

**HUMAN RIGHTS IN  
POST-COMMUNIST ALBANIA**

**Human Rights Watch/Helsinki**

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Human Rights Watch/Helsinki was established in 1978 to monitor and promote domestic and international compliance with the human rights provisions of the 1975 Helsinki Accords. It is affiliated with the International Helsinki Federation for Human Rights, which is based in Vienna, Austria. Holly Cartner is the executive director; Erika Dailey, Rachel Denber, Christopher Panico and Diane Paul are research associates; Ivan Lupis is the research assistant; Anne Kuper, Alexander Petrov, and Shira Robinson are associates. Jonathan Fanton is the chair of the advisory committee and Alice Henkin is vice chair.

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Human Rights Watch/Helsinki interviewed numerous individuals in Albania and abroad, including lawyers, judges, human rights activists, former political prisoners, journalists, diplomats, government officials, refugees and students. We express our sincere thanks to all of these individuals for sharing their expertise and personal experiences.

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## I. INTRODUCTION

For nearly half a century Albania experienced a brand of communism unknown to the rest of Eastern Europe. A fateful blend of isolationism and dictatorship kept this tiny Balkan country the poorest and most repressive in all of Europe. During his forty-year reign, the Albanian leader Enver Hoxha banned religion, forbade travel and outlawed private property. Any resistance to his rule was met with severe retribution, including internal exile, long-term imprisonment and execution. His domination of Albania's political, economic and social life was absolute.

In light of this history, Albania has made substantial progress toward respect for civil and political rights in the past five years. Democratic elections in March 1992 swept the communist party from power, installed a new government led by President Sali Berisha of the Democratic Party, and paved the way for a series of liberalizing reforms.

Still, five years has not been enough to wipe away the legacy Hoxha's rule. The complete absence under communism of independent courts, a free media and human rights mechanisms poses a serious challenge to Albanian democracy today. More seriously, the one-party mentality is still deeply ingrained in many of the country's new leaders: critics of the ruling Democratic Party are often regarded as critics of "democracy."

As a result, Albanian citizens are still plagued by serious human rights violations, such as restrictions on freedom of expression and association, manipulation of the legal system and violence by the police. In part, these abuses are the result of Albania's Stalinist past. But in many cases, the human rights violations in Albania today are the direct result of specific actions on the part of the new government.

Of particular concern is the state's continued interference in the judiciary. Despite many improvements, the court system is still used as an instrument of the state, especially against the political opposition. The leader of the largest opposition party is currently in prison after a trial fraught with due process violations. Since 1992, numerous other critics of the government have been harassed, tried, imprisoned or, in a few cases, physically attacked by unknown assailants — usually without any response from the government. Judges who make independent decisions on sensitive cases are sometimes reassigned to lesser posts or fired. More than 400 persons, predominantly selected by the Democratic Party,

were appointed as judges and prosecutors throughout the country, upon completion of a special six-month law course, thereby strengthening governmental influence over the judiciary and law enforcement officials.

Despite some positive developments - such as a new Bill of Rights - some of Albania's new legislation does not conform to international standards. Of particular concern is a new law that created a commission, appointed predominantly by the government, to review the communist-era secret police files. All those who were members of pre-1991 governments or found to have been collaborators with the former secret police are banned from holding elected office or other government-appointed posts until the year 2002. There is considerable fear that the law will be applied selectively against political rivals to the government.

The government has undertaken an ambitious effort to prosecute former communist officials who committed crimes during the previous regime. However, the process has been selective and, at times, in violation of international law. Some former communist officials were denied the right to a fair trial, while others have avoided prosecution altogether because of their ties to the current government.

Freedom of the press is also circumscribed. No legislation exists to allow for the transmission of private television or radio, leaving the state-run programs that favor the government as the sole provider of news for the majority of the population. While there are many private newspapers throughout the country, they are restricted by a repressive press law and obstacles to their distribution. Since 1992, a large number of journalists, including foreign correspondents, have been harassed, arrested or beaten by unknown assailants after writing articles that were critical of the government.

The rights of minorities have improved since the fall of communism. Nevertheless, problems do exist, particularly with the sizable Greek minority in the south of the country. In September 1994, five members of the ethnic Greek organization Omonia were tried and convicted on charges of espionage and the illegal possession of weapons in a case that was in violation of both Albanian and international law. The five defendants were later released but not before 70,000 Albanian guest workers had been expelled from Greece as retribution by the Greek government. Large-scale detentions of ethnic Greeks by the Albanian police and secret service before the trial created an atmosphere of fear in areas inhabited by Greeks. The issue of Greek-language schooling and the return of property owned by the Orthodox Church are also areas of concern.

Parliamentary elections are due in the spring of 1996 but, as of February 1996, no fixed date had been set. The closing months of 1995 saw renewed efforts by the state to silence independent voices in the judiciary and media, as well as those of opposition politicians. Human Rights Watch/Helsinki fears that these

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actions are an attempt by the government to eliminate its political rivals, thereby jeopardizing the fairness of the forthcoming elections.

## II. RECOMMENDATIONS

Based on the findings of this report, Human Rights Watch/Helsinki calls on the Albanian government to:

- Guarantee the independence of the judiciary as outlined in both Albanian and international law. In particular, the High Council of Justice should not appoint or dismiss judges, investigators or prosecutors solely on the basis of their political affiliations.
- Guarantee the right to a fair trial in front of a competent and objective tribunal. In cases where this right has been violated, submit the case for retrial or release the defendant. No one should be detained solely for the non-violent expression of his or her political beliefs.
- Conduct investigations into crimes committed during the communist regime with the strictest adherence to international standards of due process. Individuals should be charged with specific crimes, rather than association with a past group, and enjoy the right to a fair trial in front of an independent court.
- Repeal or amend the Law on Genocide and the Law on the Verification of the Moral Character of Officials, which create a commission, appointed predominantly by the government, to review the communist-era secret police files of all future elected officials and senior government employees. Examinations of the secret police files should be conducted by an objective, non-partisan commission to avoid the possibility of political discrimination. Individuals should be guaranteed the right to defend themselves, including a proper procedure for appeal.
- Repeal or amend article 24 (1) of the Law on Labor Relations which allows for the firing of state employees in the name of "reform." Since 1992, the law has been used as a basis for justifying the large-scale firings of state employees on political grounds.

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- Guarantee that people with diverse viewpoints are given appropriate access to state-owned radio and television, especially in anticipation of the forthcoming elections.
  - Pass a broadcast law that allows for private ownership of radio and television and that guarantees the non-discriminatory allocation of frequencies.
  - Repeal or amend the press law to guarantee freedom of expression. Specifically, eliminate provisions in the law that allow for the imprisonment of journalists and editors because of reporting that may be critical of the state.
  - Investigate allegations of police abuse and improper treatment of those in detention, and hold accountable those found responsible.
  - Guarantee that prisoners' rights are respected in accordance with international law. This includes the right to be free from torture, cruel or inhuman treatment, the right to adequate medical and sanitary facilities and the right to written materials. Prisoners under the age of eighteen should be kept separate from adults.
  - Provide police and government officials with special training about human rights standards and protections.
  - Strengthen legal mechanisms for protecting rights, giving individuals greater access to courts to challenge the legality of government decisions and to obtain an adequate remedy for abuses committed by the state.
  - Assure that members of minority groups are granted equal rights without discrimination, in accordance with the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the Helsinki Final Act and subsequent agreements of the Organization for Security and Cooperation in Europe (OSCE).
  - Respect the right of Albania's minority populations to preserve, develop and express their ethnic, cultural, religious and linguistic identity. The government should be particularly sensitive to the need for education in the mother-tongue, an adequate number of classes and properly-trained

teachers, and the need for an appropriate curriculum and textbooks to ensure the fulfillment of this constitutional right.

- Take reasonable steps to prevent domestic violence. These steps should include, at a minimum, criminalizing all forms of domestic assault and prosecuting and punishing those identified as responsible.

### **III. BACKGROUND**

#### **HISTORY**

Throughout its history, Albania has been dominated by foreign powers. First the Romans and then the Turks controlled this mountainous region for centuries, until 1912 when Albania declared its independence from the Ottomans. A parliamentary republic was established following World War One but soon dissolved into an autocracy run by the self-proclaimed King Zog.

Zog ran the country until 1939 when it was occupied by the Italian fascists and, subsequently, the Nazis. In November 1944, the leadership of the communist resistance announced Albania's liberation, having defeated both nationalist and monarchist groups within the country. One year later, the communist Party of Labor, with Comrade Enver Hoxha as its first secretary, claimed 93 percent of the vote in national elections.

Hoxha ruled Albania with an iron fist until his death in 1985. Building on the tradition of clan allegiance, whole families were persecuted for the actions of one family member. Thousands of people were imprisoned or sent into internal exile without trial for even slight deviations from the party line. Frequent purges maintained a strict order based on fear.

Hoxha sustained his repressive system by playing on the historical fear of outside invasion. He broke ties successively with Yugoslavia, the Soviet Union and China, leading Albania into a self-imposed isolation that he claimed was the true path to socialism. Hostile to the "imperialist West" and "revisionist East," Albania remained by far the poorest and most isolated country in Europe.

Slight liberalization began in 1985 with Hoxha's hand-picked successor, Ramiz Alia. But real reform did not take place until 1990, when, in response to the changes taking place throughout Eastern Europe, the communists were no longer able to resist the growing opposition to communist rule at home. Increasing pressure, especially from university students, forced the government to allow the formation of independent political parties. The bans on foreign travel and religion were ended, as was the leading role of the Party of Labor. In December 1990, the opposition Democratic Party was formed, as was Albania's first human rights organization, the Forum for the Defense of Human Rights.

The first multi-party elections in Albania's history were held on March 31, 1991. With a firm control of the media and an under-equipped opposition, the

Albanian Party of Labor was able to win two thirds of the parliamentary seats. The Democratic Party won most of the remaining seats, primarily in the cities.

Worker strikes and mass demonstrations forced the new government to resign in early June 1991. Two short-lived transitional governments followed before the opposition was able to force new parliamentary elections on March 22, 1992. This time the Democratic Party captured just under two thirds of the national vote and one of the party's founders, Dr. Sali Berisha, was named president by parliament.<sup>1</sup>

Municipal elections in July 1992 saw the Democratic Party victorious over the renamed Socialists by a slim margin of 43 percent to 41 percent. Still, the Socialist Party won slightly more positions as mayors, district leaders and on city councils. The term of the current parliament expires in March 1996, although, as of February 1996, no election date had been set. President Berisha's term expires in March 1997.

## POPULATION

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<sup>1</sup>The breakdown of the new parliament was as follows: Democratic Party ninety-two seats, Socialist Party (formerly Party of Labor) thirty-eight seats, Social Democratic Party seven seats, Union of Human Rights two seats, Republican Party one seat.

Since March 1992, a number of deputies have left the Democratic Party and formed their own parties. The Democratic Alliance has six members in parliament and the Party of the Democratic Right has two. A few other deputies have declared themselves independent. A coalition of the Democrats, Republicans and Social Democrats ruled the country until fall 1994, when the latter two parties withdrew from the coalition.



Like most nations in the Balkans, Albania is religiously and ethnically mixed. Although there is some debate regarding the actual figures, most agree that approximately 70 percent of the population is Muslim, 20 percent Eastern Orthodox and 10 percent Roman Catholic. Religion was banned in 1967, making Albania the world's first officially atheist state. Today freedom of religion has been established to a large degree, although a tradition of secularism among Albanians remains. Albania also has a long history of religious tolerance, and it is not uncommon today to see the different religious communities helping each other rebuild the mosques and churches that were destroyed by the communist regime.<sup>2</sup>

Greeks comprise the largest ethnic minority in Albania and live mostly in the southern part of the country near the border with Greece. Macedonians, Roma and Vlachs also have constituent populations but of a considerably smaller size. The even smaller number of Serbs, Montenegrins and Jews mostly left the country beginning in 1991.

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<sup>2</sup>After 1967, any public or private display of religious activity was severely punished. Mosques and churches were systematically destroyed or converted into warehouses and sports halls. Some of these have not yet been returned to their former owners. (See section on religious freedom of the Greek minority.)

According to the last Albanian government census of 1989, Albania has 58,000 ethnic Greeks, 4,700 Macedonians, 1,300 Roma and 1,300 Vlachs out of a total population of 3.3 million. But all of these groups dispute the official numbers, claiming they are manipulated for political reasons.<sup>3</sup>

The country is also divided into two groups differentiated primarily by dialect: the Ghegs in the north and the Tosks in the south. Ghegs dominated political life in pre-communist Albania, but lost power to the communist Enver Hoxha, who was from the south and placed fellow Tosks in high positions of the communist apparatus. Today, an increasing number of government employees are from the north, home of President Sali Berisha, especially in the police and secret police.<sup>4</sup>

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<sup>3</sup>Leaders of the ethnic Greek community assert that their numbers are around 260,000, with some estimates going as high as 400,000. The Albanian government responds that this figure refers to the total number of practitioners of the Eastern Orthodox religion in the country, not all of whom are Greek. Indeed, many Orthodox practitioners are ethnic Albanians belonging to the Autocephalous Albanian Orthodox Church. The actual number is especially difficult to determine today since so many Albanian citizens, especially those of Greek origin, have left the country in search of work.

