



ALBANIAN HELSINKI COMMITTEE

2006 Human Rights Report – Albania

Introduction

Albanian Helsinki Committee (AHC) is the first non-governmental organization for the protection of human rights and freedoms in Albania. Initially established as the Forum of Human Fundamental Rights and Freedoms it registered as such on 01.12.1991, upon the decision of the Minister of Justice no. 17/1. On March 22 1992, the organization became a member of the International Helsinki Federation of Human Rights and took on the new name of Albanian Helsinki Committee.

AHC main mission is to observe the respect for human rights and freedoms, restitute violated rights, raise public awareness on the protection of their rights and freedoms, improve legislation and law enforcement practices through legal opponency and recommendations. Part of its mission is also to increase public administration accountability, and strengthen administrative capacity building to ensure proper law enforcement.

This report addresses the situation of human rights in the areas of activities AHC carried out during 2006 and the most important developments of this year, which have a direct or indirect impact on the situation of human rights in Albania.

Good governance and rule of law

The general parliamentary elections were held on July 3, 2005. The right wing coalition lead by the Democratic Party won these elections. The peaceful transition of power from the left to the right wing was seen as a very positive fact. These elections too, however, did not meet the required standards.

In the program of the Albanian government, the fight against crime and organized crime continued to be a priority. Reports prepared by EU and other monitoring bodies identify the fight against corruption, organized crime, strengthening of judicial system as the top priorities for the Albanian government and its European integration process. During 2006, the Albanian government undertook several initiatives to minimize the phenomenon of corruption, acute in several sectors of the economy and institutions. The fight against crime, trafficking, narcotics and organized crime were also in the priority agenda of the Albanian government. On 12th of June 2006, Albania signed the Stabilization and Association Agreement with the European Union. This was a great achievement for all of the Albanians and it marked the crowning of years of efforts and the beginning of a number of reforms in the most important fields of life.

During 2006, several legal initiatives were taken to approve some important laws, which would further deepen these reforms. The rush to draft these laws and limited

consultations with interest groups led to the failure of approval practices. This was one of the reasons why the President of the Republic of Albania returned some of these laws to the parliament for further consideration or refused to sign and issue a number of them¹. Other legal initiatives were reviewed by the Constitutional Court.

The implementation of some reforms met with the disagreement of the opposition parties or forces within the majority, the media, analysts, specialists and actors of the civil society. One of the first controversial initiatives, causing many debates on the observance of the rule of law and the Constitution of the Republic of Albania, was the limitation of parliamentary immunity. At the end of year 2005, the Albanian Parliament was presented to a draft-decision on the limitation of the parliamentary immunity giving the Public Prosecutor the right to initiate criminal proceedings against parliamentary members, without prior authorization from the parliament.

Several human rights organizations, constitution specialists and independent experts, AHC as well, publicly reacted against this project arguing that it violated Article 73 of the Constitution, which states that “Parliamentary members cannot be prosecuted without prior authorization of the Assembly”. On 10th of October 2005, AHC and few other NGOs were invited at the Parliamentary Commission on Legal and Constitutional Issues to express their opinion on this matter. According to them, in order to limit such parliamentary immunity, Article 73 of the Constitution of the Republic of Albania had to be amended.

Due to strong objections presented, the project was taken out of the parliamentary agenda and forwarded to the Venice Commission for adjudication. The Venice Commission in its March 2006 report recommended to the Albanian government to amend the Constitution of the Republic of Albania if it wished to limit parliamentary immunity.

As mentioned above, lack or insufficient consultations of the government with interest groups and other actors of the civil society on several important draft-laws and lack of transparency with the public, civil society and experts in the process of drafting some laws were some of the main concerns of civil society actors. Leaving field experts out of the discussion process for such draft-laws affected the quality of some of these initiatives. The opinion of interest groups was not always taken into consideration by the government or law drafters. There exists, however, positive collaboration in this respect between the General Directorate of State Police and civil society actors relating to community policing strategies, the draft-strategy for the prevention of juvenile crime and juvenile victimization, etc. Interest groups and representatives of human rights organizations were invited in parliamentary commissions to express their opinion on several important initiatives.

Elections

In November 2005, after the elections of July 3, 2005, OSCE/ODHIR published its report on the electoral process. The report included a number of recommendations to be followed in order to further improve the electoral legislation. In January 2006, a special parliamentary commission was established to handle the electoral reform. No changes

¹ Article 84 of the Constitution of the Republic of Albania states that if the President does not promulgate a law within 20 days from its receipt, the law will automatically be considered promulgated after this deadline.

were made to the Electoral Code from January 2006 until 13th of January 2007 due to lack of political will. This had a negative impact in achieving consensus between political parties and having constructive debates, especially between two biggest opposition and incumbent parties.

