

**IHf FOCUS:** elections; freedom of media; judicial system; torture, ill-treatment and police misconduct; conditions in prisons and detention facilities and detainees' rights; national minorities; trafficking in people; social rights (patients' rights, working conditions); right to property; local self-government.



*Pensioners demonstrated in Tirana on 24 November demanding higher pensions and salaries and protesting against the increase of electricity prices. ©APA/EPA/Armando Babani*

There were some significant improvements in human rights developments in Albania during 2001, including the implementation of institutional reforms, the strengthening of the public order and a series of legislative and structural reforms. Civil society played an important role by taking measures to promote better respect of human rights in different sectors of life.

However, there was still need for improvements in the consolidation of democratic structures, and strengthening the rule of law, for example, in the field of fair and free elections, freedom of expression, police conduct and conditions in prisons and detention facilities. Moreover, increasing attention needed to be focused on social, economic and cultural rights to guarantee individuals, among other things, the right to

education, local government, property, and adequate health care.

Corruption was an acute problem and the authorities failed to take adequate preventive measures. It was widespread in many sectors of the administration, hindering effective, professional and unbiased activity. An NGO coalition (including the Albanian Helsinki Committee, AHC) was formed in April with the task of supporting the fight against corruption and of recommending concrete preventive measures.

### **Elections<sup>2</sup>**

According to the OSCE/ODIHR, the parliamentary elections held from June to August "provided an opportunity for further consolidation of democratic standards after the local government elections in October 2000 which marked significant progress towards meeting the standards for democratic elections". Positive developments were recorded particularly during the first round of elections on 24 June and prior to this: the executive branch of the government generally avoided interfering in the process; the Central Election Commission (CEC) functioned with greater independence and transparency; a broad range of media offered the electorate a full spectrum of political information; the public television station (TVSH) allocated time to the main contestants in a fair manner; the electoral campaign was conducted in a calm atmosphere (except for isolated incidents) and the campaign rhetoric was largely restrained; and voting was generally conducted in a calm and orderly manner.

However, the whole election process was protracted, litigious, uncertain and fragmented. Five rounds of voting (24 June, 8 July, 22 July, 29 July and 19 August) were

necessary to complete the process, and during the entire procedure problems became increasingly serious. In many zones, repeat elections were held in some polling stations. In the later rounds, there were serious irregularities in the voting process, including ballot rigging and use of pre-marked ballots in some zones and in a small number of zones where senior politicians were candidates. The tabulation of voting was problematic, undermining progress achieved and prompting some political parties to question the results in those zones. Moreover, the governing Socialist Party (SP) pushed the law beyond acceptable limits as regards the issue of independent candidates and later exploited the delayed proportional elections in Zone 60 caused by the failure to distribute election materials on the eve of the first round of the elections. Further, political pressure at times appeared to compromise the CEC performance; coverage by the TVSH deteriorated after the first round, favouring the SP; police on occasion interfered in the election process; the handling by the CEC of some key election complaints was not always adequate; the Constitutional Court and, in some cases, other courts did not apply standards consistently, showing some bias in favour of the governing party; and the major political parties continued to treat each other as enemies, rather than as legitimate political opponents.

The AHC sent 75 observers to monitor the elections. In addition to reporting the same irregularities as mentioned above, they noted that many irregularities seemed to be related to the poor functioning of the zonal election commissions and polling stations: for example, the members of election commissions were insufficiently trained and lacked knowledge of the law and the CEC guidelines.

◆ During the first round, an SP candidate was stopped by armed individuals in the street of Tropoja and prevented from holding a campaign meeting.

◆ On 12 June, Arben Lika, a candidate of the Reformed Democratic Party in the constituency of Koplik and Bajza tried to gain votes by promising to pay 50 DM to 1,000 families living in poverty in return for their votes. This was clearly in violation of Article 328 of the Criminal Code, which prohibited the "buying" of votes.

◆ Some foreign nationals clearly took sides with or against specific candidates – a Greek national for an ethnic Greek candidate in Gjirokastra, and an American against a representative of the Unity for Victory party. Election propaganda by foreign nationals was prohibited under Article 130(5) of the Electoral Code.