<sup>4</sup>Albanians from the north are clearly distinguishable by their heavy accents.

#### IV. THE LEGAL SYSTEM

During the communist era, the legal system was under the direct control of the Party of Labor. Enver Hoxha closed the Ministry of Justice and banned the private practice of law. Crimes punishable by death included "agitation and propaganda against the state" and "activities against the revolutionary movement of the working class."

Since 1992, reform has taken place on a number of levels. Although Albania remains without a constitution, a series of transitory laws of constitutional stature have been passed that guarantee Albania's status as a parliamentary democracy with full respect for human rights. Albania has also ratified the major international human rights instruments, such as the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. As a member of the Council of Europe, Albania has signed, but not yet ratified, the European Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>5</sup>

The judiciary has also undergone radical restructuring of its personnel. A newly-formed High Council of Justice now appoints and dismisses judges and prosecutors. Since 1992, about two thirds of the system's employees have been replaced.

Lastly, vast legislative reform has occurred on all levels, from regulation of the media to social welfare. Hundreds of new laws, some of them under criticism, attempt to lay the framework for a functioning democracy and free market economy.

Despite these changes, many problems remain. First, Albania's desperate economic condition has greatly hindered the reform process. Little money exists to record the decisions of the court or provide adequate facilities. A district judge's

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<sup>5</sup>Albania became a member of the Council of Europe in June 1995, and has one year to ratify the convention.

monthly salary of between U.S. \$80 and \$125 leaves him/her susceptible to corruption, which has become a very serious problem.

Moreover, many actions of the new government have directly threatened the independence of the judiciary and rule of law in the country. The High Council of Justice, headed by the president, has summarily dismissed a large number of judges because they rendered decisions that were at odds with the president or government. More than 400 people, most of them selected by local Democratic Party committees, took a six-month law course, hurriedly received law degrees, and were then appointed as judges, investigators and prosecutors throughout the country. A number of high-profile political cases during the past four years were tainted by gross violations of both Albanian and international law. Many of Albania's new laws have come under attack by local jurists as well as foreign organizations for being in violation of international standards.

## **CONSTITUTIONAL REFORM**

Reform of the communist state's constitution began in late 1990 when Ramiz Alia revoked the leading role of the Party of Labor and allowed the formation of independent political parties. Substantive reform commenced in April 1991 when the still communist-dominated parliament passed the Law on Major Constitutional Provisions by the two-thirds majority required for adoption of constitutional laws. The law repealed the constitution of 1976 and laid the framework for a parliamentary republic and the separation of powers. At the same time, a constitutional commission of experts was formed to prepare a new constitution for consideration by the parliament. Despite numerous proposals, political bickering and partisanship have prevented parliament from voting on a consolidated text, and the Law on Major Constitutional Provisions remains in effect today.

Since April 1991, a series of laws have been passed to supplement the Law on Major Constitutional Provisions. Of note is Law No. 7561, On the Organization of the Judiciary and the Constitutional Court, which was adopted by parliament in April 1992. The law maintained the old structure of three court levels: the district, appeals and supreme court, the latter of which is now referred to as the Court of Cassation. The law also established a new Constitutional Court to rule on all issues that require constitutional review. Finally, the law created the High Council of Justice as the sole body to appoint, dismiss and discipline judges and prosecutors.

In April 1993, the Albanian parliament ratified Law No. 7692, On Fundamental Freedoms and Human Rights, which guarantees Albanian citizens

basic civil and political rights, including freedoms of speech, press, assembly, association and religion, and the right to a fair trial. Article 26 of the law provides for protection for minorities in accordance with international standards.

#### **The Referendum of November 1994**

In September 1994, the constitutional commission<sup>6</sup> approved a draft constitution that was heavily criticized by the opposition parties in parliament. Among other things, they complained that it gave broad powers to the president without assuring an independent and strong judiciary. Members of the Greek minority also complained about an article that required the head of the Orthodox Church to be an Albanian citizen. President Sali Berisha, however, supported the draft and proposed that it be submitted to a constituent assembly made up of an equal number of deputies and members of the district councils.<sup>7</sup>

All of the opposition parties complained that such a constituent assembly would be illegal since, according to Albanian law, only parliament "adopts and amends the constitution and laws."<sup>8</sup> A constituent assembly could only be convened, they argued, if parliament voted by a two-thirds majority to relinquish its

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<sup>6</sup>The constitutional commission was originally established as a group of legal experts. By September 1994, however, it was composed of the prime minister, the minister of justice, the chairman of the constitutional court, the legal advisor to the president, a member of parliament from the opposition Socialist Party and a legal expert.

<sup>7</sup>President Berisha's Democratic Party held eighty-four seats in parliament, eight below the two thirds required to pass a new constitution.

<sup>8</sup>Law on the Major Constitutional Provisions, article 16(2).

power to approve the constitution. Furthermore, any constituent assembly must be elected directly by the people.

Facing mounting pressure, Berisha proposed instead that the draft constitution be voted on by direct referendum. But this too was disputed by the opposition, as well as by some of the more moderate members of the Democratic Party, since parliament must approve any proposal to hold a constitutional referendum by a two-thirds majority.<sup>9</sup>

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<sup>9</sup>Law on the Major Constitutional Provisions, Article 28(4a), states that the president "proposes referendums to the People's Assembly which decides on them."

To circumvent this, President Berisha introduced a new "Law on Referenda" which said that only a simple majority was needed in parliament to approve a referendum. In protest, deputies from the five opposition parties walked out of parliament on October 6 when the law was up for vote. Their absence brought the parliament below the necessary quorum.<sup>10</sup> The vote on the "Law on Referenda" was held nevertheless, and passed by a margin of 63-0. Five days later, President Berisha announced that a referendum would be held on November 6 to consider the draft constitution.

The Socialist Party and Social Democratic Party immediately appealed to the Constitutional Court to examine the legality of the decision to hold a referendum. The Constitutional Court delayed its review of the case, prompting three of its judges to resign in protest. In a letter to President Berisha and Speaker of the Parliament Pjetër Arbënor, judges Ylvi Myrtja, Natasha Sheshi and Thimjo Kondi said the court had displayed "grave negligence" by not reviewing the case before the referendum. They also said that they would have resigned anyway because of "irregularities, ambiguities and contradictions in the legislation governing the court."<sup>11</sup>

During the weeks preceding the referendum, President Berisha and other leading members of the government received extensive coverage on the nightly television news championing the draft in front of cheering crowds in villages across

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<sup>10</sup>According to article 19 of the Law on Major Constitutional Provisions, as well as article 43 of the Rules of Parliament, seventy-one of the 140 deputies must be present to constitute a quorum. The Constitutional Court later ruled that the lack of a quorum on October 6 did not invalidate the vote results.

<sup>11</sup>Following their resignations, an investigation was opened on the grounds that they had misappropriated copies of the *Official Gazette*, the state publication that contains laws and Constitutional Court decisions. The investigation was dropped, but a second complaint was brought against Mr. Kondi alone, which is still pending.

the country. Television provided little time for open debate on the draft or the views of its opponents.

Without access to television or radio, the opposition parties used their newspapers and district meetings to argue that the referendum was unconstitutional and that the draft provided too much power to the president. Especially the Democratic Alliance and Socialist Party reported numerous cases of harassment by police and local government officials during meetings they organized to discuss the referendum. According to leaders of the Democratic Alliance, their party was denied permission to book halls for meetings in the towns of Elbasan, Peqin, Lushnja, Shkoder and Vlora. On October 28, a Democratic Alliance meeting in the town of Rrogozhina was allegedly obstructed by a group of eight to ten individuals, some of them reportedly from the SHIK (secret police). The group locked the doors of the Palace of Culture where the meeting was to take place and threatened participants. Enver Dushku, one of the organizers, was detained by the local police for several hours. Other meetings in the towns of Berat and Rreshen were also reportedly disturbed by local authorities.<sup>12</sup>

The referendum occurred on November 6 with minor disturbances that were determined not to have affected the outcome.<sup>13</sup> With voter turnout about 84 percent, official results showed 54 percent of the voters against the proposed constitution.

### INDEPENDENCE OF THE JUDICIARY

Article 3 of Albania's Law on Major Constitutional Provisions establishes the separation of powers as a fundamental principle of the Albanian state. Article 1 of the Law on the Organization of the Judiciary and the Constitutional Court further states that "the judicial power is separate and independent from other powers."

The separation of powers is also guaranteed in international agreements that have been signed and ratified by Albania, such as the International Covenant on Civil and Political Rights. When becoming a member of the Council of Europe in

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<sup>12</sup>Memorandum of the Democratic Alliance Party, November 6, 1995, and Human Rights Watch/Helsinki interview with Arben Imami, Tirana, January 3, 1995.

<sup>13</sup>A Democratic Party spokesman claimed that Mark Prenga, a DP member, was killed in the northern town of Vig, although the circumstances of his death were unclear. Reuters, November 7, 1995.



June 1995, speaker of the Albanian parliament Pjetër Arbënorë signed a special annex to the agreement which committed the Albanian government to:

[E]nsure the independence of the judiciary, in particular by protecting judges from unjustified or arbitrary dismissals and by keeping the operating budgets of the courts under their full control and having them approved by parliament.<sup>14</sup>

Despite these promises, the separation of powers is routinely violated in Albania. The executive still wields substantial influence over the appointment and dismissal of judges, and even over the outcome of specific court cases.

#### **The High Council of Justice**

The law on the Organization of the Judiciary and the Constitutional Court established the High Council of Justice to appoint, dismiss and discipline all judges in the district and appeals courts, as well as prosecutors. The council consists of thirteen individuals: the president of the republic, who is its chairman, the president of the Court of Cassation, the minister of justice, the general prosecutor (attorney general) and nine jurists who are elected every five years by a joint meeting of the Court of Cassation and general prosecutor's office.

Since its formation, the High Council of Justice has failed to uphold the independence of the judiciary. Quite the contrary, evidence suggests that the council has been a principal instrument of the judiciary's subordination to the executive. During the past four years, there have been numerous cases in which judges were summarily removed from their posts or demoted by order of the council for rendering decisions not in accordance with the views of the government or president.

One prominent lawyer in Tirana told Human Rights Watch/Helsinki:

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<sup>14</sup>Declaration made by Mr. Arbënorë, Speaker of the Albanian Parliament, on the occasion of the debate on Albania's request for membership of the Council of Europe on June 29, 1995. Amendment No. 9.

The executive applies extreme pressure on the High Council of Justice for them to take action against those people who criticize the government and its actions. Moreover, several times the council has summarily removed judges with whose opinions or actions it disagreed. This serious violation of the separation of powers harms the rule of law in a very great way.<sup>15</sup>

Zef Brozi, former chief justice of the Court of Cassation, was a member of the High Council of Justice from September 1993 until his dismissal by parliament in September 1995 (see below). In an interview with Human Rights Watch/Helsinki after his dismissal, he said:

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<sup>15</sup>Human Rights Watch/Helsinki interview, Tirana, April 21, 1994.

The High Council of Justice does nothing without the approval of Berisha. It's in his direct control. Why? Because it is composed only of people he named. Only Berisha proposed the members.<sup>16</sup>

According to Brozi, the council meets in the room right next to the president's personal office. One of the president's secretaries is the secretary of the council.

Brozi told Human Rights Watch/Helsinki that some ninety-two judges had been removed during the years 1992-1995. While some were removed for legitimate legal reasons, many were dismissed because they disagreed with the positions of those in power. Dismissed judges were informed of the decision verbally without any explanation.

Officials at the Ministry of Justice admit that there has been a great turnover in judges. They estimate that 60 percent of the personnel in the judiciary has been replaced since 1992. Halil Sinani, Vice Director of Organization of the Judiciary at the Ministry of Justice, told Human Rights Watch/Helsinki:

The people we removed were judges, attorneys and prosecutors who served the past regime. These are people who are compromised and have no right to serve the democracy.<sup>17</sup>

Tritan Shehu, a top official at the Democratic Party, remarked, "there has been no cleansing process, only a replacement of those incapable with those capable - of those corrupted with those not corrupted."<sup>18</sup>

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<sup>16</sup>Human Rights Watch/Helsinki interview with Zef Brozi, New York, January 8, 1996.

<sup>17</sup>Human Rights Watch/Helsinki interview with Halil Sinani, Tirana, June 3, 1994.

<sup>18</sup>Shehu made his statements at a conference organized by the Albanian Helsinki Committee and the Soros Foundation on the "Opening of the Sigurimi Files" held in Tirana on June 22, 1994.

Human Rights Watch/Helsinki is not able to determine with certainty how many of the judges were removed for political reasons. Many have been removed simply in the name of "reform," as is allowed under the Law on Labor Relations (see below). Others were accused of corruption. While some of these allegations may have been well-founded, the timing of the council's decisions, with many sanctions ordered immediately after politically sensitive verdicts, gives reason to believe that there are political motivations behind many of its decisions.

The first reported case of political tampering with the courts occurred in Tirana in August 1992 when a district judge, Danielle Nesho, released an individual arrested for alleged falsification of documents. The High Council of Justice convened immediately after the decision and dismissed Judge Nesho in a summary proceeding. The dismissal led to a brief strike by other district judges who protested the arbitrary nature of the decision and a meeting with President Berisha, but the decision was not reversed.

