



**International Convention on the
Protection of the Rights of
All Migrant Workers and
Members of Their Families**

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**Committee on the Protection of the Rights of All
Migrant Workers and Members of Their Families**
Thirtieth session

Summary record of the 412th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 2 April 2019, at 10 a.m.

Chair: Mr. Ünver (Vice-Chair)

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In the absence of Mr. Tall, Mr. Ünver, Vice-Chair, took the Chair.

The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention *(continued)*

Second periodic report of Albania (continued) (CMW/C/ALB/2; CMW/C/ALB/Q/2 and CMW/C/ALB/Q/2/Add.1)

1. *At the invitation of the Chair, the delegation of Albania took places at the Committee table.*

2. **Ms. Peçi Minarolli** (Albania), responding to the Committee's questions concerning the status of international law in national legislation, said that the Constitution stipulated that the State party should apply international law that was binding upon it and that a legally ratified international agreement had superiority over national laws that were not compatible with that agreement. Nonetheless, some international laws, including certain provisions of the Convention, could not be implemented without the issuance of a domestic law. When provisions could not be applied directly, it was important to amend domestic legislation to bring it into line with international law.

3. **Ms. Jushi** (Albania) said that the Constitution placed international treaties second in the hierarchy of legal norms, above domestic law but below the Constitution itself. However, in matters relating to human rights, the European Convention on Human Rights took precedence over the Constitution. With regard to the Committee's concerns about the inapplicability of the Act on the Pre-University Education System to children in an irregular situation, for example, it should be noted that the protocol to the European Convention on Human Rights stated that no person should be denied the right to education. Civil society organizations had an important role to play in raising awareness of that provision among any migrants in an illegal situation who were denied access to education. Those individuals were entitled to invoke the European Convention on Human Rights before domestic courts and could also have recourse to the European Court of Human Rights.

4. **Ms. Seferi** (Albania) said that the terms "asylum seeker" and "refugee" had been defined under the 2014 Asylum Act and that the definition of the term "foreigner" had originally been established in the 1999 law on foreigners. However, subsequent amendments to that law had introduced definitions for several new categories of migrant workers, including key personnel, business service providers and contractual service providers. That more recent legislation had also introduced an array of new provisions governing work and residence permit procedures for groups such as major foreign investors, transferred employees, employees with high-level qualifications, investors who exercised independent economic activities and contractual service providers. It also provided that fines could be imposed on foreign nationals who: resided in Albania without having the required visa, travel document or residence permit; did not comply with the obligation to register or apply for a residence permit; were paid employees or practised a profession without being entitled to paid employment; or did not comply with the obligation to report or make relevant information available to the authorities.

5. **Ms. Lleshi** (Albania) said that the Ombudsman's Office was the State party's national human rights institution and that it had been accredited with A status for compliance with the Paris Principles.

6. **Ms. Peçi Minarolli** (Albania) said that the Ombudsman's Office had been established in 2000 to promote human rights and prevent conflict between the actions of the State and the rights of individuals living there. In 2014, a national mechanism for the prevention of torture had been created under the auspices of the Office. Established in accordance with the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the mechanism was responsible for monitoring the work of prisons, police stations and other public institutions so as to ensure that the rights of detainees were respected. Its competencies included conducting visits to detention facilities and providing recommendations on the implementation of legislation.

7. **Ms. Lleshi** (Albania) said that the Albanian diaspora was a vast community that had extended throughout the world, with a particularly significant presence in the developed countries of Western Europe and North America. It was hard to estimate its exact size, since many Albanian migrants were in an irregular situation. The remittances that they sent home, which accounted for around 12 per cent of gross domestic product, were an important source of revenue for the national economy. Moreover, owing to positive economic outlooks in many of the countries where members of the diaspora resided, it was predicted that remittance payments would increase further over the following years. The Government had taken measures to support and engage more extensively with the Albanian diaspora, including by creating the Office of the State Minister for the Diaspora.

8. **Ms. Jushi** (Albania) said that State engagement with the diaspora was governed by Act No. 16/2018 on the Diaspora, which provided definitions both for the term “diaspora” itself and for the roles of the State Agency for the Diaspora – the main body responsible for relations with the diaspora – and other key institutions that delivered services for Albanians abroad. The Act had also provided for the creation of several cultural centres, as well as a Coordination Council for the Diaspora made up of 15 members representing the main geographic areas where the diaspora lived. The cultural centres were administered by local diplomatic missions and the State Minister for the Diaspora and were funded both by the State and through private donations.

