

**Council of Europe contribution for the 19th UPR session
regarding Albania**

Prevention of torture

Periodic visit 2010

On 20 March 2012, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its visit to Albania from 10 to 21 May 2010, together with the response of the Albanian authorities (both documents are attached below).

The majority of the persons interviewed by the CPT delegation stated that they had been correctly treated by the police. However, a significant number of persons (including many juveniles) claimed that they had been subjected to ill-treatment (e.g. slaps, punches, kicks or truncheon blows) at the time of their apprehension or during questioning by police officers.

Material conditions of detention were poor in most of the police establishments visited (dilapidated cells, very limited or no access to natural light, dim artificial lighting and poor ventilation). In their response, the Albanian authorities indicate that various police detention facilities were being renovated or completely reconstructed.

In prisons, staff-prisoner relations appeared on the whole to be quite relaxed and inter-prisoner violence did not seem to be a major problem. At Korca Prison, Tirana Prison No. 313 and the Durres Pre-Trial Detention Centre, some prisoners claimed that they had been ill-treated by members of the establishments' special intervention groups.

Conditions were appalling at the Kukës Pre-Trial Detention Centre (damp and filthy cells in a poor state of repair, with limited access to natural light and inadequately ventilated). Some units at Prison No. 313 in Tirana were severely overcrowded. In their response, the authorities said that a new pre-trial detention centre in Kukës and a new remand prison in Tirana would soon be built. Material conditions in many cells at Burrel Prison and at the Shkodra Psychiatric Hospital were also generally poor.

In contrast, the CPT found satisfactory material conditions of juveniles at the newly-constructed Kavaja Juvenile Reintegration Centre and at the recently opened Fushe Kruja and Korca Prisons, the Durres Pre-Trial Detention Centre and the Supported Homes for psychiatric patients in Elbasan and Shkodra.

At the Prison Hospital in Tirana conditions have clearly improved. However, the CPT expressed concern about the use of metal chains to restrain suicidal or agitated patients to their beds.

A complete list of the CPT's recommendations, comments and requests for information is contained in Appendix I to the report.¹



2012-11-report-eng. pdf



2012-12-inf-respons
e.pdf

¹ pp. 51-64

Ad hoc visit 2011

A delegation of the CPT completed a three-day *ad hoc* visit to Albania from 30 January to 3 February 2011. The main objective of the visit was to examine the treatment of persons who had been taken into custody in the context of disturbances that had occurred on 21 January 2011 in Tirana. For this purpose, the delegation interviewed in private virtually all the persons still in detention (some 35 in total) and examined relevant records at Tirana Prisons Nos. 302 and 313 and at several police establishments in Tirana (Police Directorate General, Police Stations Nos. 1 and 2).

The Albanian Government has not yet authorised the publication of the report on the CPT's visit in 2011.

Council of Europe Commissioner for Human Rights

Human rights aspect of the events of 21 January 2011 in Tirana

On 22 February 2011, the Commissioner for Human Rights, Thomas Hammarberg, released the report on his visit to Albania from 13 to 15 February 2011. The aim of the visit was to assess the human rights aspects of the events of 21 January 2011 in Tirana where four demonstrators were shot dead and a number of policemen and demonstrators were injured.²

The Commissioner's report focuses on the following selected human rights issues:

- Events of 21 January 2011³
- Crowd control measure⁴
- Investigations⁵

The Commissioner provides specific conclusions and recommendations in Part V of his report.⁶

Upon releasing his report Thomas Hammarberg said that "there is a need for a thorough, impartial and credible investigation into the human rights violations which took place in Tirana on 21 January". "It is necessary that those responsible for these violent acts be held to account. This is crucial both to establish justice and to prevent violence in connection with demonstrations and political protests in the future", the Commissioner stated.

He welcomed the fact that the major political groupings had told him that the responsibility for the investigations should rest with the Office of the General Prosecutor. However, he regretted that there had been critical public statements against the Prosecutor.

"The deep political polarisation makes the task of the Office of the General Prosecutor particularly delicate and difficult. It is crucial that everyone avoids interfering in the ongoing investigations and that the relevant authorities, including the police, co-operate fully and promptly with the Office", the Commissioner concluded.