Another example involved the case of Aleksander Frangaj, editor-in-chief of the newspaper *Koha Jone*, and Martin Leka, a journalist for the paper, who were arrested in January 1994 on charges of revealing state secrets and slander (see the chapter on Albanian media). In February, Leka was found guilty but Frangaj was acquitted. After the decision, the judge, Arben Ristani, was dismissed from his position and arrested on charges of corruption. The timing of the council's decision and the highly politicized nature of the trial suggest that Ristani's acquittal of Frangaj was the reason for his dismissal.<sup>19</sup> After one day in prison, Ristani was freed and is now in private practice.

In October 1993, the High Council of Justice transferred a Tirana Judge, Urim Bejleri, to the remote district of Laç. Bejleri was never called by the council to defend himself and was never offered an explanation despite his many requests. When he refused to report to his new job, he was fired.<sup>20</sup>

In November 1994, the Constitutional Court reviewed the case and ruled that the High Council of Justice had "violated the constitutional principle of the

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<sup>19</sup>A court of appeal later found Frangaj guilty. Both journalists were then pardoned by President Berisha on May 3, 1994, World Press Freedom Day.

<sup>20</sup>According to Article 24 (1) of the Law on Labor Relations, the High Council of Justice may transfer someone to another position "in the name of reform." If a transfer is not possible, the person may be fired. The law has been used to fire thousands of state employees, often in the name of "democratization." (See section on legislative reform.)

immovability of judges.<sup>21</sup> Requests by the Constitutional Court to obtain the minutes of the council's meeting were ignored. As of February 1996, Bejleri had still not been reinstated.

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<sup>21</sup>Decision Nr. 8 of the Constitutional Court of the Republic of Albania, November 3, 1994.

The High Council of Justice is also responsible for the appointment of judges. According to Albanian law, judges must be Albanian citizens and have law degrees. Zef Brozi told Human Rights Watch/Helsinki that many judges were appointed not because of their legal qualifications but on account of their loyalty to the ruling Democratic Party. In one instance, a judge, Alfred Vasili, was appointed even though he didn't possess a law degree.<sup>22</sup> In a normal meeting of the High Council of Justice, Brozi said, the minister of justice would propose a number of candidates for appointments as judges. A vote would then be taken without any discussion about the candidates' legal credentials and qualifications.

As replacements, the High Council of Justice has given many positions to those who they claim were politically persecuted in the past. However, many of these people lack legal training, and there is considerable fear that their loyalty to the new government undermines their objectivity as legal professionals.

### **Law Courses in Durrës**

In March 1993 the government opened an intensive six-month law course in the port city of Durrës. According to the Ministry of Justice at the time, the purpose of the course was to train court clerks, secretaries and legal assistants for the courts and for investigators' and prosecutors' offices throughout the country.

Four hundred and eighty-five students were selected to participate in the course. While all of the participants held university degrees, the majority had no previous legal experience. Law professors who taught the course, Zef Brozi, chief justice of the Court of Cassation at that time, and Valentina Zaçe, former dean of the Law Faculty at Tirana University, all told Human Rights Watch/Helsinki that most of the course participants had been selected by the local chapters of the Democratic Party, with the remaining participants chosen by the Association of Former Political Prisoners.<sup>23</sup> Islam Lleshi, Head of the Tirana section of the

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<sup>22</sup>Human Rights Watch/Helsinki interview with Zef Brozi, New York, January 7, 1996.

<sup>23</sup>Human Rights Watch/Helsinki interviews with Valentina Zaçe, Tirana, February 7, 1995, and Zef Brozi, New York, January 7, 1995.

Association of Former Political Prisoners confirmed this fact. He told Human Rights Watch/Helsinki that the association was supposed to have jointly selected the course participants together with the Democratic Party, but their wishes had been largely disregarded during the selection process.<sup>24</sup>

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<sup>24</sup>Human Rights Watch/Helsinki interview with Islam Lleshi, Tirana, March 14, 1994.

Upon completion of the course in the fall of 1993, a second decree ordered the Law Faculty at the University of Tirana to accept all of the course graduates as last year correspondence students.<sup>25</sup> Some 450 of these students took examinations at the faculty in November 1993 and received full law degrees in April 1994 which enabled them to be employed as full-time judges, investigators and prosecutors. As of June 1996, approximately 400 of them were working in such jobs throughout the country, including the chief prosecutor of Tirana, the chief judge in Tepelena and the chief judge in Mirdite.

In an interview conducted before his dismissal, Zef Brozi defended the course as necessary to train professionals for Albania's new legal system. He told Human Rights Watch/Helsinki:

We need 300 judges but have only one half because many became private lawyers for a good salary. The course was opened to fulfill the urgent needs of the judicial system. . . . Many young people were prevented from attending the law faculty in the past only because of something in their biographies. Therefore, in my opinion, it is not fair for someone to complain that this [course] was done for political reasons. The participants in the course were those who were denied the right before. This course was repair work for the past.<sup>26</sup>

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<sup>25</sup>Human Rights Watch/Helsinki interview with former dean of the law faculty, Valentina Zaçe, Tirana, February 7, 1995. The Albanian university system allows for students to study at home and take the necessary exams at the end of the year. The Law Faculty is a four-year program, five years if taken by correspondence.

<sup>26</sup>Human Rights Watch/Helsinki with Zef Brozi, Tirana, May 3, 1994.



The students at the law faculty, however, fiercely opposed the course. In a letter of protest to the president and other top government officials, the students argued that the course had been initiated only for political goals. They wrote:

Some extreme political groups hiding behind the reform of the legal institutions - which is in fact imperative - want to put their supporters in charge of the judicial institutions and to remove specialists only for political reasons.<sup>27</sup>

Interviewed after his dismissal, Brozi expressed a sharp criticism of the course as a means for the Democratic Party to place its political supporters in top positions of the judiciary. He admitted that he had supported the course before, but said that was when he thought the graduates would only be employed as legal assistants. He told Human Rights Watch/Helsinki:

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<sup>27</sup>Formal protest of the students of the law faculty, March 31, 1993.

Berisha said in the High Council of Justice that it is a priority to hire the 400 course graduates. Originally the course was meant as a kind of affirmative action for those who were politically persecuted. But most of the students selected were Democratic Party loyalists or active sympathizers.<sup>28</sup>

While Human Rights Watch/Helsinki recognizes the need to reform the judiciary, it is concerned that the appointment of judges selected primarily from one political party will undermine the professionalism and independence of the judiciary. As appointees of the party in power, there is the danger that their political allegiance will undermine their impartiality and open the door for further interference by the executive power in the judiciary.

#### **The Case of Maksim Haxhia**

On May 10, 1992, Maksim Haxhia, a Vice-Dean at the Law Faculty, was appointed democratic Albania's first general prosecutor (attorney general). Within weeks of his appointment, Haxhia came under criticism from the government for refusing on legal grounds to prosecute some cases, including one brought by the state against the newspaper *Koha Jone*. In July 1992 he publicly opposed a new law that gave police broad discretion in conducting searches for weapons in private homes.<sup>29</sup> In parliament, Haxhia was under increasing pressure for failing to prosecute former government officials prominent in the communist regime. In mid-September, parliament asked for Haxhia's resignation. He refused to resign, and on September 17 he was dismissed by parliament and denied permission to return to his position at the faculty of law.

Mr. Haxhia challenged his dismissal in the Constitutional Court, claiming that parliament did not have the authority to remove him from his position. According to article 14 of the Law on the Organization of the Judiciary and Constitutional Court, the general prosecutor may be relieved of his duties by parliament only "when proved that he has committed a serious criminal act,

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<sup>28</sup>Human Rights Watch/Helsinki interview with Zef Brozi, New York, January 8, 1996.

<sup>29</sup>See section on legislative reform below.

specifically provided for by law, or when he is mentally disabled." The Constitutional Court, however, upheld parliament's decision.

Following his dismissal, Haxhia was accused of falsification of documents in what appeared to be an arbitrary measure to justify his dismissal. Prosecutors claimed that he had unilaterally transferred or appointed three local prosecutors and investigators without the approval of the High Council of Justice. Haxhia's one-day trial on December 5 contravened international due process standards. The court ignored many of the defense's motions and calls for witnesses, including a motion to call two members of the High Council of Justice who were said to have acknowledged Mr. Haxhia's innocence. The court found Haxhia guilty of falsifying documents and fined him 1000 lek (\$10 US). As of February 1996, he had still not been allowed to return to his position at the faculty of law.

#### **The Case of Zef Brozi**

On September 23, 1995, the chief justice of the Court of Cassation, Zef Brozi, was unconstitutionally relieved of his duties by parliament because of allegedly illegal behavior. His dismissal was the final result of a long political attack by the government against Brozi, who had become increasingly critical of the state's interference in the judiciary. The attempts to remove Brozi also coincided with Court of Cassation reviews of politically sensitive cases: namely, the five ethnic Greeks of Omonia and Fatos Nano, the jailed Socialist Party leader.

Once a vocal supporter of the Democratic Party, Chief Justice Brozi began expressing public criticism of unlawful detentions and arrests of citizens, excessive force used by police and the removal of judges without legally grounded reasons. Human Rights Watch/Helsinki considers his dismissal to be a result of these criticisms.

In addition, the parliamentary decision to remove Brozi was in direct violation of Albanian law and the rules of parliament. According to Albanian law, a Court of Cassation judge may be removed only when it's proven that he or she is either mentally unfit or has committed a serious crime — neither of which the state was able to prove.<sup>30</sup> Parliament also voted to remove Brozi despite the lack of a quorum. The votes of at least three deputies were falsified (see below).

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<sup>30</sup>Law On the Organization of the Judiciary and Constitutional Court, article 6, paragraph 4.

The first attempt to remove Brozi occurred in December 1994 when he was publicly accused of abuse of office. The accusations involved the case of a Greek citizen, Kostandinos Callafatos, who had been sentenced to four years of imprisonment by a Tirana court for drug possession. An appeals court later upheld the sentence. When reviewing the case, a three-judge panel of the Court of Cassation, not including Brozi, determined that Mr. Callafatos' case involved numerous due process violations, including the defendant's limited access to a translator and a lawyer during pre-trial court hearings. Based on this, the conviction was reversed at the request of the chair of the panel, and Chief Justice Brozi ordered that the defendant be released. One month later, the prosecutor general accused Brozi of unlawfully ordering the release and asked parliament to revoke his immunity, apparently as a prelude to filing charges against him.

Some members of the ruling Democratic Party asked the Constitutional Court to decide whether parliament had the right to strip immunity from judges of the Court of Cassation. On January 19, 1995, the court ruled that parliament did indeed have this right.<sup>31</sup> But on February 1, parliament narrowly voted against lifting Justice Brozi's immunity. In a press conference shortly thereafter, Brozi accused the country's leadership of conducting an "anti-constitutional coup" that threatened the independence of the judiciary. He recalled a recent decision by the Court of Cassation to release two journalists who had been accused of revealing state secrets as a moment when he began to fall out of favor with the government.<sup>32</sup> He also pointed out that the attacks against him were occurring just as the Court of Cassation was about to review the highly controversial case of five Greek minority

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<sup>31</sup>It is worth noting that a new constitution proposed by the government in the fall 1994 would have allowed judges to be dismissed without proof of a crime. The national referendum held on November 6, 1994, rejected the proposal, thus necessitating parliament's approval to remove Brozi.

<sup>32</sup>See the case of Frangaj and Leka in the chapter on Albanian media.

leaders who had been imprisoned for espionage and the illegal possession of weapons.<sup>33</sup>

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<sup>33</sup>See the case of the Omonia Five in the section on the Greek minority.

The next attack against the independence of the Court of Cassation occurred in May 1995, when Democratic Party MPs introduced a motion in parliament to discharge two of the court's judges, Petrit Ploçi and Tefta Zaka, on the grounds that they did not meet the legally prescribed qualifications. However, parliament had already examined and accepted the qualifications of the two judges before their initial appointment. Many lawyers and journalists in Tirana, as well as Zef Brozi, told Human Rights Watch/Helsinki that both judges were considered to be Brozi's allies.<sup>34</sup>

According to Albanian law, "a judge of the Court of Cassation may be removed from office only on the basis of a reasoned decision of the People's Assembly when proven that he or she has committed a serious criminal act, specifically provided for by law, or when he or she is mentally disabled."<sup>35</sup> The attack against the two judges seems to have been politically motivated. After substantial protest from within Albania and abroad, however, the motion to remove the two judges was withdrawn.

The final attack against Chief Justice Brozi began in July 1995 when the Court of Cassation decided to review the case of the jailed Socialist leader and former prime minister, Fatos Nano, whose arrest had drawn substantial criticism from human rights organizations and the Council of Europe.<sup>36</sup> A large-scale attack on Brozi ensued, with the president, the government, Democratic Party deputies and the state-run television and press accusing him of being pro-Socialist.

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<sup>34</sup>Human Rights Watch/Helsinki interview with Zef Brozi, New York, January 7, 1996.

<sup>35</sup>Law On the Organization of the Judiciary and Constitutional Court, article 6, paragraph 4.

