



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### 108th session

#### Summary record of the 2990th meeting

Held at the Palais Wilson, Geneva, on Monday, 15 July 2013, at 3 p.m.

*Chairperson:* Sir Nigel Rodley

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(continued)

*Second periodic report of Albania (CCPR/C/ALB/2, CCPR/C/ALB/Q/2, HRI/CORE/ALB/2012)*

1. *At the invitation of the Chairperson, the delegation of Albania took places at the Committee table.*
2. **Ms. Kodra** (Albania) said that her Government attached great importance to the work of the Human Rights Committee. Alongside the Covenant and its two Optional Protocols, Albania had ratified all of the main international human rights instruments — the most recent being the Convention on the Rights of Persons with Disabilities, in February 2013 — and, in so doing, had committed to aligning its domestic legislation with practices with its obligations under those instruments. To that end, it had established a whole corpus of laws and regulations guaranteeing human rights and individual freedoms. There were many institutions working for the protection of human rights. The Constitutional Court was competent to review individual complaints of alleged violations of constitutional rights; the Ombudsman engaged with the authorities to obtain redress for victims of such violations, and the Office of Commissioner for Protection against Discrimination, set up in 2010, investigated allegations of discrimination in the public and private sectors alike. In accordance with its statutory competence, the Commissioner made recommendations and could impose a fine on anyone who failed to comply. The number of complaints submitted to the Commissioner's Office had increased sixfold between 2011 and 2012, many of them concerning hate speech against lesbian, gay, bisexual or transsexual people by politicians, journalists, textbook authors and police officers; 14 administrative inquiries had been opened in 2012 at the Commissioner's initiative and 11 in 2013. In July 2013, a court had, for the first time, rendered a judgement under the country's anti-discrimination Act, confirming the conclusions of the Commissioner's inquiry into the original complaint, thereby confirming his decision. The Commissioner had proposed amendments to the Labour Code and the Criminal Code to align them with the anti-discrimination Act.
3. The Government had been engaged for years in promoting the role of women in society. Significant progress had been made in achieving gender equality and combating violence against women, particularly domestic violence. Under the 2011–2015 National Strategy on Gender Equality, designed to give effect to the Human Rights Committee's recommendations to Albania and those of the Committee on the Elimination of Discrimination against Women, steps had been taken to inform women and girls of their rights and to strengthen local providers of assistance to victims of domestic violence. Consequently, the first national rehabilitation centre for such victims had been established in 2011. The decision by the Council of Ministers to mainstream gender issues in the medium-term programme-budget was a significant step towards realization of the relevant objectives. Action had been taken to increase gender mainstreaming in State policies and institutions, as recommended by the National Council on Gender Equality, such as the creation of a network of gender employees at central and local level. It should also be noted that the Criminal Code had recently been amended and now criminalized domestic violence and marital rape. The reform of the Electoral Code had afforded women a greater degree of participation in the latest legislative and municipal elections, both as voters and candidates. Representation of women in Parliament currently stood at 17.7 per cent, compared with 15.7 per cent in 2009; women held several senior positions in public office, including President of the Supreme Court, Prosecutor General, and Chair of the Central Election Commission – and 65 per cent of public administration staff were women.

4. A sweeping reform of the judiciary was being carried out in order to improve its efficiency through modernization of the data-processing system, more transparent judicial procedures, and reduction of corruption. The home page whereby citizens could lodge online complaints against judges, and the systematic recording of court hearings were examples of the measures taken as part of that reform. Legislative amendments now guaranteed the indigent access to free legal aid, and six legal clinics had been opened for that very purpose. In 2013, amendments had been made to the Code of Civil Procedure in order to shorten procedural time limits and speed up and streamline the execution of judgements, which was currently inordinately long and entailed additional costs for the plaintiff. In administrative matters, the right to a fair trial within a reasonable period was guaranteed by the 2012 Act on the organization and functioning of administrative courts and administrative disputes. The Criminal Code had been amended to introduce tougher sentences for the most serious crimes, the incidence of which had grown in recent years, to reflect the case law of the Constitutional Court and to meet obligations under the international instruments ratified by Albania. The Criminal Code expressly punished unlawful deprivation of liberty, kidnapping, enforced disappearance, torture and cruel, inhuman or degrading treatment.