The main issues of content were requests for nullifying several clauses of the Electoral Code such as the one on the temporary voters' lists; allowing birth certificates to be used as a primary document of identification for voters; giving the right spectrum the right to elect one of the CEC members at a time that the opposition parties claimed this should be right of the left spectrum; increase the CEC membership from 7 to 9 members, which in turn required the amendment of the Article 154 of the Constitution and an increase in the number of the lower electoral commissions and ballot counting groups from 7 to 14; change the election period for the local government bodies. The initial Election Day decided upon was the 20th of January 2007, but later, after the agreement of the 13th of January 2007, the President of the Republic of Albania decided the Election's Day would be the 18th of February 2007.

In its interim report, OSCE/ODHIR considered the 18th of February elections as a missed opportunity. OSCE/ODHIR and EC recommended undertaking an electoral reform with the goal of meeting the required standards. Several statements were made with respect to the fulfillment of the aforementioned obligations but no actual tasks or deadlines have been set yet.

The Public Administration

As part of the fight against corruption, the Council of Ministers took legal and structural measures. Reforms were especially substantial in the taxing bodies and customs administration. Changes were also made in the public administration organization in order to reduce overlap of duties and authority, increase of work efficiency and reduce public administration expenses. As a result part of the administration was downsized and the remaining part supplied with new personnel. On many occasions experienced employees were replaced by newcomers with little knowledge and in need of further training and qualifications before improving their work efficiency.

According to the information received by the Civil Service Commission, reforms in the public administration have often been followed by unjust dismissals from work. In this context, during 2005-2006, many employees were dismissed from their duties. Dismissals have also been accompanied by disciplinary measures for which individuals have not had the opportunity to ask for clarifications or to defend themselves². Information received by AHC near the Civil Service Commission in January 2006,

² Based on reported cases, AHC concluded that principles sanctioned in Article 3 of the Law "on The Statues of Public Employees" has not been taken into consideration in dismissing administrative personnel. This Article states that "The Civil Service is built and acts on the basis of professionalism, independence and integrity, political impartiality, transparency, public service, career building, responsibility and accountability and proper implementation of empowered legislation". Furthermore, Article 25, point 2 of the Law "On the Status of Civil Employee", requires the public administration ensure to civil employees under disciplinary measures the right to be informed, to be acquainted with the alledged violation, to defend oneself and petition against such a measure.

showed that the majority of dismissals were politically motivated, carried out with no transparency or consideration for the law.

Even when the Civil Service Commission decided for the return of the employee to his/her place of work being unjustly dismissed, such a decision has not been taken into consideration by institutions, although such decisions are binding by nature. The information given by the Head of the Civil Service Commission and published in the daily newspaper “Gazeta Shqiptare” in its edition of 21st of October 2006, shows that during the period of January-September 2006, this commission received 631 complaints made by administration employees who apparently resulted an excess to the Ministries and state institutions after restructuring. The majority of CSC decisions show that there were no strong arguments for the dismissal of employees.

Fight against organized crime and corruption

As part of the fight against organized crime, and especially criminal offenses related to the production and dealing of narcotics, on 8th of June 2006, the Albanian Parliament approved the law No. 9559, “For an supplement to the law no. 7975, dated 26th of July 1993 “On Narcotic Drugs and Psychotropic Substances”. This law causes overlap of functions between the local government bodies and the police. This supplement assigned heads of local government bodies with duties and responsibilities not envisaged for in the law “For the Organization and Functioning of Local Government”. The approval of such addition is a violation of Article 81 of the Constitutions, which states that a law is approved if 3/5 of parliamentary members vote for it. Additions to the law on the medicinal drugs and the duties and responsibilities of local government units were approved with a simple majority.

Before the law was submitted to the Parliamentary for approval, AHC together with several organizations of the civil society presented their comments on the law. In AHC’s opinion, the law was in conflict with the law “On the Organization and Functioning of Local Government” and the spirit of the Constitution and the European Charter for Local Autonomy. AHC and actors of the civil society, and media voiced their opinion that the Albanian government had to put in place effective prevention systems for the cultivation of narcotic drugs instead of discharging such responsibility to the local government units because of the incompetence of responsible drug fight structures. As part of the fight against human and drugs trafficking, on 3rd of April 2006, the Albanian Parliament approved also the law no. 9509, “On the Moratorium Against Motor Speedboats in the Republic of Albania” which bans speedboat navigation in the territorial waters of Albania and their landside transport. In the opinion of AHC³, and other human rights organizations as well constitution experts, this law limits the rights of citizens envisaged in Article 41 of the Constitution guaranteeing the right to property. The implementation of Article 17 of the Constitution has been another issue of content. Article 17 states that

³ On 15th of February 2006, AHC sent its comments on the draft-law banning the use and navigation of motor speedboats to Mr. Spartak Ngjela, head of the Parliamentary Commission on Legal Affairs, Public Administration and Human Rights, (Mr. Ngjela was the head of this commission at the time this issue was addressed by AHC).

such limitations must not impair the essence of freedoms and rights and cannot in any case go beyond the limitations envisaged in the European Convention for Human Rights”. Furthermore, in order to curb the effects of such a law on the legal owners of such motor speedboats, the law should have foreseen a three-year compensation for damages done.

