

Report on monitoring the observance of the rights of citizens at border crossing points (BCP)

1. Introduction

The Albanian Helsinki Committee, during the period November-December 2011, has undertaken a round of observations at the border crossing points of Muriqan, Hani i Hotit, Shëngjin, Kakavija, Kapshtica, Qafë Bota, Tre Urat, Qafë Thana, Tushemisht, Gorica, Morina, Porti i Vlorës, Durrës and Saranda, Airport "Mother Teresa", Closed Center for Foreigners in Vora.

The purpose of monitoring missions was to monitor more closely the respect for the rights of Albanian and foreign citizens and immigrants from the local and foreign police, as well as highlighting the progress achieved and the main problems encountered in these border crossing points.

A significant progress results almost in all border crossings, compared with observations made by the Albanian Helsinki Committee in previous years.

Among the strategic documents referred to by AHC in the context of this monitoring process are: State Police Strategy 2007-2013 and its Action Plan, National Strategy for Integrated Border Management, approved by the Decision of the Council of Ministers no. 668, dated 29.09.2007; Decision of the Council of Ministers no.1021, dated 14.10.2009 "On approval of the updated action plan of the National Strategy Integrated Border Management"; Decision of the Council of Ministers of the Council of Ministers no. 461, dated 06.09.2010 "On the adoption of the strategy for the reintegration of returned Albanians, 2010-2015 "and its action plan; the Council of Ministers Decision no.142, dated 02.23.2011" On approval of the National Action Plan for combating trafficking in human beings" and the additional document" Action Plan for combating trafficking of children and protection of children victims of trafficking"; the Council of Ministers Decision no.1140, dated 30.7.2008 "On approval of the intersectorial strategy for the fight against organized crime, trafficking and terrorism; Decision of the Council of Ministers no. 1103, dated 14.11.2009 "Action plan of intersectorial strategy for the fight against organized crime, trafficking and terrorism".

Regarding the legal basis for border management, AHC referred to several laws and regulations as the Law no.9861, dated 24.1.2008 "On the control and supervision of the border"; the Law no.9959, dated 17.7.2008 "On Foreigners"; the Law no. 9749, dated 04.06.2007 "On State Police"; the Law no.9668, dated 18.12.2006 "On the emigration of Albanian citizens for employment purposes"; DCM no.362, dated 1.04.2009 "On defining the criteria, procedures and documentation for entry, stay and treatment of foreigners in the Republic of Albania ", as amended; DCM no.494, dated 01.08.2007" On approval of the rates of food handling of employees of the State Police, students and trainees in police schools, and of detained citizens up to the clarification of their position. "

2. Some of the findings of monitoring missions to all BCP

2.1 Infrastructure

During monitoring, there were highlighted obvious positive steps in terms of infrastructure, due to the funding by the European Union through the CARDS program.

In some BCP, as Shëngjin, Qafë Botë, Tre Urat, Thane Neck, Tushemisht, Gorica, Ports of Vlora, Durrës and Saranda, Airport "Mother Teresa" and the Closed Center for Foreigners in Vora, there were made significant investments and most of them have achieved the required standards.

However, despite this, in a number of BCP there were identified problems in terms of infrastructure. In some of them, as in Qafë Thanë, Kapshticë, Port of Vlora, Kukës - Morinë, etc. no investments have been made recently.

It was found that in border crossing points of Qafë Thanë, Kukës – Morinë there was no heating system or the system did not function due to various defects. Otherwise, was found the supply with firewood in some border crossing points such as Korça and Pogradec, while in the other points the heat was done with electricity.

Another problem identified was the lack of necessary facilities for personal needs of citizens (public toilets), which creates concern for citizens who cross the border. Although this issue has been raised previously by AHC, still nothing has been done to find a suitable solution to this concern of citizens in BCP of Qafë Thanë.

In the border crossing point Tre Urat in Permet it was noted that the road infrastructure to go to the BCP is very bad and signs to guide citizens are missing. Employees of the BCP lived mainly in Permet and had great difficulties to reach their workplace.

