UNHCR, UNICEF, UNODC, UN Women and WHO. Participating non-resident agencies are: FAO, IAEA, IFAD, ITC, UNCTAD, UNECE, UNEP, UNESCO, UNIDO and UNV.

² Albania’s Law on Protection from Discrimination (Law no. 10221, dated 4 February 2010) seeks to guarantee protection from discrimination on various grounds. The non-exhaustive list is even wider than the one provided in the Albanian Constitution and includes sex, gender identity, sexual orientation, pregnancy, parental responsibility etc. alongside ethnic, racial and disability grounds of discrimination. The Commissioner for Protection from Discrimination is mandated to start cases even without any particular complaint and in addition to recommendations it may also order abusers to pay fines.

reporting cycle to another. The absence of national statistics on many aspects of social policies prevents the analysis of trends and limits many statements supported by either random facts or just anecdotal evidence. Many reports are over-filled by the description of specific activities or projects (often led by donors) rather than providing critical analysis of issues and public authorities' responses (or lack thereof) to these. The participation of civil society in the preparation of national reports and follow up on their recommendations is not sought by the Government actively or systematically enough and remains dependant in many instances on international donors' initiative. There is no robust practice of translating in Albanian and disseminating the concluding observations and recommendations to public officials, parliamentarians and public at large, including dissemination through internet.

UNCT recommendation:

The Government of Albania should emphasize the importance of quality reporting as a responsibility of public officials, encourage their collaboration with INSTAT, statistical departments of line ministries, CSOs and academia, ensure largest possible dissemination of concluding observations in Albanian language (including via internet) and enhance mechanisms for regular and effective follow-up on issued recommendations.

II. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

Gender inequalities

More detailed description of the situation is provided in the Annex.

Since 2006, there has been a significant increase in the adoption of legislation and by-laws on gender equality, anti-discrimination, and domestic violence. However, Albanian legislation still contains provisions that fail to address gender inequalities or further maintain these inequalities. Gender gaps have been reduced in health and education but remain in many other areas. Data indicate that women still face domestic violence, significant under-representation in the labour market and the economy, and in public and political life³. In general, implementation of gender-sensitive commitments is weak and has to be boosted in all sectors.

Women continue to be under-represented in the formal labour market and, most probably, over-represented in the informal economy. The wage gap between women and men is traceable, while overall the market remains deeply segregated along gender lines as women do "women's jobs" and men do "men's jobs". Women form the majority of those employed in the agriculture – almost exclusively as unpaid family workers, not considered in legal property issues, disconnected from modern technologies and development opportunities.

Some initial efforts to ensure gender mainstreaming into central and local policies have been made, but not yet sufficient. The content of policy decisions is not gender-sensitive enough and the number of women actively involved in policy making at all levels is far below quotas established in the Gender Equality Law (2008).

UNCT recommendation:

The Government of Albania needs to move away from sporadic interventions but engage in a comprehensive reform to empower Albanian women, based on solid statistical and qualitative evidence describing the performance of the informal economy and socio-cultural factors affecting women's life choices.

More information and data should be generated on the determinants of women's entry and stay in the labor market in Albania, through analysis of time use and labor market surveys in order to inform gender-aware labor policies.

Equal pay for work of equal value policies should be enforced in conjunction with policies similar to those of affirmative actions promoting the hiring of women in non-traditional professions;

A gender-aware VET reform needs to improve women's access in it, by tackling gender segregation in the vocational and technical education system. The educational system as a whole should be reformed to

³ "National Report on the Status of Women and Gender Equality in Albania", UN Women 2011. <http://www.un.org.al/editor-files/file/news/National%20Report-Status%20of%20Women%20and%20Gender%20Equality%20ENG.pdf>

provide career orientation to students related to the skills required in the labor market. Higher focus is needed on policies and strategies that target specifically women-led businesses. Sex-disaggregated data should be generated on women-led businesses in order to formulate aspects of policies for women entrepreneurs.

Some Albanian laws still need to undergo changes with a view to repeal gender discriminatory provisions, better protect women's rights and thus fully reflect international standards. It is recommended that Albania develops binding instructions for mainstreaming gender, including proper financial resources to implement laws and other sub-legal acts, to provide mandatory guidance to policy and legislation-making specialists on mainstreaming gender into their normative and policy-making work and to strengthen inter-ministerial collaboration and coordination in the implementation of the obligations that derive from the national legislation

Recommendation of the CEDAW Committee on the effective enforcement of gender equality legislation must be respected, especially enforcement of provisions related to adherence to the 30% quota in senior level positions at public administration, academic and research institutions.

It is recommended that Albania goes towards replacing fines with stronger sanctions, while progressively increasing the quota requirements with special gender safeguards, during its future reviews of the Electoral Code. It is further recommended that technical and human resources are provided to CEC to generate sex disaggregated data required under the national set of harmonised gender indicators.

Situation of People Living with HIV/AIDS (PLWHA)

Albania remains a low prevalence country but the cumulative HIV/AIDS caseload is increasing. In the past few years more than 50% of newly diagnosed cases would have already developed AIDS. At the same time the number of visitors coming to Voluntary Counselling and Testing (VCT) centres (now open in all 12 prefectures) to conduct tests is extremely low. The epidemiologic surveillance data shows the infection being spread among the general population, with more than 80% of infections occurring through heterosexual contacts. Alarming, services to prevent mother-to-child transmission of HIV/AIDS (MTCT) have not been integrated in the health system.

The current Law on Prevention and Control of HIV was approved in July 2008 (Nr.9952, dated 14.7.2008) and foresees criminal responsibility for HIV transmission in its Article 9. The law does not specify further on this issue and so far there has been no cases prosecuted. No orders or sub-laws have been developed on this issue.

Support to PLWHA has been formalised through an Order of Ministers (Nr.113, dated 17.02.2011) developed by the Ministry of Health and the Ministry of Education. The Order formally stresses the principle of PLWHA social integration and is focused on awareness raising, counselling and support measures for this category of the population to be implemented in education, social residential and treatment facilities and institutions (including prisons). Testing and counselling in relation to HIV, as well as AIDS treatment, are declared free of charge. However, procurement of ARV drugs was dependant on GFATM funding (currently depleted) and not included in the Health Insurance Institute drug list, which poses questions about timely supply of needed medication in the future.

Albania's Penal Code envisages penalization of medical staff misconduct in relation to HIV issues. At the same time the way the Code is treating injecting drug users and sex workers makes the HIV awareness and prevention work difficult among these groups. Provision of social support to PLWHA (including children) is officially the responsibility of local government units (LGUs), but in reality the capacities of municipalities and communes to meet this obligation are virtually non-existent. There are concerns that children with HIV/AIDS may face problems with access to the mainstream education system although conclusive data could not be found. The inability to track and monitor migrants means that many people who could be affected go undetected.

UNCT recommendations:

National legislation penalizing for HIV transmission should be revisited and brought in line with international human rights norms. Public awareness needs to be raised systematically to combat stigma and facilitate early testing and prevention work. MTCT prevention should be incorporated in the national public health system. Ongoing public health finance reform has to consider the issue of ARV drugs supply. National social care system reform should embrace specific needs of PLWHA (including children) as part of the new functionality of social workers / "case managers".

Situation of Lesbian, Gay, Bi-sexual and Transgender (LGBT) populations

The level of acceptance and tolerance that population surveys have evidenced in Albania is low⁴, but positive shifts are happening, albeit slowly. Particularly since the adoption of the Law on Protection from Discrimination, LGBT rights are more present in the media, public discussion, training efforts and institutional structures. The Department of Equal Opportunities at MoLSAEO was tasked with addressing through policy measures issues that the LGBT community typically faces. Albanian State Police developed an Equality and Diversity Policy and established a full-time Equality and Diversity Specialist. An inter-ministerial working group recently developed an Action Plan to address LGBT issues. The Commissioner for Protection from Discrimination issued recommendations and condemned hatred language and inappropriate statements of even high public officials against the LGBT community.

UNCT recommendations:

Public awareness campaigns should continue to familiarise Albanian citizens with the philosophy of diversity. Training and sensitization of civil servants and particularly of those public employees that are in close contact with citizens, such as doctors, nurses, police, teachers, social administrators etc., is recommended.

B. Right to life, liberty and security of the person

Sex-selective abortions

The phenomenon of sex-selective abortion appears to be growing during the recent years in Albania, bringing the ratio of male/female births to 111.7 to 100, for the period of 2008 to 2010 (compared to the global average of 105/100). If the trend continues, it may disrupt the natural female/male balance in the future and cause various social problems⁵. The desire to have at least one male heir in the family is thought to be the leading cause of intentional female infants' abortions. In the Balkans region Albania takes first place on this indicator⁶. A working group has been established by the Ministry of Health to examine the issue further.

