

# ALBANIAN HELSINKI COMMITTEE

## REPORT ON MINORITY QUESTION IN ALBANIA IN RELATION TO THE EUROPEAN CONVENTION

September 1999

### **Report on minority question**

#### I. Background

Albania is a country with some minority groups. The Greek ethnic population in the Southern part of the country adjacent to the state border with Greece, is by far the largest. According to some estimates, their number amounts to 60.000 - 70.000. This has for years been the only minority group recognised by the Albanian state. In fact, the minority question in this country has been identified for a long time with the Greek minority.

It is related to the commitment taken by the newly created and internationally recognised Albanian State after the first World War to abide to the standards as determined by the League of Nations.

It is well known that in the past century the doctrines of state sovereignty and non interference in internal affairs dominated, and very few issues were regarded as of international concern. Virtually all matters that today would be classified as human rights issues were regarded as within the internal sphere of national jurisdiction.

The change occurred precisely with the establishment of the League of Nations at the end of the War. The Treaty of Versailles, concluded by the main Allied Powers, imposed considerable territorial changes with, in some cases, dramatic consequences for the various ethnic groups, as they were divided among several states. This was in particular the case of Albania, whose borders were reconfirmed as they were traced at the London Conference of the Great Powers in 1913. But at the same time, a Greek population remained within the Albanian territory.

The Allied Powers understood in time the risks of international tensions, which could arise from the minority problems and the necessity of protecting the minorities, as well. The 1919 peace agreements with Eastern European and Balkan States included specific provisions relating to the protection of minorities. The task of implementing the regime of minorities was entrusted to the League of Nations. This regime consisted of a number of special minority treaties with countries of Eastern and Central Europe.

The first treaty to establish this protective regime was the treaty between the Allied Powers and Poland, signed at Versailles in June 1919. It served as a model for a number of other treaties. The regime comprised also declarations made on admission to the League of Nations by other countries of Eastern Europe. This was also the case

of Albania, which made such a declaration on her admission to the League of Nations on December 1920. The Albanian State undertook to respect the rights of the national minorities, in its territory in compliance with the provisions of the peace treaties concluded after the first World War. According to this obligation, the ethnic Greek minority in the Southern part of the country, was accorded the right to open Greek classes. Initially, the classes were functioning as "private schools" subsidised by the Greek government. In the course of the 1930s a strong tendency in the local public opinion pronounced itself against the penetration of foreign influences and, as a result, the government decided in 1934 to nationalize the private schools. The Greek schools were also affected and this provoked a strong reaction from the Government of Athens, which approached the Permanent Court of International Justice with the case. The advisory opinion of the latter, released in March 1935, adopted the view of the Greek Government and, accordingly, the Albanian Government reopened the Greek "private" schools subsidised as before by Athens.

The situation of the Greek minority during half a century of communist regime has given ground to different comments. However, the main conclusion to be drawn is that the Greek minority has not been the target of specific discrimination. It has, of course, suffered from the general atmosphere of a repressive regime shared also by the majority of Albanian population. It should be pointed out that generally speaking, a model of good coexistence has prevailed over the years in Albania. A solid foundation does exist behind this. A very positive impact in this regard is the consolidated tradition of a normal civil relationship between the majority and the Greek ethnic population, in the South. Beyond any doubt, this is a very important achievement of the Albanian society, which has successfully faced all kind of circumstances.

## II. Actuality

The democratic changes in Albania during the latest decade have played a substantial role, too. As a result, the position of the Greek minority has acquired a new dimension, in accordance with the basic principles and values, which govern the life of an open democratic and pluralistic society.

There is one more factor that cannot be underestimated: the new spirits, which permeate state relations between Greece and Albania, have had an undeniable effect.

In a few words, the minority question, as far as the Greek one is concerned, is well under control. However, when we say that the minority question in Albania is under control, this doesn't mean that there are no problems at all. There is no ground for describing the situation in idealistic terms. Once there is a state power, there is always the possibility of violating the rights, both individual and collective. It was a critical moment, which the minority question (to some extent) and the bilateral Greek-Albanian relations underwent in 1994, when 5 minority leaders were arrested on dubious charges, reminiscent of the fabricated judicial processes of the communist era.

It is a merit of the entire Albanian society if the crisis was overcome within a couple of months. So the case remained a sporadic, isolated episode in front of the long-standing background of normal co-existence. It has been a test also for the AHC and its

dedication to its basic principles. As a matter of fact, the AHC promptly reacted condemning the invented trial.

This brings us to the second point: that of the activities developed by the AHC related to the implementation of the minority regime in Albania. The minority question has since the beginning been one of the main topics in the agenda of the AHC. Monitoring groups have been set up from time to time and sent to investigate the situation on the spot. Particular mention should be made of the seminars and conferences organised more than once and held in Saranda, which is the chief town of the minority area.

