

CHAPTER IV

Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant

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68. ... In accordance with modified rule 57 of the Committee's rules of procedure, the annual report should include the Committee's concluding observations relating to each State party's report. Accordingly, the following paragraphs, arranged on a country by country basis according to the sequence followed by the Committee in its consideration of the reports, contain the concluding observations adopted by the Committee with respect to the States parties' reports considered at its thirty sixth and thirty seventh sessions...

[...]

Thirty-seventh session

ALBANIA

321. The Committee on Economic, Social and Cultural Rights considered the initial report of Albania on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.67) at its 45th, 46th and 47th meetings, held on 15 and 16 November 2006, and adopted, at its 55th meeting held on 22 November 2006, the following concluding observations.

A. Introduction

322. The Committee welcomes the submission of the initial report of Albania, albeit late, which was prepared in conformity with the Committee's guidelines, and the written replies to its list of issues.

323. The Committee welcomes the constructive dialogue with the delegation of the State party, which included a number of representatives from various government departments, as well as the delegation's answers to the questions asked by the Committee.

B. Positive aspects

324. The Committee notes with satisfaction that the Covenant has been incorporated into domestic law and can be invoked in the country's courts.

325. The Committee notes with satisfaction the ratification of ILO Convention No. 102 (1952) on Social Security (Minimum Standards), in January 2006.

326. The Committee notes with satisfaction the enactment of a law aimed at strengthening the authority of the People's Advocate (the Ombudsman), in May 2005.

327. The Committee welcomes the adoption of the Law on Gender Equality, in 2004.
328. The Committee notes with satisfaction the adoption of the National Strategy on the Improvement of the Living Conditions of the Roma Community, in 2004.
329. The Committee welcomes the adoption of the National Education Action Plan 2005-2015 on Pre-university Education, in 2004.
330. The Committee notes with appreciation the amendment to the Labour Code of the State party, improving the labour conditions of pregnant and breastfeeding women, in 2003.
331. The Committee notes with satisfaction that the Labour Code enshrines the principle of equal pay for work of equal value and prohibits sexual harassment in the workplace.
332. The Committee appreciates the favourable position of the State party concerning the elaboration of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

C. Factors and difficulties impeding the implementation of the Covenant

333. The Committee notes the absence of any factors or difficulties preventing the effective implementation of the Covenant in the State party.

D. Principal subjects of concern

334. The Committee is concerned about the existing gap between legislation in the field of economic, social and cultural rights and its actual implementation and regrets that the report as a whole does not contain sufficient information on the practical implementation of the Covenant.
335. The Committee notes with regret that, although the Covenant forms part of the domestic law and is directly applicable in the courts of the State party, no information was provided on specific decisions which contain references to, or confirm the direct applicability of, the provisions of the Covenant.
336. The Committee is concerned about the reported lack of independence, security and training of the judiciary in the State party.
337. The Committee is deeply concerned that the State party has not been able to effectively address the widespread and serious problem of corruption and preferential treatment based on family ties within all areas of government and public administration.
338. The Committee is concerned that the data-collection methods of the State party do not seem to be fully reliable, including statistics on poverty, unemployment and migration. The Committee is concerned that lack of reliable data may entail serious implications for the effectiveness of government policies and programmes designed to address the needs of the most disadvantaged and marginalized groups.

339. The Committee is concerned that lack of registration of places of residence and other identity documents places practical limitations on the enjoyment of rights, including social security, health services and education. The Committee is concerned about reports that the high civil registration fees can be prohibitive for many disadvantaged and marginalized individuals and families, and that the Roma also face particular difficulties in obtaining personal identification documents, including registration of residence.

340. The Committee is concerned that ethnic minorities in Albania, in particular the Roma and the Egyptian communities, suffer from discrimination and serious disadvantages in access to services and only enjoy limited protection of their economic, social and cultural rights. The Committee is also seriously concerned about reports of ill-treatment and excessive use of force by law enforcement officials vis-à-vis these persons, notwithstanding the explanation provided by the State party that they are isolated incidents.