AHC together with the Albanian Human Rights Group, the Center for Parliamentary Studies, the Center for Civil Legal Initiative, the Albanian Center for Human Rights, voiced their concern in a joint press release produced as part of a round table held on 20th of March 2006, with the support of SOROS Foundation.

Legal reforms implemented as part of the fight against corruption, as well as the approval of several decisions and draft-laws by the Albanian Parliament have aroused heated debates. The law no. 9508 on “Public collaboration in the fight against corruption” was approved on the 3rd of April 2006 to intensify the fight against corruption. AHC together with several human rights organizations voiced their opinion on the flaws and inaccuracies of such a draft-law that could impair citizens’ rights and legitimate interests. AHC prepared its opponency against this draft-law and submitted it to the Albanian Parliament before the approval procedures⁴. In March 2006, several human rights organizations and other actors of the civil society gathered in a round table to discuss the need for an approach to fight corruption without impairing human rights and the independence of constitutional institutions. The independent media and media analysts played an important role in informing and sensitizing the public on various initiatives and problems they pose.

Albeit repeated calls from various actors of the civil society asking from the state authorities and especially the parliament and the Albanian government to carefully assess the observance of human rights and freedoms in every legal initiative undertaken, some of the laws they were cautioned against, were approved by parliamentary majority. Lack of consultations with interest groups and overlooking expert opinions and organizations of human rights, made some legal initiative a case for consideration by the Constitutional Law. In January 2006, the Council of Ministers approved three decisions affecting the public, customs and tax administrations. The Ombudsman, the Albanian Human Rights Group, the Center for Parliamentary Studies and the Albanian Helsinki Committee addressed the Constitutional Court asking it to declare anti-constitutional the abovementioned decisions as decisions which limit human rights, limitations which can be imposed only through laws and not governmental decisions (Article 17 of the Constitution of the Republic of Albania). The decisions of the Council of Ministers conflicted with the following laws: Article 18 of the Constitution which states that everyone is equal before the law and none will be subject to any type of discrimination; Article 49 of the Constitution which states that everyone has the right to legal means of earning one’s living, to freely choose his/her profession, place of work and the professional and qualification system. The request addressing the Constitutional Court highlighted also that such decisions were in violation with the Articles 14, 17 and 18 of the European Convention on Human Rights. The Constitutional Court in its decision no. 20, issued on the 11 of July 2006, proclaimed as anti-constitutional the three above listed

⁴ On 13th of March 2006, AHC sent its comments on the draft-law “On Public Cooperation Against Corruption”, to Ms. Jozefina Topalli, Speaker of the Albanian Parliament.

decisions of the Government and it also underlined that decisions could not enter into effect.

Police and Crime Rates

The work of State Police improved during 2006. There was greater commitment and intensity on the part of police in combating against crime, and organized crime in particular.

In the context of Stabilization and Association Agreement signed with EU, the National Action Plan for the Implementation of the SAA approved upon the decision no.463, dated 5.7.2006, several measures of a legal and structural nature are foreseen to be taken aiming at strengthening sustainability and improving the work performance according to the best European practices and standards and fulfilling the obligations of the SAA agreement⁵. A short-term priority in this context was the amendment of the law on the State Police, which will “provide for a greater breadth and impulse to initiated reforms in the Police⁶”

The Ombudsman and several other human rights organizations contested the draft-law on the State Police. AHC in cooperation with other human rights organizations in the country offered opponency on the draft law and identified some serious flaws and gaps. In December 2005, the Parliamentary Commission for National Security organized a hearing sessions with representatives of human rights organizations, where AHC takes part. The draft-law was turned back for adjustments and additions. Part of their remarks and suggestions were addressed and the necessary corrections and clarifications were made.

Compared to a year before, crime rates increased during 2006. It is therefore worth mentioning that there was an increase in domestic crime offences and crimes against property. Quite distressing for 2006 was the phenomenon of suicide with 108 cases of suicides and 59 attempts on life⁷. Domestic violence saw an increase as well during 2006. On 23rd of January 2006, a coalition of non-profit organizations mainly operating in the field of women and children rights, presented the Albanian Parliament with a draft law “On Measures Against Domestic Violence”. The purpose of this draft law was to prevent and reduce domestic violence. In addition to that, the Ministry of Labor, Social Affairs and Equal Opportunities, in cooperation with the civil society worked on a National Strategy against Domestic Violence.

