



## International Covenant on Civil and Political Rights

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### Human Rights Committee 108th session

#### Summary record of the 2991st meeting

Held at the Palais Wilson, Geneva, on Tuesday, 16 July 2013, at 10 a.m.

*Chairperson:* Sir Nigel Rodley

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*Second periodic report of Albania (continued)*

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*The meeting was called to order at 10 a.m.*

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

*Second periodic report of Albania (continued) (CCPR/C/ALB/2; CCPR/C/ALB/Q/2 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Albania took places at the Committee table.*
2. **Ms. Baraku** (Albania) said that articles 50 and 253 of the Criminal Code had been reformulated to include gender as a prohibited ground for discrimination and to establish such motivation as an aggravating circumstance.
3. **Mr. Jahjoli** (Albania) said that article 250 of the Criminal Code on arbitrary acts committed by public officials was intended to ensure that offences that were not characterized as acts of torture under articles 86 and 87 of the Code did not go unpunished. The courts, which acted independently, were responsible for determining the illegal acts as either acts of torture or arbitrary acts on the basis of the evidence. That determination was subject to appeal to a higher court and could be taken as far as the Supreme Court.
4. The 2012 report issued by the European Commission on the progress Albania had made towards meeting the requirements for admission to the European Union showed progress in establishing procedures to identify and protect victims of human trafficking. While the report highlighted the fact that Albania was a source country for human trafficking, it was no longer a transit country, and further strategies were envisaged to eliminate human trafficking, although it would take some time for them to show results.
5. **Ms. Kodra** (Albania) said that her country's written replies to the list of issues contained statistics on cases of human trafficking and on victims of human trafficking.
6. **Mr. Flinterman** requested further information about the cooperation and division of work between the Commissioner for Protection from Discrimination and the People's Advocate (Ombudsman). In June 2012, Amnesty International had reported several cases of ill-treatment of women in the national shelter for victims of domestic violence; he therefore wished to know what measures the Government had taken to remedy the situation.
7. **Mr. Kälén** asked the delegation to provide written information on the sentences imposed on persons who resorted to vigilante justice in relation to blood feuds.
8. **Mr. Bouzid** asked what measures were being taken to protect victims of human trafficking who gave testimony in court, whether the Government provided compensation to victims of human trafficking, whether such victims were prosecuted for prostitution, and why the number of convictions for human trafficking was so low compared with the number of prosecutions.
9. **Mr. Ben Achour** commended the State party for its significant efforts to protect children from all forms of violence, particularly corporal punishment. He requested specific statistical data on child victims of corporal punishment, including data disaggregated according to the place where the punishment occurred, i.e. in the home, at school or in the workplace. He wished to know what sentences the court had imposed on perpetrators of violence against children. Lastly, he asked what punishment article 124 (b) of the Criminal Code established for the ill-treatment of children.
10. **Mr. Bouzid** asked whether persons in police custody had the right to ask for medical attention, or whether the decision to conduct a medical examination was left to the discretion of police officers. He asked if it was correct that, pursuant to article 101 of the Law on the State Police, police officers had the power to escort, inter alia, children and

persons with mental disabilities to police stations even if they were not suspected of committing an offence. If so, that provision constituted a violation of the Covenant. He wished to know the maximum length of police custody, whether the period of custody was calculated from the time of arrest or from the time the detainee was admitted to the detention facility, and whether the police reported the custody to the court immediately or after questioning. He also inquired whether detainees were brought before the court automatically or only upon their request, and whether they had the right to appeal their detention.

11. According to information before the Committee, many detainees were not allowed to contact a lawyer during their detention. There were also reports that, due to rampant corruption in the health and justice systems, many defendants were fraudulently classified as mentally ill so that they could receive lighter penalties. He asked the delegation to comment on that information.

12. He wished to know what legal provisions existed to prevent arbitrary detention by the police, and what procedures were available to victims of arbitrary detention seeking an effective remedy and compensation. He asked whether there had been any complaints of arbitrary detention, and, if so, whether those cases had been investigated and what sentences had been handed down. He asked the delegation to comment on reports that the courts rejected all requests from victims for compensation for arbitrary detention.