<sup>36</sup>See the case of Fatos Nano in the section on harassment of the political opposition.

The government immediately took a series of steps to stop the Court of Cassation from reviewing the case. First, the hearing by the full Court of Cassation (or plenum), begun on July 26, was adjourned to September at the request of the attorney general. Later that day, an amendment to the Code of Criminal Procedure was hurried through parliament, which prohibited the court plenum from hearing the case.<sup>37</sup>

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<sup>37</sup>An amendment to Article 525 of the Code of Criminal Procedure limited the work of the Court of Cassation's plenum. For details, see the case of Fatos Nano.

On September 5, the Minister of Justice dismissed, and the state prosecutor ordered the arrest of, the chief administrator of the Court of Cassation, as well as two other staff members, seriously undermining the ability of the court to function.<sup>38</sup>

Police forces surrounded the court on September 6 and obstructed its work, reportedly assaulting some individuals who attempted to enter the court. Chief Justice Brozi remained inside staging a protest.

In early September, the executive asked the Constitutional Court to find that a review of the Nano case would be unconstitutional. On September 19, one day before the scheduled hearing, the court ruled that the Court of Cassation did not have the constitutional right to review the case.

On September 21, the Constitutional Court also ruled that some of Brozi's other actions as chief justice had been "unlawful and unconstitutional."<sup>39</sup> In particular, he was accused of illegally suspending a number of cases that were in the lower courts. That same afternoon, President Berisha submitted a formal request to parliament to remove Brozi from his post because of "grave violations of the fundamental rights and freedoms of citizens."<sup>40</sup> The opposition parties boycotted the session to protest the government's actions, but parliament voted to remove Brozi nevertheless by a vote of 73-0.

However, Human Rights Watch/Helsinki obtained official documents to prove that the vote was falsified. According to the official voting records of parliament from September 21, three opposition deputies, Arben Imami, Gramoz Pashko and Shkelqim Çani, are recorded as having voted in favor of Brozi's dismissal, even though it has now been convincingly established that they were not present during the session due to the boycott of the opposition.<sup>41</sup> All three have stated publicly that they were not present during the vote.<sup>42</sup> Their absence brought

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<sup>38</sup>Those arrested were Agim Hoxha, legal director of the court, Krenar Haderi, chief of the foreign relations department, and Nduç Marku, chief secretary of the court. The purported secret police dossiers of Haderi and Marku were published in the pro-governmental newspaper *Rilindja Demokratike*.

<sup>39</sup>Decision of the Constitutional Court, Republic of Albania, September 19, 1995.

<sup>40</sup>Proposal by President Berisha to the Albanian parliament as published in the newspaper *Rilindja Demokratike* on September 22, 1995.

<sup>41</sup>People's Assembly of the Republic of Albania, Voting Results, Seq. No 1020-1025, September 21, 1995.

<sup>42</sup>Human Rights Watch/Helsinki obtained a sworn statement from Arben Imami, in which



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the parliament below the quorum of 71 necessary to hold a session of parliament, as is required under article 19 of the Law on Major Constitutional Provisions, as well as article 43 of the Rules of Parliament.

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he testified that he was not present, and confirmed the statement of the second deputy, Gramoz Pashko, in a personal interview conducted in Washington D.C. on January 17, 1996.

Aside from being a violation of constitutional law, the falsified vote in parliament is further evidence of a political motivation behind Brozi's dismissal. And, even if a quorum had been present, Human Rights Watch/Helsinki questions whether the hasty procedure allowed parliament to make a "reasoned decision," as is required by law, especially since Brozi was not present to defend himself against the charges.<sup>43</sup>

On November 4, at 5:45, a dozen police surrounded Brozi's apartment house in Tirana. Four policemen went upstairs and, without the required written authorization, tried to enter the apartment. Several hours later, after the intercession of several members of parliament, journalists and others, the police left. Zef Brozi is currently in the United States.

### LEGISLATIVE REFORM

A myriad of new laws has been passed by the Albanian parliament since 1992. Of particular note are the laws on foreign investment, land reform and the rights of former political prisoners. The Constitutional Law on Fundamental Freedoms and Human Rights firmly establishes Albania's legal commitment to the rule of law and full respect for human rights.

Nevertheless, the process of rewriting half a century of communist-era law has not been without obstacles. Many laws were passed hastily without proper debate, either among legislators or the public. Drafts of laws are rarely available for review and only become public after they are passed by parliament and published in the official gazette. As a result, judges and lawyers are often not familiar with the most recent legislation. Defendants are sometimes arrested on one charge, indicted on another and convicted on a third, and the charges may change on appeal.

In addition, while much of the communist-era legislation has been revoked, some of the new laws are not up to international standards. While the Constitutional Court has overturned some of these laws, many have been used by the government to consolidate its power or attack opponents of the state. Some of the more serious examples are described in this chapter.

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<sup>43</sup>According to parliament's voting records from September 21, the parliamentary session opened at 6:27 p.m.. The vote on Brozi's dismissal occurred at 6:35 p.m..

### **Laws Regarding Communist-Era Secret Police Files**

In the fall of 1995 the Albanian parliament passed two laws, the Law on Genocide and Crimes Against Humanity Committed in Albania During Communist Rule for Political, Ideological and Religious Motives and the Law on the Verification of the Moral Character of Officials and Other Persons Connected with the Defense of the Democratic State, that mandate a review of the communist-era secret police files by a special commission appointed predominantly by the government. All those who held top positions in a pre-1991 government or are found to have “collaborated” with the secret police are banned from holding elected office or high-level government jobs until the year 2002. According to the government, the laws are intended to prohibit those people who collaborated with the communist regime from participating in the political life of the country.

Human Rights Watch/Helsinki supports efforts to investigate those responsible for past crimes. However, individuals should be punished for having committed specific crimes rather than for an association with a now-discredited group. Furthermore, there is the danger that the government appointed commission will use political considerations when determining who should be banned from public office. The timing and terminology of the laws give reason to fear that they will be used selectively by the government to eliminate the political opposition and silence critics of the state. (For a full description of the laws, see the chapter on accountability and impunity.)

### **Law on Labor Relations**

On December 3, 1991, parliament passed Law No. 7526, On Labor Relations. A subsequent amendment, promulgated on May 4, 1992, added article 24 (1)<sup>44</sup> which made possible the dismissal of employees of state-owned firms and agencies without explanation or the right to appeal. While the purpose of the

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<sup>44</sup> Article 24 (1) of the Law on Labor Relations states:

For the particular needs connected with the improvement of functions and structures of the state apparatus to affect the reform, the competent organ has the right to transfer a state employee to another work place in his profession.

When finding another work place is objectively impossible, it [the competent organ] moves him [the employee] to another job or social assistance.

amendment was to facilitate the process of reform, its vague terminology allowed for political and personal favoritism to enter the process. After the amendment came into effect, thousands of state employees were released from their jobs in ministries, institutes, universities and the state media, as well as in large and small state firms.

During one year of observation, a Human Rights Watch/Helsinki representative in Albania reviewed enough cases to determine that political, as well as personal, criteria were often used in replacing state employees. Many of those dismissed were members or sympathizers of the Socialist Party (formerly the Party of Labor) or the relatives of such people.<sup>45</sup> Some, however, were dismissed after having expressed views that were critical of the new government. Often their jobs were given to supporters of the Democratic Party or their family members. (For details see the sections on harassment of the political opposition, the High Council of Justice and the broadcast media.)

### **Press Law**

On October 28, 1993, President Berisha signed a new press law, despite protests from many Albanian journalists and numerous international media and human rights organizations. Seven major Albanian newspapers held a weekend strike to protest the law and ran full-page blank articles with the headline: "This is what our articles will look like under the new press law!"

The law states that the press is free but includes provisions that restrict access to information that is deemed a state secret, goes against the public good or would affect a court case in process. The law establishes requirements that the editor-in-chief and publisher of a newspaper be over eighteen years old and live in Albania and allows for the confiscation of a publication that has material threatening democracy, national peace or "morals of the youth." Violators of the press law are subject to fines ranging between 100,000 lekë to 800,000 lekë (U.S. \$1,000 to \$8,000), amounts that threaten to put any Albanian newspaper out of business.

The Albanian press law is based on the media law in the German state of North Rhine-Westphalia. In the German system, however, fines are based on the income of the journalists involved and they cannot be "confiscatory," that is, so high

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<sup>45</sup>According to the Socialist Party, about 250,000 people were dismissed under Article 24 (1), although there is no way to confirm this number.

as in effect to cause the publication to go out of business. In contrast, the Albanian press law specifies high fixed fines that effectively would force the closure of newspapers and other publications in Albania. Fearing the imposition of such an exorbitant fine, newspapers and periodicals may refrain from publishing articles critical of the government, thus resulting in self-censorship among journalists and the media.

According to article 5 of the law, the editor of a newspaper is obliged to verify the truthfulness, content and source of all news before its publication in order to ensure that the paper is kept free from "punishable content." In one case, an editor was found guilty for running an article about a member of parliament who accused a government official of corruption.<sup>46</sup> The court ruled that it was the editor's responsibility to confirm the allegations before publication.

In addition, article 20 stipulates that editors and publishers are legally responsible if they "willfully or negligently violate their obligation to keep the press free from performing punishable violations." In such cases, the editor or publisher may be punished with imprisonment of up to one year or by a fine.

Two editors and two journalists are known to have been convicted under the law since it came into effect. All of them are from opposition or independent newspapers. Their cases led other journalists to consider self-censorship, thus threatening free press in the country.

Many Albanian journalists and legal experts claim that the law is in violation of Albania's Law on Fundamental Human Rights and Freedoms, article 2 of which protects freedom of expression. Albania has also ratified the International Covenant on Civil and Political Rights which protects the right to freedom of expression through any media.<sup>47</sup>

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<sup>46</sup>See the case of Blendi Fevziu in the chapter on the Albanian media.

<sup>47</sup>See the chapter on Albanian media for a full description of press freedom in Albania, including an explanation of relevant international standards.

**Penal Code**

On June 1, 1995, a new penal code came into effect that largely meets international standards. A controversial article that would have continued to criminalize homosexuality was omitted after complaints from within Albania and abroad.<sup>48</sup>

Before the adoption of the new penal code, however, the communist-era penal code was still in effect. A series of amendments in 1990-1993 annulled many of the more repressive articles used in communist-era courts, but amendments passed in November 1993 reinstated some highly restrictive measures, jeopardizing freedom of expression, speech and press in the country. These amendments — some of which are present in the new penal code — allowed for imprisonment of up to five years for denigration of the president, government, legislative or constitutional organs, or any member of these bodies. Prison sentences of up to ten years could be handed down for the establishment of an organization deemed to be "fascist, anti-democratic, terrorist [in] character, or taking part in one." Likewise, an individual who "intends, through his acts, to destabilize the Republic of Albania" could be imprisoned for up to five years.

While much improved, the new penal code still contains some of these articles. Article 241, for example, stipulates imprisonment for up to three years for defamation of the president. Under article 268, degrading the Republic of Albania, its constitutional order, national emblem or flag is punishable by up to two years in prison.

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<sup>48</sup>Under communist law, homosexual acts were punishable by up to ten years in prison. A draft of the new penal code would have continued to criminalize homosexual acts, although it reduced the sentence to six years, but it was subsequently dropped. (See section on the rights of homosexuals.)

Human Rights Watch/Helsinki recognizes that governments may limit speech in the interest of national security or public order. However, under international law, no restriction on freedom of expression or information on the ground of national security may be imposed unless the government can demonstrate that the restriction is prescribed by law and is necessary in a democratic society to protect a legitimate national security interest.<sup>49</sup> The burden of demonstrating the validity of the restriction rests with the government. Mere criticism of government leaders does not ordinarily threaten an imminent breach of the peace, nor does it threaten the existence of the state, the respective hallmarks of danger to public order and national security.

Despite this, the Albanian government has consistently invoked the penal code against journalists who have expressed criticism of political leaders or institutions. The new penal code has also been criticized by the Albanian Helsinki Committee, a local human rights group, for the high number of crimes punishable by death (eleven), as well as the general severity of sentences contained in the code.

#### **Law on Police Searches**

In response to rising crime, parliament passed a law in July 1992 enabling police to enter homes in search of weapons. But the law afforded police nearly unlimited authority to enter private residences without a warrant when ostensibly searching for weapons.

On September 18, 1992, the Constitutional Court ruled that the formulation of the law "violated the principles of the Republic of Albania's juridical and democratic state." The court rewrote the law (especially Article 19) to allow police searches without a warrant only in "flagrant cases," or when there is sufficient information to merit such a search. Within twelve hours after a search, the police must inform the general prosecutor of their actions.

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<sup>49</sup>International Covenant on Civil and Political Rights, Article 19.

Despite this ruling by the Constitutional Court, there are still many examples where the police have abused their authority by entering homes violently without a warrant.<sup>50</sup> This is partially due to a police force that is unfamiliar with international standards on the inviolability of personal dwellings. Still, it is incumbent on the government to assure that police respect the right to privacy, as established in international human rights law and article 16 of Albania's Law on Fundamental Freedoms and Human Rights.