He also noted that technical assistance so far provided by the US authorities to the General Prosecutor's Office appeared to have been of considerable value. He suggested in his report that the international community continues to respond positively to requests for assistance in this context.

²A summary of the report appears on p. 1.

³ paras. 6-14.

⁴ paras. 15-20.

⁵ paras. 21-28.

⁶ paras. 29-32.

On 21 January 2013 the Commissioner issued a press release urging quicker progress to establish the truth on 2011 events. He remained very concerned at the fact that a number of the persons responsible for these violent acts and human rights violations have not yet been held to account.

He urged the Albanian government to proceed to the completion of a thorough, impartial and credible investigation and fair judicial proceedings, thus giving a clear signal that impunity for serious human rights violations is not acceptable.

The Commissioner's report on his visit to Albania in 2011 and the link to his Press Release issued in 2013 appear below.



CHR.report.pdf

http://www.coe.int/t/commissioner/News/2013/130121Commissioner-urges-quicker-progress-to-establish-the-truth-on-2011-events_en.asp

Access to justice

On 6 November 2012, the Commissioner for Human Rights, Nils Muižnieks, published his letter addressed to the Minister of Justice of Albania, Mr Eduard Halimi. The Commissioner said that “in spite of recent legislative steps aimed at improving the free legal aid system in Albania, concerns remain about its compatibility with the Council of Europe standards in this field”. The Commissioner is concerned by the low rate of approved requests for free legal aid by the State Commission for Legal Aid. He stressed that the procedure to obtain free legal aid should be simplified as regards applicants who are not social care beneficiaries so as to enable them to fully enjoy their right of access to justice. The Commissioner urged the authorities to provide adequate financial resources for awareness-raising campaigns about availability of free legal aid.

Another issue of concern is the complicated process of selection of legal aid lawyers. “Very restrictive selection criteria limit the number of lawyers, which is currently inadequate to ensure appropriate legal aid. Transparency in the selection process should be enhanced and lawyers’ fees should not be excessive in order to facilitate effective access to courts by persons who are in economically weak situation”.

Commissioner Muižnieks also sees the current system of court fees in civil proceedings as a potential obstacle to accessing justice. “Having to pay in advance 3% of the value of a claim in civil disputes and 3% of the value adjudicated by a court to have a judgment enforced could be a disproportionate measure which excessively limits access to courts. Due to this system some persons have been prevented from pursuing their rights in civil proceedings because of economic difficulties.”

“Access to justice and a fair hearing are an essential feature of any democratic society. The Albanian authorities should ensure that the country’s system of legal aid and legal advice effectively helps people in a fragile economic or social situation to enjoy their human rights.”

The Commissioner's letter to the Albanian Minister of Justice and the Minister's reply are attached below.



CHR.letter.pdf



CHR.reply.pdf

Fighting corruption

On 27 June 2013, the Council of Europe's Group of States against Corruption (GRECO) published its third round compliance report on Albania. The report is attached below.⁷ GRECO concludes that Albania has implemented satisfactorily all of the twelve recommendations contained in the third Round evaluation report.⁸



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

At 31 December 2012, there were 29 cases against Albania pending before the Council of Europe Committee of Ministers for supervision of their execution. 17 of these cases were "leading cases", i.e. raising a new structural/general problem and requiring the adoption of general measures. The main cases or groups of cases revealing such structural problems are listed below:

- ❖ Unfair criminal proceedings – *Caka v. Albania*, (group of cases) application No. 44023/02, judgment final on 08/03/2010
- ❖ Various structural problems linked to the restitution of properties nationalized under former communist regime - *Driza v. Albania* (group of cases), application No. 33771/02, judgment final on 02/06/2008
- ❖ Poor detention conditions in prison an unlawful detention – *Dybeku v. Albania* (group of cases), application No. 41153/06, judgment final on 02/06/2008

The document attached presents a brief description of the violations and the latest detailed decisions taken by the Committee of Ministers and the responses given thereto by the respondent state.