13. He requested statistical data on the number of children placed in institutions by parents with financial difficulties and on the amount of money provided as financial support for poor families. He asked the delegation to comment on reports that sexual violence against children was rampant, that children were forced into begging because of poverty, and that no support was provided to children leaving institutional care or to vulnerable children, such as Roma children, street children and children living in institutions. Lastly, he asked what measures had been taken to investigate the fate of the Albanian Roma street children who had reportedly gone missing following their placement in the Aghia Varvara children's institution in Greece.

14. **Mr. Kälén** asked what role the Albanian authorities had played in the case of Mr. Khaled El-Masri, a German national who had been flown from Kabul on 28 May 2004 on board a Gulfstream aircraft to the Bezat-Kuçova military airbase in Albania and subsequently released. He wished to know whether an official investigation had been conducted into the State authorities' role in the case and, if so, what the outcome of that investigation had been. He asked whether Albania had been involved in any other cases of rendition or secret detention of persons suspected of terrorism.

15. He asked what was meant by the statement in the written replies that persons entering the country illegally were subject to a form of selection for asylum. He asked if it was true that all persons who entered the country illegally, including children, were detained until they were either deported or granted asylum. He asked the delegation to comment on reports of substandard conditions in detention centres for illegal immigrants. He wished to know what support services were provided to unaccompanied minors seeking asylum, and what guarantees were in place to ensure that the border police referred asylum seekers to the asylum authorities.

16. He noted the signing of a memorandum of cooperation between the Ministry of Justice and the High Council of Justice but wished to know why the inspection powers of those two bodies still overlapped. Citing reports that the selection procedures to fill vacancies in the judiciary were very lengthy and politicized, he wished to know more about how those procedures worked in practice. He noted that corruption was a major problem within the judiciary but commended the State party's efforts to address it. He requested further information about the constitutional amendments limiting immunity for judges and

asked the delegation to provide a copy of those amendments in writing. More information on the assessments of judges currently being conducted by the High Council of Justice would also be welcome.

17. Regarding question 24 of the list of issues, information before the Committee indicated that school enrolment rates among Roma children were very low and he asked what measures the State party was taking to address the problem. Noting the various strategies and action plans to improve living conditions and social services for Roma, he asked how those strategies and plans were funded. More details would be appreciated on the expected time frame for the settlement in adequate housing of the 45 Roma forcibly evicted from Tirana railway station and on legal protection from eviction, the legal standards in force to ensure the adequate relocation of evicted families and which body was responsible for relocation procedures.

18. **Mr. Matadeen**, referring to question 17, asked whether amendments similar to those made to the Code of Civil Procedure would be made to the Criminal Code. Given reported delays in the issuance of written judgements, he asked what impact delays had on the right to appeal against a judgement within 10 days and suggested that extra time should be allowed for an appeal when the written judgement was delayed. He wished to know: what action was being taken to address delays in the transfer of files from courts of first instance to courts of appeal; whether extra funds would be provided to improve the functioning of the legal aid system; whether any lawyers had been reprimanded under the new disciplinary procedures; what safeguards were in place to ensure that the system for assessing judges was not abused; and what action would be taken to address failures by the State and the private bailiff service to enforce final court judgements. He asked about the results of efforts to reduce the workload of the civil courts through the introduction of administrative codes.

19. Noting continued discrimination against persons with disabilities in Albania, and with reference to question 23 of the list of issues, he asked whether rules on disabled access to new public buildings were being enforced, whether the delegation could provide reassurance that persons with disabilities were receiving their disability allowances in full and on time, and whether a working group had been set up to establish a national minimum living standard. He wished to know how it was ensured that persons with disabilities who had been placed in detention could access sanitary facilities and were provided with the necessary specialist equipment. Information on action being taken to address the concerns of the Ombudsman regarding inconsistencies in new legislation on blind persons, paraplegics and quadriplegics would be appreciated.