Domestic and gender-based violence

More than half (56%) of Albanian women (aged 15-49) have experienced at least one form of domestic violence in their lifetime. Evidence shows that the incidence of gender-based and domestic violence remains high, and in the last couple of years an increase in the number of lethal cases is noted⁷, including cases well known to police and authorities, while the survivors were under protection from a court-issued protection order. Women with no or low level of education, divorced women and rural women have the highest percentage among victims of physical violence. Most women (90%) have sought help from their family and only 10% have tried to seek help through professionals. The majority state that they do not report the violence because they do not believe anything would change or that they have fear of being judged or ridiculed.

The GoA has made progress in implementing measures against Gender-Based Violence and Domestic Violence (GBV and DV): adoption of legal amendments from 2006 up to May 2013⁸, establishment of institutional structures under the philosophy of coordinating community response against violence at the central and local levels, as well as services for victims/survivors of violence. However, there is still a lot to do mainly to strengthen the rule of law, improve access to general and dedicated services to victims/survivors of violence, and strengthen and intensify measures to prevent violence by means of awareness raising, education and social inclusion.

⁴ Albania Civil Society Index, 2010, UNDP and IDM

⁵ "The unbalanced ratio between the sexes at birth in Albania". World Vision and UNFPA.

⁶ Source: <http://beta.wvi.org/albania/article/they-wanted-kill-my-baby-only-because-it-girl>.

⁷ In late July 2013 three women were murdered by their husbands within just three days and more cases are reported frequently in the news.

⁸ adopted Law No. 9669 of 18th December 2006 "On Measures against Violence in Family Relations" and amended it in 2010; passed Law No. 9970 of 24th July 2008 "On Gender Equality in the Society"; set up in 24 (twenty-four) municipalities the Coordinated Community Response against Domestic Violence (CCR)- the Referral Mechanism, according to CoM Decision No. 334 of 17th February 2011; drafted the first National Strategy for Gender Equality and Domestic Violence (2007-2010) and evaluated it; opened the first national state shelter for survivors of domestic violence¹⁹; approved the National Strategy on Gender Equality and Reduction of the Gender Based Violence and Domestic Violence 2011-2015²⁰ and cost its Action Plan; changed the Criminal Code by adding domestic violence as a crime.

The National Strategy on Gender Equality and Domestic Violence (introduced in 2007 then revised and extended till 2015) facilitated the preparation and adoption of the national legislation addressing the issue of family-based violence, including guidance on the mechanism of coordinated action between various duty-bearers. The most recent amendments to the Penal Code categorised domestic violence as a criminal offense, included special provisions to address impunity and harshened the sanctions in cases of violence against women, children and other family members. Mechanisms of Coordination and Referral against Domestic Violence have been introduced in several municipalities; a shelter for women survivors of domestic violence in Tirana offers a model of modern services, although on a national scale opportunities for social reintegration of survivors (including training, education, housing and economic opportunities) are still minimal.

GoA's signed the Istanbul Convention in December 2011 and the country ratified the convention in February 2013. In particular, the GoA, by ratifying the CoE Convention, agreed to have in place minimum services that respond to the twelve principles.⁹ GoA, in cooperation with international and national organizations, in its effort to prevent and combat domestic violence and gender-based violence, has endorsed a strategic policy and legal framework that comply with the CoE Convention approach.

Trafficking in human beings

In line with recommendations of the previous UPR report, namely, number 59, 61, 62, 63, 64, 65, Albania has made good progress in strengthening legislation and institutional framework for preventing trafficking in human beings (THB), prosecuting perpetrators and protecting Victims of Trafficking (VOT). In 2011, Albania developed a new National Action Plan on the on the Fight against Trafficking in Human Beings and in Children for the period 2011-2013. The action plan includes four areas of intervention, namely, *Investigation and Prosecution, Support and Protection for Victims of Trafficking (VOTs), Prevention of Trafficking and re-Trafficking and Coordination*. At present, Albania is developing a cross sectional Strategy on the Fight against Organized Crime, Trafficking and Terrorism for the period 2013-2020 which is expected to complement the specific provisions of the National Referral Mechanism for Identification, Referral and Assistance of VOTs (NRM). The latter, initially developed in 2005, was renewed in 2012¹⁰ to enable participation of more actors from the central government and civil society active in the assistance to VOTs. The NRM agreement and its Standard Operating Procedures (SOPs)¹¹ regulate the roles and responsibilities of all actors involved in the identification, referral, protection, and assistance to victims/potential victims of trafficking in Albania.

The Penal Code of Albania was amended in 2013 by Law no. 144. The new provisions recognize “internal trafficking” in human beings. In addition, the benefits or use of the services provided by trafficked persons, or exploitation from trafficking are now punishable by the law. The law recognizes that all forms of exploitation of children including labour and begging are a criminal offense punishable by the law, yet it does not recognize forced child labour exploitation as a form of trafficking in human beings, despite the fact that Albania has ratified the Palermo Protocol, which clearly defines this form of exploitation as trafficking in human beings.. In particular, Article 124/b “*Maltreatment of the minor*”¹², punishes all situations in which the minor is forced to work to secure money for the family or to beg, with imprisonment from two to five years (initially up to four years), and in case of serious harm of minor health or death, with imprisonment from ten to twenty years. Article 128/b ‘*Trafficking of minors*’¹³ envisions a punishment with imprisonment from ten to twenty years (initially from seven to fifteen years and with a fine) in the case of trafficking of the minor. In addition, Article 114 envisions a punishment for exploitation through prostitution, with imprisonment from two to five years, and in cases when such action involves minors, with imprisonment from seven to fifteen years¹⁴.

Despite very positive changes in criminal legislation, the amended Penal Code still fails to abolish penalization of prostitutes, a necessary step to increase protection of trafficking and gender-based violence victims, as pointed out by the CEDAW committee.

⁹ The CoE Convention is based on the principles of the 3Ps: prevention, protection of victims, and prosecution of offenders.

¹⁰ Revised and re-signed on 15.06.2012.

¹¹ Adopted by Council of Ministers Decision No. 582, date 27.07.2011. Available at <http://moi.gov.al/wp-content/uploads/2012/03/Standard-Operating-Procedures-for-the-Identification-and-Referral-of-Victims-of-trafficking-and-Potential-Victims-of-trafficking-2011-Download-PDF.pdf>

¹² Article 2, added by Law no.9859, date 21.1.2008, and changed by law No. 23/2012.

¹³ Changed by Law No 9188, date 12.2.2004, Article 3; added by Law 9859, date 21.1.2008, Article 3.

¹⁴ While Albania is taking a rather conservative stand on the issue of de-criminalizing prostitution, fearing that it would be a step towards legalisation, in fact it fails to protect victims of prostitution and internal trafficking from rape, exploitation and other forms of abuse (as also pointed out by the CEDAW Committee).

Blood feuds

The phenomenon of blood feuds resulting from the application of customary law known as “Kanun” in Albania (especially, in its northern part) remains an issue of concern. Cases of child murders and the confinement of children for fear of being killed are being reported, although not as frequently as in the past; estimates put the number of affected children (in confinement) at 900, but overall there is no reliable statistics on the subject. The latest lethal case was registered in May 2012, when a 14-year-old girl was killed in a blood feud.

The women of families in a blood feud are not considered part of any of the vulnerable groups targeted in strategic documents, such as National Strategy for Gender Equality and Reduction of Gender-based Violence and Domestic Violence, National Strategy of Social Inclusion, National Strategy of Development and Integration, etc.¹⁵. The argument that this group of women is included in categories such as “Girls and women in need” or “Women as head of the household” does not take into account the specific characteristics of and risks faced by this group of women and girls. Hence, no steps are envisaged to address their special needs. There is insufficient information on the types of services that the women of families involved in blood feuds are entitled to receive in order to improve their living conditions.

UNCT recommendations:

The Government should not delay any further its reaction to the phenomenon of sex-selective abortions and must come up with a comprehensive analysis and recommendations.

The upward trend in domestic and gender-based violence must be reverted through effective cross-sectoral policies and their proper implementation. Existing (piloted) community-based services for violence identification, referral and protection of victims should be unified as part of a reformed national social care system, staffed with professional social care workers. A national toll-free telephone helpline should be established. The emergency needs of violence survivors must be accommodated by shelters even when there is no protection order from the court. Perpetrators must be held accountable, particularly in cases of repeated violations, with a view to prevent deaths due to domestic violence. Date rape and abuse should also be addressed by legislation on domestic violence.

In line with the CoE Convention the national agenda against GBV&DV urges for the cooperation among different actors (public and non-public) and has established inter-institutional or stakeholders coordinating mechanisms at the central or local levels. It is recommended that existing institutional framework and policy making bodies strengthen their capacities and technical knowledge so that they respond to GBV&DV through policies and measures as per the CoE Convention requirements.