Attention was focused for some time on the opening of new Greek language classes in the main centers of the area, like Gjirokastrë, Saranda and Delvina. The AHC considered as fully legitimate the demand formulated by minority people and made continuous pressure to the authorities until the question found a solution. Tribute should be paid to the good understanding shown on this occasion by the local public opinion. Some reluctance, connected with prejudices of the past that the Greek classes should be limited to the countryside, was finally overcome and a large network of Greek classes covered all the minority area.

The chapter is not closed. On the contrary, the minority question should be dealt with in the light of the dramatic events of 1997, when the state collapsed mainly in this area and turmoil and anarchy prevailed. Under these circumstances, our regular action was disrupted and we have to admit that it is now almost two years since we worked on the subject, because of the well-known events. It has been reported that entire groups of the minority population in the South have left to Greece. In the newly created situation, we believe that it is our duty to undertake a complex and long-term action to find out what is going on. According to credible estimates, the Greek minority population in the south amounted up to 70. 000. How many are they now? How dispersed are they? Some data speak of schools not functioning any more in this area, classes are empty and pupils have followed their parents to Greece. We feel that, under the new circumstances, this is not an easy question to deal with, and a new initiative should be taken. Our monitoring groups should go to the places visiting the various villages in the area, collecting information and identifying the most acute problems. In addition, the Greek minority organisation "OMONIA" is coming out insistently with complaints that minority people are discriminated against in the public sector, and in particular in the forces of public order.

There is one point that deserves particular attention. In the light of the democratic changes in Albania, the minority question actually is being considered on a larger scale. In fact the Greek minority is by far the largest in Albania, but is not the only one. Two other minority groups are of relevance as well; one in the eastern part of the country, region of Körtcha, a Macedonian minority group estimated at about 6000, and a second one in the North, region of Shkoder, a Montenegrin group, even smaller, estimated at about 2000. It does not appear that these small groups have caused much concern to the authorities.

We should admit that the AHC has paid scarce attention to their case. However, reports have appeared recently in the press regarding the Macedonian population living in Prespa area (region of Körtcha). Their condition is described in positive terms

and particular praise is given to the fact that all the villages of the area have classes in their mother tongue.

As for the small Montenegrin group in the North, they have found a common language with the majority of the population. They have enjoyed freedom of movement and their contacts on the other side of the border have been regularly maintained. It remains unclear what are their whereabouts in the new circumstances, as a result of the war operations in the North. Only when peace is reached, will we be able to get more information on their condition.

However, the minority question in Albania doesn't finish with the groups described above. The situation in Albania reflects that prevailing in the Balkans in general, with a variety of ethnic groups, which very often are neglected or even ignored.

Three other groups come to our mind: the Vallachs, the Roma and the Gypsies. While talking about these groups, one cannot but refer back to the notion of minority. In relation to this it should be kept in mind the definition of minority as formulated by Dr. Capatorti of the Sub-Commission on Human Rights of the United Nations. In his definition he brings elements of an objective and subjective character. Among the objective elements, apart from typical ethnic and linguistic characteristics, he mentions the importance of the size of a particular group, while as a subjective element is the awareness of being apart, distinct and the clearly expressed will to preserve the identity of the group. How much does this apply to these cases? As for the Vallach population, the process of assimilation towards them is far ahead. Nevertheless, some elements of objective order remain, as mother tongue, some cultural traditions, which inspire certain understandable aspirations, finding reflection in the programs of a couple of associations.

The case of Roma people is specific, and the AHC has not done enough to speak with competence regarding this category. We have carried out only a couple of fact finding missions in Central Albania and the basic conclusion is that this group, in certain cases, has become the target of racist prejudices.

Such was unfortunately the case of July 1996, when the 15 years old boy Fatmir Haxhiu, from the village of Yzberisht, Tirana, was thrown kerosene at and set fire to by a group of youngsters in the outskirts of the capital. It happened that the tragic incident occurred while a representative of Roma Center in Budapest was on a visit in Albania. The tragic incident was denounced in our joint statement and we demanded from the relevant authorities to bring before justice those guilty of the crime. This provided a case, which put on guard the public opinion to fight against the reemergence of racist feelings, which is quite unusual in this country.

Perhaps, it is the right moment to formulate an appeal addressed to the representatives of the Roma community: They should establish more order among their ranks, and to define more specifically their will to preserve their uniqueness. To carry out our future activities we need to have a reliable partner. It is a promising sign that recently a couple of initiatives have been taken by the Roma association "Amaro-Drom" in which the AHC has been invited to take part. We are looking forward to develop further our cooperation and to undertake some joint action in the near future.

