

# Albania

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- **Context information from ECRI**

p.9: There are some gaps in the criminal law protection against racism and homo/transphobia.

p.10: The police should establish regular dialogue, mutual trust and co-operation with vulnerable groups and NGOs and investigate thoroughly racist and homo/transphobic offences. The authorities should support elected bodies' and media's self-regulation initiatives and swiftly implement measures to fulfil the legal duty to raise awareness of the right to equal treatment and to combat discrimination at school.

- **Transphobia and data on hate crimes in the country**

49. There is no data from the authorities on hate crime towards LGBT persons. However, reports from the CPD, the EU and civil society show that there are regular incidents of homo/transphobic violence. For 2011, the NGO Pink Embassy reported to the OSCE one arson attack against a house inhabited by five transgender people and an assault against a transgender person resulting in serious injury. For 2012, the OSCE received reports of a group attack on 14 May with explosives used against participants in the first ever Pride event in Tirana. Fortunately it did not result in serious harm and the subsequent public debate led to amendments in the CC. Concerning the same year the NGO Pink Embassy reported three cases of physical assault, including one by a group. Civil society and the CPD also refer to several cases of violence against young LGBT people by members of their family. In addition, ECRI was informed of an attack on 25 February 2013 on two transgender persons with a glass bottle and other sharp objects. Moreover, the police refused to consider an attack with tear gas on LGBT activists on 17 May 2013 as a hate crime, on the ground that no participant had been physically injured. At the same time, the CPD reports that some LGBT persons have faced harassment by the police when asking for protection or help. According to civil society, such hate crime and the resulting feeling of insecurity are an important reason for the reluctance of LGBT persons in Albania to reveal their sexual orientation and gender identity.

- **Legislative issues**

100. As already mentioned, the LPD prohibits discrimination on the basis, among other grounds, of gender identity and sexual orientation. In 2013 two amendments to the CC were approved, as a result of which the homo/transphobic motivation is now considered as an aggravating circumstance. Moreover, the CC now punishes the deliberate "distribution of racist, homophobic or xenophobic materials through systems of communication and information technology".

104. As regards the change of sex and name, Law No. 10129/2009 on Civil Status does not provide anything in connection with sex change; name changes are allowed only if a person's name is "inappropriate". The General Directorate of Civil Status has lists of inappropriate names. It appears,

therefore, that transgender persons are not allowed to change names; this is an obstacle to the acquisition of identity documents that reflect their new identity.

109. There are no laws or regulations governing trans/intersex persons' access to health care. They can benefit, as all other individuals, from general health care services, but no assistance is specifically provided for gender reassignment or other treatment related to transgender persons' special needs. Moreover, Albanian hospitals do not perform the relevant medical operations.

- **Education and awareness-raising**

110. The above-mentioned Action Plan includes - in addition to legislative proposals - awareness-raising measures. Since its launching in December 2012, some activities have been organised by LGBT NGOs to raise awareness in schools. NGOs have also created a shelter for LGBT persons facing problems with their safety or with their families, especially during their coming out phase. The international day against homo/transphobia (IDAHO) is celebrated in Albania; at 149 Response to the questionnaire on the implementation of the above-mentioned CM/Rec (2010). 150 According to Loloçi 2011: 14 there have been neither cases of transsexuals requesting medical operations in Albania, nor cases of recognition of gender reassignment performed abroad. Concerning bullying at school and the need to implement policies and programmes to combat it see §§ 46 and 47. The 2014 IDAHO international forum an MSWY official signed, together with representatives of authorities from 16 other European states, a declaration of intent to ensure that appropriate legislative and/or other measures are adopted and effectively implemented to combat discrimination on grounds of sexual orientation and gender identity. Moreover, since the swearing in of the new government in September 2013, cooperation between the MSWY and LGBT activists has intensified. In addition, the Parliament organised for the first time in 2014 a hearing on LGBT issues.

- **List of recommendations from ECRI**

1. (§ 9) ECRI recommends that the authorities bring their criminal law, in general, into line with its General Policy Recommendation No. 7 as indicated in the preceding paragraphs; in particular they should include the grounds of colour, language, citizenship and gender identity in the relevant provisions and criminalise (i) incitement to violence and discrimination on all grounds, (ii) public denial, trivialisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes; (iii) the public dissemination, production or storage of pictorial or other material containing racist manifestations (iv) the creation and leadership of as well as support for and the participation in the activities of a group which promotes racism and (v) racial discrimination in the exercise of one's occupation in the private sector.

6. (§45) ECRI recommends the Albanian authorities to reinforce their non-criminal responses against hate speech; they should support elected bodies' and media's self-regulation initiatives; they should also proceed quickly to the election of all members of the Audiovisual Media Authority.

7. (§ 47) ECRI recommends that the authorities swiftly implement measures to fulfil the legal duty to combat discrimination in schools and to raise awareness of the right to equal treatment, diversity, discrimination and bullying at school. Special attention should be given to teacher training (General

Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education).

8. (§ 51) ECRI recommends the police to investigate thoroughly racist and homo/transphobic offences; inter alia, they should take the racist and/or homo/transphobic motivation of ordinary offences fully into account (§ 11 of General Policy Recommendation No. 11 on combating racism in policing).

18. (§ 105) ECRI recommends that the authorities take appropriate measures to guarantee the full legal recognition of a person's gender reassignment, in particular by making possible his/her change of name and gender in official documents in a quick, transparent and accessible way.

19. (§ 112) ECRI recommends that an inter-ministerial working group is set up on LGBT issues, without delay, to ensure co-ordination among competent authorities, regular contacts with LGBT NGOs and a speedy implementation of all the projects of the Action Plan for non-discrimination because of sexual orientation and gender identity 2012-2014, which should be properly funded.