◆ On 18 June, several violent incidents occurred during the SP's campaign meeting in Kavaja. According to the police, supporters of the Democratic Party (DP) tried to disperse the SP meeting by shouting anti-government slogans and by hitting police officers with various objects, slightly injuring four of them. Fourteen people were arrested. However, the spokesperson of the DP considered the incident a violent action by the police against peaceful anti-governmental demonstrators.

◆ On 4 July, explosive devices went off on the balcony and doorway of the house owned by police officer, Idris Shuli, in Lushnja. Three people were injured, among them a 12-year old girl who was hospitalised.

Following the elections, the AHC submitted to the authorities a monitoring report and a list of recommendations for amending 15 provisions of the Electoral Code.<sup>3</sup>

### **Freedom of Media**

The Law on Fundamental Human Rights and Freedoms provided for freedom of speech and of the press, and for the media to actively operate unrestrained.

Nevertheless, the media was blatantly used for political purposes. Political parties frequently interfered with media reporting,

often forcing publishers and newspaper owners to edit articles so that they corresponded to the political parties' own interests.

Libel was a crime under the Criminal Code punishable up to two years' imprisonment. Several journalists were fined under criminal libel charges brought by high-level officials.

Some journalists were targeted by police officers on the basis of what they had written.

◆ On 30 October, journalist T. S. was arrested and held in police custody for 14 hours, officially in order to verify his identity. However, police officers allegedly also ill-treated him. Before being released, he was forced to write a document stating that no violence had been used against him.

◆ On 9 October, Nikolle Lesi, well-known journalist and director of the newspaper *Koha Jone*, was ill-treated by an unidentified person apparently as a reaction against his articles.

### Judicial System

The Constitution provided for an independent judiciary. However, in practice, the judiciary was handicapped by a lack of resources and inexperienced staff. In addition, it was often subject to political pressure and widespread corruption – facts that hindered it from operating independently.

Judges were poorly trained in the enforcement of new legislation and often insensitive to human rights violations. In the first serious effort to curb widespread corruption within the judicial system, the Government initiated successful disciplinary actions before the High Council of Justice against over a dozen judges and prosecutors. An attempt by the Government in May to impeach three judges of Albania's highest court for having allegedly favoured a suspected drug dealer failed to pass a vote in Parliament. This was in part due to the Government's inability to substantiate the allegations.<sup>4</sup>

The undue prolongation of investigation and court proceedings was probably the main problem in the Albanian judicial system. Even simple cases that should have been able to be decided in two to four weeks (e.g. thefts, unsanctioned demonstrations and similar) often lasted for several months.

The main reason for postponing court proceedings was the failure of the prosecutor, lawyer, defendant or witnesses to show up in court.

### Torture, Ill-Treatment and Police Misconduct

The Constitution stipulated that no one can be subjected to torture, or cruel and inhuman treatment. Yet one of the most serious human rights problems in Albania was grave misconduct by the police.

Police officers were largely untrained and ill paid. They frequently carried out illegal arrests and held suspects in detention for periods exceeding the legal time of custody without raising charges.

Cases of torture and ill-treatment were frequent, particularly when they concerned children and opposition activists.<sup>5</sup> Reportedly, children were afraid to file complaints of their ill-treatment for fear of exposing themselves to further abuse.

◆ In early 2002, a former officer at Saranda police station was accused of having beaten an 11-year-old orphan with a rubber truncheon, cut his right arm with a knife and burned his body with a cigarette. The boy, who was wrongly suspected of theft, was arrested in June 2000 and held for questioning. As a minor under the age of criminal responsibility he should not have been detained. The fact that he was questioned without the presence of a guardian or lawyer was in breach of the law. The injuries suffered by the boy were confirmed by the Ombudsman who requested that the prosecuting authorities commence proceedings. However, the dis-

trict prosecutor tried to dismiss the case, apparently on the grounds of "lack of evidence". It was only after repeated interventions by the Ombudsman that investigation proceedings were re-opened.<sup>6</sup>

◆ Azgan Haklaj, head of the DP in Tropoja, was accused of organising an illegal demonstration and advocating violent acts against the Tropoja police force. He was ill-treated both by police officers in Tropoja and after his transfer to Tirana

◆ Gjon Gjonaj died in March in the pre-trial facility in the Rreshen police station. Officially, he had committed suicide with a knife as confirmed by medical and legal experts in Tirana. However, the family of the deceased and the DP, whose activist Mr Gjonjav was, claimed that he had been killed by the police.