The case of Gypsies? is more or less at the same level, although it seems that they are more integrated in the society. It is time, perhaps, to take some joint action on a regional scale. Indeed, Roma and Gypsies? suffer throughout the region and moreover through Europe from persisting prejudices. This leads to discrimination against members of these groups in many fields of social and economic life and even to social exclusion. Roma /Gypsies are often also the target of violent manifestation of racism and tolerance.

As a conclusion, it should be added that the Albanian Parliament has now ratified the European Convention for the Protection of the Minorities. Nevertheless, the debate about the minority question in Albania is expected to continue.

The Albanian society has a positive balance sheet with regard to the issue of minorities. There is a book "The minority question in Europe" issued by the Council of Europe in 1996 published also in Albanian translation in 1997. In the book one will read that a certain number of states do not want in any way to touch the homogeneity of the nation-state. For them, in their territories there are no minorities. Albania is among those states, which are committed to the internationally recognized standards of the minority regime. We feel we have got the right and the duty to ask for the respect of the legitimate rights of the Albanian population living in the neighboring countries. We are talking of entire populations and not minorities. Obviously, their problems are dealt with in a quite a different way. The question of Kosovo is a matter, which largely exceeds the size of a minority case and the events related to it speak clearly of this. We would also like to highlight the situation of the Albanian population in Macedonia. We feel that, despite the problems arising from time to time, the coexistence has been saved and this is of an enormous importance in the present day situation.

A subject which cannot remain aside, is that of Albanian emigrants in the neighboring countries: Greece and Italy. Here also the question cannot be considered in the framework of minorities. It is a question of human rights for thousands and thousands of emigrants.

The AHC has started activities to make their problems known and to sensitize the opinion both inside and outside the country. We have done more for our refugees in Greece. They are also in bigger numbers. It is a pleasure to underline the fact that we have had the support and assistance of our Greek counterpart, the Greek Helsinki Monitor. We have carried out some activities, as was the case of the Saranda Seminar in April 1996. In the joint declaration we issued on this occasion, particular attention was paid to this question. From the text we would single out the following words which were included in the statement with the Greek side initiative?: "The Greek Government should recognize the need the country has for immigrants, their labour, just as other countries have accepted in the past millions of Greek immigrants. Consequently, the government should immediately proceed with their legalization" Our Greek colleagues and us, we have jointly denounced the forceful repatriation of Albanian emigrants, when problems in the relations arise between the two governments.

Perhaps we are overpassing the framework of the theme under consideration today, but this is an issue, which hurts a lot. We see how our compatriots are treated

sometimes like abandoned herds. We cannot remain indifferent when we see a revival of racist prejudices in countries, which have been considered as a bastion of western civilization and Christian solidarity. The situation is really complicated; the problems should be considered 'in many aspects. Poverty, desperation and misery are on the side of the Albanians, therefore they are in search of support.

### III. Internal legislation and international instruments related to minority question

In regard to the minority question in Albania, it is of special importance to know how and to what extent this question stands opposite to the international standards and in particular to the European Framework Convention for the Protection of Minorities.

Here follows a short description:

a) Constitutional norms as provided for by the newly approved Constitution of the Republic of Albania

#### Article 18

1. All are equal before the law.
2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or ancestry.
3. No one may be discriminated against for reasons mentioned in paragraph 2 if reasonable and objective legal grounds do not exist.

#### Article 20

1. Persons who belong to national minorities exercise in full equality before the law the human rights and freedoms.
2. They have the right to freely express, without prohibition or compulsion, their ethnic, cultural, religious and linguistic belonging. They have the right to preserve and develop it, to study and to be taught in their mother tongue, as well as unite in organizations and societies for the protection of their interests and identity.

#### Article 121

The ratification and denunciation of international agreements by the Republic of Albania is done by the law if they have to do with freedoms, human rights.

#### Article 122

1. Any international agreement that has been ratified constitutes part of the internal juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of law.
2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it.

## b) Other legal acts

“ Law nr. 7152, dt. 21.06.1995 on the educational system approved by the People's Assembly (Article 10) -dedicated to the minority right to study and to be taught in their mother tongue.

“ Decision of the Council of Ministers of the Republic of Albania nr. 396, dt. 22.08.1994 "On the 8 - year education in mother tongue of persons belonging to national minorities".

“ Civil Procedure

“ Civil Code

“ Criminal Code

“ Criminal Procedure

“ Labor Code

## c) International commitments

With the beginning and consolidation of the democratic processes, Albania has joined all the important international instruments and legal documents related to the observance and protection of human rights and in particular the rights of national minorities. This refers to the international instruments elaborated in the framework of the United Nations, Council of Europe, OSCE and other international organizations and bodies. Albania has received six times the OSCE High Commissioner for National Minorities visiting the country. His last visit took place in February 1989.