#### **Ban on the Communist Party**

In July 1992, parliament passed a law banning all "fascist, racist, anti-national, Marxist-Leninist, Enverist [followers of former dictator Enver Hoxha], and Stalinist" parties, including the Party of Labor. The Constitutional Court subsequently upheld the law. In June 1995, a group of individuals in Gjirokastër were reportedly prohibited from forming a communist party, although Human Rights Watch/Helsinki was not able to confirm this case. Human Rights Watch/Helsinki considers this ban a violation of the right to free association as guaranteed in Albania's Constitutional Law on Fundamental Freedoms and Human Rights.

#### **Advocacy Law**

A new advocacy law that came into effect in January 1993 established a commission to reevaluate lawyers' licences to practice. The commission, headed by the minister of justice, could ban a lawyer from practice for five years if it found that the person was a former officer or collaborator of the state security apparatus, a former member of the central committees of the Party of Labor or if he/she had taken part in staged political trials.<sup>51</sup>

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<sup>50</sup>See, for example, the case of the Omonia Five.

<sup>51</sup>Many lawyers had already lost their jobs in state institutions after Article 24 (1) of the Law on Labor Relations was passed in May 1992. Most of them went into private practice, which was re-legalized in 1990 after a two-decade ban.



At the commission's first meeting on April 20, 1993, forty-seven lawyers had their licences revoked. None of the lawyers were present at the meeting, and the reasons for their being disbarred were not clearly stated. On April 30, the parliamentary group of the Socialist Party brought a complaint to the Constitutional Court.

In May 1993, the Constitutional Court ruled that the new law was unconstitutional, and all forty-seven lawyers were allowed to continue their practices. One year later, a new advocacy law passed by parliament established an exam as a means of qualifying lawyers. Some lawyers told Human Rights Watch/Helsinki that they fear the exams will be used to discriminately disbar those lawyers who have defended individuals in politically sensitive cases or are otherwise critical of the government. An appeal by a group of lawyers was rejected by the Constitutional Court and, at the time of this writing, the exam process had commenced.

### **VIOLATIONS OF THE RIGHT TO A FAIR TRIAL**

The Constitutional Law on Fundamental Freedoms and Human Rights protects an individual's right to a fair trial. Articles 7 through 13 guarantee the presumption of innocence, access to a lawyer of one's choice and sufficient time and facilities to prepare a defense. Article 40 secures the right to a "fair, public and quick trial by a competent, impartial and independent court."

Despite these legal guarantees, Human Rights Watch/Helsinki has documented numerous violations of due process. Defendants are often held in pre-trial detention beyond the maximum time allowed, denied access to a lawyer and sometimes subjected to physical or psychological abuse while in police custody.<sup>52</sup> In part, these violations are due to the police force and judiciary's inexperience with the new legal order, and an incomplete break with the practices of the former totalitarian regime. However, many violations are also the result of direct political tampering in the work of the courts.

Some of the more prominent cases discussed in this report include:

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<sup>52</sup>See also the section on ill-treatment, deaths in custody and arbitrary arrests.

- Fatos Nano, leader of the Socialist Party (see section on harassment of the political opposition)
- The five ethnic Greeks from Omonia (see section on the Greek minority)
- Journalists Aleksander Frangaj, Martin Leka and Gjergji Zefi (see section on the print media)
- The trials of former communist officials (see section on the trials of former communist officials)

## V. ACCOUNTABILITY AND IMPUNITY

Like other former communist countries, Albania is facing the difficult question of how to deal with its past. The situation is exacerbated by the intense brutality of Enver Hoxha's regime: thousands of people were imprisoned, sent into internal exile or killed because of their political or religious beliefs. Many others were shot trying to escape the country.

Finding out who was responsible for these crimes is a complex task. An estimated one in four Albanians collaborated in some way with the communist secret police, and many others were complicit with the regime. In addition, many documents have been destroyed, making it difficult to determine who should be held responsible for the terrible crimes of the past.

Despite this, the Albanian government has undertaken an ambitious attempt to prosecute those guilty of collaboration with the former regime. Since 1992, a large number of former communist officials, including three of the last four prime ministers, politburo members, members of the Party of Labor's Central Committee, and former police chiefs, have been tried and convicted for a variety of abuses committed when they were in power, ranging from the misappropriation of state funds to ordering the use of firearms against civilians.

In addition to these criminal proceedings, two "lustration laws"<sup>53</sup> have been passed that ban former communist officials and "collaborators" with the former secret police from holding public office and a number of other state-appointed positions until the year 2002. A predominantly government-appointed committee reviews the files of the former secret police in a closed-door session to determine who collaborated with the former regime.

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<sup>53</sup>The term "lustration law" refers to laws that prohibit those previously associated with an abusive regime from holding public office. The word "lustration" is derived from the Latin word for "purification."

Human Rights Watch/Helsinki recognizes the importance of prosecuting past abuses and is aware of the difficult task that confronts the prosecutor's office in investigating these crimes. Human Rights Watch/Helsinki believes that accountability for gross abuses should remain a goal of a government that seeks to promote respect for human rights. We also support efforts to ensure that all those holding positions of influence and power in government carry out their duties in a manner that is compatible with the development of democracy and the establishment of the rule of law.

At the same time, we believe that the means pursued to achieve these ends should themselves reflect respect for individual rights. In the Albanian case, we are deeply concerned that the notions of accountability and justice have been misused by the government, particularly the ruling Democratic Party, to consolidate its power and eliminate political rivals.

Human Rights Watch/Helsinki believes that any investigation into past abuses must be conducted in strict accordance with the rule of law. Charges must be made against individuals for specific actions, rather than for their association with a now discredited group. Defendants must be granted a free and fair trial in which they may defend themselves against the accusations. In addition, Albanian and international law stipulate that individuals be prosecuted only for acts that were crimes at the time the acts were allegedly committed.

The most important means of establishing accountability is for the government itself to make known all that can be reliably established about gross abuses of human rights: their nature and extent, the identities of the victims, the identities of those responsible for devising the policies and practices that resulted in gross abuses, and the identities of those who carried out gross abuses.<sup>54</sup>

Regarding the eligibility for public office of those associated with the former regime, Human Rights Watch/Helsinki believes that eligibility for public office should be based on the qualifications of the individual applicant. Governments should refrain from basing eligibility solely on their past or present associations. In the case of affiliations with organizations considered to have acted in a criminal, corrupt or repressive manner, governments should require clear and convincing evidence that the individual knowingly and actively furthered those

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<sup>54</sup>Human Rights Watch, "Accountability for Past Abuses," HRW Policy Paper, 1989.

practices of the organization. The charged individual must also have an opportunity to know the evidence against him or her and to obtain a fair hearing on such charges before an impartial tribunal. He or she must be guaranteed the right to appeal the determination of that tribunal to the regularly constituted courts.<sup>55</sup>

Human Rights Watch/Helsinki is concerned that Albania's "decommunization" process is not adhering to these principles. While some of the criminal cases against former communist officials have been in accord with international standards, others have failed to guarantee the defendants their right to a fair trial. Some former government officials or secret police collaborators have avoided prosecution because of ties they have to the current government. The two laws that ban former government officials from holding public office punish individuals because of their past associations rather than their individual actions. There is the danger that the government-appointed commission will use political criteria when reviewing the files.

### **THE TRIALS OF FORMER COMMUNIST OFFICIALS**

The first prominent communist to be tried by Albania's new government was Nexhmije Hoxha, widow of the former dictator Enver Hoxha. In February 1993 she was convicted of using her position to misappropriate state property and was sentenced to nine years in prison. On May 9, an appeals court added two more years to the original sentence, a verdict that was later upheld by the Court of Cassation. A general amnesty in November 1994 and provisions of the new penal code that went into effect on June 1, 1995, reduced her sentence by about two thirds. Another amnesty by President Berisha on January 1, 1996, reduced her sentence by another six months, leaving her with two years to serve.

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<sup>55</sup>Human Rights Watch, "Eligibility for Public Office of those Associated With Abusive Regimes," HRW Policy Paper, 1991.

The next major trial was aimed at the so-called "blockmen," a group of top Party of Labor officials and Politburo members who lived in luxurious villas in a secluded part of Tirana known as "the block." After one year under house arrest and two months in prison, they were charged under article 107 of the penal code for "violating the equality of citizens." The nineteen-page indictment detailed many of the privileges they enjoyed, including the use of state gold for dentistry work, medical visits abroad and other benefits totaling approximately \$15 million. On the first day of the trial, Judge Artan Zenel ordered all foreign journalists out of the courtroom. On the next day, he ordered a total press blackout in the name of "public order, national security, morality and privacy of the accused."<sup>56</sup>

On December 13, 1993, all ten blockmen were ordered to pay varying amounts to the state and sentenced to between five and eight years in prison. Qirjako Mihali and Llambi Gegprifti were sentenced to eight years in prison; Pali Miska and Lenka Cuko to seven years; Hajredin Celiku, Foto Cami and Besnik Bekteshi to six years; and Vangelj Cerrava, Prokop Murra and Muho Artunda to five years.

The appeals court hearing in November 1994 was open to foreign observers and local journalists and was attended by a Human Rights Watch/Helsinki monitor. In a one-day hearing, the charges against all ten defendants were changed from violating the equality of citizens (article 107 of the Penal Code) to abuse of power (article 106 of the Penal Code). Their sentences were reduced by between one and two years per person, but defense attorneys complained to Human Rights Watch/Helsinki that they did not have adequate time to prepare a response to the new charges. The rapid switch was in violation of article 106 of the code of criminal procedure, which states that the defendant must be acquainted with the case materials and provided an opportunity to respond to the charges. It also violated article 8(b) of Albania's Law on Fundamental Freedoms and Human Rights, which states that defendants must have "sufficient time and facilities to prepare for his [their] defense."

After the decision, the presiding judge, Prel Martini, told Human Rights Watch/Helsinki:

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<sup>56</sup>Article 12 of the Law on the Organization of the Judiciary and Constitutional Court says that the public and mass media may be barred from a courtroom if necessary for "national security, public order, or for the best interest of minors, private parties and justice."

Article 107 is for violating the rights of ethnic minorities and racial distinctions. [Article] 106 is for massive abuse. The first court made a mistake because it [the initial charge of violating the equality of citizens] is not the real charge.<sup>57</sup>

The Court of Cassation later upheld the decision of the district court, reverting the charges back to article 107 and reducing the sentences by either one or two years. As with Mrs. Hoxha, the combination of the general amnesty and the introduction of the new penal code has reduced their sentences further.

On May 21, 1994, another round of senior officials from the communist regime went to trial, including Ramiz Alia, the last communist president. Alia was charged with abuse of power and misappropriation of state funds, as was Adil Carçani, former prime minister, Manush Myftiu, his deputy, and Rito Marko, former vice-president. Former interior ministers Hekuran Isai and Simon Stefani faced the same charges, as well as the charge of violating the rights of citizens. Aranit Çela, former chairman of the Supreme Court, Rrapi Mino, former chief prosecutor, Zylyftar Ramizi, former deputy interior minister, and Veiz Haderi, a border post commander, faced charges of abuse of power.

Alia had been placed under house arrest in August 1992 and was formally arrested in September 1993. In court he claimed he was the victim of a political show trial and demanded that the trial be broadcast on television, a request denied by the presiding judge, Andi Çeliku. The trial was monitored by a Human Rights Watch/Helsinki representative and proceeded with only minor due process irregularities. The ten defendants were found guilty as charged and sentenced to between three and nine years in prison; Alia received a nine-year sentence.

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<sup>57</sup>Human Rights Watch/Helsinki interview with Prel Martini, Tirana, November 15, 1994.

A court of appeals subsequently reduced some of the sentences slightly, notably Alia's to five years. Alia, Myftiu, Carçani, Stefani and Isai were also ordered to repay various sums to the state. On November 30, the Court of Cassation reduced Alia's term by an additional three years. The other nine defendants' sentences were reduced by between one and three years, except for Adil Carçani and Manush Myftiu, who were serving five years under house arrest because of poor health. Within one year of their sentencing, Isai, Lambi, Gegprifti, Marko and Bektashi were released from jail. On July 7, 1995, Ramiz Alia was also freed.<sup>58</sup>

The most recent wave of arrests occurred in December 1995 and January 1996 when twenty-one former communist officials were arrested for crimes against humanity under article 74 of the current penal code.<sup>59</sup> At the time of publication, their trials were pending.

The majority of the accused were senior officials of the judiciary as investigators and prosecutors or were in the Interior Ministry. However, Haxhi Lleshi, Piro Kondi, Prokop Murra and Qirjako Mihali were senior members of the Party of Labor leadership. Both Mihali and Murra had recently been released from prison after serving time for "abuse of state funds."

On December 9, the Parliamentary Commission on Defense, Public Order and the Secret Service handed over to the general prosecutor the files of fifty-eight cases of border killings that had taken place after May 8, 1990. Since that date, fleeing Albania was no longer regarded as high treason but as a crime with a maximum penalty of five years in prison. Nevertheless, border guards were allegedly ordered to continue with the shoot-to-kill policy.

On February 2, former President Ramiz Alia was arrested for a second time. The Tirana prosecutor charged him with ordering deportations and the use of firearms against civilians, both on Albania's borders and during anti-communist demonstrations in 1990 and 1991. Alia's lawyer requested that Alia be held under

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<sup>58</sup>Alia was arrested again in February 1996 on charges of ordering deportations and the use of firearms against civilians. See below.