Execution of Court
judgments decisions.c

Fight against racism and intolerance

On 2 March 2010, the European Commission against Racism and Intolerance (ECRI) published its fourth report on Albania.⁹ ECRI's Chair, Nils Muiznieks, said that, while there had been improvements in certain areas, some issues gave rise to concern, such as the low awareness of discrimination, the social and economic difficulties faced by Roma and Egyptians and the lack of an independent system for the investigation of allegations of ill treatment by the police.

Awareness of discrimination remains, on the whole, low. Many consider that this phenomenon does not exist in Albanian society because the law provides that all citizens are equal. Progress towards the adoption of comprehensive antidiscrimination legislation covering fields such as housing, health care and access to public services has been slow. There is no body in Albania that has express responsibility for combating racial discrimination. In addition, a coherent system for collecting data on the situation of minority groups remains to be established.

⁷ Conclusions appear in section III of the report, paras 30-34.

⁸ Conclusions appear in section III of the report, paras. 30-34.

⁹ A summary of the report can be found on pp. 7-9.

Roma and Egyptians continue to face serious social and economic difficulties, with higher unemployment rates than the rest of the population and extremely precarious living conditions. There is a disproportionately high drop-out rate among school children of these communities, which increases their vulnerability to trafficking. Evictions of Roma families from their homes, without their having been offered adequate alternative housing, continue to be reported. In addition, the indifference of some politicians to these issues – especially at local level – exacerbates the marginalisation of these communities and hinders the resolution of their everyday problems.

Although the State Committee for Minorities has gained experience, there are still issues with its effectiveness and the fact that not all minority groups are represented on it. Asylum procedures need to be put in place and there is still no independent system for the investigation of allegations of ill treatment by the police.

The report contains findings and recommendations regarding the following issues:

- Existence and implementation of legal provisions¹⁰
- Discrimination in various fields, including housing, education, employment and health¹¹
- Racist violence¹²
- Racism in public discourse¹³
- Vulnerable/target groups, including Roma, Albanian Egyptians, Greek, Macedonian, Serbo-Montenegrin and Vlach/Aromanian minorities, Bosnia community, migrants refugees and asylum seekers¹⁴
- Marginalisation and neglect of Roma and Egyptians¹⁵
- Participation of minorities in public life¹⁶
- Trafficking of Roma and Egyptian children¹⁷
- Conduct of law enforcement officials¹⁸
- Monitoring of racism and racial discrimination¹⁹

The following three recommendations were selected for priority implementation to be revisited two years later:

- Introduce comprehensive civil and administrative legislation against direct and indirect discrimination;
- Set clear targets and evaluate the progress made in ensuring Roma access to decent accommodation;
- Provide Roma children with Albanian-language support before they enter primary school.

Subsequently, on 19 February 2013 ECRI published conclusions on the implementation of these recommendations for which priority follow-up was requested.

ECRI's report on Albania and the conclusions on the implementation of the recommendations subject to interim follow-up are attached below.



ALB-CbC-IV-2010-00 ALB-IFU-IV-2013-00
1- ReportENG.pdf 3-FollowupENG.pdf

¹⁰ paras. 1-41.

¹¹ paras. 42-74.

¹² paras. 75-76.

¹³ paras. 77-82.

¹⁴ paras. 83-112.

¹⁵ paras. 113-119.

¹⁶ paras. 120-130.

¹⁷ paras. 131-134.

¹⁸ paras. 135-140.

¹⁹ paras. 141-145.

Protection of minorities

On 23 November 2011, the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities published its third Opinion on Albania²⁰, together with the Government's comments. In addition to the measures to be taken to implement the detailed recommendations contained in Sections I²¹ and II²² of the Opinion, the Advisory Committee identified the following issues:

Issues for immediate action²³

- Consider adopting comprehensive legislation on national minorities to fill in the identified legal gaps and to clarify State policy towards minorities; ensure that implementation of the existing and future legislation on national minorities is in line with the provisions of the Framework Convention;
- Process the census data in strict conformity with the principle of self-identification; ensure that appropriate procedures are in place for future censuses, as well as other forms of data collection, in order to provide reliable data on the situation of persons belonging to national minorities, disaggregated by age, gender and geographical distribution, in all relevant fields, in line with the principles of free self-identification and internationally recognised data collection and protection standards;
- Intensify the dialogue with persons belonging to national minorities on the opportunities for teaching of and in minority languages and, where appropriate, take the necessary steps to address any shortcomings;
- Ensure that sufficient resources are available for the effective implementation of the National Action Plan 2010-2015 for the Decade of Roma Inclusion; involve effectively Roma in the design, implementation, monitoring and evaluation of the various measures taken by the different authorities to implement activities in the priority areas of education, employment, health, and housing in the framework of this Action Plan.