341. The Committee, while noting the position of the State party, remains concerned that unlike other minority groups such as Greeks, Macedonians, Montenegrins, the Roma and the Vlach, the State party has not granted the Egyptian community in Albania the status of a minority group, thus denying them the same guarantees and protective measures enjoyed by other minority groups.

342. The Committee notes with concern the continued unequal status of women in Albania, in part owing to the legacies of the customary law (the *kanun*). The Committee is also concerned that the Committee for Gender Equality (CGE), under the authority of the Council of Ministers, is not equipped with sufficient authority, mandate or resources to be able to carry out its functions effectively. The Committee notes with regret that the National Platform for Gender Equality (2002-2005) was never approved nor financed by central Government.

343. The Committee expresses its concern about the high levels of unemployment that continue to persist in the State party, especially in rural areas and among members of ethnic minorities, including the Roma and Egyptian communities.

344. The Committee is concerned that the current minimum wage, applicable only to the public sector, is insufficient to provide an adequate standard of living for workers and their families. The Committee is further concerned about the absence of a legal minimum wage in the private sector.

345. The Committee, while noting that the Labour Code prohibits employment of persons under 16 except for light labour, notes with concern the high percentage of children below the age of 16 who work, sometimes in hazardous conditions. The Committee is particularly concerned about children, many of them Roma, who work in the streets and are particularly vulnerable to exploitation.

346. The Committee is concerned that the prohibition by the State party of strikes by civil servants who do not provide essential services constitutes a restriction of the activities of trade unions that is beyond the scope of article 8 (2) of the Covenant. The Committee also considers the legal requirement for 30 days of mediation prior to initiating a strike, to be an excessive restriction of the workers' right to collective bargaining.

347. The Committee regrets the lack of information provided by the State party about the extent to which social assistance benefits the most disadvantaged and marginalized persons and families in practice, including those living in rural areas and the Roma. The Committee is concerned that the amount of financial assistance awarded is not sufficient vis-à-vis the real cost of living. The Committee is also concerned that it did not receive sufficient assurances during the dialogue regarding equality of access to social assistance, particularly in the face of reports of corruption and favouritism within the public administration.

348. The Committee is gravely concerned about the pervasiveness of domestic violence and other forms of abuse and ill-treatment against women and children in the State party, which often go unreported. While welcoming the information that a draft law on domestic violence is being prepared by the Parliament, the Committee remains concerned about the absence of a coherent strategy to support victims of domestic violence.

349. The Committee is gravely concerned by the legacy of the *Kanun* (customary law) and the persistence of the “vendetta” or honour killings, particularly in the north and the north-eastern parts of the country. The Committee deplores the destructive effect of these blood feuds and killings on family life.

350. While welcoming the amendment to the Penal Code by the State party in 2001 to include anti-trafficking articles which increased the punishment for trafficking in persons, the Committee remains concerned that internal and cross-border trafficking in persons continues to be a serious problem in the State party. The Committee is also concerned that the victims of trafficking in persons are penalized, due to the Criminal Code provision which punishes anyone who engages in the act of prostitution. The Committee is also concerned by the lack of appropriate care for such victims.

351. While noting the progress made by the State party to combat poverty through the National Strategy on Social and Economic Development and the Poverty Strategy, the Committee remains concerned about the extent of poverty in the State party, especially in rural areas and among the Roma and members of other ethnic minorities. The Committee is also concerned that the resettlement measures from rural to urban areas has led to the concentration of government programmes to develop infrastructure, education, health care and other essential facilities in urban areas to the detriment of the rural population. The Committee is also concerned that the strategies of the State party to alleviate poverty do not sufficiently address the regional disparities that affect the equal enjoyment by all of economic, social and cultural rights in the State party.

352. The Committee is concerned about the reports of discriminatory treatment by the authorities against members of Roma and Egyptian communities by the State party with respect to forced evictions and in the provision of alternative accommodation or compensation. The Committee regrets the lack of sufficient information concerning forced evictions and the specific conditions under which they can occur. The Committee also expresses concern about the housing conditions in which the rural population, the Roma and the Egyptian community live, which is aggravated by the lack of basic infrastructure and access to basic services.