The principles and the philosophy of the current coordinating mechanisms dealing with GBV and DV cases at the local level fulfill the requirements of the CoE Convention. However, the capacity and vitality of these mechanisms have to be assessed and evaluated so that their competences and tasks comply more to the role and responsibility prescribed in the CoE Convention.

At the local level, the Referral Mechanism (which is the Coordinated Community Response (CCR) model), should be extended to all municipalities and communes in the country.¹⁶

Given the short time span of data collection on gender based violence in administrative ways, and the complications of the process for standardization and dissemination, it is necessary for Albania to invest in increasing technical capacities of units among central and local administrations responsible for information gathering and statistical processing.

In order to comply with the requirements of the CoE Convention on the issue of obtaining information and data on gender based violence, Albania has to establish a periodic national representative sample survey of about 3,500 women, to set up an electronic portal of data and information from the administrative sources, also to be used to police makers.

In order to provide specialized health care for victims of GBV&DV, continuous training is needed for professionals of the health care sector offering support and services to victims of GBV&DV. Technical expertise should be used to develop protocols of treatment and referral of GBV&DV cases in the health sector, in hospitals and primary health centers. These would improve the current situation, the quality and adequacy of the care provided to women victims/survivors.

¹⁵ “Effects of Blood Feud on Women and Girls in Albania: How they can contribute to addressing the problem” Albanian Institute of Public Affairs, Tirana, May 2013. A study commissioned by UN Women.

¹⁶ According to CoM Decision No. 334 of 17th February 2011 “For the Establishment and Functioning of the Referral Mechanism for the Domestic Violence Cases”. In Albania there are 65 municipalities and 308 communes (see http://www.lgpa.al/files/Overview%20of%20LG%20in%20Albania%20for%20Borrowing%20Purposes_ALB.pdf).

Post rape care has to be included in protocols dealing with GBV&DV cases. This would imply that emergency rooms become staffed with clock-round specialized medical personnel who can undertake the needed examination. In addition, in both emergency rooms and police stations, leaflets with information about counseling, legal support services should be made easily accessible and available to victims/survivors of sexual assault.

The CoE Convention defines and criminalizes various forms of violence against women and domestic violence. In order to implement the Convention, the GoA will have to amend its legal framework and introduce a number of new offenses when they do not already exist.¹⁷

The Government may consider streamlining various legal provisions addressing trafficking in human beings under one single law; implementation of existing regulations should be reinforced and data reporting systems strengthened. Victims of trafficking must be provided with sheltering and support, as part of the national social care system. It is recommended that Albania amends its criminal legislation to shift the criminal responsibility from the person being exploited to the person who solicits prostitution, in order to counter internal trafficking, as well as other forms of gender-based violence.

Children and women affected by blood feuds must be included in national policies as a special vulnerable category and extended necessary protection and support. As recommended by the CRC Committee and the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/17/28/Add.3 para. 70, 2011) public authorities and community leaders should facilitate reconciliation of families, investigate cases of blood feuds and ensure proper prosecution of perpetrators.

C. Administration of justice, including impunity, and the rule of law

Juvenile Justice

Since the formal establishment of Albania's Probation Service in 2009, utilization of measures alternative to detention for juveniles has been increasing; today about 60% of cases involving juveniles are given alternative sentences (fines, community work or suspended execution of the sentence), while in 2008 almost 90% of cases would end up in jail. A new penitentiary regime model for juveniles is established in the Kavaja facility, which involves a combination of education, vocational training, psycho-social counselling and legal support for young people; it facilitates their further re-integration into society and contributes to reduction of recidivism. As of 2012, teachers are assigned to all penitentiary facilities where juveniles are detained, to provide continuous education; arranging proper logistics, availability of textbooks and other necessary materials will be the task to continue working on. The new revision of the Code of Criminal Procedure suggests a special chapter on juveniles not only in *conflict* but in *contact* with the law, thus paving the way for addressing particular needs of victims and witnesses of crime in a child-friendly manner consistent with modern justice for children standards.

These measures are being taken against the background of increasing juvenile delinquency; today Albania registers almost 3 times more of juvenile offences per year than in the first half of 2000s (about 800 cases in 2012), while comprehensive national policies to offer young people better chances in life, proper education and job opportunities that would prevent them from slipping into conflict with the law are still to be developed. Investigation and sentencing times are still unacceptably long and result in up to 65% of juveniles actually completing their sentence while being in pre-detention; in the meantime physical conditions and treatment of young people in pre-trial detention (including, in the police stations) in many places are far from the required standard. Pre-trial detention itself as a measure could be used less frequently - currently, it is applied to 1/3 of convicted cases while 80% of pre-trial detainees do not represent a particular danger to the society or believed to put the investigation evidence at risk.

Drug abuse issues

As regards the anti-drug legislation, drug abuse is not punishable by law in Albania. Article 283 of the Penal Code excludes from criminalization the possession and cultivation of narcotic drugs and psychotropic substances "for personal use and in small doses". Jurisprudence appears to require that forensic examination of the suspect as well as urine sample analysis be performed for a decision on whether the small quantity seized is for personal use or not. Furthermore, jurisprudence seems to consider that "small doses" means one daily dose. As a consequence, article 283 could serve for the conviction of illicit drug consumers caught with more than one personal daily dose, leading to imprisonment from five to ten years. In practice, there are several cases where alternatives to imprisonment could not be offered to persons sentenced to five years of imprisonment.

¹⁷ These may include: psychological and physical violence; sexual violence and rape; stalking; female genital mutilation; forced marriage; forced abortion; forced sterilization; and sexual harassment. Not all are yet criminalized in Albania.

Still in this area, there is no regulatory framework in general for drug dependence treatment, including about its relationship with the application of criminal justice penalties, even if its importance is recognized by the Albanese Government in its recently approved National Anti-Drug Strategy 2012-2016.

The country has programmes for opiate substitution treatment and needle syringe distribution, but there seems to be no regulatory framework. Despite the fact that there is the clear understanding within the Ministry of Interior that those measures are not in contravention of the national legal system, article 283/B (“facilitating drugs intake and use”) could be used against health professionals engaged in those activities. Further legislative measures regulating such activities, or their explicit exclusion from the scope of article 283/B would be important.

Likewise, an overview of the situation as regards implementation of OST in prisons shows that:

- Methadone treatment on a long term basis is insufficiently provided in the general community, and not covered by medical insurance. Based on an Agreement signed with the Ministry of Justice, “Aksion Plus” NGO offers methadone in prisons. The sustainability of “Aksion Plus” work beyond 31 March 2014 is not secured.
- Access to OST in prison is also relying on the “Aksion Plus” NGO (mostly in pre-trial centres). It ensures continuity of care, but access to treatment can be limited and starting OST in prison is rare.
- Condoms for private visits are available in prisons (offered by NGOs). They are available in conjugal visit rooms, but not in pre-trial centres.
- No needles and syringes, drug use paraphernalia or safe tattooing materials are available.
- HIV and hepatitis testing in prison are provided on request. The number of people tested during incarceration was reported to be low.
- Tuberculosis screening is needed.
- Access to naloxone-based overdose prevention service in prison.

UNCT recommendations:

There is a need for separating the different forms of criminal conduct into different provisions, to better respect the principle of legality and of the proportionality of penalties. Further legislative measures regulating syringe distribution activities or their explicit exclusion from the scope of article 283/B will be important.

State entities should provide more funding to information, counselling, peer education, HIV, syphilis, hepatitis B and C testing, condoms and training of medical and psycho-social staff. The State should become more active in the area of harm reduction in prison settings and make financial resources and professional staff available.

Free legal assistance for vulnerable groups

Court fees and tariffs are often the barriers preventing justice to happen for the most vulnerable population categories, including women. As part of the response, a Law on Legal Aid¹⁸ was adopted in 2008 with the objective of increasing access to justice for vulnerable groups. In accordance with the Law, a State Commission on Legal Aid (KSHNJ - SCLA) was established and a number of sub-legal acts approved in 2011 and 2012¹⁹. Despite these steps, the number of citizens that have been able to benefit from free legal assistance has remained very low thus imposing the need to make the system more effective.

UNCT recommendations:

In the area of juvenile justice, the length of pre-trial detention must be drastically reduced, utilization of measures alternative to detention in cases of non-severe law violations expanded and education opportunities offered to young people in detention. Protection and social rehabilitation support should be provided to all children in contact with the law (including victims and witnesses of crime). Public financing

¹⁸ Law No. 10039, dated 22.12.2008.