Further recommendations²⁴

- Ensure that the Office of the Commissioner for Protection from Discrimination, the Office of the People's Advocate and the Office for the National Co-ordinator for the Fight against Trafficking in Human Beings are granted all the support they require in order to continue carrying out their roles effectively;
- Investigate vigorously offences committed with racial or xenophobic motives and sanction the perpetrators when the facts are established; provide appropriate assistance to victims of hate crimes;
- Step up efforts to support initiatives aimed at protecting, preserving and developing the cultural identity and language of minorities;
- Intensify awareness-raising measures for law enforcement officials on human rights standards, including on the rights of persons belonging to national minorities; ensure the full enforcement of the Discipline Rules and Regulations of the State Police;
- Ensure and promote access of persons belonging to national minorities, including numerically smaller groups, to radio and television programmes in their language;
- Review the current arrangements for the use of minority languages in relations with the administrative authorities and the use of bilingual signs and place-names in minority languages;
- Review the legislative arrangements in order to establish a full and effective dialogue with organisations representing the various minorities; consult them on issues concerning national minorities.

²⁰ A summary of the report can be found on pp. 1-2.

²¹ paras. 6-26.

²² paras. 27-187.

²³ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

²⁴ *Idem*.

The Advisory Committee's Opinion on Albania and the Government's comments are attached below. However, these documents have not yet been examined by the Committee of Ministers who, after having examined the documents, will adopt a resolution on the protection of national minorities in Albania. The Committee of Ministers' resolution will be based on the concluding remarks, contained in Section III²⁵ of the Advisory Committee's Opinion.



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European Charter for Regional or Minority Languages

Albania has neither signed nor ratified the European Charter for Regional or Minority Languages. Thus, the country is not yet covered by the monitoring carried out by the Committee of Independent Experts under the Charter.

Action against trafficking in human beings

On 2 December 2011, the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) published its first evaluation report on Albania²⁶, together with the final comments of the Albanian Government. Both documents are contained in the attachment below.

In its report, GRETA notes the significant measures taken by the Albanian authorities to prevent and combat trafficking in human beings. These measures have included the setting up the Office of the National Co-ordinator for the fight against trafficking and the establishment of a national referral mechanism for the identification of and assistance to victims of trafficking.

However, GRETA considers that the Albanian authorities should pay increased attention to the problem of trafficking within Albania, which is reportedly on the increase. More research is needed to shed light on this issue and to inform future policy measures.

Whilst there have been numerous awareness raising campaigns, GRETA considers that more should be done to combat stereotypes and prejudices towards marginalised groups, which foster trafficking and prevent the reintegration of victims. GRETA also urges the Albanian authorities to step up action geared to fostering access to education and jobs for members of groups vulnerable to trafficking.

In the area of assistance to victims, GRETA urges the Albanian authorities to ensure that all assistance measures provided for by law are guaranteed in practice, by providing adequate financing to non-governmental organisations acting as service providers. Particular attention should also be paid to improving co-operation with destination countries regarding the repatriation of victims.

In addition, GRETA urges the Albanian authorities to reinforce measures for protecting victims of trafficking, with due regard to the special situation of child victims, regardless of whether they have agreed to participate in judicial proceedings. Further, GRETA considers that the authorities should take steps to ensure that the legislation related to the confiscation of proceeds from trafficking offences is enforced, and that victims of trafficking can effectively exercise their right to compensation.

²⁵ paras. 188-205.

²⁶ A summary of the report can be found on pp. 7-8.

In its report, GRETA provides concluding remarks²⁷ as well as a complete list of proposals to the Albania authorities.²⁸



GRETA_2011_22_FG
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Preventing and combating violence against women and domestic violence

Albania has ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Albania will be covered by the monitoring procedure to be carried out once the Convention will enter into force.