### Conditions in Prisons and Detention Facilities and Detainees' Rights

Within a project carried out in co-operation with the Netherlands Helsinki Committee, the AHC monitored the human rights situation of persons in custody and in prisons. During the year, the AHC received 54 complains from inmates or their families.

According to the AHC, some positive developments took place regarding the rights of detainees and prisoners, in particular the improvement of legislation on pre-trial detention facilities, better treatment of inmates and some improvement in the operation of the police who underwent training in human rights.

Nevertheless, the conditions in pre-trial detention facilities left much to be desired.

Only one such facility had a separate sector for juvenile delinquents. Most facilities were overcrowded. In some police stations the physical conditions were totally substandard containing cells with high humidity, decayed walls and floors and extremely poor sanitary conditions. Some pre-trial detainees had no mattresses or

blankets. The quality of food was poor and detainees were therefore dependent on food brought by their relatives – those who received none, were left in health-threatening conditions. Medical care was generally insufficient and necessary medication was either unavailable or only available from relatives or friends.

The right of detainees to outdoor exercise was frequently violated.

◆ In the police commissariat in Kukes, pre-trial detainees had not been outdoors for about four months.

Other violations of the detainees' rights included the failure to inform them of their rights; prohibiting their lawyers from being present during interrogations; and holding individuals in custody in excess of the legal detention period. Further, convicted prisoners were not always transferred to already overcrowded prisons but continued to be held in poorer conditions in police facilities, in violation of the law. Some were held there even a year after a court ruling.

◆ On 15 January a convict escaped from the pre-trial detention facility in Lushje, after having been held there for a long time after the official court verdict. He was one of many convicted prisoners who had escaped from police facilities.

Given the poor conditions in pre-trial detention facilities, the AHC urged the authorities to take immediate measures to transfer convicted persons to prisons. It also urged that responsibility for pre-trial detention facilities be immediately moved from the Ministry of Public Order to the Ministry of Justice.

The AHC also recorded cases in which the police had violated Articles 251 and 252 of the Code for Criminal Proceedings regarding cases *flagrante delicto*. While in such cases the alleged perpetrators must be caught in the act, legal provisions were misused to arrest people even months after an alleged criminal offence. In addition, houses were searched without warrants (in

violation of Articles 202-205 of the Criminal Procedure Code); detention periods exceeded the legal 10 hours and the police did not always even record arrests: such cases were recorded in Kurbin, Kavaje, Kukes, Lezhe, Berat, Skrapar, and Vlore.

◆ A 16-year-old youth was arrested in Tirana on 9 August suspected of theft. He was held in custody for two days for verification of some details about the case. Three days later he was sent to the Directory of the Tirana Police Force where he was kept for two more days for further investigation.

The right to legal defence, guaranteed by Articles 255 and 256 of the Criminal Procedure Code, was frequently ignored. In practice, however, numerous detainees interviewed by the AHC had made statements without the presence of a lawyer. According to the law, the police had to inform the detainees of this right, but in many cases this was only done by means of a written note. The detainees' relatives were often not informed at all about the detention.

The rights of minors (up to 18) were also violated. In all those police stations monitored by the AHC, Articles 35, 38, 255 and 256 of the Criminal Procedure Code had been violated: the parents or the guardians had not been contacted; and no legal or psychological support had been offered.

◆ Gj. C. was held in custody in the police station of Kukes. She claimed that she had been ill-treated by police offices at the time of arrest and that she had not been informed of her rights.

Some persons were found to have been tried *in absentia*. Some of them had attempted to avoid legal proceedings, others were not even aware of proceedings initiated against them. The AHC also found that many members of the judicial police (who investigate crimes for prosecutors)

failed to deliver court notices and decisions to litigants or convicts who had filed an appeal. Since under law there were specific deadlines for delivering court decisions, the failure to adhere to these led to significant violations of the rights of appeal of those concerned.

By law, the right to privacy and the inviolability of the person were guaranteed. However, at times authorities infringed upon these rights.

◆ In January, Azgan Haklaj, the local head of the Tropoja DP was arrested. The police forced their way into his home without official permission.