¹⁹ Decision No. 1, dated 25.06.2011, "On the priorities for offering legal aid in 2011 and 2012", Decision No. 2, dated 25.06.2011, "On the rules of appointment of attorneys, lawyers offices and NGOs that would provide legal assistance", Decision No. 3, dated 06.25.2011 "On approval of the application form for the benefit of legal aid and the documents that must be attached to the application template", Decision No. 4, dated 25.06.2011, "On determining the amount of compensation for attorneys provide primary and secondary legal aid" Decision No. 5, dated 25.06.2011, "On the evaluation criteria, forms and quality control standards in providing legal aid".

mechanisms and budgetary allocations need to be streamlined to support interventions currently relying heavily on donor assistance.

It is recommended that the State Commission on Legal Aid expand the number of attorneys, attorneys' offices and NGOs contracted by the state for providing legal support to its citizens, as well as to expand the geographic areas covered by the contractors that provide legal aid²⁰. It is also important that entities contracted by SCLA ensure high quality service for the beneficiaries. Awareness among citizens should be raised about how they could benefit from free legal services. The law on free legal assistance must be enforced and supported by actual budgetary disbursements.

D. Right to privacy, marriage and family life

The Government of Albania should be commended for steps taken in the direction of establishing a family-oriented system for children left without parental care; so far 80 children have been placed in foster care, with financial allowances to foster families introduced by new national legislation since January 2012. At the same time about 260 children continue to live in public residential centres and 400 - in non-public residential centres. The situation of graduates from residential care facilities is often very difficult due to the lack of housing, sufficient education and job.

UNCT recommendation:

The Government's plans for gradual de-institutionalization of care system and expansion of family-based solutions must be sustained and implemented in full.

E. Freedom of movement

To avoid repetition, information on freedom of movement is reflected in Section N. Migrants, Refugees and Asylum Seekers.

F. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

Basic freedoms and rights under this category are secured in Albania by law. However, the level of citizens' trust in the value of expressing their own views and opinions seems to be very low, due to a very high politicization of almost every aspect of life, with decisions and outcomes pre-determined by the existing balance of power between political parties.

Freedoms of expression and the press are guaranteed under the Article 22 of the Albanian Constitution (1998) and Article 23 assures the right to information. Self-regulation mechanism exists through entities such as the Association of Albanian Journalists, League of Professional Journalists, Albanian Press Council, and the Albanian Media Club (AMC).

UNCT recommendation:

Albania is encouraged to decriminalize defamation and place it under the civil code in accordance to the international standards.

G. Right to work and to just and favorable conditions of work

Some additional details are provided in the Annex.

Albania has ratified 51 out of 189 ILO conventions, with 44 conventions being in force. The latter comprises 8 Fundamental Conventions (## 29, 87, 98, 100, 105, 111, 138, 182) on such subjects as: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and

²⁰ TLAS Report on Legal Assistance in Albania, with the support of the Civil Rights Defenders, Tirana, 2012, p 49. This report is available on the web: <http://tlas.org.al>.

occupation. The ratification of these legally binding international treaties helps the Government and the Social Partners in their commitment to implement the Decent Work Agenda in the country.

In the reporting period Albania adopted the Document of National Strategic Policies on Occupational Safety and Health (OSH) for 2009–2013 and the respective action plan (June 2009). Aiming to reach the target of this strategy, the Parliament of Albania adopted the Law No. 10237, dated 18.02.2010 "On Occupational Safety and Health". The approximation of OSH with the 19 EU Directives has already started.

Two new national strategies were prepared to cover the period of 2013-2020 - the Employment Strategy and the VET Strategy. Both documents are pending approval. Progress has been made in the approximation of the Albanian legal framework on labour with the EU legislation. Amendments to the Labour Code, including a roadmap for alignment with the *acquis communautaire* in the field of labour law, are pending adoption.

The State Labour Inspectorate has been strengthened with the creation of a new Directorate for Standards of Inspection of Social Services, while the progress done towards establishing the remaining 23 local offices of the State Labour Inspectorate is limited. The re-organization of front desk and counselling services has been identified as key for the modernization of the National Employment Services (NES). The rationale is that the selection of the most effective counselling model will determine the development of a new management system, the training of staff and the pace for the decentralization of services and operations.

In relation to the strengthening of social dialogue among the Government and the social partners (workers and employers organizations), a Tripartite Commission for Equal Opportunities was established within the National Labour Council (NLC). Representativeness criteria for NLC membership are being discussed with social partners. A national tripartite mechanism for OSH was also established and it functions effectively, meeting regularly and making recommendations to the government. The Commission of Labour Conditions and OSH, which consults amendments to the labour legislation on working conditions and occupational safety and health, rules on technical safety, amendments to the statute of the State Labour Inspectorate and its structure, reports on the implementation of ratified conventions etc., operates in the framework of the National Labour Council (NLC). The commission is convened in average 4 times per year prior to the meetings of the NLC.

There are some "missing relations" and challenges that affect the level of wages, such as the relations among the minimum wage and subsistence level, low level of wages in general, inequalities among wages of groups of employees, and especially of women, lack of the relation between the wage and the productivity, etc. The general procedure for defining the minimum wage doesn't include sufficiently the engagement of the workers and employers. The minimum wage is under a scrutinized study, given that according the International Labour Standards ("On Minimum Wage Fixing Convention", No. 131, ratified by Albania on 2004), this wage keeps an important role in protecting the interests of vulnerable workers, especially within the crisis circumstances.

Workers' and employers' organizations rights have generally been respected. The dialogue among them and the Government, the social dialogue, is reached in its highest level at the National Labour Council (NLC), while bipartite social dialogue and collective bargaining in the private sector remain underdeveloped. ILO provided number of training on social dialogue and collective bargaining for constituents at different levels, aiming to promote also the gender equality and women empowerment in trade unions' activities and structures as in the case of employers' organizations. All these activities are parts of the current Decent Work Country Program agreed with Albanian Constituents for 2012-2015.

The 2010 National Child Labour Survey measures the prevalence of child labour as 9,4% among children aged 12-14 and 16,8% - among those who are 15-17 years old; comprehensive policies to regulate the phenomenon and prevent exploitation still have to be developed.

Access to labour market and to the national education system remains a concern for returning migrants, because of the lack of recognition of knowledge and skills gained during the migratory experience. In general, a better interrelation between European demand and Albanian supply of labour is also recommended as to promote labour migration from Albania.

UNCT recommendations:

The Government should continue efforts in establishing well elaborated procedures on defining the wages of various levels, those being of national, sectoral or enterprise level, all this through giving more space to the contribution of social partners. A comprehensive employment strategy should be adopted to promote fuller and more productive participation of women and youth in the labour market. The State Labour Inspectorate must address and prevent the worst forms of child labour.

The national education system and labour market should be reformed so as to align skills and qualifications to the labour market needs and to promote the employability of the labour force. Active labour market

policies should further promote the re- integration of the most vulnerable groups such as youth, women, disabled persons, ethnic minorities and returning migrants. To support transnational labour migration and to reduce irregular migration, investment in counselling and provision guidance to potential migrants prior to their departure as well as in labour market re-integration upon return should be made.

H. Right to social security and to an adequate standard of living

In Albania, the risk of social exclusion is largely associated with the following population groups:

a/ ethnic minorities of Roma²¹ and Balkan Egyptians. The population census conducted in 2011 registered about 8,600 people who identified themselves as Roma. A detailed geo-mapping and description of about 108 Roma settlements supported by UNICEF the same year came up with the total figure of about 15,000 people (including, 5,000 children) living in about 110 settlements. Now available as an [on-line database](#), the mapping reveals a very high incidence of poverty among Roma (78%), high illiteracy rate (up to 70%), non-universal birth registration (about 6% of newborns not registered), low preschool enrollment (26% against the national average of about 50%) and other huge gaps in terms of access to basic services, living standards and inclusion in the social fabric.

b/ impoverished families in peripheral areas (outside several urban agglomerations). The series of Albania's Living Standard Measurement Surveys in 2002, 2005 and 2008 mapped the concentration of poverty in the country's mountainous periphery. For example, in Northeastern Albania, poverty incidence of 29% is double the national average; similarly, the IMR and U5MR of 38 and 42 deaths per 1,000 live births, respectively, is about two times higher than on average nation-wide. Stunting is observed in almost every 3rd child under the age of five in the mountains. The net compulsory school completion rate (age cohort of 6-14) stands at 82% in the Mountain zone against 97% in Tirana. Only 46% of children in villages continue their education after the age of 14, compared to 71% in the capital. Although in absolute numbers the population in these areas is decreasing, the gap in living standards and developmental outcomes is not closing. In the absence of any latest poverty measurements since 2008, available estimates suggest about 650,000 pers. being at high risk of deprivation in these – largely underserved and economically depressed – parts of the country.