20. He asked what measures had been taken during the parliamentary elections of June 2013 to ensure that persons with disabilities could participate fully in the electoral process. Noting that persons who had been declared mentally incompetent in a final court decision were disenfranchised, he asked which mental disabilities led to a decision of incompetence and whether the disenfranchisement of such persons did not constitute a violation of article 25 of the Covenant and article 29 of the Convention on the Rights of Persons with Disabilities. Furthermore, given that many Roma did not possess any of the recognized forms of elector identification, he wished to know whether those persons were also excluded from the electoral process.

21. Regarding the dissemination of information on the Covenant and the Optional Protocol, the subject of question 25 of the list of issues, he wished to know whether reference was made to the Covenant in decisions handed down by judges, and how the State party intended to increase the involvement of NGOs in the preparation of future reports and to disseminate more information about the preparation of reports, the Covenant and the Optional Protocol thereto in the future.

22. **Mr. Flinterman**, referring to question 20, welcomed the new law on audiovisual media but noted that it did not apply to print media. He therefore wished to repeat the request made in the list of issues for information on the legal regime regulating the ownership and licensing of the press. On the question of how freedom of expression in the media was promoted, he asked: whether there was a self-regulatory body for the media; if not, whether there were plans to encourage the media to establish one; and whether the only relevant laws on press regulation were those on protection from defamation and insult.

23. **Mr. Ben Achour**, noting that the written replies to question 18 included a table indicating the reduction in the prison population from January 2010 to November 2012, said that the final two figures in the table indicated a surprising fall in the prison population between October and November 2012. Could the delegation explain how the figures were calculated and why there was such a significant reduction in the prison population over that period? Furthermore, there was no specific reference in the written replies to the situation of women, particularly those in the women's prison in Tirana, and he wished to know the results of the prison inspections that had been carried out.

24. With regard to question 19, he asked about the age of criminal responsibility, and what programmes the Government had introduced, alongside the legal framework, to promote the long-term rehabilitation of young offenders. Information on the special measures for minors included in the 2008 law on legal aid and on the provision of special chambers for minors in criminal courts would also be welcome.

25. **Mr. Shany** asked the delegation, with reference to question 20, to comment on reports of intimidation and physical attacks against journalists. He asked whether the attack against journalists who had been reporting the demonstration of 21 January 2011 had been investigated and the perpetrators brought to justice. He also requested the delegation to comment on allegations that parliament had sought to obtain journalists' phone records and that lawsuits had been brought against the media in relation to news stories about politicians.

26. With reference to question 24, he asked whether the Government had developed a programme to help Roma who had made their living through waste collection until it had been prohibited under a new government policy.

*The meeting was suspended at 11.30 a.m. and resumed at 12.05 p.m.*

27. **Ms. Baraku** (Albania) said that the Office of the Commissioner for Protection from Discrimination had been established on the basis of European Union directives and that its mandate did not overlap with that of the Ombudsman. The latter had been invited to sign an agreement of cooperation with the Commissioner, in line with similar systems in other European countries. The Commissioner was obliged to forward any case on discrimination to the institution that could best protect the victim.

28. **Ms. Kodra** (Albania), referring to the ill-treatment of victims who had been offered refuge in a public shelter, said that the incident had occurred shortly after the shelter had been opened; the director of the shelter had been inexperienced and had been removed following investigations. Conditions at the shelter were improving and the new director worked closely with other organizations. Victims received all the support necessary to help them manage their situation, take legal action and become self-sufficient.

29. **Mr. Jahjolli** (Albania) said that the information provided previously on sanctions for offences relating to blood feuds had referred to the current situation, which would change in September with the entry into force of a new law providing for much heavier penalties for murder motivated by blood feud. Victims who were witnesses to trafficking were protected by a law on the protection of witnesses and persons who cooperated with the judicial authorities, and new legislation provided for the issuance of residence permits to

foreign victims of trafficking. Victims of trafficking were guaranteed compensation and rehabilitation assistance, which was financed by a special fund set up on the basis of seized criminal assets. A database of victims of trafficking had been established and was used by various State bodies to identify both victims and perpetrators. The witness protection programme had been reorganized in 2012 and, in an effort to ensure flexibility and prompt action, the witness protection unit administered its own budget.