Here follows a list of the instruments concerned:

“ Copenhagen Document of the Conference on European Security and Co-operation of 1990

“ UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 1992

“ International Covenant on Civil and Political Rights of 1966

“ International Convention on the Elimination of all Forms of Racial Discrimination of 1965

“ Framework Convention of the Council of Europe for the Protection of National Minorities of 1995

On the occasion of the ratification of the European Framework Convention on minorities the Albanian Parliament demonstrated its readiness to improve further the condition of minorities in the country. During the debate the case of some minority groups was raised, which have been rather disregarded, and the authorities were called on to devote more attention to it. It should be added that the generally positive condition of the Greek minority in the South of the country, has played a considerable role in the continuing improvement of the relations with neighboring Greece.

## IV. Questions and answers

1. Parties that specifically represent a minority.

In Albania political parties that specifically represent minorities do not exist. According to Article 6, paragraph 5 of the Law nr. 7502 dt. 25.07.1991 on political parties, the creation of political party on a religious, ethnic or regional basis is not allowed.

The new Constitution in Article 9 reads as follows:

1. Political parties are created freely. Their organization shall conform with democratic principles.
2. Political parties and other organizations, the programs and activity of which are based on totalitarian methods which incite and support racial, religious, regional or ethnic hatred which use violence to take power or influence state policies, as well as those with a secret character, are prohibited pursuant to the law.

The conclusion to be drawn from the wording of this article is that the new Constitution doesn't prohibit expressly the creation of political parties on an ethnic basis, but the main interpretation is that such parties are not either allowed. This means that the provision of the previous law of 25.07.1991 on political parties remains in force.

## 2. Reserved seats in Parliament for minorities

In the Albanian Parliament (one-chamber People's Assembly) there are no reserved seats for minorities.

## 3. Parties that especially represent minorities' interests, but which are not minorities parties as such

The only political party representing minorities' interests in the Parliament is "The Union for Human Rights Party". At the latest generally elections of June 1997 the Union for Human Rights Party gained three seats in the People's Assembly, favored by the Law which has reduced the threshold to gain seats from 4 to 2%.

## 4. Election of persons belonging to minorities on the list of other political parties.

There have been always an average of 5 - 10 persons belonging to minorities (particularly to the Greek minority) in other parties elected to the People's Assembly. Their number is greater in locally elected bodies. Minorities have never been discriminated in the electoral system in Albania because belonging to a minority has never played a role in assuming party and state posts and duties in Albania.

## 5. Parliamentary committees and/or sub-committees dealing with minority issues

Under the auspices of the Commission of Political Affairs of the People's Assembly, there is a sub-commission for human rights that is chaired by a representative of the Union for Human Rights Party.

## 6. The People's Advocate (Ombudsman)

The People's Advocate has been introduced in the new Albanian Constitution. Chapter VI (Articles 60-63) is dedicated to it. In particular Article 60 reads:

1. The People's Advocate defends the rights, freedoms and lawful interests of individuals from unlawful or improper actions or failures to act of the organs of public administration.
2. The People's Advocate is independent in the exercise of his duties.

Article 63 should be also mentioned, which in paragraph 3 reads:

The People's Advocate, has the right to make recommendations and to propose measures when he observes violations of human rights and freedoms by the public administration.

## 7. Organ specifically responsible for minority issues

Presently, there is no special organ responsible for minority issues. A specialized Office was established in November 1993, first as a consultative body to the Prime Minister. After 1995 it was transformed into a one-man specialised governmental institution dealing with minority affairs. In November 1996, when the responsible person of this Office was transferred to the Ministry of Foreign Affairs, the Office followed him, of course not as an institutionalised and specialised body, inside the structure of this Ministry. Currently, a contact person deals with a part of the affairs, which fall under the duties of the named Office.

The creation of an Office for national minorities under the authority of the Ministry of Foreign Affairs is currently being discussed in Albania. Its functions would be as follows:

- to follow the implementation of fundamental political orientation towards recognition and realization of the rights of persons belonging to national minorities, whilst respecting domestic law and international obligations and commitments;
- to maintain and develop an official dialogue with minority groups and organizations or their representatives in order to be permanently familiar with their demands and problems, particularly in respect of the central and local organs of power and public administration;
- to bring to the attention of the Government concrete problems or complaints raised by minority persons, groups or organizations lobbying for minorities rights;
- to support and promote the lawful activities of minority groups which aim to preserve and further develop their cultural, linguistic, religious and ethnic identity, as well as help the creation of a climate for a better inter-ethnic understanding.

## 8. Functioning of this unit

The work of the Contact person is based on the following lines:

- day-by-day programmed or unprogrammed contacts with the minorities representatives;
- contacts, organised when problems or complaints are raised in localities where minorities are located with the local organs of power or public administrations and representatives of minorities;

- preparation of regular written reports to the government;
- other problems of day-by-day routine;
- chairing periodically, or when concerns arise, the Round Table of Dialogue with minorities' representatives.