To specifically address the above factors of socio-economic exclusion, Albanian sectoral policies (on health, education, employment, housing, transportation, etc.) have very little to offer, as measures of positive discrimination favoring those particularly vulnerable are scarce or non-efficient. As for the system of social protection (mainly run through the budget of MoLSAEO), it currently includes three main pillars, i.e. a pro-poor cash assistance ("*ndihma ekonomike*") scheme, disability allowances and a system of state-run residential care facilities of various type. None of the two cash disbursement mechanisms have proved to be effective; in particular, UNICEF-supported analysis confirmed that "*ndihma ekonomike*" does not work for children²². Similarly, it does not work for many Roma families (as their migratory lifestyle often prevents proper paperwork linked to a specific residence place to be submitted as part of "*ndihma ekonomike*" application); Victims of Trafficking – although recognized as a beneficiary target group – do not get "*ndihma ekonomike*" when they have children. Persons with various types of disabilities do not enjoy the same level of support. Blind people, paraplegics and tetra-plegics have benefits recognized in special statutes, while many persons with disabilities, such as deaf and hard of hearing people, persons with psycho-social impairments (mental health related impairments), people with intellectual disabilities and learning difficulties, etc. are excluded from all or some of these benefits.

The service-based component of the social protection system is even less developed. Methods of care in residential facilities are outdated, physical infrastructure very poor and human rights based approach is virtually unheard of. Most of available community-based family-oriented services are offered by NGOs, depend heavily on donor funding and tend to be clustered around larger cities, with very little outreach into rural or mountainous areas. There are no personal assistance schemes in action for the disabled (like, sign language facilitation, assistive devices and technologies) and very few examples of accommodating infrastructure.

UNCT recommendations:

The Government is urged to re-confirm its commitment to reform the social care system in Albania, to gradually move away from the system based exclusively on residential care institutions towards a flexible, mobile, community-based model of social work and case referrals to specialised assistance (including services offered by sub-contracted NGOs). Such an approach was outlined in the national Social Protection

²¹ The situation of Roma in Albania is described in more detail in the "rights of minorities" section later in the document.

²² In 2012 a USD 50 million World Bank loan was approved to support the reform of the cash-based component of the social protection system.

Sector Strategy for 2007-2013, and expanded in the draft Social Protection and Inclusion Strategy for 2013-2020. Explicit social inclusion commitments in health, education, employment, housing, transportation and justice sectors should be adopted.

I. Right to health

Since 1990-ies Albania has witnessed considerable progress in major health indicators: according to the MoH data, by 2012 infant and under-five mortality rates were reduced to 7.8 and 8.9 deaths for 1,000 live births respectively²³. Maternal mortality in the same year was reported by the MoH as 5.7 per 100,000. Average life expectancy has also reached commendable 77 years, as per latest estimates. However, these improvements come at a price which often becomes prohibitive for those economically more vulnerable. Informal payments in Albania's health sector remain an issue, with a disproportionate effect on poor families. According to Albania's DHS survey (2008-2009), 29% of women and 26% of men who visited a public health facility reported that it had been suggested to them to make an informal payment for the health care received. 72% of women and 68% of men reported paying for medical care that they could have received for free. 36% of women and 22% of men reported they avoided medical care in the past 12 months because they could not pay. Almost nine in ten women (87%) and four in five men (80%) aged 15-49 reported at least one barrier in accessing health care.

"Getting money to go for treatment" is one of the most common problems reported by women and men (56 and 62%, respectively) in the DHS survey. Another study supported by UNICEF in 2011 revealed that 90% of surveyed families (the sample included those who receive cash assistance - "*ndihma ekonomike*") could not cover their children's needs for health care service. Overall, it is estimated that out-of-pocket payments could be around 60-70% of the total expenditures on health. In the meantime public health expenditure accounts for 2.9% of Albania's GDP which is very low compared to other European countries.

The reform of the health sector includes improvements in health financing, with the Health Insurance Institute (HII) identified as the single purchaser of services by a new law on health insurance (entering into force in March 2013). While this change intends to address fragmentation in health financing, it requires much stronger contracting and purchasing power of the HII and better monitoring of service provider performance. Lack of access by the most vulnerable, inadequate information on the benefits of health insurance coverage and continuing out-of-pocket payments remain a concern.

Primary health care continues to be approximately 2 times less financed than the secondary care. Patient empowerment remains an area of importance. There are a few patient associations which are poorly functioning. The charter of patient rights is in place but not implemented. In April 2012, the Parliament approved the law on "Mental Health" which, among others, aims to guarantee the rights of persons with mental disorders when under medical treatment.

In Albania, there is no regulatory framework in general for drug dependence treatment, including about its relationship with the application of criminal justice penalties. It is noteworthy that the Constitution of Albania foresees in article 55 that "*[citizens enjoy in an equal manner the right to health care from the State]*", and according to its article 59, the state, within the means at its disposal has responsibility to offer "the highest possible standards of health, physical and mental".

Within the last decade, the country has put in place comprehensive programmes for opiate substitution treatment and needle syringe distribution, with a strong participation of civil society organizations. The National Anti-Drug Strategy 2012-2016 appears to emphasize the importance of further work in this area, including the need to improve access to health services by problematic drug users and other people in need for attention. The Strategy specifically notes that "*there is no specific legal framework dealing with issues related with drug abuse, such as to guarantee the organization of the treatment system, of the staff and of its training, as well as for the service structure and standards*". It also defends a more prominent role for drug demand reduction interventions, to reach the same level of attention of action towards drug supply reduction.

UNCT recommendations:

Public health finance reform must prioritize the rights of the most vulnerable populations, and the entire public spending envelope on health should be revisited. Paying for health care cannot continue to be silently

²³ The UN Interagency Group for Child Mortality estimated Albania's IMR and U5MR as 12.9 and 14.3 in 2011.

moved on the shoulders of citizens themselves, without a strong regulative and supportive role to be played by the state.

It is recommended that comprehensive legislation on drug dependence treatment and rehabilitation services should be put in place, drawing on the existing experiences, which appear to show a good relationship between State and non-governmental organizations activities, with the provision of complementary services, which may still be expanded and improved. As part of such legislation, the national authorities should consider whether a paragraph should be added to article 283/B of the Penal Code, for the purpose of excluding from the application of the provision the authorized activities of health professionals.

J. Right to education

The Constitution of Albania of 1998 guarantees the right to education for everyone in its Article 57. According to this Article, mandatory education and general high school education in public schools are free but pupils and students may also be educated in private schools of all levels, which are created and operated on the basis of law. This Article provides that mandatory school education is determined by law and the autonomy and academic freedom of higher education institutions are guaranteed by law. In addition, Article 20 guarantees the right of persons belonging to national minorities to study and be taught in their mother tongue. According to Article 59 the State aims to supplement private initiative and responsibility with education and qualification according to ability of children and the young. Moreover, the State aims to supplement private initiative and responsibility with care and help for the aged, orphans and persons with disabilities. Article 18 enshrines the principle of non-discrimination and states that "1. All are equal before the law. 2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or ancestry. 3. No one may be discriminated against for reasons mentioned in paragraph 2 if reasonable and objective legal grounds do not exist."

Albania's current state of national school attendance statistics leaves space for controversial interpretations and conclusions. Schools are not obliged and therefore do not collect information about *all* children in their catchment area, therefore some may remain invisible and unaccounted for, such as Roma or children from remote / poor communities. While access to education might be an issue, the quality is definitely another one.

It shall be noticed that all primary schools suffer from the lack of equipment (from computers to modern classrooms and teaching materials). Secondary schools face the same situation, although it differs from school to school. To upgrade the quality and relevance of pre-university education, curriculum and textbook reforms have been initiated, aiming to complete the implementation of the revised curriculum of basic education by 2010 and of secondary education by 2015. Moreover, efforts to improve the quality of teaching include the development of competencies for teachers and a teacher accreditation system, introduction of an in-service training programme and reforms in pre-service training.

The National Center for Assessment and Evaluation has been established to carry out independent assessment of learning achievement and support university entrance examinations.²⁴

In-depth analysis of PISA indicators suggests that focus on early education may provide a solution. Globally acknowledged evidence demonstrates that investment in early years is not only the most effective human development "equalizer", but also a policy of high efficiency helping to maximize tomorrow's gains for today's inputs. Regrettably, the new Pre-University Education Law (2012) did not formalize the preparatory year as a mandatory addition to the current 9 years of schooling; similarly, it omits any binding provisions for kindergartens and/or pre-school steps for the age group of 3-6.