30. Under the Code of Criminal Procedure, victims could sue for damages in criminal proceedings and could obtain compensation if the perpetrator was convicted. In the case of some offences, the victims could cite the accused directly before a judge and could obtain both a conviction and compensation for any injury sustained.

31. Under the amended Criminal Code, victims of human trafficking and other organized crime were excluded from criminal responsibility. Prostitution was now a criminal offence, and individuals working as prostitutes were criminally responsible unless they were victims of trafficking or organized crime.

32. **Ms. Kodra** (Albania) added that under the amended Criminal Code, persons practising prostitution were punishable by law, as were the victims. There had been heated debate in parliament on that issue, and the outcome had been that both parties were punishable by law. Written responses would be submitted on the two convictions for human trafficking in 2012 and on the issue of corporal punishment.

33. **Mr. Jahjolli** (Albania), replying to Mr. Bouzid, said that the police did not normally deprive people of their liberty but, in non-criminal cases, they could escort them to a police station where they could be held for up to 10 hours. They did that, for example, with unaccompanied minors and individuals with a mental disability who posed a danger to society. Under the Constitution, domestic legislation on the police and police regulations, any police officer who did not obey those rules could be prosecuted for abuse of authority and disciplinary proceedings could be brought. The police followed detailed procedures when dealing with minors, which included contacting the parents or guardians. Any complaint made against a police officer was placed on record. All NGOs were free to monitor the treatment received by people held in police stations.

34. Arrests and detentions for criminal purposes were carried out under the Code of Criminal Procedure, which provided that after 48 hours cases must be brought before a judge, who decided on the legality of the action taken. All detainees had the right to complain about their detention to the criminal court or the court of appeal. In addition, the Constitution provided that detainees could apply to the Constitutional Court for *amparo*. In criminal cases, the police notified detainees of their right to see a lawyer and a doctor, and the police were required to document the state of health of all persons being held in police cells. Legal aid was available, and the police and/or the court had the right to appoint a lawyer *ex officio* for individuals who did not choose their own legal counsel. Individuals could be remanded in custody pending the preliminary investigation for up to 3 months, which could be extended to 1 year for more serious cases, or a year and a half in cases of organized crime and human trafficking.

35. **Ms. Kodra** (Albania) said data on the number of detainees who had been unable to gain access to a lawyer would be submitted in writing.

36. **Mr. Jahjolli** (Albania) said that individuals who had been detained but were found to be innocent could sue for damages before the first-instance court, claiming the amount they thought they were entitled to. That occurred frequently, and the court usually ruled in favour of the claimant, requiring the State to award compensation for the period of time spent in detention.

37. **Ms. Kodra** (Albania) said that data on the amount of compensation that had been paid out in such cases would be submitted to the Committee in writing.

38. **Mr. Jahjoli** (Albania) said that the police had completed initial inquiries into the reports of 502 Albanian Roma street children who had been living at the Aghia Varvara children's institution in Athens and had subsequently gone missing. The number of children involved was exaggerated, as some names appeared twice with the given name and family name inverted. Albanian border control data showed that some of the children on the list had never been abroad. The police inquiries were continuing and, if necessary, the case would be brought before the courts.

39. **Ms. Kodra** (Albania) said that people in need were protected under the Albanian social security system, which was currently undergoing restructuring, as detailed in the written replies. Given that situation, no results were currently available. Successful pilot projects had been initiated in Shkodra and Tirana, where the State paid financial subsidies to families that provided foster care for children in need. The project would be extended to other areas.