2.2 Facilities and interviewing of persons receiving the deportee and INAD (inadmissible)

For reception and interviewing of persons deported or INAD (inadmissible persons), in some BCP there were observed special facilities for their accommodation and state of condition offered is satisfactory. It was concluded that these facilities were in good condition, clean and regular as in: BCP. Port of Durres, Shengjin Kakavija, Kapshtica, Qafa e Botës, Ports of Vlora and Saranda, Airport "Mother Teresa", and the Closed Center for Foreigners in Vora.

However, in some BCP, such as Qafë Thanë, Gorica, Morin, Hani i Hoti, the Port of Vlora, etc. lacked appropriate facilities for interviewing and staying of deported and INAD persons. In some BCP the interviewing took place in of the operators' offices and after they were brought into a special room or special facilities (Goss Centers), while in some of those BCP functioned only one bath room for both males and females.

The facilities of "Goss Centres" where such categories of people stayed, in some cases, as in the BCP of Gorica, Kapshtica, etc., were inadequate to stay more than a few hours, especially in rooms for men often lacked the necessary equipment, but chairs.

It was noted in the BCP of Tre Urat, Kukës Morinë and Murriqan, lacked special facilities for women and children. In some cases it was justified by the low flux of these categories. Even in some BCP, as Qafë Thanë etc., where such facilities exist, condition of stay for this category of people are minimal.

During the monitoring it was observed also that in the BCP Kukes Morine lacked facilities of the offices for the responsible person of the shift.

2.3 Creating conditions for a better treatment of citizens

One of the factors for creation of the best possible conditions for treatment of citizens is the speed of action to avoid long queues at border crossings. During the monitoring it was noted that the number of counters available in the normal situation at border crossing points was sufficient to cope with the influx of entries and exits from the territory of the Republic of Albania. It is worth mentioning that the number of counters was doubled or tripled at flux periods, though at some border crossings with Greece in holiday or vacation periods remains problematic. It is noted also that movement schedule and their destination at BCP has applied systematically.

During the monitoring it was observed that food provision for deported and INAD persons remain problematic. In most cases the employees purchased food and after were reimbursed by the Regional Border Department¹. We believe that for this reason it is more efficient and increase involvement in the budget of the Department of Border and Migration Police for all the relevant BCP for meeting food needs and covering all the expenses for food for deported persons in accordance with legal provisions in force.

Lack of awareness materials on human rights related to their treatment by police of both Albanian and foreign subjects. According to our observation groups, the existence of sensitizing materials on freedom of movement does not solve the problem.

2.4 Completing the necessary personnel to BCP

The information received from the staff of border crossing points showed that almost all the BCP were completed with the necessary personnel with the exception of the Border Police Station at Tre Urat Përmet, where the director of the station claims that he has required an addition of staff in 10 persons.

In most of the observed border crossing points their staff has been completed with female staff, which represents a positive change in comparison with previous period and meets the required standards as provided in Article 8/1 and 2 of the Law 9970, dated 24.7. 2008 "On gender equality in society", points 1 and 2 of Article 8 and in the DCM 804, dated

¹ Referring to DCM no.494 dated 1.8.2007 on the norms of food treatment of employees of State Police, students and trainees in police schools and detained citizens till the clarification of their position.

21.11.2007 "On approval of Rules of the State Police Personnel", which provides that at least 50% of candidates to be admitted to the police should come from the less represented gender.

It should be appreciated that the composition of the Airport "Mother Teresa" are respectively 50% female staff and the Port of Durrës, 25% of staff were female. But it is noticed that in some border points where the lack of female staff create difficulties especially for interviewing deported females or physical controls potentially needed for female travelers. So in the BCP of Kukës Morinë, Tre Urat in Permet, Shëngjin in Lezha, Tushemisht in , Kakavija in Gjirokastra, Qafë Thanë, Hani i Hotit, Ports of Vlora and Saranda, the number of female employees was limited. More troubling situation presented the BCP of Murriqan in Shkodra and Gorica in Korca where there were no female police officers.

An important concern underscored by border officers observed was the lack of psychologist in the staff of border crossing points. Adding to the psychologist staffing is indispensable in the conditions and problems arising in cases of persons interviewed, especially in cases of trafficked women and minors.

2.5 Capacity building of staff of Border Crossing Points

Positive changes were largely noticed also in improving professional capacities of border and migration police. From the information obtained there were conducted some training for police officers of the border crossing points.

