

# *Council of Europe contribution for the 33<sup>rd</sup> UPR session (April-May 2019) Regarding Albania*

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## Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

Report on the 2017 ad hoc visit: <http://rm.coe.int/16808ae48f>



CPTInf20188\_Albania.pdf

Executive summary: <http://rm.coe.int/16808ae490>



CPT\_Inf20188\_Part\_albania.pdf

Government response: <http://rm.coe.int/16808ae491>



CPT\_Inf20189\_Albania.pdf

News flash on the publication of the report and response for a brief summary:

<https://www.coe.int/en/web/cpt/-/albania-anti-torture-committee-concludes-that-the-treatment-of-persons-detained-by-the-police-has-improved-but-conditions-of-forensic-psychiatric-pati>

Report on the 2014 periodic visit:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806677b7>



CPT\_Inf20166\_Albania.pdf

Executive summary:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168069d54f>



CPT\_inf20166\_part\_albania.pdf

Government response:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806677b6>



CPT\_Inf20167\_Albania.pdf

### **Council of Europe Commissioner for Human Rights**

*The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States. The information below covers two visits by the former Commissioner, Mr Nils Muižnieks, in 2015 and 2018.*

On **13 September 2018** the Commissioner published a [report](#) following her visit to Albania from 21 to 25 May 2018. Noting with satisfaction that Albania has banned all forms of violence against children - including corporal punishment - in all settings, the Commissioner remained concerned at the high rate of such violence that is still reported and called on the authorities to tackle this problem in a more systematic and effective manner.

Another matter of concern to the Commissioner was that some 700 children still live in care institutions, sometimes for very long periods of time without clear prospects for leaving before they become adults. Underscoring that Council of Europe standards require that the placement of children in such institutions remains exceptional, the Commissioner recommended accelerating the deinstitutionalisation process and preventing the placement of children in state care, including by providing more support to families raising children and by developing an effective system of family-type services.

The Commissioner also recommended that the authorities ensure the inclusion of Roma children in mainstream education by working closely with their parents and increasing efforts to include Roma in pre-school education. As regards children with disabilities, the Commissioner called on the authorities to provide them with the necessary individual support and reasonable accommodation in mainstream education settings.

In order to ensure legal recognition to some 4 900 people who are stateless or at risk of statelessness in Albania - many of whom are Roma, including many children – the Commissioner called on the authorities to address this issue in line with Albania’s human rights obligations, including by establishing a dedicated statelessness determination procedure. Albania was also urged to accede to the Council of Europe Convention for the Avoidance of Statelessness in relating to State succession.

As regards the protection and inclusion of persons with disabilities, the Commissioner recommended a better implementation of legislation, resolving structural problems in the social care system, and improving access to quality education and to employment. She also recommended drawing up and implementing a comprehensive plan to deinstitutionalise persons with intellectual or psychosocial disabilities and replace institutions with community-based services, providing the necessary protection and support to individuals and their families after they leave institutions and abstaining from any new placement of persons with disabilities in institutional settings.

The Commissioner also called on the Albanian authorities to review the legislation that makes it possible to deprive persons with intellectual or psychosocial disabilities of their legal capacity and, as a consequence, of their civil and political rights.

Lastly, the Commissioner welcomed the enactment of the law which broadens the category of persons benefiting from legal aid and calls on the authorities to step up their efforts in removing the obstacles vulnerable people still face in accessing justice.

### ***Fight against racism and intolerance (ECRI)***

*The European Commission against Racism and Intolerance (ECRI) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI’s monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI’s country reports.*

*ECRI’s fifth report on Albania was adopted on 19 March 2015 and published on 9 June 2015. Report:*

*<https://rm.coe.int/fifth-report-on-albania/16808b54ea>*



CRI(2015)18\_Albania.pdf

*Government comments appended to the report: <https://rm.coe.int/government-comments-on-the-fifth-report-on-albania/16808b54f3>*



ECRI\_Government\_Albania.pdf

*ECRI conclusions on the implementation of the recommendations in respect of Albania subject to interim follow-up were adopted on 21 March 2018 and published on 15 May 2018,*

*<https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/16808b76f0>*



CRI201820\_Albania.pdf

### ***Protection of minorities***

#### ***Framework Convention for the Protection of National Minorities***

*The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts*

responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.