<sup>59</sup>Crimes against humanity was also a crime under the communist-era penal code.



house arrest due to his ailing health. The court, however, ruled that Alia presented a “danger to society” and should be detained in prison.

Many Albanians told Human Rights Watch/Helsinki that the trials against former party leaders were more a political showcase than a process of justice. The original charges against many of them — procuring state funds for personal luxuries — trivialize the more serious crimes that occurred during the Hoxha regime. The most recent wave of arrests seems a political move by the government to gain popular support before the forthcoming parliamentary elections. In addition, there are a number of former communist officials who have not faced prosecution, often because they have close ties to the current government. This selective use of justice undermines the government's stated aim of a clean break with the past. Rather, many of the post-communist legal reforms and trials seem aimed at eliminating political opponents and consolidating power, all in the name of "democratic reform."

#### **LAW ON GENOCIDE AND THE LAW ON THE VERIFICATION OF MORAL CHARACTER**

On September 22, 1995, parliament passed the Law on Genocide and Crimes Against Humanity Committed in Albania During Communist Rule for Political, Ideological and Religious Motives. The law bars from local or national office anyone who before March 1991 was a member of high-level communist bodies or the government, a top judge or state prosecutor, the party leader of a town, an informant or member of the secret police or who delivered false testimony in a political trial. These people are prohibited from working in parliament, the government, the judiciary or the state-run media until the year 2002. Two months later, on November 30, parliament passed the Law on the Verification of the Moral Character of Officials and Other Persons Connected with the Defense of the Democratic State, which regulated the opening of the communist-era secret police files and specified more precisely who may and may not hold public office or work in the state media.

According to the second law, a commission is to be established to review the files from the communist-era secret police. The commission is composed of a chairman, elected by parliament, two members, selected by the Council of Ministers, and three other members, chosen respectively by the Minister of Justice, the Minister of Defense and the current head of the State Security Service (SHIK). All meetings of the commission are closed.

The commission will investigate all people who are, or wish to be: a member of parliament<sup>60</sup>, member of the national government, head of a local government, high officer of the state bank, officer in the armed forces, member of the secret service, chief of police, a judge or state prosecutor, member of the diplomatic service, manager of a state financial or insurance firm, director of a school or university or a director or editor in the Albanian state television or radio. Individuals will be forbidden from holding any of these jobs if the commission finds that they used to be a former member of the communist government, a high-ranking communist party official or a collaborator with the former secret police. The commission's decisions will remain private, unless the screened individual fails to step down from his or her position. Defendants may appeal the commission's decision to the Court of Cassation within seven days.

In early February, the Constitutional Court ruled that the two laws were in accordance with Albania's constitutional laws. However, it overturned clause J of the original Law on the Moral Character of Officials, which banned all former collaborators from working as journalists or employees at any newspaper with a daily circulation greater than 3,000.

Human Rights Watch/Helsinki has serious concerns about the government's right to ban people from holding public office based solely on their past associations. We firmly believe that responsibility for past criminal behavior must be ascribed on an individual basis with strict adherence to the rule of law. Persons guilty of criminal activity should be held accountable for their individual crimes, not solely for their association with others. In addition, individuals should be convicted only of crimes that were illegal at the time they were committed. This protection from ex post facto prosecution is a fundamental principle of international law and is guaranteed in article 6 of Albania's Law on Fundamental Freedoms and Human Rights.<sup>61</sup>

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<sup>60</sup>Members of the current parliament are exempt.

<sup>61</sup>See article 15 of the ICCPR. Article 6 of Albania's Law on Fundamental Freedoms and Human Rights states:

"No one may be accused of or found guilty for an offence which was not

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punishable by law at the time the offence was committed.”

Another serious concern is the objectivity and independence of the commission that will review the files. Six of the seven members are appointed by the government, which presents the danger that their decisions will be influenced by political factors. The closed-door sessions are also conducive to violations of due process, such as the denial of access to evidence and the right to call witnesses. The possibility of an appeal to the Court of Cassation does offer some redress, but the independence of this body is under serious question, especially after the illegal dismissal of Chief Justice Zef Brozi.<sup>62</sup>

Opposition parties proposed that the commission be composed of representatives of the various political forces to avoid any possible manipulation. In a speech to parliament, Democratic Alliance deputy Perikli Teta said:

We agree with vetting official figures, but we demand that we should also participate in the commission that will examine the documents. This will be a parliamentary commission without a majority of any specific party.<sup>63</sup>

Even if the commission does function in an objective and democratic way, it is not clear how it will determine who was a "collaborator" with the former regime. It is widely known that many of the documents of the secret police have been altered or destroyed and cannot be used as reliable evidence of a person's past. Even those files that are intact may contain information that was planted, either maliciously or by agents wishing to enhance their own accomplishments.

In addition, this law lumps together all those active in politics before 1991. Thus, there is equal punishment for those responsible for terrible crimes and the younger generation of reform-minded communists, many of whom were instrumental in bringing about democratic change.<sup>64</sup> This violates the internationally accepted principle of punishment that is proportional to the crime.

Another serious concern is the government's initial attempt to include journalists at private newspapers. Banning a person from working in the media because of his or her past associations or actions is an unacceptable restriction on the right to free expression and freedom of the press. Both the Law on Fundamental

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<sup>62</sup>See the section on the dismissal of Zef Brozi.

<sup>63</sup>Comments by Perikli Teta as reprinted by *Gazeta Shqiptare*, December 1, 1995.

<sup>64</sup>Many of the former top communist officials have already been tried and convicted (see above).

Freedoms and Human Rights and the Law on the Press state that the press is free and ban prior censorship. Human Rights Watch/Helsinki, therefore, welcomes the Constitutional Court's decision to overturn this clause. The inclusion of editors and directors at the state-run media, however, remains a concern.

Passed just months before the 1996 parliamentary elections, the two laws resulted in the banning of seven of the Socialist Party's eleven-member presidency, including its leader Fatos Nano, as well as Skender Gjinushi, head of the Social Democratic Party, from participating in the forthcoming elections. As of February, the screening commission had not yet been named. But the threat of a screening may prevent some potential candidates from running.

Gramoz Pashko, a founding member of the Democratic Party and current deputy for the Democratic Alliance, told Human Rights Watch/Helsinki:

This law will be the main weapon Berisha will use in the electoral campaign. Albania needs a kind of catharsis with the past. But this law does not condemn individual people for individual crimes. It says open the files and there will be a great inquisition. In this case, the process becomes political and not an attempt at justice.<sup>65</sup>

In response to a letter of protest about the laws issued by Human Rights Watch/Helsinki on October 19, 1995, President Berisha claimed that they were intended to filter out those who were responsible for past crimes. In an interview given to the Albanian-American newspaper *Illyria*, he said:

This law effects people who were responsible for the murders of some 600 to 1,000 people on Albania's borders in 1990 and are still in power. . . . Albania is the only country which still has a former minister, who undoubtedly has committed crimes, and is still a member of the parliament.<sup>66</sup>

Shortly after the two laws came into effect, the government initiated an anti-communist campaign in the state-run media. In December, some mass graves

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<sup>65</sup>Human Rights Watch/Helsinki interview with Gramoz Pashko, Washington D.C., January 17, 1996.

<sup>66</sup>"Berisha Defends Genocide Law," *Illyria*, September 19, 1995.

were discovered in the north with the corpses of former political prisoners. That same month, the general prosecutor ordered the arrest of 24 former communist officials (some of them for the second time) and opened cases on 58 border shootings that occurred after May 1990.

### IMPUNITY FOR PAST AND CURRENT CRIMES

While eagerly pursuing some of the perpetrators of past crimes, the government has been less willing to investigate credible allegations of crimes committed by people currently holding state positions. Repeated claims of government corruption made by members of parliament or journalists have gone mostly unheeded.<sup>67</sup> The government has also not adequately responded to complaints of police abuse and harassment made by private individuals and the political opposition. In general, police abuse has been tolerated by the state.

In some cases, the government has failed to initiate prompt and effective investigations into serious crimes. For example, police did not determine who planted a bomb in the home of Nikolle Lesi, the publisher of Albania's largest daily newspaper, *Koha Jone*. Journalists at the paper told Human Rights Watch/Helsinki that the police did not undertake a serious investigation (see the chapter on Albanian media). Likewise, the murderer of Gjovalin Cekini, an activist of the opposition Democratic Alliance (DA), was never found. DA leaders claim that the

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<sup>67</sup>In January, parliament passed a new anti-corruption bill that requires government officials to declare all income over U.S. \$10,000. Still, many allegations against specific individuals have gone ignored.

The most prominent case, known as the Arsidi Scandal, involves a French man who was hired to renegotiate Albania's foreign debt. A number of people have been convicted of corruption, but the government has not investigated numerous allegations that other top-government officials were involved.

police know who committed the crime, and may have even aided him in his escape (see the section on harassment of the political opposition).

Human Rights Watch/Helsinki is also observing with interest how the state deals with the current allegations against Rustem Gjata, head of the Constitutional Court. In December 1995, Gjata, a district judge during the communist regime, was accused of ordering the execution of a Catholic priest who had been convicted of treason for trying to escape Albania in 1973. The prosecutor in the case requested a punishment of fifteen years in prison, but Gjata allegedly increased the sentence to death.<sup>68</sup>

The family of the priest, Father Gjoni, submitted their claim to the general prosecutor in December but, as of February 1996, no action had been taken. According to Albanian law, the prosecutor is not required to take legal action. However, because of the seriousness of the allegations, the importance of Gjata's position and the current surge in anti-communist prosecutions, a response from the prosecutor is warranted.

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<sup>68</sup>Under the communist-era penal code, treason was punishable by imprisonment or death.

## **VI. POLITICAL PARTICIPATION AND THE ELECTORAL PROCESS**

Article 6 of Albania's Law on the Major Constitutional Provisions states:

Political pluralism is one of the fundamental conditions of democracy in the Albanian state. The political parties and other organizations are created and exercise their activity in accordance with the law. They are fully separated from the state.

Despite this, Albania is still struggling to overcome its legacy as Eastern Europe's ultimate one-party state. Since coming to power in March 1992, the Democratic Party (DP), led by President Berisha, has used a variety of means to promote itself and stifle the opposition. The secret police, the state-owned media and the judicial system are used to silence political opponents. There have been numerous violations of the right to association, peaceful assembly, freedom of speech and freedom of the press directed against the political opposition and other initiatives that express views critical of the state.

Human Rights Watch/Helsinki recognizes that all political forces in Albania, including the opposition, have used questionable means on occasion in the struggle for power. However, it is the responsibility of the government to respect the principles it has promised to uphold in both Albanian and international law, as well as to prosecute fairly all those found to have broken the law.

### **HARASSMENT OF THE POLITICAL OPPOSITION**

The strongest opposition party in the country is the Socialist Party, successor to the communist Party of Labor. Since 1992, the government has repeatedly violated the party's right to peaceful assembly, freedom of the press and equal access to the state media. The party's leader, Fatos Nano, has been in prison since July 1993 after a trial that was in violation of both Albanian law and international standards. The Democratic Alliance, a group that was expelled from the ruling Democratic Party in August 1992, has also faced great obstacles in its work, including slander campaigns in the state-run media against its members, bans on party meetings and physical attacks against members of parliament.



Both the Democratic Alliance and the Socialist Party report regular harassment of their deputies and party sympathizers. They report that party meetings have frequently been interrupted or disturbed by police, either in uniform or undercover. Opposition leaders claim that local villagers and petty criminals are sometimes hired to disrupt a gathering. Teodor Keko, a member of parliament for the Democratic Alliance, told Human Rights Watch/Helsinki:

The Democratic Alliance has encountered problems since the beginning from the Democratic Party and its leader, Sali Berisha. This can be explained because, after a divorce, a husband and wife hate each other very much because they know each other's secrets. That's what happened with the Alliance. Berisha attacked us very hard from the beginning. In every gathering of the Alliance, Berisha has his people there to block the meeting.<sup>69</sup>

Human Rights Watch/Helsinki also received numerous accounts of individuals losing their jobs only because of a family relationship to an opposition deputy or party activist. There are also accusations of harassment by the secret police, including the overt tapping of telephones.

Other opposition parties and political organizations have also complained of repression by the state, including the Party of the Democratic Right, a right-wing party that split from the DP in 1994, and the Union of Human Rights, a party made up predominantly of ethnic Greeks. Both have had difficulties registering their organizations, either with the Ministry of Justice or the electoral commission.

### **Physical Attacks Against the Political Opposition**

#### *The Murder of Gjovalin Cekini*

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<sup>69</sup>Human Rights Watch/Helsinki interview with Teodor Keko, Tirana, March 28, 1994.