European Commission for Democracy through Law (Venice Commission)

The Venice Commission has adopted a number of opinions on draft laws and on the constitutional situation in Albania. A list of adopted opinions, with hyperlinks to the texts, appears in the attachment below.



Venice
Commission.Albania.p

Social and economic rights

Albania ratified the Revised European Social Charter on 14/11/2002 and has accepted 64 of the Revised Charter's 98 paragraphs.

It has not yet signed the Additional Protocol providing for a system of collective complaints.

Cases of non-compliance

Thematic Group 1 "Employment, training and equal opportunities"

► Article 1 - Right to work-Paragraph 1 - Policy of full employment

The number of persons which have access to active labour market measures is too low.
(Conclusions 2012, p. 5)

► Article 1 - Right to work-Paragraph 2 - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

It has not been established that the restrictions on access of foreign nationals to employment are not excessive.

(Conclusions 2012, p. 9)

► Article 1 - Right to work-Paragraph 3 - Free placement services

It has not been established that free placement services operate in an efficient manner.

(Conclusions 2012, p. 10)

► Article 24 – Right to protection in case of dismissal

²⁷pp. 40 - 41.

²⁸Appendix I.

It has not been established that the grounds for dismissal with notice that are considered as valid by legislation or domestic case law do not go beyond what is permitted by Article 24 of the Charter and the maximum compensation for unlawful termination of employment is inadequate and the legislation does not provide for the possibility of reinstatement in the private sector. (Conclusions 2012, p. 16)

► Article 25 - Right of workers to protection of their claims in the event of the insolvency of their employer

Workers claims are not effectively protected in case of insolvency of their employer under the privilege system alone.

(Conclusions 2012, p. 17)

Thematic Group 2 "Health, social security and social protection"

► Article 3§1 – Right to safe and healthy working conditions - Safety and health regulations

There is no clearly defined policy on occupational health and safety.

(Conclusions 2009, p. 5)

► Article 3§2 – Right to safe and healthy working conditions - Enforcement of safety and health regulations

The self-employed are not covered by health and safety at work legislation.

(Conclusions 2009, p. 6)

► Article 3§3 – Right to safe and healthy working conditions - Consultation with employers' and workers' organisations on safety and health issues

There is no efficient labour inspection system.

(Conclusions 2009, p. 7)

► Article 11§1 – Right to protection of health - Removal of the causes of ill-health

It has not been demonstrated that adequate measures have been taken to reduce the maternal mortality rate.

(Conclusions 2009, p. 10)

► Article 11§2 - Right to protection of health - Advisory and educational facilities

- It has not been demonstrated that other health issues than creating an environment conducive to promoting health are addressed at schools;

- it has not been demonstrated that pregnant women are entitled to free consultations and screenings; and

- it has not been demonstrated that medical examinations at schools are of sufficient frequency, the proportion of pupils covered is sufficient and that screening is free.

(Conclusions 2009, p. 13)

Thematic Group 3 "Labour rights"

► Article 2§1 – Right to just conditions of work – Reasonable working time

Regulations permit weekly working time of more than 60 hours in various sectors of activity.

(Conclusions 2010, p. 5)

► Article 2§2 – Right to just conditions of work – Public holiday with pay

Work performed on a public holiday is not compensated at a sufficiently high level.

(Conclusions 2010, p. 6)

► Article 2§3 – Right to just conditions of work - Annual holiday with pay

Employees may relinquish annual leave in return for increased remuneration.

(Conclusions 2010, p. 6)

► Article 2§4 — Right to just conditions of work - Elimination of risks in dangerous or unhealthy occupations

There is no prevention policy for the risks in inherently dangerous or unhealthy occupations. Workers exposed to residual risks to health and safety cannot benefit from reduced working hours or additional paid holidays, or other sufficient compensation.

(Conclusions 2010, p. 7)

► Article 2§5 – Right to just conditions of work – Weekly rest period

This provision does not apply to the great majority of the workers concerned.

(Conclusions 2010, p. 8)

► Article 4§1 – Right to a fair remuneration – Decent remuneration

The minimum net wage is manifestly unfair.