5. Detainees' rights were guaranteed through the Act on the rights and treatment of prisoners and detainees the General Prison Rules and Regulations. The use of force against inmates was prohibited, except when necessary in order to halt violence or thwart escape attempts. Over the previous five years, the construction of new facilities financed by EU funds had considerably reduced prison overcrowding. On the recommendation of the Ombudsperson, the number of prison inspections had risen and inspectors' terms of reference had been expanded. The requisite steps were taken to ensure that young offenders received treatment suited to their status as minors. The Prison Service paid particular attention to detainees with mental disorders who, by law, were entitled to appropriate treatment, rehabilitation measures, and protection of their personal medical data. It also encouraged the contribution of NGOs to the implementation of prison staff training programmes. The Social Services and Social Assistance Act prescribed measures for children in need of alternative care, giving priority to placement in a foster family, considered to be more conducive to a child's balanced development than institutionalization. The Act also made provision for financial benefits for needy families and individuals.

6. With regard to freedom of expression, the Audiovisual Media Act, adopted in February 2013, stipulated that radio and television programmes must respect the right to information, the diversity of political opinions and religious beliefs, human dignity and all human rights and fundamental freedoms. Promotion of the rights of minorities remained a priority for the Government, and good progress had been made with regard to minorities' access to education, and the exercise of their political, economic, social and cultural rights.

7. **The Chairperson** thanked the delegation of Albania for its presentation and invited the members of the Committee to put their questions.

8. **Mr. Kälin** said that the statistics supplied by the State party showed that the Covenant had been directly invoked in only a few cases. That was perhaps a sign that judges and lawyers were not completely at home with it, although he noted some encouraging progress. He would like details of the penalties handed down in cases involving honour crimes and blood feuds which had been brought before the courts. The written replies stated that the police had started to compile a list of all the families affected by an honour crime or blood feud and that it tried to remain in contact with them. He wished to know how many families were on that list and what other steps were taken to help them to resume a normal life, often forced, as they were, to live like recluses for fear of further violence.

9. **Mr. Matadeen** expressed regret that the State party had not supplied any information in response to the question about the independence of the Ombudsperson's Office, the resources allocated to it, the nature of the complaints received and the follow-up to its recommendations. Perusal of the report on the Ombudsperson's activities made it plain that the office was independent and that its action was in conformity with its terms of reference, which was reassuring. It revealed, for instance, that in 2012 it had examined 5,165 complaints and sent 402 recommendations to the public authorities concerned. Some sources suggested, however, that Parliament might be trying to exert indirect pressure on the Ombudsperson by reducing his budget and staff. He would be grateful for the delegation's comments on that matter and wished to know whether the resources allotted to that institution were consonant with its needs, especially as it had been designated as a national preventive mechanism under the Optional Protocol to the Convention against Torture. There were reports that 40 per cent of the recommendations made in 2012 had still not been implemented. What explanation was there for that situation? In his activity report for 2011 the Ombudsperson had recommended that a thorough and impartial inquiry should be held into the demonstrations in January 2011, when four opponents of the Government had been killed. Several members of the Republican Guard had been implicated, but the Prime Minister had publicly intervened in the proceedings by questioning the authority of the Attorney General. It would be interesting to know whether proceedings had been opened in the wake of the inquiry and whether those guilty had been convicted. In addition to his annual reports on his activities, the Ombudsperson usually compiled thematic reports, for example on violence against women, the Roma community, or the situation of persons with disabilities. Were those reports made public and widely circulated?

10. **Mr. Flinterman** asked for details of the scope of the principle of equality which, as set forth in the Constitution and Criminal Code, seemed to be restricted to Albanian nationals. In its written replies, the State party had indicated that there had been no court decision under the 2010 Act on Protection against Discrimination. The Commissioner for Protection against Discrimination, who was a member of the delegation, might wish to explain why that was so, what remedy was available and what action she could take if the authorities did not follow her recommendations. She might also wish to explain how her terms of reference differed from those of the Ombudsperson, if their terms of reference overlapped or whether their two offices shared some duties. Could the Ombudsperson also deal with cases of discrimination or breaches of the principles of equality? It would also be interesting to know what measures had been taken to publicize the Commissioner's role and to ensure that people who wished to lodge complaints with her could do so without difficulty. Since the 2008 Gender Equality in Society Act was the chief legislative instrument for giving effect to the principle of equality between men and women, it would be helpful to know how it fitted in with the more general equality Act of 2010 and what role, if any, the Commissioner played in monitoring implementation of the Gender Equality Act. In view of the slow progress recorded in improving women's representation in Parliament, he would like to know whether the 30 per cent quota of women in legislative, executive and judicial branches, which had been imposed as a special temporary measure, simply meant that at least 30 per cent of political parties' candidates in elections had to be women, or whether it applied to the membership of Parliament itself; in other words, whether 30 per cent of seats had to be occupied by women. Was there a timetable for achieving that quota? Were there any plans for punishing political parties which did not comply with it? The absence of any complaints of violations of the principle of equal pay for work of equal value was strange, in view of the concerns expressed in that connection in 2010 by the Committee on the Elimination of Discrimination against Women in its concluding observations on the third periodic report of Albania. He would be grateful if the delegation could provide some clarification in that respect and explain what powers the labour inspectorate had and whether women were fully aware of the rights granted by the principle of equality and the Labour Code.