353. The Committee is concerned that the budget allocation on health, including public health, is declining. The Committee is also concerned about the lack of basic health services in rural areas.

354. The Committee is concerned about the very high incidence of infant and maternal mortality, and the prevalence of illegal abortions.

355. The Committee is concerned that the planned closures of psychiatric hospitals will leave mentally ill patients without adequate protection, unless alternative measures are taken before the closure.

356. The Committee regrets the lack of sufficient information regarding the quality of education in the State party in line with the Committee's general comment No. 13 (1999) on the right to education (art. 13), albeit welcoming information on the planned reform of the educational system. The Committee is particularly concerned about: the decreasing budget allocation for education and its impact on the quality of education; the poor infrastructure in schools; and the low salaries for teachers. The Committee also regrets the lack of specific information provided by the State party about measures taken to address the situation of children in rural areas and children prevented from attending school due to threats of "vendetta" violence. The Committee is further concerned about the increasing predominance of private educational service providers and the consequent negative implications for access to education by lower-income groups.

357. The Committee regrets the lack of information provided by the State party on educational measures taken to promote understanding, tolerance and friendship among all groups, in line with article 13 of the Covenant.

358. The Committee is concerned that a high percentage of Roma children, especially girls, are not enrolled in school, or drop out at a very early stage of their schooling, despite the measures undertaken by the State party to increase educational opportunities for them, including the "Second Chance" Project.

359. The Committee is concerned that the current budget allocation for the Ministry of Culture and Tourism is insufficient for a full-fledged participation in, and development of, cultural life in the State party. The Committee also regrets the lack of information on measures taken by the State party to preserve, protect and promote minority languages and cultures.

E. Suggestions and recommendations

360. The Committee requests that the State party submit in its next periodic report comparative statistical data on an annual basis, disaggregated by sex, age and urban/rural residence, paying particular attention to the disadvantaged and marginalized groups of society.

361. The Committee urges the State party to include detailed information on the practical implementation of the Covenant in its next periodic report.

362. The Committee recommends that the State party should consider adopting a national action plan in the field of human rights, in accordance with paragraph 71 of the 1993 Vienna

Declaration and Programme of Action. Furthermore, the Committee strongly recommends that the State party provide more support and resources to the office of the People's Advocate (the Ombudsman).

363. The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

364. The Committee urges the State party to ensure the justiciability of the Covenant rights in domestic courts and draws its attention to general comment No. 9 (1998) on the domestic application of the Covenant. It invites the State party to include information concerning case law on the application of the Covenant in its next periodic report.

365. The Committee stresses the importance of an independent judiciary for the enjoyment of all human rights, including economic, social and cultural rights. The Committee strongly urges the State party to take all necessary measures to ensure the independence, integrity, security and training of the judiciary.

366. The Committee strongly urges the State party to take effective measures to combat corruption and preferential treatment based on family ties within all areas of government and public administration and, in particular, to increase transparency and consultations at all levels of decision-making.

367. The Committee emphasizes that a human rights approach to government actions must begin with a proper understanding of the actual situation in respect of each right, accurate identification of the most disadvantaged and marginalized groups, and the formulation of appropriate laws, programmes and policies. It urges the national statistical agency and relevant ministries to review the ways in which data relating to all rights are collected in accordance with the provisions of the Covenant.

368. The Committee urges the State party to ensure that the lack of registration and other personal identity documents do not become an obstacle to the enjoyment of economic, social and cultural rights including social security, health services and education. In this regard, the Committee also recommends the State party to undertake public awareness campaigns on the importance of birth and other forms of civil registration, and consider lowering the registration fees.

369. The Committee calls on the State party to intensify its efforts to promote ethnic tolerance, e.g. by including this subject in school curricula and through training of teachers and public awareness campaigns, and to adopt a comprehensive strategy for the integration of persons of a different ethnic origin. The Committee also urges the State party to provide specific training to law enforcement officers to ensure that, in the performance of their duties, they respect and protect human rights of all persons without distinction as to race, colour, national or ethnic origin. Incidents of police violence should be thoroughly investigated and perpetrators promptly brought to justice.