A young activist from the Democratic Alliance, Gjovalin Cekini, was murdered during a political rally in the northern town of Shkoder on January 15, 1994. According to three witnesses who spoke to Human Rights Watch/Helsinki, a group of Democratic Party supporters burst into a Democratic Alliance meeting of about 600 people, shouting slogans in favor of President Berisha. After the incident, the group waited outside for the meeting to end. When the meeting broke up, fighting ensued. In the melee, twenty-six-year-old Gjovalin Cekini was pushed down and shot dead. Witnesses claimed that members of the Shkoder police were present and that they helped the group of attackers get away.<sup>70</sup>

The Democratic Alliance presented its case in a letter addressed to heads of state in Western Europe and the United States. In it, President of the Democratic Alliance Neritan Ceka said:

On January 14, 1994, a group consisting of armed supporters of the ruling Democratic Party tried, and failed, to break up a meeting organized by two representatives of the opposition Democratic Alliance party which was being held in the city of Shkoder. Following this, they provoked a conflict outside the building as people were leaving, during which a 26-year-old member of the Alliance, Gjovalin Cekini, was shot and murdered. Despite the fact that his killers were immediately identified, they have not been arrested, but have since been protected by the authorities responsible for public order. Clearly, such protection can only be forthcoming from those who sent them: local government authorities and the Democratic Party branch in Shkoder, as well as their leaders in Tirana. In recounting this, I am endeavoring to explain the political nature of the crime.<sup>71</sup>

An investigatory committee was formed in parliament but, as of February 1996, no conclusions had been made. Teodor Keko told Human Rights Watch/Helsinki:

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<sup>70</sup>Human Rights Watch/Helsinki interview with Arben Imami, Tirana, July 11, 1994.

<sup>71</sup>Letter from Neritan Ceka, President of the Democratic Alliance, to the Presidents of the United States, France, Greece, Germany and Italy, and the Prime Ministers of Austria, France, Greece, Italy and the United Kingdom; Tirana, Albania.

There has been a scandalous investigation into the Cekini case, and the file has not been passed on to the prosecutors. This gives the case no perspective of being solved because the guys who committed the crime were close friends of the local Democratic Party leadership in Shkoder.<sup>72</sup>

The lack of an adequate investigation into this crime is a factor compounding concerns that the Democratic Party supporters' attack on the opposition meeting had the acquiescence of the authorities.

*The Attack on Teodor Keko*

On March 10, 1994, Teodor Keko, a member of parliament for the Democratic Alliance, was beaten by unknown assailants outside of his Tirana apartment. Keko believed he was attacked by the secret police because of recent articles he had written that were critical of the government. He told Human Rights Watch/Helsinki:

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<sup>72</sup>Human Rights Watch/Helsinki interview with Teodor Keko, Tirana, March 28, 1994.

There was a group of men waiting around my apartment house in the evening as I finished some work at the general prosecutor's office, which is around the corner. As I entered my house they beat me with iron bars. My neighbors tell me that they were waiting around all afternoon for me to come home... I think the main motive for attacking me was the combative approach my newspaper has had and some speeches I made in parliament.<sup>73</sup>

When Human Rights Watch/Helsinki interviewed Mr. Keko in late March he still had a large wound on his head. According to Keko, the police started an investigation, but uncovered nothing.

*Attacks on Gjergji Zefi*

Gjergji Zefi, a journalist and Chairman of the Assembly of the Democratic Alliance, has been physically attacked by unknown assailants two times in the last two years. The first attack occurred on March 2, 1994, in Zefi's home town of Shkoder. Zefi told Human Rights Watch/Helsinki:

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<sup>73</sup>Human Rights Watch/Helsinki interview with Teodor Keko, Tirana, March 28, 1994.

At that time [8:00 p.m.], I left my home to have coffee with my friend. When I met my friend at a small path, a group of four people were waiting for me behind a building. They had a plan - all the lights were out... They attacked me; I didn't see anything. After ten minutes, someone came and I went to the hospital. The doctor told me that I had been beaten by iron bars.<sup>74</sup>

Zefi claimed that the attack was related to recently written articles about the murder of Gjovalin Cekini, a Democratic Alliance party member in Shkoder (see above). He had also written about smuggling into Montenegro in violation of the U.N. sanctions against Yugoslavia.

According to Zefi, when he filed a protest with the local police, the officer told him, "if I initiate investigations on this, my children will be without bread." Two weeks earlier, Zefi had been accused of libel by the state for an article he wrote protesting the arrest of the journalists Aleksander Frangaj and Martin Leka. (See the chapter on Albanian media.)

The second attack occurred on January 7, 1995, when three unknown assailants assaulted Zefi in a Shkoder street. He was admitted to a hospital with head injuries. The Democratic Alliance newspaper, *Aleanca*, speculated that the attackers have close links with local smuggling gangs who want to intimidate the opposition. Member of parliament for the Democratic Alliance, Gramoz Pashko, told Human Rights Watch/Helsinki that, "the attack against Zefi was a direct attempt to scare our people before the elections."<sup>75</sup>

#### *Attacks Against Members of the Socialist Party*

The Socialist Party claims that at least ten of their deputies have been physically abused by the Albanian police or members of the secret police since 1992, but Human Rights Watch/Helsinki was not able to confirm these attacks. According to Luan Hajderaga, Vice-Chairman of the Socialist Party, six Socialist

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<sup>74</sup>Human Rights Watch/Helsinki interview with Gjergji Zefi, Tirana, January 16, 1995.

<sup>75</sup>Human Rights Watch/Helsinki interview with Gramoz Pashko, Washington D.C., January 17, 1995.

Party members of parliament were physically abused by police during the elections in the village of Lubofshe. He told Human Rights Watch/Helsinki:

It was impossible for many people to vote in Lubofshe because there were gangs there. At 10 a.m., 100 meters from the polling booth, six of our deputies were beaten.<sup>76</sup>

#### **Legal Cases Against the Political Opposition**

Since 1992, the government has initiated legal proceedings against some key members of the political opposition. Many of the trials were not in accordance with international standards. Human Rights Watch/Helsinki interprets these cases as an attempt to use the judiciary to hinder the work of those with different political views.

##### *The Case of Fatos Nano*

One of Albania's most publicized post-communist trials was that of Fatos Nano, a former prime minister, current member of parliament and leader of the opposition Socialist Party.<sup>77</sup> In April 1994 Nano was sentenced to twelve years of imprisonment for the misappropriation of state property "in favor of third parties" and related falsification of documents. The case involved the administration of food aid during 1991 when Nano was prime minister of the transitional government.<sup>78</sup>

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<sup>76</sup>The six deputies were Sheqir Vukaj, Namik Dokle, Ilir Meta, Ndre Qefiri, Musa Ulqine and Ylli Bufi. Human Rights Watch/Helsinki interview with Luan Hajderaga, Tirana, June 18, 1994.

<sup>77</sup>For an account of the case, see *The Economist*, April 9, 1994, "Just for Show."

<sup>78</sup>A reform-minded economist, Nano was appointed prime minister in February 1991.

At the time of his arrest, Nano was President Berisha's strongest political opponent. The numerous and blatant due process violations in Nano's case suggest that his arrest and incarceration were ordered by the executive power for political reasons. Many Albanian politicians and lawyers, including some from the Democratic Party, told Human Rights Watch/Helsinki that President Berisha had ordered Nano's arrest since he feared the chairman of the largest opposition party, especially as the new parliamentary elections approached. Zef Brozi, former chief justice of the Court of Cassation, told Human Rights Watch/Helsinki:

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After the March 1991 elections he was reappointed to the post, which he held until early June 1991 when his government fell.

When I read the case file myself, I saw that the accusations were completely unfounded. Also, 210 pages had been taken from the file. There was no evidence to prove Nano guilty - the case was political.<sup>79</sup>

International organizations, such as the Inter-Parliamentary Union, European Parliament and Council of Europe<sup>80</sup>, expressed their concern for the case. Amnesty International declared Nano a prisoner of conscience, stating, "the charges brought against Fatos Nano were politically motivated and had not been substantiated by the evidence produced at the trial hearing."<sup>81</sup>

Nano's legal battle began in January 1993 when the State Control Commission, a specialized audit body elected by parliament, was asked to prepare a report on aid and credit received from abroad. The commission submitted its findings to the general prosecutor, who initiated an investigation of Nano on May 6, 1993.

On July 26, 1993, the general prosecutor, Alush Dragoshi, asked parliament to lift Nano's parliamentary immunity. The next day, the Democratic Party-controlled assembly granted the prosecutor's request. At the same time, pro-

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<sup>79</sup>Human Rights Watch/Helsinki interview with Zef Brozi, New York, January 7, 1995.

<sup>80</sup>When Albania became a member of the Council of Europe in June 1995, Speaker of the Albanian Parliament Pjetër Arbnori signed a statement that committed Albania to "find a satisfactory solution to the case of Mr. Fatos Nano, in conformity with the new Penal Code as it applies to all other Albanian citizens." Declaration made by Mr. Arbnori on the occasion of the debate on Albania's request for membership of the Council of Europe on June 29, 1995. Amendment No. 6.

<sup>81</sup>Amnesty International News Service 140/95, London, August 1, 1995.



government newspapers and the state-run television and radio attacked Nano for being a "thief" and "criminal."

Nano was arrested on July 30, four hours before he was scheduled to speak at a public rally in Tirana. The prosecutor in charge of the case was Fatos Dervishi, who had been appointed the day before. Defense lawyers for Nano claimed that the two previous prosecutors had been removed or resigned because they had refused to sign Nano's arrest warrant. The prosecutor's office, however, claimed that the two previous prosecutors, Mr. Doçi and Mr. Kakono, had left their jobs for family and health reasons respectively. The defense also complained that Dervishi was a blood relative of the Minister of Public Order, Agron Musaraj, and a personal and political opponent of Nano's.<sup>82</sup>

The investigations were carried out in two stages, the first lasting from July 30 to October 9, 1993, and the second from October 9 to February 14, 1994. Mr. Nano's lawyers complained that this seven-month period between the date of arrest and the beginning of the trial was in violation of Albania's code of criminal procedure (article 61), which sets a two-month limit for pre-trial investigations. The prosecution responded, however, that, according to paragraphs three and four of article 61, the investigator has the right to exceed the two-month limit if he has not satisfactorily completed his investigations.

Mr. Nano and his lawyers also complained of irregularities in the investigation process, including limited access to the investigation file and restricted contact between Nano and his attorneys. According to a document prepared by the Tirana district court, however, the Albanian code of criminal procedure was followed. The investigator's file was made available to the defense, but they chose not to view it in protest of the investigation. The Deputy Director of Prisons claimed that Nano met his lawyers according to the regulations of the prison system.<sup>83</sup>

Nano also claimed that he was not properly acquainted with the charges against him, which changed slightly during the investigation. Again the prosecution claimed that the proper procedures had been followed.

Zef Brozi, former chief justice of the Court of Cassation, told Human Rights Watch/Helsinki that there had been procedural violations in the investigation. Among other things, he said that Nano had not had a chance to

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<sup>82</sup>"Report of the Committee on the Human Rights of Parliamentarians," Inter-Parliamentary Union, Case No. AL/01, Madrid, March 27-April 1, 1995, page 5.

<sup>83</sup>*Ibid*, pg. 4.

familiarize himself with the investigation file and that he had not had sufficient time to prepare his defense, both violations of Albania's Law on Fundamental Freedoms and Human Rights. In addition, he said, requests made by Nano to review certain pieces of evidence had not received any attention from the prosecutor's office.

Based on these violations, Nano's lawyers asked that the case be returned to the investigator rather than passed on to the court. The court granted this request once on October 26, 1993, and the case was sent back for further investigation. A subsequent request in February was rejected and on March 5, 1994, Nano appeared in a Tirana court under heavy guard.

The trial, attended in part by a Human Rights Watch/Helsinki monitor, as well as other journalists and international observers, did not meet international standards of due process. First, evidence presented by the defense was arbitrarily ruled inadmissible and witnesses for the defense were not allowed to testify. Motions by the defense were often dismissed out of hand by Judge Agim Bendo, whose statements and behavior often displayed a partiality to the prosecution.

On April 3, Nano was found guilty of embezzlement to benefit a third party. The court's ruling claimed that Nano had:

. . . wittingly performed actions contrary to the regular performance of his duties, or wittingly not performed actions he was obliged to while being in the post of the chairman of the Albanian government during the period from 22 February until 4 June 1991 and, as a result of the abuse of office on his part, having embezzled in the favor of a third party - in the concrete case in the favor of the President of the Italian company which delivered aid in Albania, Giuseppe Perniola - a sum amounting to 72.5 million Albanian leks (U.S. \$7.2 million) without profit, however, to himself."<sup>84</sup>

Nano was sentenced to twelve years in prison and ordered to repay about \$720,000 to the state.

In addition to the violations of due process in Nano's case, Human Rights Watch/Helsinki believes that the prosecution failed to prove beyond doubt that Nano was guilty of the charges leveled against him. In addition, the Italian man Nano allegedly aided, Giuseppe Perniola, was later found innocent by an Italian court.

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<sup>84</sup>*Ibid*, pg. 8.

In May 1994, a Tirana appeals court affirmed the sentence, although slightly reducing the fine Nano was required to repay. A subsequent review of Nano's case by the Court of Cassation in July 1994 came to the same conclusion. A general amnesty granted by President Berisha to commemorate the 50th anniversary of Albania's liberation from the Nazis slightly reduced the sentence further.