11. He welcomed the measures taken to improve the situation of lesbians, gays, bisexual and transgender persons (LGBT) and to secure recognition of their rights, especially expansion of the scope of the provisions of the Criminal Code concerning hate crimes to cover acts of discrimination and hatred on grounds of the victim's sexual orientation. He wished to know if there were any plans to add gender identity to the grounds for discrimination prohibited by the Criminal Code and to mention sexual orientation and gender identity in all pertinent legislative texts, including the Constitution. The delegation might describe the initial results of the action plan to combat discrimination based on sexual orientation and gender identity adopted for the period 2012–2014. Although the Commissioner for Protection against Discrimination had received 17 complaints of discrimination based on sexual orientation, the Committee had received information from several NGOs suggesting that LGBT persons had misgivings about her. He requested an explanation for that state of affairs and wished to know if it was possible that LGBT persons regarded the institution of the Commissioner for Protection against Discrimination as an additional obstacle to their access to the courts. He asked the delegation to outline the roles played by the Commissioner and the Ombudsperson in protecting the rights of LGBT persons.

12. Lastly, with regard to violence against women, he also welcomed the legislative amendments which had brought marital rape within the purview of the Criminal Code, ratification of the Istanbul Convention and the 2010 amendments into the 2006 domestic violence Act. He would be grateful for details of those amendments and of the implementation difficulties they were designed to solve. As the written replies referred to the setting up of the first shelter for victims of domestic violence and to private services to assist them, he wondered if any publicly funded facilities to assist victims existed. Lastly, he would like the delegation to comment on information in the Ombudsperson's report on domestic violence to the effect that victims of such violence were often suspected of having provoked the perpetrator, that women met with difficulties when they tried to initiate civil proceedings and obtain suitable reparation and that the population was unaware of the scale of domestic violence.

13. **Mr. Ben Achour** said that the information supplied by the State party showed it to possess a suitable legal framework to prevent the reoccurrence of previous human rights violations. The written replies only partly responded to the request for information on cases of enforced disappearance and torture in Kosovo, and merely mentioned the Dick Marty report, whereas the Committee had heard that hundreds, or even thousands, of cases of enforced disappearance remained unresolved. He would therefore like to have additional data on that subject, and information on human rights violations during the Communist era, about which nothing had yet been said. The delegation might wish to explain why acts of torture, which were punishable offences under article 86 of the Criminal Code, had been prosecuted under article 250 of the Criminal Code, which covered arbitrary acts. He wished to know how many final convictions there had been and what punishment had been meted out by which courts in cases where members of the police force had been prosecuted for acts of torture or ill-treatment. Lastly, he invited the delegation to describe the outcome of the cases against members of the police force who had been indicted in connection with the events of January 2011, which had not been dismissed at first instance.

14. **Mr. Bouzid** said that, despite the State party's practical steps to combat trafficking in persons, which displayed its determination to come to grips with the problem, information received by the Committee showed that the national action plan adopted in 2011 had not been fully implemented and that coordination among State institutions, victim assistance and witness protection were lacking. Those sources portrayed Albania as a country both of origin and of transit for prostitution and alleged that children, including newborn babies, were trafficked with their parents' consent. Some also claimed that members of the police force were involved in such trafficking. In view of that information,

there was good reason to ask why the provisions of Albanian legislation which criminalized human trafficking were not applied. He also invited the delegation to comment on information to the effect that, following proceedings in 30 cases of trafficking, only two people had been charged and sentenced, a trifling figure disproportionate to the scale of the activity.

*The meeting was suspended at 4.35 p.m. and resumed at 5.05 p.m.*

15. **Ms. Kedra** (Albania) said that the Committee's forthcoming recommendations would serve as a working basis for the Government that would succeed the current transitional government and which would take office in September 2013 after elections in June.

16. **Mr. Jahjoli** (Albania) said that, under Albanian law, international instruments such as the International Covenant on Civil and Political Rights took precedence over national legislation in the event of a conflict of laws. Some 200 families were affected by honour crimes. The Criminal Code provided for prison sentences ranging from a minimum of 20 years for premeditated murder, and as severe as life imprisonment for honour crimes. Vendettas and blood feuds, which were concentrated in three regions of the country, affected the lives of 17 children.

17. **Ms. Late** (Albania) said that the Ministry of Education sought to prevent vendettas by focusing on children's education. It allocated additional resources to regions where the custom was still rife and coordinated local measures. Specially appointed home tutors closely monitored the situation of children from families involved in vendettas.