From 10-11 April, the AHC held a conference on alternative punishment and rehabilitation measures for sentenced criminals. It proposed, among other things, that community service and other alternatives forms of punishment be developed under the guidance of judicial authorities, the Prosecutor's Office, the Ministry of Justice and the Prisons Service, and in cooperation with NGOs. Another problem at issue was the treatment of juvenile delinquents, women and alcohol and drug addicts at police stations and pre-trial detention facilities as well state measures against trafficking in human beings and the treatment of its victims.

## Protection of Minorities

### Roma Minority

The rights of Roma in Albania remained an area of significant concern.

Albanian law provided for a wide legal framework to ensure minorities the same rights and freedoms that the Albanian majority population enjoyed. In reality, however, the rights of the Roma to e.g. housing, employment, education and participation in political and administrative life were often violated. Stereotypes of and prejudices towards the Roma community were commonplace, leading to indirect and covert discrimination.

Although the general climate in Albania was predominantly tolerant of minorities, much remained to be done in order to better integrate the Roma community into Albanian society. There was also a need to better inform Roma of their rights, to equip them with the necessary information to combat human rights violations, and to enhance co-operation with local authorities in order to improve their situation.

### **Trafficking in Human Beings**

Officially, the issue of trafficking in human beings became one of the central issues in the work of the Albanian Government and the civil society. During the past two years the Ministry of Public Order, in particular, has undertaken efforts to combat this problem. A Regional Centre for Anti-Trafficking was set up in Vlorë in 2001, the police arrested some traffickers and increased human resources were invested in this field. In addition, legislation regarding this issue was improved.

At the same time, a report by Save the Children noted that 60% of Albanian trafficking victims were minors. Trafficking rings preyed upon Albanian women and children, operating with impunity throughout the country and evading border controls. In 2001 the Albanian Government continued to treat trafficking victims as criminals: far more criminal charges were brought against victims of trafficking, who were prosecuted for prostitution, than against traffickers. The Government failed to provide even minimal assistance to victims or to support witness protection programmes.<sup>7</sup>

◆ The AHC undertook some investigations with IHF representatives and other NGOs dealing with trafficking in people. For example, the IHF and the AHC took action on behalf of five Romanian and Moldovan female victims of trafficking who had been held in custody for over six months and charged with prostitution and illegally crossing the border. The AHC and

the IHF sent an open letter to the general prosecutor calling for the immediate release of the women.<sup>8</sup>

Civil society played an important role in addressing the issue of trafficking in human beings, making the public more aware of the issue and taking measures to support the victims. In cooperation with some international organizations, Albanian NGOs set up a shelter for victims of trafficking and offered them help in returning to their home countries if they wished to do so.

### **Social Rights**

#### *Patients' Rights*

From January to March, the AHC carried out a project on the "Human Rights Situation in Health Institutions of Public Services." This consisted of monitoring missions to several psychiatric, paediatric and obstetric-gynaecologic hospitals in the cities of Tirana, Shkodër, Vlorë, Elbasan, Lushnjë, Durrës, Korce and Fier. The missions focused on the living conditions of the patients, the sanitary standards, the treatment of patients, and the influence of corruption.

The activities were mainly based on complaints filed by individuals who believed that their basic rights in the field of health care had been violated, as well as media reports on such cases.

The AHC concluded that, although some improvements had taken place in hospitals, numerous remaining problems led to violations of the patients' human rights: physical conditions were inadequate, sanitary conditions were sub-standard, and heating and illumination were insufficient. Further, there was a lack of space for patients and their rooms were not adequately equipped. The quality and quantity of food was poor, patients did not have proper clothing, and the institutions suffered from a shortage of various equipment and medicines. Some doctors handled their patients inappropriately and many took bribes for their services.

There were problems in maintaining working discipline, and family members had to take on tasks that were actually those of the staff.

Complaints by patients or their family members were often ignored and in the area of psycho-social rehabilitation there were many problems.

The AHF submitted a report with recommendations to the responsible authorities.

### *Working Conditions*

In July the AHC carried out a fact-finding mission to several shoe factories in order to look into working conditions. This was motivated by the fact that the media had reported on conditions detrimental to the health of the workers there.

◆ From 17-18 July, 15 workers in the factory "Filanto" in Tirana fainted apparently as a result of intoxication from a substance used in that factory. They needed medical care.

Complaints were also reported in the factories "Tomaficio Bama" and "Albaco Shoes".