Despite police achievements in the fight against crime, the Albanian Helsinki Committee has received reports on arbitrary actions and use of violence by police against citizens. Furthermore, AHC monitoring during 2006, showed that police did exert violence during arrests, transport of detainees to police stations or interrogations in the police stations.

On 18th of February 2006, the police used violence against G.Xh, reporter for the NEWS24 TV Station, and his father while their stay in the city of Lushnja. Police used

⁵ For more see the Decision no..463, dated 5.7.2006 “on the Approval of the National Plan for the Implementation of the the Stabilization and Association Agreement”, title 3.24.11 “the Police”.

⁶ Excerpts from the speech of the General Police Director in the semiannual analysis of the State Police for the period of January-June 2006.

⁷ Albanian State Police Semianual Analysis January –June 2006.

violence against these two citizens while putting them under their control, during their transport to the police station and inside the police station of Lushnja city. AHC considered the actions and the violence police used against the reporter as arbitrary and strongly condemned it. The case was submitted to the Prosecutor's office to open criminal proceedings.

On 17th of June 2006, the juvenile A. Përfundi, third year high school student in the village of Pirg, Korçë, put an end to his life. His family members and friends say the victim put an end to his life after being ill-treated by police forces who interrogated him on an incident which had occurred in his village. Family members of the victim testified that the use of violence was obvious by the existence of bruises and marks on his body.

The independence of judicial power

The observance of human rights heavily depends on the independence of the judicial system and public access. Amending the law on the High Council of Justice has been part of the general legal reforms undertaken. This is an independent body entitled to appoint, transfer and discharge from duty or take disciplinary measures against judges. The Parliament of the Republic of Albania through the law no. 9448 introduced some changes and amendments to the Law no.8811, approved on 17.05.2001, "On the Organization and Functioning of the High Council of Justice". The drafting and approval processes triggered heated debates between experts and lawyers. The President of the Republic neither signed the law nor returned to the Parliament, therefore the law promulgated automatically.

A group of parliamentary members of the Albanian Parliament addressed the Constitutional Court on this issue claiming it was in violation of the Constitution of the Republic of Albania. The Constitutional Court decided the abrogation of the law as irreconcilable with the Constitution of the Republic of Albania and Articles 2, 3, 4, 5 and 6 of the Law no.9448, approved on 05.12.2005 "On some changes and amendments to the law.8811, approved on 17.05.2001 "On the Organization and Functioning of the High Council of Justice"⁸.

High Council of Justice (HCJ) – Albanian Assembly conflict

In September 2006, the Albanian Parliament selected two new members for the HCJ at a time when the office term of two HCJ members to be replaced, had yet to expire. According to the law, at the end of a HCJ member office term, the HCJ takes the necessary decision and submits a request to the Parliament for the selection of the successor. In this case, the Albanian Parliament did not adhere to the law.

The Attorney General issue

During 2006, the dismissal of the Attorney General of the Republic of Albania became the next controversial issue causing many debates and leading to the boycott of

⁸ For more information see the decision no. 14 of the Constitutional Court, issued on 22.05.2006

parliamentary sessions by the opposition parties. The incumbent party made a series of accusations against the Attorney General claiming the office holder had violated the law during his years in office. According to the Article 149 of the Constitution of the Republic of Albania, the President of the Republic of Albania appoints the Attorney General with the consent of the Parliament. The General Prosecutor may be discharged by the President of the Republic upon the proposal of the Assembly for violations of the Constitution or serious violations of the law during the exercise of his duties, for mental or physical incapacity, for acts and behavior that seriously discredit the position and reputation of the Prosecutor.

The Parliament of Albania established an inquiry commission to investigate into the issue of the Attorney General. The opposition parties opposed the establishment of such a commission claiming that it was in violation of the Constitution. For this reason, no opposition member took part in it. The investigations however were completed and at the end the Parliament proposed to the President of the Republic the discharge of the Attorney General. This proposal was rejected by the President as an unsubstantiated proposal. The President also stated that the investigation violated the principle that a person is innocent until proven guilty. The President decided against the discharge of the Attorney General. The same decision was given by the Constitutional Court, which adjudicated the request of the Attorney General and the decision no. 26, dated 04.12.2006 and found that the activity of the investigative commission, established for this purpose, as anti-constitutional. Such debated had their toll in the performance of the Prosecutor's Office and in the public trust.

Citizens' rights and the justice system

Despite some measures taken, corruption in the justice bodies continues to be a problem⁹. As part of the reform in the justice bodies, in December 2006, the President of the Republic of Albania held a round table to discuss reforms in the judicial power. Some of the issues put forth for discussion were functioning of the judicial power, judges' career, strengthening the role of the National Judicial Conference and that of the High Council of Justice. The system of justice continues to grapple with the phenomenon of corruption and lack of necessary efficiency despite efforts made.