### Opinion

*The Advisory Committee on the Framework Convention adopted the 3th Opinion in respect of Albania on 23 November 2011.*

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008c633>



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### Resolution

*Resolution CM/ResCMN(2014)1 on the implementation of the Framework Convention for the Protection on National Minorities by Albania was adopted by the Committee of Ministers on 12 February 2014.*

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016805c65a7](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c65a7)



Resolution\_CMN2014  
18Albania.pdf

## **European Charter for Regional or Minority Languages**

The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. The subsequent reports are presented at three-yearly intervals. A committee of independent experts examines the state's periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.

## **Promoting good governance and Roma empowerment at local level - ROMACTED**

The programme "Promoting good governance and Roma empowerment at local level (ROMACTED)", a regional Joint Programme between the European Union (DG NEAR) and the Council of Europe in the Western Balkans and Turkey, is being implemented in 7 Albanian municipalities. The Joint Programme started in May 2017 and was launched in Albania in February 2018. The programme aims to: build up political will and sustained policy engagement of local authorities to enhance democratic local governance and to build up capacity and stimulate the empowerment of local Roma communities to contribute to the design, implementation and monitoring of plans and projects concerning them while also improving and expanding the institutions' commitment, capacities, knowledge and skills in working for Roma inclusion, putting into practice the concepts of good governance.

In Albania, the co-operation with the national authorities and in particular the Ministry of Health and Social Protection has contributed to an important coordination with other line ministries responsible for the implementation of the National Action Plan for the Integration of Roma and Egyptians 2016-

2020, such as the Ministry of Interior, Ministry of Justice, Ministry of Finance and Economy, Ministry of Education, Sports and Youth, Ministry of Energy and Infrastructure and Ministry of Culture.

Through the Council of Europe office in Tirana and the ROMACTED programme, the CoE has also been involved in the development of the bylaws of the Law No 96/2017 on the “Protection of National Minorities in the Republic of Albania” adopted by the Albanian parliament on 13 October 2017. In accordance with the aforementioned law, Roma are now officially recognised as a national minority. Similarly, the CoE has been asked to take part in the drafting of the bylaws on the recent Law on Social Housing, mobilizing its expertise on issues of social housing for Roma.

### **Action against trafficking in human beings (GRETA)**

*The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.*

*The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.*

*The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.*

*Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.*

*The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.*

**GRETA’s page on Albania:** <http://www.coe.int/en/web/anti-human-trafficking/albania>

A 3rd round evaluation visit to ALB will take place in 2019.

[GRETA’s 2nd round evaluation report and Government’s comments](#)



GRETA\_Albania\_2016.pdf

[Committee of the Parties’ recommendations – 2nd evaluation round](#)



CP20161\_Albania.pdf

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### Government's reply to Committee of the Parties' 2nd round recommendations



CP201714\_Albania.pdf

## **Preventing and combating violence against women and domestic violence (GREVIO)**

The Council of Europe Convention on preventing and combating violence against women and Domestic violence ([Istanbul Convention](#), CETS No. 210) is the most far-reaching international treaty to tackle this serious violation of human rights. It aims at zero tolerance for such violence and is a major step forward in making Europe and beyond safer. Preventing violence, protecting victims and prosecuting the perpetrators are the cornerstones of the convention. It also seeks to change the hearts and minds of individuals by calling on all members of society, in particular men and boys, to change their attitudes. In essence, it is a renewed call for greater equality between women and men, because violence against women is deeply rooted in the inequality between women and men in society and is perpetuated by a culture of intolerance and denial.

The Council of Europe Istanbul Convention provides for two types of monitoring procedures:

1. a country-by-country evaluation procedure;
2. and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention.

[GREVIO](#), the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

**GREVIO's Page on Albania:** <https://www.coe.int/en/web/istanbul-convention/albania>

In the context of the first (baseline) evaluation report, the following documents are available on Albania:

[State report](#) (Received on 16 January 2017)



GREVIO\_Inf20171\_A

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[1st evaluation Report by GREVIO](#) (Published 27 November 2017)



GREVIO\_1st\_evaluation\_report\_Nov2017\_

*Government Comments to the GREVIO report (Received by GREVIO on 17 November 2017)*



GREVIO\_Government\_comments\_Nov2017\_

*Recommendation by the Committee of the Parties (Published on 30 January 2018)*



IC-CPIInf20173\_Albania.pdf

### ***Protection of children against sexual abuse (Lanzarote Convention)***

*The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as “[the Lanzarote Convention](#)”, requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.*

*The “Lanzarote Committee” (i.e. the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention. To do so, the Committee evaluates the information which has been provided by the national authorities and other sources in their replies to questionnaires developed by the Committee itself. This monitoring procedure is divided by rounds, each round concerning a theme; starting with sexual abuse in the circle of trust.*