The AHC interviewed both the workers, administrative staff and persons responsible for sanitary check-ups in the factories and directors of the responsible health institutions. It found that working conditions in these factories generally conformed to the Labour Code and other legislation and most legally prescribed controls had been carried out. However, the lack of periodical controls by the Inspectorate for the Directory of Hygiene had led to dismal hygienic and sanitary conditions.

In addition, the cases of intoxication had not been investigated in order to discover whether they were caused by a substance used in the factories, potentially dangerous to their health. This omission was officially attributed to lacking equipment for the necessary tests.

The AHC recommended the creation of adequate legislation on working conditions and the prompt implementation of

this; better control by authorities of conditions that might be dangerous to health; better verification of the age of the workers to avoid the hiring of minors; ensuring that workers have regular breaks of the minimum of 20 minutes as foreseen in the Labour Code; carrying out regular sanitary and health check-ups of the workers even if complaints are not filed and taking preventive (e.g. hygienic) measures to avoid health problems.

### **Right to Property**

According to Article 181 of the 1998 Constitution, legislation should have been adopted within two to three years to resolve problems related to expropriation and confiscation of property prior to the adoption of the Constitution. Such a law, which would be in line with Protocol 1 of the European Convention of Human Rights, had not passed as of the end of 2001.

The Parliament set up a special commission on this issue in November. The question was discussed, but no solutions were to be expected in the immediate future because of profound disagreements between different political parties on the issue. The core of the problem is the demand by some parties for a whole-scale return of the property – particularly land – to the original owners. This requirement runs up against the decision taken soon after the democratic change to distribute land parcels to those peasants who had worked the land at their disposal at that moment in time.

### **Local Self-Government**

Albania is party to the European Charter of Local Self-Government and its provisions have been integrated into the Constitution and into a special law on the organisation and functioning of the bodies of local self-government.

In 2001 the AHC carried out a fact-finding mission in the municipality of Elbasan (Central Albania) and interviewed 310 citi-



zens about the level of respect of basic rights by the bodies of the local self-government. Although the majority of the interviewees were relatively satisfied with the situation, many stated that additional efforts should be taken to create more transparency, which could then help solve the remaining problems.

The survey focused on the efficiency of local self-government in its legally prescribed tasks in the field of infrastructure and public services; social, cultural and sports services; services for local economic development; education; primary services; protection of public health; and in the field of public order and civil defense.

In general, the inhabitants expressed satisfaction with the authorities' work in the field of public order, environmental and urban planning issues and public transport.

Dissatisfaction was expressed with the failure to respond to complaints and problems raised by the citizens or extensive delays in doing so. The problem was largely

attributed to the lack of professionalism and to the existence of corruption. In addition, it was felt that representatives of the local government had few or no contacts with normal citizens: on the other hand, very few inhabitants had attended the meetings of the municipality council which were open to the public. This was mainly due to the fact that they said they were inadequately informed about such meetings or because they were not interested in them. It was also perceived that the local self-government did not pay sufficient attention to the dissemination of information on issues of public interest. Many were of the view that the best source of such information was the local media, particularly electronic media.

Furthermore, a considerable number of the interviewees complained that the local administration was too dependent on political parties, reflecting the old party-state mentality. Also political infighting weakened the administration and governance.

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## Endnotes

<sup>1</sup> Unless otherwise noted, based on the *Annual Report 2001* of the Albanian Helsinki Committee (AHC).

<sup>2</sup> Unless otherwise noted, based on OSCE/ODIHR, *Republic of Albanian: Parliamentary Elections, 24 June-19 August*. The case examples were provided by the AHC.

<sup>3</sup> For more concrete information and AHC recommendations, see *The report on Monitoring of the General Elections*, Tirana 2001.

<sup>4</sup> *Human Rights Watch World Report 2002*, at <http://hrw.org/wr2k2/europe1.html>

<sup>5</sup> *Human Rights Watch World Report 2002*

<sup>6</sup> Amnesty International, "Albania: Ill-treatment of children in custody must stop", 7 March 2002.

<sup>7</sup> Ibid.

<sup>8</sup> IHF open letter to General Prosecutor Arben Rakipi, 7 February 2001, at [www.ihf-hr.org/appeals/010702.htm](http://www.ihf-hr.org/appeals/010702.htm)