Completing judicial procedures according to a reasonable timeline continues to be a problem. The postponement of judicial hearings is one of the problems observed. Reasons for such postponements are various and different, but part of them can have been avoided through better workload management in the courts, better coordination between the prosecutor's offices and courts and increase of professionalism and a better observance of the Code of Ethics for Practicing Attorneys. Dragging on of civil lawsuits is even more concerning.

The execution of court decisions continues to be a distressing problem. Bailiff's offices have serious problems and fail to ensure the execution of civil or administrative court decisions. The control mechanisms and accountability are relatively poor. Lack of funds, ambiguity of court decisions and refusal on the part of state bodies to respect their

⁹ "Corruption in Albania; Perceptions and Experience; Observation 2005" carried out by the Institute for Development Research and Alternatives and Casals & Associates

judicial obligations, obstruct the work of bailiffs' offices¹⁰. Although there has been some improvement in the execution of court decisions, this problem has yet to receive its due attention. There have been failures to execute criminal sentences due to overcrowding in penitentiary institutions.

Juvenile Justice

Juvenile Justice was part of the reforms in the justice system during 2006. Some international organizations active in the field of juvenile justice such as UNICEF, Terre de Home and various actors of the civil society were involved in pushing juvenile justice reforms forward. Amending the Criminal Code and Criminal Procedure Code, introducing alternative sentences, correctional justice, etc, were some of the efforts made in this context. It's been years now that AHC is monitoring reforms in the juvenile justice system. It has contributed by offering its legal opponency on various amendments introduced in 2004¹¹ and reintroduced in 2006. Despite efforts made in these years, such amendments have yet to be approved by the Parliament.

Juvenile Justice continues to face a multitude of problems. Monitoring carried out by the Albanian Helsinki Committee in several district courts¹² on court decisions issued during 2005 and part of 2006 as well as monitoring of court proceedings against juvenile offenders during the period of September-October 2006 in the Tirana district court showed that lack of the necessary infrastructure, lack of the necessary secondary legal bases for the implementation of alternative sentence, lack of juvenile correction institutions, lack of the necessary facilities to hold court sessions open to the public in several courts, and especially in the biggest courtroom of the country, that of Tirana, lack of psychological assistance for juvenile offenders, create difficulties in upholding international standards and adhering to the requirements of Albanian legislation on serving juvenile justice.

Imprisonment and house arrest were the two most common sentences issued to juvenile offenders. There were problems with the legal services offered to juvenile offenders. Although part of juvenile in trouble with the law were represented by defense attorneys chosen by their families, yet the level of defense provided leaves much to be desired for. Legal and social services offered by the civil society are not funded by the state budget by foreign donors therefore being completely dependent on such donations. A great number of criminal proceedings against juvenile offenders drag on beyond reasonable timelines. Although according to the law juvenile offenders are exempted from punishment or will receive the minimum sentence for the offense committed, such clauses have found little use by the courts. Lack of supervisory structures ensuring the use of alternative sentences has resulted in a very low number of such sentences being issued.

¹⁰ Progress Report on Albania, European Commission, Tirana on 8 November 2006

¹¹ Please see our webpage www.ahc.org.al for parts of this opponency

¹² The study covered 7 court districts: that of Tirana, Fier, Elbasan, Gjirokastër, Shkodër, Korçë and Vlorë and it was carried out during the period of May–September 2007.

Albanian juvenile justice has yet to place “Child’s Best Interest” at the focus of its attention. In 2007 the President of the Republic of Albania signed the establishment of that juvenile court sections.

Prisoner and detainee rights

The observance of the rights of detainees and prisoners has been one of the areas of activity during 2006. Legal reforms in the detention and prison system focused mostly on the introduction of subnormative acts rather than legal amendments or changes. Although a legal package on juvenile justice was prepared in 2005, including amendments to the law “On the rights and treatment of prisoners” and “The execution of criminal sentences”, it never made it to the Parliament for approval¹³.

A new prison regulation was approved in 2006¹⁴. Prior to approval, it underwent an evaluation and opponency session by various stakeholders of the civil society active in the field of the protection of detainee rights. AHC was among these stakeholders. The approval had a positive effect on the observance of the rights of persons held in penitentiary institutions. Furthermore, infrastructure was improved in several prisons, such as: the construction of new visit area at the detention institution no. 313, “Jordan Misja” Street, in Tirana. Also the greater number of part-time social workers and psychologists was introduced in prisons.

During 2006 AHC monitored the situation of detainee and prisoner rights in penitentiary institutions having as background the recommendations of the EC Committee for the Prevention of Torture (CPT), Ombudsman and the recommendations AHC presented to state authorities after former monitoring. The majority of CPT recommendations presented in its 2005 report on detention were not followed with the exception of the improvement of living conditions in detention rooms in Durres.