370. The Committee invites the State party to reconsider its position with regard to the recognition of the Egyptian community in accordance with recognized international standards,

including the 1995 Council of Europe Framework Convention for the Protection of National Minorities to which Albania is a party.

371. The Committee recommends that the State party step up the necessary measures, legislative or otherwise, to promote equality between men and women, as required by article 2, paragraph 2, and article 3 of the Covenant. In this regard, the Committee invites the State party to consider establishing an independent mechanism for the coordination and evaluation of all activities relating to gender equality. Such a body should be given a strong mandate and equipped with sufficient human and financial resources to carry out its coordinating role effectively.

372. The Committee urges the State party to increase its efforts to combat unemployment through special targeted programmes, including programmes aimed at reducing unemployment among disadvantaged and marginalized groups. The Committee, also noting the high levels of rural to urban migration, recommends that the State party take measures to stimulate rural development, inter alia, through local employment initiatives. The Committee invites the State party to consider ratifying ILO Convention No. 2 (1919) on Unemployment and Convention No. 122 (1964) on Employment Policy.

373. The Committee invites the State party to consider introducing a legal minimum wage that is applicable to all workers irrespective of their employment in the private or the public sectors. The Committee further encourages the State party to establish an effective system of indexation and regular adjustment of the minimum wage to the cost of living and to ensure that the minimum wage enables workers and their families to enjoy an adequate standard of living, in accordance with article 7 (a) (ii) of the Covenant.

374. The State party is urged to take all necessary measures to ensure that legislation protecting minors against economic and social exploitation and their right to education are rigorously enforced, and that employers are duly sanctioned in cases of violation.

375. The Committee reminds the State party that the provisions of article 8 guarantee for all persons the right to freely form and join trade unions, the right to engage in collective bargaining through trade unions for the promotion and protection of their economic and social interests, as well as the right to strike. The Committee recommends that the State party take appropriate measures to amend the Labour Code so as to liberalize the existing limitations on the right to strike and to ensure that the prohibition against striking for civil servants does not exceed the ILO definition of essential services.

376. The Committee calls upon the State party to ensure that targeted social assistance depending on family income is guaranteed to all disadvantaged and marginalized individuals and families, and that such assistance does not fall below the subsistence level. It also requests the State party to review its institutional arrangements within the public administration to ensure that those responsible for social assistance payments comply with criteria of equal treatment and transparency. The Committee further recommends the State party to consider ratifying ILO Convention No. 117 (1962) on Social Policy (Basic Aims and Standards) and Convention No. 118 (1962) on Equality of Treatment (Social Security).

377. The Committee requests the State party to provide in its next periodic report detailed information on the extent of domestic violence, and the legislative measures and policies adopted by the State party to address that phenomenon, including facilities and remedies provided for victims. The Committee recommends the State party to adopt, without delay, the law on domestic violence. The Committee urges the State party to undertake information campaigns in order to increase public awareness and to provide training to law enforcement officials and judges on the serious and criminal nature of domestic violence. The Committee further recommends that the State party allocate resources to ensure that crisis centres are available where victims of domestic violence can obtain safe lodging and necessary assistance.

378. The Committee, while underlining the obligation of the State party under article 10 of the Covenant, strongly recommends that the State party strengthen its efforts to eliminate the practice of “vendetta” killings and other forms of violence which originate from the *Kanun* which endanger family life, and the lives of women and children. The Committee recommends that the State party take rigorous measures to prosecute those who engage or collaborate in these killings and other forms of violence, and undertake extensive and far-reaching public awareness campaign on the destructive effect of this violence on the physical and moral integrity of families and in particular women and children.

379. The Committee calls on the State party to strengthen its measures to combat trafficking in persons, with particular emphasis on the protection of victims and ensuring that those responsible for such trafficking are duly prosecuted. The Committee strongly recommends the State party review its Criminal Code with a view to addressing the needs of victims of trafficking. The State party is encouraged to undertake training programmes for law enforcement officials and the judiciary to ensure that they are sensitized to the rights and the needs of victims to provide better protection and appropriate care for such victims, and to ensure that they can claim redress before courts of law.