9. The Government of Albania had for a long time worked alongside the Government of Kosovo to preserve the linguistic and cultural heritage of the Albanian communities spread throughout the Western Balkans. Together with its Kosovan counterpart, the Ministry of Education and Sports had taken steps to develop a curriculum for children of the diaspora. The same Ministry had also developed a special teaching programme and had launched an initiative through which organizations representing members of the diaspora could request books in Albanian from the State party’s diplomatic mission in their country of residence. In response to requests received in 2018, the Ministry had sent out around 7,500 books free of charge to help educate children of the Albanian diaspora. Plans to develop an online platform where children would be able to access Albanian books in electronic format were also on the table. As part of a wider initiative to improve the quality of Albanian education provided for the diaspora, a register of teachers was being compiled and the Government was working to gather information on the children that took part in the educational courses and programmes offered by the Ministry abroad.

10. **Ms. Lleshi** (Albania) said that the State Minister for the Diaspora had created an agency that held meetings both in the State party and abroad. The agency had launched its own website through which to share studies about migration, news about activities for the diaspora, guidance on how to support the diaspora and information for Albanian migrants about how to return to the country. The website was available in both Albanian and English.

11. **Ms. Peçi Minarolli** (Albania) said that the Ministry of Foreign Affairs had launched a platform to provide online consular services to Albanian citizens abroad, including information and assistance relating to citizenship, identification documents, passport applications and laissez-passer documents, as well as more specific information about rights and procedures for Albanian citizens experiencing difficulties abroad, including any citizens detained by the police.

12. **Ms. Kadriaj Papajani** (Albania) said that unaccompanied children were defined in Albanian legislation as “unaccompanied or legally lost minors”. The relevant procedures were set out in Act No. 108/2013 on Foreign Nationals and Act No. 18/2017 on the Rights and Protection of the Child, as implemented by Council of Ministers Decision No. 111 of March 2019. The State Agency for the Rights and Protection of the Children was responsible for overseeing the treatment of unaccompanied minors from their arrival at the Albanian border to their repatriation, or whatever other course of action was decided. Following an institutional review in 2016, local and regional authorities were required to establish specialized child protection units, staffed by social workers, as part of the social welfare protection services they provided, although not all such units were fully staffed as yet. The State Agency for the Rights and Protection of the Child also had units in all administrative districts.

13. Council of Ministers Decision No. 111, and all related definitions and procedures, were based on general comment No. 6 (2005) of the Committee on the Rights of the Child on the treatment of unaccompanied and separated children. Any minor identified as having entered the country unaccompanied would be placed under the care of police officers, who would contact the child protection services with a view to ascertaining key information such as the child's age, name and country of origin. Interviews would be conducted in a safe, child-friendly environment to facilitate subsequent psychological and health assessments and children were provided with interpretation and legal services. The best interests of the child and non-discrimination were the guiding principles in all proceedings.

14. After the initial interview, unaccompanied minors would be assessed by a multidisciplinary team of social workers, legal experts and psychologists to identify, inter alia, any particular areas of vulnerability. The team would draw up an individual action plan and the Albanian authorities would contact the authorities of the child's country of origin to facilitate family reunification. Unfortunately, at present, unaccompanied children had to be housed in refugee camps together with adults. However, in application of the Council of Ministers Decision, the authorities were planning to identify two or three residential centres, out of the nine currently operating in the country, that had sufficient capacity, and, with European Union support, to train their staff to receive unaccompanied children, to increase the number of beds they had and to refurbish their facilities in general.

15. The Council of Ministers Decision also set out processes and procedures for the care of child victims of human trafficking, economic exploitation and homelessness. In the case of children exploited for economic purposes, including children in street situations, the procedures had been developed in cooperation with the Albanian office of the Organization for Security and Co-operation in Europe. Action plans had been adopted to combat homelessness and economic exploitation in general and agreements had been concluded with a number of European countries to facilitate the exchange of information. To address child labour, the European Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work had been fully transposed into national law, which now included, for the first time, a list of prohibited occupations and substances to which children should not be exposed and a prohibition on night work and hazardous labour. Ground teams comprising police officers, child social workers and labour inspectors had been established to verify the situation of children and prepare intervention plans and, if a child was found to be working without the authorization of the Labour Inspectorate, their employment was immediately suspended and the employer was fined. Statistics from the Labour Inspectorate indicated that minors were most frequently employed in the manufacturing industry (76 per cent) and, during the summer season, in tourism (21 per cent).