The new Pre-University Education Law makes an attempt to introduce cost units per learner and encourage private sector to get engaged with the sector, but fails to acknowledge that it is more expensive for the state to educate children with poor parents. Unit costs rise when educating children with particular needs (in remote rural location, impoverished neighbourhoods, from minority groups, etc.). The Law does not oblige school administrations to provide a place to all children in their catchment area, thus opening a window for discrimination practices. Although special support measures are envisaged for Roma (free textbooks, "2nd chance" education programs, supplementary classes, summer camps, meals provided at school) and other vulnerable groups, their actual

²⁴ World Data on Education, sixth edition, 2006/07,

http://www.ibe.unesco.org/fileadmin/user_upload/archive/Countries/WDE/2006/CENTRAL_and_EASTERN_EUROPE/Albania/Albania.pdf

implementation varies in scope and quality, especially taking into account the decentralised management of the sector and increasing autonomy of the schools.

The Pre-University Education Law is considered to be in conformity with the CRPD's obligations as set out in its Article 24 on Inclusive Education. Particularly the multi-disciplinary assessment and the balancing of parent's opinions with those of experts are a welcome move in the right direction.

In line with the provisions of the Strategy for Reintegration of Returning Albanian Citizens (2010-2015), a specific curriculum for supplementary Albanian language teaching has been developed by the MoES as to increase access to the education system in Albania for children of returnees, parallel to periodic assessment of their education needs. Yet there is evidence that children of returnees face a number of obstacles in accessing education and in integrating in the national education system.

Albania is party to the 1960 UNESCO Convention against Discrimination in Education (CADE) since 1963. However, it did not report to UNESCO on the measures taken for the implementation of the Recommendation against Discrimination in Education within the framework of the Sixth, Seven and Eighth Consultation of Member States (covering in total the period 1994-2011). In addition Albania did not report within the framework of the Fourth Consultation of Member States on the measures taken for the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms (covering the period 2005-2008). It has also not yet reported within the framework of the Fifth Consultation of Member States about the measures taken for the implementation of the 1974 Recommendation (covering the period 2009-2012). No report was presented by Albania within the framework of the First and Second Consultations (1993 and 2011) on the measures taken for the implementation of the 1976 Recommendation on the Development of Adult Education.

UNCT recommendations:

The MoES school attendance statistics should be aligned with the results of Albania's Population and Housing Census of 2011 and administrative data, to help track children currently out of school. Prioritization of early education (including for Roma children) is needed to ensure that all young children get fundamental cognitive skills at the right age as a guarantee for their further successful development and socialization. Children with disabilities should fully benefit from guarantees stipulated in the Pre-University Education Law.

Recognition of qualifications obtained outside of the country and skills gained during the migratory experience should be secured, in order to improve access to vocational education and training system of the country as well as to increase access of returnees to the national labour market.

Submission of state reports for the periodic consultations of UNESCO's education related standard-setting instruments, especially for the Convention against Discrimination in Education is strongly encouraged.

Additional measures to provide girls and women with increased educational opportunities should be undertaken and efforts to upgrade the quality of education and notably with regard to the implementation of the revised curriculum of basic education and of secondary education continued.

Efforts to improve the quality of teaching, including the development of competencies for teachers, should be intensified.

K. Cultural rights

The Albanian Cultural Heritage legislation is based on Law No 9048 "on Cultural Heritage", issued in 2003 and amended by law No 9882, issued on 2008, which is very broad and insufficient to effectively protect historic towns. This law also generated uncertainty on procedures for development projects in the protected areas. A new "Law on Cultural Heritage" is currently being drafted to address concerns of Cultural Heritage institutions as well as some procedural concerns. The implementation of the Convention for the protection of the diversity of cultural expressions is based on Law n°9613 issued in 2006.

The public services involved in the protection of cultural heritage and cultural expressions is, at the central level, the Ministry of Tourism, Culture, Youth and Sports, and in particular the Institute of Cultural Monuments (IMK), a scientific and budgetary state institution responsible for the protection, restoration and revitalization of cultural and historic monuments, and the Directory of National Cultural Heritage, a policy-making body, which coordinates the Regional Directories of National Culture and Archaeological Parks dealing with national issues of cultural heritage management (tangible and intangible). At the local level there are the Regional Directories of National Culture, under the Ministry of Tourism, Culture, Youth and Sports. The Ministry of Culture has approved a new structure in which the Cultural Heritage department is also in charge of cultural diversity. A national committee chaired by the Minister of Culture has been set up for the implementation of the 2003 Convention Safeguarding of the Intangible Cultural Heritage

A global strategy for culture was drafted in 2012. It focuses on support to (i) creativity of Albanian artists and their art, (ii) protection and promotion of cultural heritage and national identity and (iii) increase of role of cultural life in the improvement of quality of life. Policy measures have therefore focused on the establishment of proper mechanisms to enable the development of diverse cultural communities in Albania.

The civil society is actively involved in the implementation of the conventions in their various fields of action. With regard to the 1972 World Heritage Convention, the civil society participates in the elaboration and implementation of the management of sites and properties included in the World Heritage list. The civil society actively participates in the implementation of the 2003 Intangible Cultural Heritage Convention, which assigns a key role to individuals, groups and communities in the identification and safeguarding of their intangible cultural heritage. As such, its implementation at the local level is largely ensured thanks to civil society organizations and actors. Similarly, the role of the civil society in the implementation of the 2005 Convention on the Diversity of Cultural Expressions, which is the first UNESCO convention that explicitly recognizes its importance in its provisions, is prominent. As such, the role of artists, professionals, NGOs and other civil society organizations in promoting the free exchange and circulation of ideas, cultural expressions, and cultural goods and services is well recognized. This is also important in relation to minority groups and other indigenous groups of Albania.

UNCT recommendations:

It is recommended to revise the existing legislation in order to ensure ownership of the law for private monuments, but also the definition of the duties and obligations of local institutions and IMK. Considering that conventions are covered through various legal documents adopted at different governing levels a clearer and stronger coordination and synergy in the implementation of these Conventions should be pursued, in order to fully reach their objectives. Such an integrated and coordinated implementation would also increase the opportunities for each individual or group to take part in cultural life; Albania is invited to introduce programs for more public information and awareness about the Outstanding Universal Value of World Heritage properties. There is also a need to motivate residents to re-inhabit their historic centres. The completion or renewal of infrastructure is also crucial to attract or keep residents, commerce and tourism.

L. Persons with disabilities

In 2011 about 126,000 of Albanians were receiving disability benefits, but otherwise the statistics of disability are very incomplete and only scattered anecdotal evidence can be found to depict the vulnerability profile of the disabled. Children with disabilities appear to be at very high risk of exclusion and are also particularly vulnerable to abuse, exploitation and neglect. Poverty and lack of community-based services keep most of them isolated at home, unable to integrate into mainstream society. Under the social care programs of the MoLSAEO, financed from the state budget, disabled children receive cash payments and treatment in 6 residential centers in Tiranë, Durrës, Korçë, Berat, Vlorë and Shkodër, as well as in 2 day-care centers in Korça and Lezha. Currently, there are 283 disabled children living in residential institutions; 50% of them are older than 16 years. Although this is not allowed by law, they remain in these facilities because they have nowhere else to go due to the lack of rehabilitation and reintegration services – this denies them their right to live independently in the community.

This situation is further exacerbated by a lack of services for persons with disability in the community. Education for children with disabilities still focuses on specialized institutions and schools and teachers in the general education system lack skills and infrastructure to accommodate learners with disabilities. Attitudes in society create barriers to the full participation of persons with disabilities, particularly views that persons with disability are incapable of learning or working or participating in other areas of social and economic life. Many of these issues have been particularly highlighted by the Committee on the Rights of the Child and the International Disability Alliance in their respective observations and recommendations provided in 2012 in relation to the Albania's national report on the implementation of the CRC²⁵.

The current National Strategy for People with Disabilities was approved in 2005 to proclaim equal opportunities for persons with disabilities, but its implementation has remained far from inadequate. The role of the National Council of the Disability Affairs has been weak. The commissions set up to assess the impairment and therewith the "status" of persons with disabilities lean on medical approaches to disabilities overlooking the social assistance needs that

²⁵ Concluding Observations on Albania's CRC periodic report, 2012

http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-OPAC-ALB-CO-1_en.pdf

Albania CRC report analysis through the lens of disability – by the International Disability Alliance, 2012.

<http://www.internationaldisabilityalliance.org/en/albania>

persons with disabilities may have. In general, medically argued disability allowances remain the only form of support extended to this population category.

In the area of employment, several active labour market measures implemented by the National Employment Service are open to persons with disabilities, but the number of beneficiaries has been very low. Employment quotas stipulated by the law are not enforced, so only a small number of persons with disabilities have known successful experiences of employment. Existing national guidelines on accessibility for persons with disabilities do not have fundamental incompatibilities with international standards, but there is a shortage of enforcement of regulations, so buildings, roads and other facilities are generally not friendly to persons with disabilities. A limited number of public institutions have made their premises physically accessible to persons with disabilities. Challenges remain in the area of assistive tools and technology, generally provided by projects' funds rather than by the Government.