As to the 1st monitoring round on the “Protection of children against sexual exploitation and sexual abuse in the circle of trust”, Albania was urged to

- review their legislation to ensure effective protection of children from situations where abuse is made of a recognised position of influence (R1, 1st implementation report);
- review the wording of their legislation to avoid stigmatisation of sexual activities based on sexual orientation (R12, 1st implementation report);
- take the necessary legislative or other measures to set up or designate mechanisms for data collection or focal points at national or local level and in collaboration with civil society, for the purpose of observing and evaluating in terms of quantitative data collection the phenomenon of the sexual exploitation and sexual abuse of children in general and child sexual abuse committed in the circle of trust, in particular (R13, 1st implementation report);



- take the necessary legislative or other measures to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care (R30, 1st implementation report);
- review its legislation in order to make proceedings ex officio possible in all cases of alleged sexual abuse in the circle of trust and to enable the proceedings to continue even though a complaint made is to be withdrawn (R55, 1st implementation report);
- put in place effective intervention programmes or measures for persons, including children, who fear they may offend to prevent the risk of offences being committed (R.24, 2<sup>nd</sup> implementation report);
- put in place a tool or procedure to make an assessment of the dangerousness and possible risks of repetition of sexual offences against children, to do so (R26, 2<sup>nd</sup> implementation report);
- put in place a tool or procedure to evaluate the effectiveness of the intervention programmes or measures (R27, 2<sup>nd</sup> implementation report);
- put in place an offer dedicated to meet the developmental needs of children who sexually offend, including those who are below the age of criminal responsibility with a view to providing them adapted programmes or measures so that they can be helped (R28, 2<sup>nd</sup> implementation report);  
put in place effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed, in the pre-trial phase of the procedure (R29, 2<sup>nd</sup> implementation report);
- put in place effective intervention programmes or measures in prison (R31, 2<sup>nd</sup> implementation report).

As regards the urgent monitoring round on "Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse", Albania (as well as the other 39 parties covered by the round) received the following 5 "urge recommendations":

- urges Parties in line with Article 5 of the Convention to effectively screen all persons who, by their professions, have regular contact with children affected by the refugee crisis for convictions of acts of sexual exploitation or sexual abuse of children in line with their internal law (R18);
- since examining the family situation is important where there are suspicions of child sexual exploitation or abuse, urges Parties to take the necessary measures to avoid risks that the child may be abused or exploited in case of family reunification (R27);
- urges Parties that have not yet done so to take the necessary legislative or other measures to ensure that child victims of sexual exploitation and sexual abuse affected by the refugee crisis may benefit from therapeutic assistance, notably emergency psychological care (R29);
- urges Parties to encourage the co-ordination and collaboration of the different actors who intervene for and with children affected by the refugee crisis to ensure that appropriate support may be provided immediately after the disclosure of sexual exploitation and sexual abuse (R30);
- urges Parties to make use, within the context of the refugee crisis, of the specific co-operation tools already available in the framework of Europol/Interpol which are specifically aimed at identifying victims of sexual exploitation and sexual abuse (R33).

### ***Fight against corruption (GRECO)***

*The 'Group of States against Corruption' (GRECO) monitors all its members through a "horizontal" evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.*

*Fourth Evaluation Round: "Corruption prevention in respect of members of parliament, judges and prosecutors".*

On 12 July 2018, GRECO published the Second Compliance Report on Albania. It is available here: <https://rm.coe.int/greco-rc4-2018-4-fourth-evaluation-round-corruption-prevention-in-resp/16808c3a35>.



Only 4 out of the 10 recommendations addressed by GRECO to Albania have been implemented so far. While a number of reforms are under way, they were not fully completed at the time of the evaluation.

Insofar as members of parliament are concerned, a positive step forward has been made with the adoption in April 2018 of the Code of Conduct for deputies. This instrument covers areas of relevance to corruption prevention, in particular situations of conflicts of interest; accessory activities; gifts; and post-employment restrictions. Conflicts of interest must be declared by deputies as they arise (on an ad hoc basis) and a procedure is also set out to ensure that contacts of deputies with third parties during the legislative process are reported, recorded and made public. At the same time, there is a certain lack of clarity about the enforcement of the rules and sanctions in case of breach, which are not mentioned expressly in the text of the Code of Conduct. An enforcement mechanism, including sanctions, would be an important guarantee of the effectiveness of such an instrument. Moreover, guidelines to cast light on the rules contained in the Code of Ethics are planned but yet to be adopted, and awareness and training of deputies on these rules are still to be defined. The periodicity of checks of deputies' declarations of assets has been shortened, which is a welcome development, and these declarations are published on an official website.