16. Some of the unaccompanied minors arriving in Albania had been trafficked or were fleeing conflict. In such cases, after initial evaluations and the development of an intervention plan, victims were usually returned safely to their home countries and social welfare protection units would monitor their reintegration for a period of two years. To ensure comprehensive care for victims while they remained in Albania, a national mechanism had been established that was headed by the Ministry of the Interior and supported by a number of other ministries, including the Ministry of Education and the Ministry of Health and Social Welfare, the Public Prosecution Service, international organizations such as the International Organization for Migration, non-governmental organizations (NGOs) and the National Reception Centre for Victims of Human Trafficking. At present, there were only two known trafficking cases involving unaccompanied minors. The minors involved in those cases were currently in the care of Other Vision, an NGO that was receiving financial support from the State. Legal and psychosocial services were provided by the Government, through its protection units, free of charge.

17. A national register of trafficking victims was also being established. Data was currently being compiled and the register should become operational in the second half of 2019. The register was linked to other national registers including those monitoring social assistance, persons with disabilities, employment, tax and labour inspections. The launch of the register and subsequent improved data availability was expected to facilitate the processing of trafficking cases and, by extension, to enhance victim care.

18. Following a recent review of asylum legislation, access to social services would also need to be reviewed in order to ensure that migrants in an irregular situation, including children, were not denied the access to essential services required to comply with the European Union directive on asylum procedures. An increase in the number of migrants crossing the border from Greece into southern Albania had been observed in 2018 and new initiatives, including the establishment of new migrant reception centres, were being developed to address the influx.

19. Albanian legislation clearly defined the process for dealing with unaccompanied Albanian minors abroad. The State Agency for the Rights and Protection of the Child was responsible for overseeing the entire process. Once the diplomatic services had been informed of the presence of such a minor, the case was referred through the system to local child protection workers, who carried out an in-depth assessment of the child's situation and were required to report to the Ministry of Foreign Affairs within three days. An intervention plan was subsequently drawn up with the authorities in the host country. In 80 per cent of cases, the child was repatriated.

20. **Ms. Dzumhur** said that she wished to know whether the Foreign Nationals Act permitted the detention of children forming part of families found to be in an irregular situation and what measures were used as an alternative to detention. She would welcome more information on the active and passive rights of Albanian citizens residing abroad and the measures in place to ensure that they were able to participate in public affairs, in particular elections.

21. She asked what consequences persons who had been admitted to Albania for the purposes of family reunification might face in the event that their spouse died within three years of their entry permit being granted, that they divorced within five years of obtaining their permit or that they ceased to be the legal guardian of the child with whom they had been reunited. She also enquired whether Albania had a strategy for preventing human trafficking and what human, technical and financial resources were allocated to those efforts.

22. **Mr. Charef** said that he would like to know whether the increasing number of structures serving the Albanian diaspora had led to an overlap in the services provided. He wondered how the various structures worked together and what criteria were used to select the members of the Coordination Council for the Diaspora.

23. **Mr. Kariyawasam** asked whether there were any incentives, such as tax concessions on personal goods, to encourage migrant workers to return to Albania.

24. **Mr. Oumaria**, noting that an ombudsman's role was generally to mediate the relationship between the Government and the users of State services, said that he would appreciate clarification as to the remit of the Ombudsman's Office, given its dual role as both people's advocate and national human rights institution.

25. **Ms. Lleshi** (Albania) said that a new anti-trafficking strategy had been adopted for the period 2018–2020, which placed the focus on prevention, protection and the non-prosecution of victims. In 2017, the Government, with NGO support, had identified a total of 105 potential victims of trafficking – an increase on the previous year – of whom 9 were foreign nationals. Albania had a multidisciplinary national referral mechanism for trafficking victims, as well as mobile identification units in three regions. The Labour Inspectorate lacked the necessary training to enable it to identify victims of forced labour, however.

26. First responders referred potential victims to the law enforcement authorities and social services, which helped victims obtain official victim status. Both potential victims and officially recognized victims had equal access to services. The Government operated one specialist centre for victims and provided financial support to three NGO-run centres, one of which provided specialist services for minors. Funding to support the shelters was also generated from seized criminal assets. Together, those centres formed the National Coalition of Anti-Trafficking Shelters, which provided a wide range of services. Although the services provided had improved, much remained to be done. Child victims were entitled to free vocational training, textbooks and free health care; however, the Government was at times unable to fund reintegration services.

27. Foreign nationals who were victims of trafficking were entitled to receive the same services as Albanian citizens. The legislation provided for a reflection period of three months for foreign victims, during which time they could apply for temporary residency status to allow them to work. In 2017, six trafficking victims had been granted such status.