(Conclusions 2010, p. 9)

► Article 4§4 – Right to a fair remuneration - Reasonable notice of termination of employment

Five days' notice is insufficient for workers with fewer than three months' service, even in the probationary period.

In the case of written agreement or a collective agreement, one month is not a sufficient period of notice for workers with five or more years' service.

(Conclusions 2010, p. 12)

► Article 4§5 – Right to a fair remuneration - Limits to deduction from wages

It has not been established that deductions from wages will not deprive workers and their dependents of their very means of subsistence.

(Conclusions 2010, p. 12)

► Article 5 – Right to organise

Police personnel do not enjoy the right to form trade unions.

It has not been established that the prohibition from enjoying the right to form a trade union was not applied to an excessively high proportion of senior civil servants.

(Conclusions 2010, p. 15)

► Article 6§1 – Right to bargain collectively - Joint consultation

It has not been established that refusals of the representative status to trade unions are subject to judicial review.

It has not been established that consultation also takes place in the public sector.

(Conclusions 2010, p. 16)

► Article 6§2 – Right to bargain collectively - Negotiation procedures

It has not been established that civil servants are entitled to participate in the processes that result in the determination of the regulations applicable to them.

(Conclusions 2010, p. 17)

► Article 6§3 – Right to bargain collectively - Conciliation and arbitration

The circumstances in which recourse to compulsory arbitration is authorised go beyond the limits set out in Article G of the Revised Charter.

(Conclusions 2010, p. 18)

► Article 6§4 – Right to bargain collectively - Collective action

- Civil servants are denied the right to strike;

- Employees in electricity and water supply services are denied the right to strike.

(Conclusions 2010, p. 20)

► Article 22 – Right of workers to take part in the determination and improvement of working conditions and working environment

Employees are not granted an effective right to participate in the decision-making process within the undertaking.
(Conclusions 2010, p. 24)

► Article 26§2 - Right to dignity in the workplace – moral harassment

It has not been established that effective protection of employees against any form of moral harassment is in place.
(Conclusions 2010, p. 27)

► Article 28 - Right of workers' representatives to protection in the undertaking and facilities to be accorded to them

Union representatives are protected against dismissal during the performance of their functions only until their mandate expires.
(Conclusions 2010, p. 28)

Thematic Group 4 “Children, families, migrants”

► Article 7§1 - Right of children and young persons to protection - Prohibition of employment under the age of 15

The definition of light work authorised by legislation is not sufficiently precise as there is no definition of the types of work which may be considered light or a list of those which are not, and the prohibition of employment under the age of 15 is not guaranteed in practice.
(Conclusions 2011, p. 7)

► Article 7§2 - Right of children and young persons to protection - Prohibition of employment under the age of 18 for dangerous or unhealthy activities

The prohibition of employment under the age of 18 for dangerous or unhealthy activities is not guaranteed in practice.
(Conclusions 2011, p. 8)

► Article 7§3 - Right of children and young persons to protection - Prohibition of employment of children subject to compulsory education

The effective protection against work which would deprive children subject to compulsory schooling of the full benefit of their education is not guaranteed in practice.
(Conclusions 2011, p. 9)

► Article 7§6 - Right of children and young persons to protection - Inclusion of time spent on vocational training in the normal working time

It has not been established that the right to have time spent on vocational training considered to be working time and remunerated as such is guaranteed in practice.
(Conclusions 2011, p. 12)

► Article 7§7 – Right of children and young persons to protection - Paid annual holidays

It has not been established that young workers do not relinquish annual leave in return for increased remuneration.
(Conclusions 2011, p. 12)

► Article 7§10 – Right of children and young persons to protection - Special protection against physical and moral dangers

- simple possession of child pornography is not a criminal offence;
- measures taken to combat trafficking in children are not sufficient;
- measures taken to assist and protect street children are not sufficient.

(Conclusions 2011, p. 17)

Please find attached below the Conclusions regarding Albania from 2009, 2010, 2011 and 2012, as well as the country fact sheet.



Albania2009_en.pdf Albania2010_en.pdf Albania2011_en.pdf Albania2012_en.pdf Albania_en.pdf