The Albanian Parliament's voting for the ratification of the UN Convention on the Rights of Persons with Disabilities (CRPD) in November 2012²⁶ is believed to provide a long-awaited boost to the national action for people with disabilities. Amendment/adoption of legislative provisions will be needed to adequately ensure respect, protection and promotion of the rights of persons with disability to protection and social inclusion. The right to privacy, respect for family life and the right to marry are also important to secure, in particular for persons with intellectual or psycho-social disabilities.

The Inter-Ministerial Working Group has not finalized yet the draft framework law on inclusion of and accessibility for persons with disabilities. The needs of persons with disabilities are not considered in the programmes and budget plans of line ministries. In addition, cooperation and coordination among the latter in this area are quite weak. There is also a need for officially assigning implementation and monitoring mechanisms at national level, as stipulated by Article 33 of the CRPD.

The Anti-Discrimination Commissioner and People's Advocate Office have been playing an increasingly strong role in advocating and promoting the rights of persons with disabilities. Individual complaints received by these independent human rights institutions are usually limited to violations related to disability benefit entitlements, which proves that persons with disabilities lack capacity or ability to claim for full exercise and enjoyment of all their human rights. Further efforts should be made by the independent human rights institutions by undertaking ex-officio investigations on disability issues under a broader human rights perspective.

A limited number of courts have taken into consideration the accessibility needs of persons with disabilities. However, persons with disabilities have limited access to justice due to barriers in communication, information, procedures and physical environment that still exist in the Albanian judicial system. Further efforts should be made by courts in the planning and budgeting process to better respond to their needs.

Considering access to elections as of key importance for participation of persons with disabilities in the political life of the country, the coalition of national disability organizations and the Central Election Commission (CEC) concluded before the parliamentary elections of 23 June 2013 an agreement according to which CEC committed, among others, to ensure access for deaf people to its televised messages by using the sign language; access for wheelchair users to polling stations by establishing them at the ground floor or putting ramps; priority in service for invalids by avoiding long queues; and access for visually impaired people to voting materials by providing Braille masks. The CEC failed to fulfil this last commitment. The blind people community could not fully exercise the constitutional right for a personal, equal, free and secret vote. They had to vote with the assistance of an accompanying person.

UNCT recommendations:

Following the ratification of the UN Convention on the Rights of Persons with Disabilities, the Government of Albania should speed up the development of a comprehensive operational framework of necessary policies and mechanisms to ensure social protection and inclusion of persons with disabilities.

M. Rights of minorities

Most of Roma communities in Albania continue to live in a humanitarian-like situation (i.e. homeless, long-time unemployed, making their living with begging and scrap collection) making them prone to continual evictions²⁷ while

²⁶ The ratified CRPD's formal depositing with the UN took place in February 2013; the Government has not yet signed the Optional Protocol to the CRPD.

²⁷ The lack of a transitory case-management system for these categories of Roma has left unresolved the situation of the forcibly evicted Roma families from their settlements near the railway station in Tirana in February 2011. During 2012, MoLSAEO has been making efforts to design a social emergency housing center at the former military territory in Sharra near Tirana, for emergent

leaving them unable to meet criteria for standard social and public services and or benefit from the development projects implemented by civil society organizations and development agencies. Over 38% of Roma and 45% of Egyptian families live in old decrepit dwellings and a further of 21% of Roma and 11% of Egyptian families live in shacks. Many of these families do not have access to potable water, indoor toilets or waste water services. At the same time, 50% of Roma and almost 70% of Egyptians in Albania are not really migratory population, as they declare to have lived in the same location for the past 20 years²⁸.

Because of their poverty (50.3% of Roma and 57.65 of Egyptians are characterized by high level of unemployment), many Roma and Egyptian households have to rely on alternative sources of income, such as economic assistance (“*ndihma ekonomike*”), old age pensions, unemployment benefits, disability benefits²⁹. On the other hand many Roma and Egyptian families are either excluded from social assistance schemes, or do not receive the said assistance for as long as it is necessary. On top of that, the inability to transfer the permanent residency registration seems to be a systemic barrier for Roma banning them from accessing public education, social housing, primary health care, promotion of employment programs, etc.

Although there has been an increase in the number of Roma/Egyptian students attending and graduating from universities (thanks to the Roma Education Fund scholarship programme headquartered in Budapest, Hungary and quotas for Roma and Egyptian students in public universities established by MoES), further efforts should be made in guiding Roma/Egyptian students to choose the study subjects in sectors where Roma qualified professionals would be needed the most, such as primarily-school or pre-university teaching. Moreover, despite the increasing number of university graduates, the number of Roma/Egyptian employed in public administration still remains insignificant. Only a handful of them are elected in the municipal and communal councils throughout the country. As a result they are not able to make representations and lobby for the protection of their rights.

The response to Roma needs by the government could not be further from sufficient so far. The status of Technical Secretariat for Roma at MoLSAEO is very weak, therefore there is no adequate authority at the central level able to monitor and advise line ministries on Roma inclusion policies³⁰. Specific budgets have not been allocated by respective central and local authorities for implementation of the Roma Strategy and the National Roma Decade Action Plan³¹. A monitoring and reporting web-based system (ROMALB) for local and central authorities mandated to report the progress against indicators of Roma Decade National Action Plan (developed with UNDP support) has been officially introduced in early 2013 and should boost the action by state officials by providing regular evidence and data.

Although the Anti-Discrimination Commissioner and People’s Advocate Office have been playing an increasingly strong role in advocating and promoting the rights Roma and Egyptian communities, the impact of their efforts has yet to be seen. With few exceptions, local government units generally have limited capacities and political will to understand, accept as a local priority and initiate action for social inclusion of the Roma. As a result, almost none of the nationally declared priorities on Roma are sustained at local level. Accountabilities of local authorities and service providers at the local level who are supposed to ensure that Roma children and families have access to services (e.g. no job description for the newly created Roma Technical Groups at the regional level) are either not established or enforced by appropriate regulations.

UNCT recommendations:

housing and support to the evicted families. However, lack of coordination among central and local authorities have not lead to a common vision for making operational such a center and guaranteeing that it does not end up in a segregated and/or permanent shelter for certain Roma families. In summer 2013 another Roma eviction crisis unfolded as described in the “minorities” section of the present report.

²⁸ A needs Assessment study on Roma and Egyptian communities in Albania, UNDP, February 2012
<http://www.al.undp.org/content/albania/en/home/library/poverty/roma-needs-assessment-report/>

²⁹ A needs Assessment study on Roma and Egyptian communities in Albania, UNDP, February 2012
<http://www.al.undp.org/content/albania/en/home/library/poverty/roma-needs-assessment-report/>

³⁰ The government may actually wish to consider the recommendation of the EU social policy experts to upgrade the Roma Decade Technical Secretariat to an agency.

³¹ The Roma Strategy and its Decade Action Plan do not extend to the Egyptians (presumably Albanian-speaking Roma), initially with the rationale that unlike Roma, the Egyptians do not constitute a distinct (linguistic) minority and that they do not want to be identified or associated with Roma. However, some government measures have occasionally made specific reference to the Egyptians, such as the issuance of free identification documents during the last local elections or setting of quotas in public universities which targeted both Roma and Egyptians. There is a need for a common understanding between government and respective civil society organizations to agree on, either to target the social inclusion measure to both groups (for example, Egyptian children in compulsory education are not eligible for free text books).

Albania should urgently and effectively respond to the needs and deprivations of Roma population and activate/upgrade established policies and mechanisms, to comply with the ambition of Roma Decade (2005-2015) targets. Mainstreaming Roma concerns into regular policies in health, education, social protection, housing, transportation and justice sectors (instead of the continuous “projectization” of random actions) should be made a principle, and appropriate budgetary allocations must be made. Political mechanisms for enforcing action by public officials at central and especially local level must be established without delay.

The Government of Albania should engage with the UN Special Rapporteur on Adequate Housing and seek support on implementing international standards so as to avoid forced evictions and migration, especially of the vulnerable Roma and Egyptian communities (in compliance with Basic principles and guidelines on development-based evictions and displacement).

N. Freedom of movement, migrants, refugees and asylum-seekers

In the area of immigration and asylum, Albania has advanced legal provisions that guarantee human treatment of asylum seekers, refugees and foreign citizens in the Republic of Albania (RA). The Law no. 8432, dated 14.12.1998 “For Asylum in the RA”,³² the main legal act acknowledging the right for asylum or interim protection for foreigners who are in need of international protection, refugees or other persons, was amended through Law 10060, dated 26.01.2009. The amendments include improvements of provisions for rights of asylum seekers, complaint mechanisms, confidentiality, etc. However, in his visit report³³ to Albania in 2012, the UN Special Rapporteur on the human rights of migrants expressed his concern that persons in need of international protection may not be adequately informed of, or made aware of their right to seek asylum as guaranteed in article 1 of the Law on Asylum. He recommended to the Albanian authorities to take prompt steps to ensure that the right to seek and enjoy asylum is fully respected. This recommendation remains valid today.