In respect of judges, a vast judicial reform is ongoing and so is a vetting process for judges, with a view to fighting corruption in the judiciary. More specifically on the recommendations addressed to Albania in the Evaluation Report, GRECO welcomes that this reform has resulted in limiting the role of the President of Republic to the formal appointment of High Court judges on proposal of the High Judicial Council, composed of a majority of judges elected by their peers. Moreover, the functioning of judicial administration is no longer within the remit of the Ministry of Justice but of the High Judicial Council. In addition, the High Judicial Council is responsible for establishing ethical standards and monitoring them, which is another promising development once the reform is completed. The creation of the High Justice Inspector as the authority responsible for dealing with complaints, investigating violations, on its own initiative, and the initiation of disciplinary proceedings against all judges is a positive feature of the ongoing judicial reform, but the post remains to be filled. That said, the delays concerning the periodic evaluations of judges remains critical.

Insofar as prosecutors are concerned, there was only one recommendation to be addressed concerning the use of objective and transparent criteria for assessing prosecutors' ethical qualities. The legal framework for the evaluation of prosecutors, including more criteria connected to integrity

and ethical standards has been decided, but the High Prosecutorial Council, which is to be responsible for evaluating prosecutors, has yet to be established.

## **Execution of judgments and decisions of the European Court of Human Rights**

### **Statistical data**

At 31 December 2017, there were 48 (50 cases at 31.12.2016) cases against Albania pending before the Committee of Ministers for supervision of their execution. Among these cases, 9 cases were “leading cases” evidencing more or less important general problems (10 leading cases at 31.12.2016).

In 2017, the CM was seized by 1 new leading case (no new leading cases in 2016) and the amount of just satisfaction awarded was € 123,600 (€ 18,216,450 awarded in 2016). In 2018<sup>1</sup>, the CM was seized by 1 new leading case. The sums awarded in 2018 as just satisfaction amount to € 13 451 860. In 2017, 4 cases (13 cases closed in 2016) were closed by the adoption of a Final Resolution.

### **Main cases / groups of cases under the Committee of Ministers’ supervision**

The main case presently under the Committee of Ministers’ supervision cover notably the issues presented below. For fuller overview of the situation see the [Country Factsheets](#) available on the website of the Department for the Execution of Judgments of the European Court of Human Rights and in the [Committee of Ministers’ Annual Reports](#) on its supervision activity. More detailed information on the status of execution in individual cases can be found through [Hudoc-EXEC](#).

**Excessive length of civil proceedings: failures in the case management system causing a multiplication of proceedings on the same issue and repeated referrals of a case to lower jurisdictions; lack of effective remedy in this respect.**

*Luli and Others group, Application No. 64480/09, final on 01/07/2014, enhanced supervision*

### **Important cases closed in 2018**

At its September 2018 CM-DH meeting the Committee of Ministers closed its supervision of the cases relating to the **longstanding structural problem of absence of an adequate mechanism to compensate for property nationalised under the Communist regime and to enforce final domestic judicial and administrative decisions recognising the right to compensation** (Driza group, Application No. 33771/02, final on 02/06/2008 and Manushaqe Puto and Others group, Application No. 604/07, final on 17/12/2012, See [Final Resolution](#)).

## **Social and Economic Rights (ECSR)**

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

<sup>1</sup> Statistical data at 22/06/2018.

Albania <http://rm.coe.int/albania-march2016-en/16805ab7c5>



ESC\_Albania.pdf

## Venice Commission

The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

Since 2013 the Commission adopted one opinion on restitution of property and several opinions on issues pertaining to judiciary of Albania.

## Right to property

### [CDL-AD\(2016\)023](#)

*Amicus curiae brief for the Constitutional Court on the restitution of property*



CDL-ADL2016023\_Alb  
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## Judiciary

### [CDL-AD\(2016\)036](#)

*Amicus curiae brief for the Constitutional Court on the Law on the transitional re-evaluation of judges and prosecutors (The Vetting Law)*



CDL-AD2016036\_Alb  
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### [CDL-AD\(2016\)009](#)

*Final Opinion on the revised draft constitutional amendments on the judiciary (15 January 2016)*



CDL-ADL2016009\_AI  
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CDL-AD(2015)045

*Interim Opinion on the draft constitutional amendments on the judiciary*



CDL-ADL2015045\_AI  
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CDL-AD(2014)016

*Opinion on the draft amendments to the criminal procedure and civil procedure codes (decreasing the backlog of cases pending before the Supreme Court and to reduce the length of the proceedings)*



CDL-ADL2014016\_AI  
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