28. Legislation had been adopted to strengthen child protection within the criminal justice system, including by introducing a requirement for psychologists to participate in all legal proceedings involving children. Although victims were entitled to file civil suits against traffickers or seek restitution from the Government, none had been awarded compensation as yet.

29. The Office of the National Coordinator on Trafficking in Persons worked with regional anti-trafficking committees to prevent trafficking and provide assistance to victims. The Office had agreed with homologous organizations in Kosovo and Montenegro to apply a unified operating procedure for victim protection and voluntary repatriation. It also worked with civil society actors to run awareness-raising campaigns, including in schools, and had issued anti-trafficking guidance for Albanian diplomats in response to the increase in the number of Albanian asylum seekers observed between 2015 and 2017.

The meeting was suspended at 11.40 a.m. and resumed at 12.10 p.m.

30. **Ms. Kadriaj Papajani** (Albania) said that the law on measures against violence in family relations had been amended to bring it into line with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and the Convention on the Elimination of All Forms of Discrimination against Women. In February 2019, the first crisis management centre for victims of sexual violence, including women, children and lesbian, gay, bisexual, transgender and intersex persons, had been opened. The Centre received State funding and was staffed by a multidisciplinary team, including police officers, that provided social and medical services. The Government hoped to build similar centres in all regions. Furthermore, the Council of Ministers had approved the adoption of standard operating procedures for the protection of trafficking victims.

31. **Ms. Peçi Minarolli** (Albania) said that the People's Advocate was in fact the official title of the Albanian Ombudsman, whose role, responsibilities and terms of office were defined in the Constitution. The remit of the Office of the People's Advocate, or Ombudsman, did indeed extend to serving as the national human rights institution. The Office of the Commissioner for Protection against Discrimination was an entirely separate institution, established pursuant to the legislation providing protection against discrimination, and there was no overlap between the remits of the two Offices.

32. **Ms. Jushi** (Albania) said that cultural organizations working to preserve Albanian cultural and linguistic heritage outside the country operated on a voluntary basis and were self-funded. Cultural centres in locations that were home to large Albanian communities were financed from the State budget and fell under the authority of diplomatic missions.

33. The Coordination Council for the Diaspora had been established pursuant to Act No. 16/2018 on the Diaspora. The criteria for the selection and appointment of members of the Coordination Council were set forth in Council of Ministers Decision No. 340 of 6 July 2018. Candidates had to be in good standing in their local diaspora community and to have distinguished themselves in their field of expertise. The number of candidates proposed was required to be double the number of positions available. Ambassadors worked closely with local diaspora organizations to identify the most suitable candidates, and selection decisions were then made by the Council of Ministers. The State Agency for the Diaspora oversaw the coordination of the cultural centres and served as the secretariat of the Coordination Council, while the Council of Ministers and the State Minister for the Diaspora were responsible for designing diaspora-related policies.

34. In order for their level of education to be assessed, foreign nationals residing in Albania legally who wished to enrol in school were required to present evidence of their studies in other countries. If they were not able to do so, they were required to take a test and were placed in the appropriate grade based on the result obtained. Once the existing legislation had been updated, the same procedure would apply to Syrian nationals and to persons in an irregular situation.

35. The right to vote and the right to stand for election were afforded only to Albanian citizens or to foreign nationals who had obtained Albanian citizenship through naturalization. Albanian citizens living outside the country were entitled to vote, but currently had to return to Albania in order to do so. The Government was working with the electoral authorities to establish a mechanism to allow electronic voting from outside the country.

36. **Ms. Lleshi** (Albania) said that the placement of migrants in administrative detention was used as a measure of last resort in cases where removal or expulsion was not possible. Under the provisions of the Foreign Nationals Act, non-nationals residing legally in Albania and married to Albanian citizens would lose their residency rights if the marriage ended, whether through divorce or as a result of the death of their spouse. They were not, however, precluded from applying to remain in the country on other grounds.

37. Albania currently gave equal treatment to foreign investors and Albanian investors living outside the country. The Government would be interested to learn how other countries implemented tax incentives for citizens returning after a period of residence abroad.

38. **Ms. Dzumhur** said that it would be useful to receive further information on any readmission agreements in place for Albanian citizens wishing to return to the State party.

39. **The Chair** said that he wished to congratulate the State party on the improvements it had made with respect to its implementation of the Convention and to express his appreciation for the constructive dialogue that had taken place.

The meeting rose at 12.45 p.m.