The integration and family reunification of foreigners granted asylum is regulated by Law No. 9098, dated 03/07/2003 “On the integration and family reunion of foreigners granted asylum in the republic of Albania”, however, it is difficult to assess integration efforts made and their success. In the same report, the Special Rapporteur also recommended completing the electronic registration of all asylum seekers and refugees in the civil status registry for foreigners and providing them with the relevant identification and travel documents. Necessary measures to ensure their integration into society, notably through implementation of their rights to housing, work and social services were recommended as well. In practice, the electronic registration of asylum seekers and refugees has been completed. However, identification and travel documents have not yet been issued to them.³⁴

As concerns the status of foreign citizens in Albania, the Law no. 9959 dated 17.7.2008 “On the Foreigners”³⁵, regulating entry, stay and leave of foreigners from the territory of RA was considerably amended and approved by Law 108/2013. All these provisions provide for significant legislative improvements on the treatment of foreigners in RA regardless of their status (regular or irregular). The foreigners who are subject to this law should be treated in compliance with the human rights, fundamental freedoms and the international agreements ratified by the RA, while respecting the principle of reciprocity, non-discrimination and treatment not less favourable than for the Albanian citizens.

The Constitution of the Republic of Albania prohibits collective expulsion of foreigners. Removal and expulsion of a foreign individual are only allowed according to stipulations determined in the new Law on Foreigners 108/2013 (Chapter IV).

The new law provides for improved appeal mechanisms against removal orders³⁶, expulsion³⁷ of foreigners, and promotes voluntary enforcement of the removal order for irregular foreigners³⁸. According to the law, the detention regime of irregular foreigners in closed reception facilities should guarantee for a humane and decent treatment of

³² Reference in para 139 of the report.

³³ The visit took place in December 2011 and report was issued on 10 April 2012 (A/HRC/20/24/Add.1).

³⁴ Such concern was raised by the UNHCR representative during the National Workshop on New Migration Management Policy Provisions, organized by IOM Tirana on 30 April 2013.

³⁵ Reference in para 140 of the report.

³⁶ Law 108/2013, Article 107

³⁷ Law 108/2013, Article 110

³⁸ Law 108/2013, Article 108

foreigners³⁹ and respect of fundamental rights of individuals. Furthermore, appeal mechanisms against detention decisions in closed facilities are foreseen.⁴⁰ However, in light of the grave concerns raised by the UN Special Rapporteur on issues related to accessibility, detention conditions, legal safeguards in law and practice (such as interpretation), and the treatment of migrants detained in the national reception facility for third country nationals), it is recommended to independently and continuously monitor the situation in the center, in particular from a human rights perspective. In general, alternatives to detention can be provided to irregular migrants.

Among the novelties of the law are the provision of alternative measures to detention for unaccompanied minors (UAMs), victims of trafficking (VOT) and categories in need, following the recommendations of the UN Special Rapporteur in this respect.

The Special Rapporteur also recommended undertaking a study on the situation and enjoyment of rights of migrant workers and members of their families in an irregular situation living in Albania. While the legal review is ongoing (such as through the amendment of the Law on Foreigners) it is important to continue this review and to undertake the study on irregular migrants and members of their families.

UNCT recommendations:

The Government of Albania is encouraged to implement the recommendations of the UN Special Rapporteur on the human rights of migrants to the fullest extent possible, update necessary regulations and procedures and ensure their regular enforcement and monitoring.

O. Internally displaced persons

Resembling the situation of internally displaced, forced evictions of Roma families from their settlements are described in detail in the Annex.

To reduce and mitigate the risk of displacement as a consequence of natural disaster, it is necessary to increase the resilience of communities to cope with disasters in view of achieving sustainable development, by providing the necessary framework, methodology and tools to analyse the causal factors of disasters, reduce exposure to hazards and lessen the vulnerability of people and livelihoods.

P. Right to development and environmental issues

The right to a healthy environment is specified in articles 56 and 59 of the Albanian Constitution, specifically that everyone has the right to be informed on the state of the environment and its protection, and that the state should supplement private initiative and responsibility with a healthy and ecologically adequate environment for present and future generations, as well as ensure rational exploitation of forests, waters, pastures and other natural resources on the basis of the principle of sustainable development.⁴¹ The Government also recognizes the link between raising living standards and protection of the environment.⁴²

In recent decades Albania's environment has deteriorated as a result of unregulated economic activity and absence of enforced policies that would take the environment into consideration⁴³. Recently, however, Albania has made visible progress in developing the legislative and institutional frameworks regarding industrial pollution reduction and control, water and waste management, and the establishment of environmental impact assessment procedures in line with EU standards. In terms of international obligations, Albania ratified the United Nations Framework Convention on Climate Change and is a Party to the Kyoto Protocol of the UNFCCC.⁴⁴ Albania also participates in the United National Conference on Sustainable Development (Rio+20) including the 1992 conference that produced the Rio Declaration

³⁹ Law 108/2013, Articles 120, 127, 128

⁴⁰ Law 108/2013, Articles 122, 123, 124

⁴¹ <http://www.ipls.org/services/kusht/cp2.html>

⁴² Rio+20, United Nations Conference on Sustainable development, <http://www.uncsd2012.org/index.php?page=view&nr=701&type=510&menu=20&template=509&str=albania&style=exact&case=&w holeword=no>

⁴³ Rio+20, United Nations Conference on Sustainable development, <http://www.uncsd2012.org/index.php?page=view&nr=701&type=510&menu=20&template=509&str=albania&style=exact&case=&w holeword=no>

⁴⁴ <http://www.ohchr.org/Documents/Issues/ClimateChange/Submissions/Albania.pdf>

on Environment and Development, including Principle 8 “States should reduce and eliminate unsustainable patterns of production and consumption...”⁴⁵

Despite these positive developments, considerable implementation gaps and challenges remain with respect to providing resources for building national capacity, implementing legislative requirements, and financing necessary environmental infrastructures. Although Albania’s environmental laws and regulations are being reviewed and improved, the overall implementation and enforcement of new regulations and laws in parallel with capacity development and resources allocation are weak.⁴⁶ Poor implementation can be blamed on a number of reasons: limited accountability for implementing agreed policies; limited ability to measure and monitor compliance; weak enforcement procedures; limited institutional and administrative capacity, insufficient human and financial resources, and a dysfunctional distribution of competencies among ministries.⁴⁷

The Government recognizes the current limited capacity of implementing and enforcing environmental legislation and the need for strengthening the rule of law, not only for establishing a climate conducive to investment, required to achieve sustainable and equitable growth.

Albania is vulnerable to a number of natural disaster risks such as earthquakes, floods, and drought. The Albanian economy is especially sensitive to weather conditions, given the importance of agriculture, hydropower, and tourism. The World Bank supports the Disaster Risk Mitigation and Adaptation Project aiming to strengthen institutional capacities, reduce Albania’s vulnerability to natural and man-made hazards, and limit human, economic, and financial losses due to catastrophic events. Albania was the first member and contributor to the regional Catastrophe Risk Insurance Facility (CRIF). In parallel, grant resources from the Global Facility for Disaster Reduction and Recovery (GFDRR) have assisted the Government in the development of medium-and long-term flood risk mitigation options for the Drini-Buna river basin. Yet, there is a need to further strengthen disaster-risk reduction activities in the country, including by enhancing socio-economic opportunities for vulnerable populations, and building national capacities to prevent, mitigate and respond to disasters. In view of the strong link between disasters and the risk of displacement, it is necessary to consider the role of human mobility in disaster risk reduction strategies and disaster preparedness.

UNCT recommendations:

The Government of Albania should prioritize the operationalization and enforcement of adopted legislative and normative frameworks related to environmental sustainability. Development of disaster preparedness and resilience measures policies should also be made a priority, including the incorporation of such measures into the national development plans.

Q. Human rights and counter-terrorism

Not applicable.

R. Situation in or in particular relation to specific regions or territories

Not applicable.

⁴⁵ Rio Declaration on Environment and Development

<http://www.unep.org/Documents.Multilingual/Default.asp?documentID=78&articleID=1163>

⁴⁶ <http://westernbalkansenvironment.net/documents/albania.pdf>

⁴⁷ <http://www.ohchr.org/Documents/Issues/ClimateChange/Submissions/Albania.pdf>