Living conditions in the detention rooms at the police stations were very bad and there was no improvement from the situation of a year ago. Such living conditions had yet to meet any of the standards prescribed by law. Detainees were still held in police stations, under the authority Ministry of Interior. It was only in January 2007 that the transfer process of the detention system under the Ministry of Justice resumed and it has generally progressed quite well.

Use of violence or degrading treatment, especially due to the living conditions in the detention areas, remains a matter of concern although at a lesser degree. During 2006, AHC received several complaints from persons under arrest or prisoners claiming their rights had been violated. Validating such claims was difficult because prisoners and detainees are not provided with the opportunity to enjoy their right to information and communicate with the human rights organizations in a timely fashion, except when they need to meet with their case prosecutors. Furthermore, validating their claims was even more difficult because no legal medical examination had taken place immediately after their subordination to violence or use of violence against them.

¹³ This issue is addressed further below in this report in the part discussing the observation of juvenile in trouble with the law.

¹⁴ Detention Regulation approved on 11.05.2006, upon the order fo the Minister of Justice prot. no. 3705/1.

The majority of penitentiary institutions observed did not provide their population with personal hygiene items. The majority of detainees and prisoners obtained such items from their families.

Another problem observed in police commissariats and prisons was the treatment of homosexuals. The individuals with the following name initials N.A., F.H., B.L., and F.M., arrested in flagrante delicto and charged with illicit sexual activity in public places and collaboration to prostitute, and held in the detention institution no. 302 in Tirana, claimed they were not informed at the moment of arrest on their right to choose a defense attorney, on the reasons for their arrest, charges and supporting evidence. Due to the above listed reasons, these detainees missed the deadline to file their complaints against the decision for their arrest. AHC informed Tirana Prosecutor's Office and the Attorney General's Office on this issue, requested such claims for procedure violations be verified, and suggested undertaking tangible measures.

Despite efforts made by the prison administration, the food norm for meals served in prison and detention facilities continues to be of the same low level as determined back in 1974. In July 2006, the Minister of Justice and the Minister of Health issued an order sanctioning an increase in the quantity and improvement in the quality of food served to detainees in the Albanian penitentiary system. This order was not executed in 2006.

A series of small changes were observed during 2006 in few prisons, such as the restitution to full operation of the ambulatory service and laboratory at the Prison Hospital, better hygiene and sanitation in this institution, actual measures taken to improve health services in the detention institution no. 302 in Tirana such as opening personal health records for each detainee, testing them on Hepatitis C and establishing contacts with the Institute of Hygiene¹⁵. Health services however in the detention facilities under the authority of the Ministry of Interior were very poorly delivered. There was no dental service whatsoever in all the pre-trial detention rooms inside the police stations and pre-trial detention facilities in Vlora city. Some of these facilities had neither pathologist nor medical instruments or medicine for general healthcare or dental care.

Another distressing problems waiting to be solved is the treatment of mentally disturbed detainees and prisoners. In September 2005, the Ministry of Justice decided to refurbish a facility in Durres that would serve as a special institution for the mentally disturbed prisoners. The refurbishment started only in the beginning of 2007. Mentally and physically disabled detainees and prisoners continue to be held with the rest of detainees and prisoners. Lack of special treatment pushed the detainee D.S., held in the prison of Peqin, to attempt suicide several times, becoming thus a danger for him and for the prison administration. In July 2006, AHC informed on this case the General Directorate of Prisons, recommending an assessment of the actual situation and keeping this detainee under continuous surveillance and the medical care of a psychiatrist.

Prisoner employment is yet another problem to be solved. Although a draft-decision on prisoner's employment and remuneration exists, the Council of Ministers has yet to approve it. In order to facilitate the process, AHC offered its constructive opponency and organized two round tables with representatives of the Ministry of Justice, General Prisons' Directorate, foreign experts with experience in the field and representatives of

¹⁵ AHC voiced such concerns in a public statement issued on 13th of July 2006 under the title "Health Service in Albanian Prisons, a Problem Pending Solution".

special prisons who meet the minimum conditions for offering such labor to their prisoners.

Opportunities for organizing correctional activities in detention and prison facilities are very few. There is only a limited number of legal and fiction books in prison libraries, with the majority of books being religious. The Albanian Helsinki Committee and several other organizations of human rights and foreign donors donated various books to the prison libraries. AHC donated various books, reports, brochures, and information leaflets on human rights. During 2006, AHC published and disseminated 1000 copies of a poster titled "The Prisoner rights and duties", it enabled the publication of the monthly bulletin "Return to Society" disseminated to the prisoners and prison administration. AHC, after assisting in drafting the Code of Conduct for the detention and prison system employees, approved in 2005 by the Minister of Justice, it made possible the publication of 3500 copies in 2006.