40. **Mr. Jahjoli** (Albania) said that there had been no cases of reverse renditions in Albania. According to the final and undisputed decision of the European Court of Human Rights, Mr. Khaled El-Masri had lodged his case against the former Yugoslav Republic of Macedonia. The Court's decision stated that Mr. El-Masri, who had a German passport, had been left at the Albanian border and had entered Albania voluntarily. The Albanian border police had asked why he had no stamp or visa in his passport, and the following day he had decided to return to Germany. No complaint had been filed and there were no grounds for opening a criminal investigation in that case.

41. Domestic legislation and practice concerning asylum seekers was in full conformity with the 1951 Convention relating to the Status of Refugees. The accommodation centre for asylum seekers was not a detention centre; asylum seekers who had filed asylum applications enjoyed freedom of movement, with the exception that they could not leave the country. If asylum seekers committed a criminal offence, they were of course detained. The police transmitted asylum applications to the relevant central authority, where investigations were carried out and asylum or refugee status determined. Individuals who were granted refugee status could travel freely once they had obtained their identity and travel documents. There were several integration programmes for refugees and asylum seekers that enabled them to be self-sufficient and to exercise their fundamental human rights. Unaccompanied minors seeking asylum were considered to be vulnerable persons; the State appointed legal counsel for them until they reached the age of majority.

42. A working group that had examined the issue of overlapping competencies regarding inspections of places of detention had drawn up a memorandum of understanding which had proved highly effective. It had led to a common inspection manual, a common inspection database and a joint working group on inspection. The main tenet of the memorandum was that all institutions that had the authority to carry out inspections must notify all other inspection units of their scheduled visits.

43. **Ms. Kodra** (Albania) said that written replies would be submitted to the questions on the High Council of Justice and the selection and appointment of judges, and the other questions her delegation had been unable to answer owing to lack of time.

44. **The Chairperson** said that the Committee's work regularly suffered from a lack of time. States parties should take note of that when suggesting that two meetings might be excessive for the consideration of a State party report.

45. **Mr. Kälin** asked about the fate of asylum seekers who crossed the border illegally and were subsequently detained. He drew the State party's attention to paragraphs 32 and

157 of the decision of the European Court of Human Rights in the case of *El-Masri v. the former Yugoslav Republic of Macedonia*, which appeared to contradict the delegation's account of events.

46. **Mr. Vardzelashvili** asked whether persons could be held in pretrial detention for 48 hours until they were brought before a judge, followed by another 48 hours until a final decision was reached. It would be useful to know whether there was an exhaustive list of cases in which a person could be held in administrative detention for up to 10 hours. He wished to know whether homeless persons who showed signs of illness could be detained and, if so, whether they were taken to police stations and what procedures were followed.

47. **The Chairperson** asked whether it was the judge who ordered continued detention once a person had been apprehended by the police and brought before a judge, and whether such continued detention must be outside police custody.

48. **Mr. Jahjoli** (Albania) said that persons who were apprehended by the police for being inebriated were released once they were sober. The police informed a judge about individuals who were suspected of having committed a criminal offence, and the judge then decided whether those persons should be sent to prison or released. Once a person had been brought before a judge, he or she could only be sent back to police custody on the orders of that judge.

49. **Ms. Kodra** (Albania) thanked the Committee for its questions and comments and said that the concluding observations would provide the framework for her Government and the institutions represented by her delegation to work to improve the human rights situation in her country.

50. **The Chairperson** said it was remarkable that the State party had so quickly transformed from an almost anthropological outlier of Europe throughout the Hoxha Communist period to a country that now had many exemplary norms and institutions. The access of lawyers, NGOs and the Ombudsman to all places of detention was in many ways avant-garde in terms of the number of institutions that worked to provide transparency and accountability and perform a preventive function where people might be at risk. While problems of ill-treatment, violence against women and transit for purposes of human trafficking seems to subsist, the State party was clearly trying to resolve them. Nonetheless, given that level of protection, the number of cases of ill-treatment reported to the Committee suggested that there might be problems of impunity that should be addressed.

*The meeting rose at 1.05 p.m.*