But despite this, AHC has an opinion that still needs further improvement in professional capacities for better recognition of legislation by employees of the border, especially of the legislation on human rights in general and those dealing with human rights in cases of maltreatment by the police or freedom of movement.

2.6 Functioning of Technology of Information Management System (TIMS)

In general, all border crossings observed by AHC, TIMS system functioned normally and presented no problems. Border and migration police officers were trained and skilled to the use of this system.

It was noted that in a good part of the BCP was positively solved the problem electrical energy due to functioning of generators. In case of problems in the TIMS system, data initially were thrown manually in a register, and then in the regulated system. Problematic is the border crossing point of Hani i Hoti, where ignition of generators depend on a petrol station, with which arrangements were made in case of lack of electricity for supply with electricity in case of electricity interruption.

2.7 Relations with police counterparts in neighboring states

Based on official information, the relationship of cooperation of border and migration police with those of neighboring countries were very good. There have been exchanges of information and periodic meetings between them. In these meetings there were made joint analyses on the situation and priorities, as well as on the coordination of progress of work in

guarding of the border. It is to be mentioned that common agreements for operation of joint border patrols have been signed.

Functions normally also the common Albanian-Montenegrin border crossing point of Muriqan in Shkodra and is in the process of opening the same point in the Kosovo-Albanian border crossing point in Kukes Morinë.

The monitoring has found that in border crossings points observed the cases media of physical mistreatment of Albanian citizens by the police of neighboring countries, reported by media, have resulted almost not evidential. While monitoring border crossing points with the Greece we were informed that Albanian citizens who are originally from the province of Çamëria were not allowed to enter Greece. However, such refusal by the Greek police was justified differently.

A disturbing situation has been also observed in cases of refusal of entry of Albanian citizens because of legal problems that they had before with neighboring countries (Italy, Greece) earlier. From the interviews with these people turned up their claim that they were not aware of the measures taken against them by the authorities of those countries. Among other things the rejection of entry caused an economic damage related to their travel expenses. They claim also that such a refusal does not give them the possibility to appeal to the judicial and administrations authorities of these countries. Therefore, a more active role of our diplomatic and consular representations in these countries is needed, in order to provide necessary facilities to protect the interests of the Albanian citizens which are refused or inadmissible.

Recommendations

Given the above findings, Albanian Helsinki Committee suggests:

- Albanian Helsinki Committee suggests to the Ministry of Interior and Ministry of Foreign Affairs to take concrete measures for intervention to the competent authorities of neighboring states to resolve the issue of refusal of entry and treatment of Albanian citizens born in the province of Çamëria.
- In those borders crossing points where lack appropriate accommodation conditions for the inadmissible persons, in order to improve accommodation for deported persons, such as reception facilities and their furnishing.
- Take measures not only for planning the necessary financial funds for food treatment of deported persons, but also ensure their food supply.
- AHC recommends the Department of Border and Migration Police to complete the staffing of the Border and Migration Police with female personnel for their presence is necessary to interview the deported females and minors. This is complies with legal provisions and commitments provided by the State Police in order to establish gender equality.

- AHC recommends also to the Department of Border and Migration Police to take concrete measures to ensure the presence of psychologist when interviewing trafficked women and minors.
- AHC recommends the state entity responsible for taking measures to establish guiding road signs which will come more to help people which travel outside Albanian and vice versa.
- Establish in conspicuous places in all BCP materials on human rights, of both Albanian and foreign citizens, related to their treatment by police.
- Albanian Helsinki Committee repeatedly asks the relevant state authorities to take concrete and immediate measures and create necessary facilities providing sanitary conditions for the personal needs of citizens (public toilets).
- Albanian Helsinki Committee suggests to the Ministry of Interior and Ministry of Foreign Affairs, to consider the possibility of establishing relations of cooperation between neighboring police structures which are members of Schengen (Greek and Italian), to provide a preliminary list of citizens who are not permitted to enter the neighboring country.
- AHC suggests to the Ministry of Foreign Affairs, creating spaces and possibilities to Albanian citizens, claiming to have been unlawfully deported or refused by the police of neighboring countries, to defend themselves in front of competent bodies of that state.