During 2006 it was noted an increase in the number of complaints submitted by detainees especially against the treatment they received by local prison and detention administration. In the majority of cases, AHC verification groups had difficulties in verifying such claims. Prison administration, although positive in its communication, admitted the existence of such problems only on few cases.

Involving the prosecutor's body to verify claims of prisoner's rights violations has had better results. In the case of prisoners A.M and A.Sh, who were submitted to violence while serving their sentence in the prison of Kruja, after the intervention of AHC requesting the verification of claims and notification of Kruja public prosecutor's office, investigations were initiated and found that two uniformed prison employees were involved in the incident. According to the information, AHC received from the Public Prosecutor's Office, the prison employees who exerted violence on the detainees were released from their duties and were being investigated. AHC has signaled the district courts of Tepelena, Elbasan and Kavajë on incidents relating to the use of violence although according to these structures none of such claims has been proven.

Detainees and prisoners had little faith in the way prison administration was handling their complaints. Some detainees claimed their correspondence with state institutions and especially human rights organization was subject to control and censorship. Although AHC has made great efforts to find whether these claims were founded, it has been very difficult to verify them. During its monitoring visits to detention and prison facilities, AHC heard detainees say that in the majority of cases prison administration reduced their furlough or special leave time or rejected such requests altogether ¹⁶. According to them the prison and detention administration take such measures in order to avoid having prisoners not return to serve the remainder of their sentence, even when prisoners meet the prescribed legal conditions to enjoy such leaves. The General Prison Directorate admitted this fact.

During 2006, the Supervisory Commission for the Execution of Prison Sentences failed to function. In March and July 2006, AHC requested the Minister of Justice take measures to make the Commission operational. AHC offered its recommendations to improve the functioning of such Commission from the point of view of human rights and

¹⁶ As part of the support AHC offers to state institution, it offered legal opponency on the improvement of prisoner's furlough and leaves regime.

international standards. This Commission has failed to verify and solve problems our organization has put forward in the multitude of letters AHC has addressed to it.

The use of alternative sentences remains at low levels. As part of project by UNICEF, SIDA and Terre De Home, efforts are being made to initiate the implementation of such alternative sentences. In March 2006, AHC through foreign expertise offered its comments and suggestions on how to facilitate the introduction of alternative sentences and the establishment of necessary structures.

The freedom of the Media

The media has played an important part in informing the public and denouncing corruption and violations of citizens' rights by representatives of the public administration. During 2006 however, monitoring of the media showed bias on the part of some media in covering political and social phenomena. There were also media, which repeatedly infringed the principle that a person is presumed innocent until proven guilty by divulging crime suspects' faces and identities before the court issued a final decision¹⁷. There were many occasions when the media did not show enough consideration for the observance of the Ethics of Journalism in publishing the news. A law on the press has yet to be approved.

The freedom of the media and its relations with the government were another issue of debate. During 2006 the Government prepared a draft law requiring a change in the number of membership to the National Council of Radio Television and to the Steering Council of Radio-Television. The draft-law approved by the Parliament of Albania, foresaw the members of the NCRT and those of the SCRT to be appointed by the Parliament upon the proposal of the civil society and associations of journalists, lawyers, politics, etc¹⁸. Media and civil society representatives opposed the new selection formula for the members of the NCRT arguing such a change would place media under the control of the government. On 30th of August 2006, the two biggest parties (DP and SP) arrived to an agreement to add to the NCRT three other members, two of whom would be proposed by the civil society and approved by the opposition and the one remaining would be a consensual choice. This agreement has yet to be respected.

Another issue which had a strong resonance in the media circles was the Decision the Council of Ministers took on the 31st of August 2006 "On the Transfer of the National Theater and National Gallery of Arts in the Premises of the International Center of Culture "Pjeter Arbunori". The implementation of this decision would force the television station "Top Channel" out of its offices near the International Center of Culture, although it had a contract for the utilization of such premises. The local media and the international structures interpreted this decision as a blow of the government against the free media in

¹⁷ In order to strengthen the respect for the principle of presumption of innocence until proven guilty, on 15th of March 2006, AHC together with the Center for Parliamentary Studies and the Forum for Free Thought organized a round table.

¹⁸ For more see the Law no. 9531, dated 11.05.2006 "On some additions and changes to the Law no. 8410, dated 30.09.1998 "On Public Owned Radio and Television Stations in the Republic of Albania", amended.

general and Top Channel in particular. AHC issued a public statement asking the government to reconsider its actions.

Observance of minority rights

There were satisfactory developments in the treatment of minorities. One problem yet to be solved however remains the collection of updated official statistical data on the number of minority members in Albania. During 2006, AHC noted an improvement in keeping special registers on minorities by some local government bodies, especially on the Roma minority in the areas of high minority concentration.