18. **Mr. Jahjoli** (Albania) said that the Constitution specified that everyone was equal before the law. Similarly, the Constitutional Court had established that everyone was entitled to equal treatment in an equal situation under the Criminal Code. That went for Albanian nationals, aliens and stateless persons alike.

19. **Ms. Kedra** (Albania) said that the appointment of the Ombudsperson had been delayed by the political tensions which had roiled the country in the years prior to the last elections. The budget of the Office of the Ombudsperson was voted by Parliament and was affected by the financial crisis just as other State institutions were. Although the Ombudsperson's recommendations were not always fully implemented, they could still have indirect effects. For example, his reports on prison overcrowding and the situation of persons with disabilities were not unrelated to the adoption of a policy of building new prisons or to Albania's ratification of the Convention on the Rights of Persons with Disabilities. The public was informed of the Ombudsperson's activities via his website. Reports examined by Parliament were also circulated, but there were legal obstacles to the publication of some reports before they had been examined.

20. **Ms. Baraku** (Albania – Commissioner for Protection against Discrimination) said that her Office was an independent body set up in 2010. It dealt with cases of discrimination in all spheres, regardless of whether the perpetrators were natural persons, private companies or public bodies. Unlike the Ombudsperson, she could impose administrative penalties; for example, she could cancel the licence of a firm found guilty of discrimination. Her Office could also represent victims of discrimination before the courts if the persons so wished. It endeavoured to raise the public's awareness of its mandate and activities, mainly through its website. The first court decision under Act No. 10221, of 2010, on protection against discrimination, had been delivered in July 2013. The court had found in favour of the plaintiff and had therefore concurred with the submissions of her Office.

21. As far as gender equality was concerned, the 2010 Act on protection against discrimination constituted substantial progress compared with the Gender Equality Law of

2008, mainly on account of the establishment of her Office. Since it had been set up, several cases of sexual harassment had been referred to her – a new departure for Albania.

22. **Ms. Kedra** (Albania), referring to women's representation in political life, said that the 30 per cent quota applied to women candidates on the lists presented by the political parties, but not to the number of elected representatives. Unfortunately, parties often preferred to pay a fine rather than abide by the quotas. No final date had been set for the achievement of the 30 per cent target. The principle of equal pay for work of equal value, and wage disparity between men and women had recently become an issue at the national and regional levels. Some surveys currently put that gap at approximately 17 per cent, and the Government had taken steps to narrow it.

23. **Ms. Baraku** (Albania – Commissioner for Protection against Discrimination) said that the Office of the Commissioner for Protection against Discrimination strove to combat any discriminatory language and incitement to hatred which might be encountered in politicians' and senior officials' statements or in university textbooks. She had also proposed some amendments to the Criminal Code, designed to criminalize hate speech and discriminatory language so that those guilty of it could be punished. While she respected the principle of freedom of expression, politicians needed to act responsibly and be careful what they said. Her Office was also carrying out awareness-raising activities and measures to combat stereotyping in the media and monitored the situation of transgender persons in places of detention.

24. **Ms. Kedra** (Albania) said that the State party did not currently have any figures on the budget allocated to gender equality issues, or measures to combat sexism. A decision had recently been adopted to bring in budgeting that took account of gender equality. It would therefore be able to provide statistics on the subject in the future. The Government had introduced a system to combat sexist violence, which coordinated the work of all the local and regional bodies active in that area. The first public shelter for victims of such violence had been opened in 2011. The Government was also helping to finance 24 private NGO-run centres. Domestic violence was a criminal offence and the range of bodies required to report any such incident had been widened. It was still hard to implement measures to protect victims, but the Government was intent on learning lessons from the past and altering the practices of the institutions concerned.

25. **Mr. Jahjoli** (Albania), referring to the events of 21 January 2011, said that four people had been acquitted by courts of first instance, and the public prosecutor had lodged an appeal. Five other trials were under way. A working group had been set up by the Attorney General's office and the National Police to gather additional evidence.

26. **Ms. Minarolli** (Albania) said that the authorities had ratified the International Convention for the Protection of All Persons from Enforced Disappearance in 2007 and it had entered into force in the country in 2011. Enforced disappearances were punishable under the Criminal Code and were not time-barred. Dick Marty's report concerned cases of enforced disappearance in Albania and allegations of human rights violations which had not yet been confirmed, as well as cases that had occurred in other countries. As for human rights breaches committed by the Communist regime, a law on compensation for former political prisoners had been adopted. Additional information on those matters would be included in a report on enforced disappearances which was being drafted.

27. **The Chairperson** thanked the delegation for its replies and invited it to continue its dialogue with the Committee at the next meeting.

*The meeting rose at 6 p.m.*