380. The Committee urges the State party to ensure the full integration of economic, social and cultural rights in its social development and poverty reduction strategies, and allocate sufficient funds for the implementation of these strategies. In this regard, the Committee refers the State party to the statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10) which the Committee adopted on 4 May 2001. The Committee encourages the State party to develop indicators and benchmarks on an annual basis, disaggregated by gender, age, urban-rural population and ethnic background for the purpose of specifically assessing the needs of disadvantaged and marginalized individuals and groups, and requests that this information be included in the next periodic report. The Committee urges the State party to ensure that its resettlement programmes from rural to urban areas do not lead to a

concentration of infrastructure, education, health care and other essential facilities in favour of urban areas to the detriment of the rural population; and to take all remedial measures to address the regional disparities that affect the equal enjoyment of economic, social and cultural rights.

381. The Committee urges the State party to take effective measures to provide evicted persons with adequate compensation or with alternative accommodation, in accordance with the guidelines set out in general comment No. 7 (1997) on the right to adequate housing (article 11 (1) of the Covenant): forced evictions by the Committee. The State party should also ensure that adequate housing is available to disadvantaged and marginalized individuals and families, in line with the Committee's general comment No. 4 (1991) on the right to adequate housing (article 11 (1) of the Covenant). The Committee recommends that the State party consider enacting legislation that ensures the right to housing, and adopting a national plan of action on housing, with particular attention to low-income families. The Committee also encourages the State party to take necessary steps to legalize the existing Roma and Egyptian settlements, removing the constant threat of eviction under which they live.

382. The Committee urges the State party to undertake the necessary measures to improve its health services, by, inter alia, increasing the budgetary allocations to the health sector and extending basic health services to rural areas. The Committee invites the State party to identify disaggregated indicators on the right to health and appropriate national benchmarks in relation to such indicators, in accordance with the Committee's general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12), and to include, in its next periodic report, information and comparative statistical data on the progress made, on an annual basis, with particular attention to rural areas.

383. The Committee urges the State party to allocate sufficient resources to ensure that reproductive health services and education, as well as adequate perinatal and post-natal health-care services are available and fully accessible to women and girls, including those in rural areas.

384. The Committee requests the State party to provide information on any vaccination campaigns and other preventive measures undertaken and the results achieved, including relevant data, in its next periodic report.

385. The Committee encourages the State party to consider alternative forms of mental health treatment, including outpatient treatment.

386. The Committee urges the State party to take all necessary measures to allocate the required resources to improve the quality of education offered in schools at all levels, in line with the Committee's general comment No. 13 (1999) on the right to education (art. 13). The Committee recommends that the State party conducts a re-examination of the functions and quality of the public education system relative to private education, with a view to strengthening the former and easing the burden on low-income groups imposed by the latter; a study of accessibility of schools at all levels and specific actions to be taken to ensure equal and safe access by all sectors of society.

387. The Committee recommends the State party to carry out a reassessment of the curricula at all levels of instruction directed at promoting respect for human rights and fundamental freedoms, and to include information in this regard in its next periodic report.

388. The Committee urges the State party to continue to take effective measures to increase school attendance by Roma children, especially girls, including at the secondary level, including, inter alia, through the grant of scholarships and the reimbursement of expenses for schoolbooks and travel to attend school, and recruiting additional school personnel from among members of the Roma community.

389. The Committee encourages the State party to consider increasing the proportion of budget allocated to cultural development and participation in cultural life in line with article 15 of the Covenant. The Committee requests the State party to include in its next periodic report information on measures taken to preserve, protect and promote minority cultures and languages.

390. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among government officials and judicial authorities, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

391. The Committee invites the State party to update its core document in accordance with the 2006 harmonized guidelines on reporting under the international human rights treaties.

392. The Committee requests the State party to submit its combined second and third periodic reports by 30 June 2009.