Year 2006 saw the initiative for the drafting of a law on religions in Albania. In this context, a meeting was held with the participation of state institutions representatives, field specialists, academics and non-profit organizations in order to prepare a draft-law on this matter and a draft-agreement between the Albanian Government and religious communities in Albania. In order to prevent discrimination, the Albanian Human Rights Group in cooperation with some other organizations prepared a draft-law against discrimination, which has yet to be discussed in the Parliament.

The existing law on the press is hardly appropriate after the developments in our media and society. For this reason, it is necessary to draft a new law to address current media needs and those of the social groups in general and minorities in particular. It would be positive if minority representatives would be part of this law drafting process.

In order to increase minority access to the Albanian Television Station programs is necessary to increase the role of minority representatives in the Steering Council of the Albanian Radio Television.

Part of minorities, especially in those villages with a high concentration of Greek and Macedonian minority, the signal of the National Television Station is weak. This is a necessary media, which fights segregation and helps in their integration in the life of the society in general.

In 2003, the National Strategy “For the Improvement of Living Conditions of the Roma Minority” was approved. Its implementation has been object of observation by civil society bodies. According to the findings of the monitoring of several organizations such as: SOROS, AHC and CRCA the implementation of the National Strategy encountered many difficulties and has progressed at a very slow pace.

During 2006, there was little and modest progress made in this respect. It was noted a lack of efficiency on the part of the responsible state institutions in taking the necessary measures in order to achieve determined objectives, especially at a local level. It was also noted a lack of cooperation between central and local bodies as it pertains to information exchange on measures taken or to be taken. Such cooperation lacked also between state institutions and Roma organization and various actors of the civil society active in the field of the protection of minority rights.

Furthermore, there was no coordination and cooperation between this strategy and the rest of the local and national strategies approved already by the Albanian Government. It is therefore necessary to achieve a better coordination of joint efforts in order to achieve the best of results.

The Roma organizations did not live up to their role either. State institutions did not keep dialogue with the Roma minority at the required level. The lack of the necessary

professional capacities of several Roma organizations and structures strategy monitoring responsible had its effect in this respect. Furthermore, the objectives set; deadlines and budgets allocated for the achievement of strategy objectives were not realistic, clear and measurable.

The observance of migrant rights and returnees

Many illegal Albanian immigrants to Greece returned from the cross border points with Greece during 2006 As part of the agreements signed between Albania and other EU countries on illegal migrants return. An average of 130-140 illegal immigrants would pass the Kapshtica cross- border point per day¹⁹, and another 250 clandestine from the Kakavija cross border point. All returnees did not have proper immigration papers and were stopped by the border police near the Albanian-Greek borderline.

Despite efforts made to prevent illegal border crossings, this phenomenon continues to be quite distressing. In its contacts with various immigrants returned from Greece from the Kapshtica cross border point, AHC found that in many cases these individual reattempt to cross the border illegally.

Contact between the Albanian immigrants and police in cross border points is generally satisfactory, but there is room for improvement regarding communication ethics. Cases of ill-treatment of Albanian immigrants during 2006 have been scarce.

Physical infrastructure of immigrants' receiving facilities and other premises in some of the border crossing points is quite poor. Some cross border facilities do not meet proper work conditions, with no public toilets, designated areas for returnees, no directional signs, no guidelines on the procedures to be followed by citizens crossing this border point, and no traffic signs for vehicles using this border crossing. Some border crossing points lacked the necessary infrastructure to conduct interviews and treat returnees properly; there were no female police officers to interview women returnees being they illegal immigrants or victims of human trafficking.

Insufficient financial of some returnees has on several occasions made border police to pay returnees' meals and fare home from their own pockets meals.

Modest attempts were made to improve infrastructure and service in the cross border points of Kapshtica and Vlora seaport. Problems with infrastructure and service however lead to unethical treatment of citizens and passengers and delays in completing the necessary paperwork processes for their vehicles.

The majority of cross border points monitored experienced difficulties before national holidays and summer season, when the influx of immigrants returning home is greater. The lack of waiting areas for Albanian citizens makes the basis for their inhuman treatment, leaving them to wait standing for a long time under sunny or rainy weather, together with their children and luggage.

During 2006, there were some changes in the command of border police in many cross border points. Frequent change of command affects work performance, capacity building, and professionalism and discourages police employees. AHC assisted the

¹⁹ Data presented in this part of the report were collected during monitoring missions in several border crossing points such as: Muriqan, Kakavijë, Kapshticë, Qafë-Thanë, Morinë, Tre Urat as well as the seaport of Vlora. These monitoring mission were held during April 2006, and later on during the month of September and December 2006.

Border and Migration Police to improve their information infrastructure in several cross border points by publishing various informing leaflets on several foreign languages, placing of information stands containing various informing materials. During 2006, work was done to draft a new draft law “On Foreign Nationals” which is not approved yet.