In June 1995, a Tepelena court rejected an appeal by Nano to have his case retried on the grounds that a new penal code had come into effect on the first of that month. An appeals court shortly thereafter, however, reduced Nano's sentence by one year, making him eligible for parole in two and a half years.

At the beginning of July, Nano's lawyer submitted a request to the Court of Cassation to initiate the "plenum procedure." According to the Albanian code of criminal procedure in force at that time, anyone sentenced after a final decision has the right to appeal to the plenum of the court, a body made up of all the court's judges. The Court of Cassation subsequently ruled that a review by the plenum was in order.

On July 14, Chief Justice of the Court of Cassation, Zef Brozi, ordered that the Nano case be reviewed in a hearing scheduled for July 26. He was immediately attacked in the state-run television and newspapers for being pro-Socialist. The next day, the chairman of the district court of Tirana blocked the Court of Cassation from obtaining part of the Nano file. Then, on July 26, the general prosecutor told the plenum that he needed more time to prepare the case, since he had been unable to read the missing parts of the file. Zef Brozi told Human Rights Watch/Helsinki that the file had been purposefully blocked in order to justify a delay in the hearing.

The reason, he said, was to delay the plenum until after August 1, when a new code of criminal procedure would come into effect.<sup>85</sup> Among other things, the new code did away with the Court of Cassation's plenum, thereby closing the Nano case for good.

Nano's lawyers argued that the new code of criminal procedure would not apply to Nano's case, since their request for a plenum procedure had been made under the old code. In response, the government proposed an amendment to the new code of criminal procedure on July 26 that was promptly passed by parliament.

A second section was added to paragraph 525 which said that all cases in the district and appeals courts at the time the new code of criminal procedure came into force would fall under the provisions of the old code. Cases in the Court of Cassation at the time, however, would fall under the new code. Since the new code did away with the plenum, Nano's case would be closed forever.

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<sup>85</sup>Human Rights Watch/Helsinki interview with Zef Brozi, New York, January 8, 1995.

The opposition press referred to the amendment as “the law against Nano.” In a public protest letter, the Albanian Helsinki Committee called it “a restriction on the right of the defendant.”<sup>86</sup> They claimed that the amendment was a violation of the Law on Fundamental Freedoms and Human Rights, article 13, which protects the defendant’s right to appeal.

The Court of Cassation’s review had been scheduled for September 20, but on September 11 the Albanian government petitioned the Constitutional Court to declare the review illegal. On September 19, the Constitutional Court ruled that, in light of the recent amendment, the Court of Cassation did not have the right to review the Nano case. Then, on September 21, President Berisha requested parliament to remove Zef Brozi from his position as chief justice. That evening parliament voted to remove Brozi, despite the lack of a quorum. (See section on Zef Brozi.)

On November 27, the Court of Cassation, with its new chief justice, reviewed the case and overruled the court of appeals’ decision to reduce Nano’s sentence by one year. Then, on January 1, 1996, President Berisha announced a New Year’s partial amnesty for eighty prisoners, including Nano. His sentence was reduced by eight months, leaving him with more than two years to serve.

### **Political Discrimination in State Employment**

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<sup>86</sup>Statement of the Albanian Helsinki Committee, Tirana, August 7, 1995.

Another major complaint of most opposition parties is the extent of political patronage, in what Albanians call the "great people reform." Since 1992, thousands of positions in state institutions, universities, and government have been given to supporters of the Democratic Party. One member of parliament for the Democratic Party who wanted to remain anonymous told Human Rights Watch/Helsinki, "people get put in positions not based on their abilities but based on their unwavering loyalty to the party in power."<sup>87</sup>

The legal vehicle through which the great people reform took place was a 1992 amendment to Albania's new labor code, which allowed for individuals to be fired from state jobs without any explanation or the right to an appeal.<sup>88</sup> Following the enactment of the amendment, thousands of people lost their jobs in state-run companies and institutions across the country. Having directly observed the hiring and firing practices of the state for over one year, Human Rights Watch/Helsinki concludes that many people lost their jobs simply on the basis of their political beliefs or allegiances. Their replacements were very often loyal supporters of the ruling Democratic Party.

A person who worked on educational reform at the University of Tirana from 1991 to 1993 told Human Rights Watch/Helsinki:

By 1992 many professors were released for political reasons. Especially the appointment of the deans was based on party affiliation. The Minister of Education was also involved in finding new appointees who were "Democrats."

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<sup>87</sup>Human Rights Watch/Helsinki interview, Tirana, March 22, 1994.

<sup>88</sup>See section on legislative reform.

One international organization did a survey that measured the teaching abilities of the professors. The most qualified professors were generally those who were previously associated with the communist party, now the Socialist Party. One case in point was [former President] Ramiz Alia's daughter in the sociology department. But these people were almost all fired.<sup>89</sup>

A journalist who wished to remain anonymous told Human Rights Watch/Helsinki that she had been fired from the state radio for allowing a guest on a call-in show to talk about government corruption. Ten days later her mother was fired from a state institute. She told Human Rights Watch/Helsinki:

I got fired for allowing someone to talk badly about the government on the air. My mother had nothing to do with that, but was fired ten days later, despite having 25 years of experience.<sup>90</sup>

Another woman, A.G., told Human Rights Watch/Helsinki that she had been fired from her job as a teacher because she is the sister of an opposition member of parliament. For a period of time, she and her husband were threatened with expulsion from their state-owned apartment.<sup>91</sup>

### **THE RIGHT TO PEACEFUL ASSEMBLY**

The full participation of political opposition groups and parties in the political process has also been obstructed by restrictions of the right to assemble

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<sup>89</sup>Human Rights Watch/Helsinki interview, New York, January 25, 1995.

<sup>90</sup>Human Rights Watch/Helsinki interview, New York, January 19, 1996.

<sup>91</sup>Human Rights Watch/Helsinki interview, Tirana, March 23, 1994.

peaceably. In this and other interferences with nonviolent political protest and campaigning authorities have sometimes invoked legal provisions regulating demonstrations; on other occasions police action and attacks by plainclothes thugs from the ruling party have been wholly arbitrary.

The right to peaceful assembly is guaranteed under article 21 of the Constitutional Law on Fundamental Freedoms and Human Rights. According to the law, permission is required only for gatherings in squares and public streets. Such permission may be refused only "when there is sufficient ground to believe that security and public order are seriously threatened." To obtain permission, the organizers must submit to the Ministry of the Interior the exact time and place, as well as the purpose of the meeting and the slogans to be used. Although the government has the right to deny permission for gatherings that threaten security and public order, the request regarding slogan usage is an unreasonable restriction on the freedom of speech, expression and assembly.

In general, permits are granted for most gatherings, although sometimes with a change of date or venue. Nevertheless, there have been a number of notable exceptions. On the first day of the Fatos Nano trial, for example, the Socialist Party was not allowed to hold a demonstration in central Tirana. During the time before the November referendum for the draft constitution, the Democratic Alliance and Socialist Party were allegedly denied permission to organize meetings to discuss the proposal.

There have also been a number of cases where the police used violence to break up a peaceful protest or rally by a party or organization expressing views that were critical of the state.

### **Socialist Party Rally**

The Socialist Party held a rally in Tirana's Dynamo Stadium in the evening of June 30, 1994, for which they had received permission. Hours before it was scheduled to begin, people learned that Fatos Nano, head of the Socialist Party, had been arrested (see above).

The rally became heated as people called for the release of Nano. At approximately 7:00 p.m., the electricity in the stadium went out and demonstrators started to spill out into the street and head for Tirana's main square. Cordons of police officers tried to stop the demonstrators from marching up the main boulevard. Little violence was reported and the crowd proceeded to Skenderbeg Square where they were met by security forces, plainclothes police officers and a

crowd of government supporters. Independent press accounts estimated that about 20,000 people had gathered in the square.<sup>92</sup>

Numerous eye-witnesses told Human Rights Watch/Helsinki that the uniformed, regular police acted professionally. Plainclothes police officers, however, attacked demonstrators with billy-clubs, sometimes going after those who shouted anti-government slogans the loudest. Some demonstrators were dragged into police vans and beaten. Many arrests were made. A foreign journalist told Human Rights Watch/Helsinki that her camera had been kicked out of her hands. At the same time, police forces were not acting against the pro-government demonstrators even though, according to many witnesses, they were verbally threatening pro-Socialist demonstrators, with some engaging in violence including stone-throwing.

The minister of public order vowed to investigate all charges of police abuse and negligence. Human Rights Watch/Helsinki is not aware that any action has been taken.

In August 1993, however, at least nineteen people present in Skenderbeg Square were charged with participating in an unauthorized demonstration. (The initial authorization had only been granted for a demonstration at Stadium Dynamo.) Eight persons received prison sentences ranging between fifteen days and four months; two were acquitted, one received a conditional prison sentence and the rest were fined. One defendant, Ago Xhaferi, a photojournalist for the newspaper *Kombi*, was sentenced to forty-seven days of imprisonment. Xhaferi told Socialist Party leaders that he was only photographing the demonstration and claimed that he had been beaten in prison, although Human Rights Watch/Helsinki was not able to confirm this.

Fatmir Kumbaro, a member of the presidency of the Socialist Party, was sentenced to four months of imprisonment for organizing an unauthorized demonstration. He claimed that the demonstration in the main square was spontaneous and that he had tried to stop it. A court of appeals reduced his sentence by two months, and on September 30, 1993, he was released.

### **Association of Former Political Prisoners**

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<sup>92</sup>Number based on Human Rights Watch/Helsinki interviews with correspondants from Reuters and the Associated Press.



The Association of Former Political Prisoners is a large organization representing Albania's former political prisoners. In August, approximately 2,500 members declared a hunger strike in various towns throughout Albania to protest the lack of economic compensation from the government. After a court order banned the strike, police forcibly evicted many of the demonstrators from the places they had occupied. In many towns, such as Tirana, Pogradec, Durres and Shkoder, the police beat hunger-strikers during the eviction process. Witnesses told Human Rights Watch/Helsinki that the police used truncheons and sticks to beat the demonstrators even though they offered no resistance. Altogether, eighteen members of the association were arrested for defying the court order to stop the strike, including the president of the association, Kurt Kola, who was held under house arrest until November 1994.

#### **Property Through Justice Hunger Strike**

Police officers forced their way into a building where approximately fifty members of the "Property through Justice" organization were staging a hunger strike. The group had been on strike since May 23, 1994, to protest a new law that returned agricultural land confiscated by the state under the Hoxha government to farmers who had been working on the collectives. The police attempted to arrest the hunger strikers and some were allegedly beaten while resisting arrest. According to a statement by the organization's president, several members required hospitalization for their injuries.

According to members of the association, the SHIK has harassed the organization since its founding in 1992. The leader of the association, Rrapo Danushi, has been arrested twice.<sup>93</sup>

#### **Demonstration for Archimandrite Maidonis**

On June 25, Albanian police detained a Greek priest, Chrysostomos Maidonis, who had been invited by the Albanian Orthodox Church to preach in the southern part of the country. The Albanian authorities accused him of using his pulpit to promote Greek separatism and expelled him from the country.<sup>94</sup>

According to numerous accounts, the police used excessive force when demonstrators gathered in front of the priest's door to protest his detention.

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<sup>93</sup>Human Rights Watch/Helsinki interview with an anonymous member of the association Property Through Justice, Tirana, March 17, 1994.

<sup>94</sup>For a full account, see the section on the Greek minority.

According to a report on police abuse published by Amnesty International, "police officers beat with truncheons or otherwise ill-treated an estimated ten to fifteen people who were in a crowd of about one hundred who had gathered in the vicinity of the house in Gjirokaster where Archimandrite Chrysostomos was staying, in the hope of preventing his expulsion."<sup>95</sup>

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<sup>95</sup>Amnesty International, "Albania - Human Rights Abuses by Police," (AI Index: EUR 11/05/93) London, October 1993.

Four days later, the Albanian police in Gjirokastër denied a request by the Albanian Orthodox Church to authorize a demonstration protesting the expulsion. On the morning of the June 30, however, a group of people, mostly members of the Greek minority, marched to Gjirokastër in protest. At the village of Dervičan, seven kilometers from Gjirokastër, they encountered a police road block. According to a report by the Associated Press, police "wielding truncheons and tree branches beat back six busloads of people who had apparently not been informed that the rally was banned."<sup>96</sup>

In an unrelated incident with the Greek minority, police denied the Association of Greek-Albanian Friendship permission to organize a concert in Gjirokastër in honor of a Greek national holiday on March 25, 1994.

### **THE RECOGNITION AND REGISTRATION OF POLITICAL PARTIES**

The Democratic Alliance complains that it is still not officially recognized as a party in parliament, despite having six deputies. All six broke with the Democratic Party in August 1992 after criticizing what they saw as increasingly authoritarian trends in the party. The lack of recognition limits the amount of funding the party gets from the state according to the law on financing political parties. The Party of the Democratic Right has also experienced problems with official recognition. The party was formed when two members of the Democratic Party, Abdi Baleta and Petrit Kalukula, resigned over differences regarding the pace of restitution and the Democratic Party's approach to former communists.<sup>97</sup> The party submitted the necessary registration papers to the Ministry of Justice on February 16, 1994, but did not receive permission to operate legally until early June, after a decision by the Court of Cassation.<sup>98</sup> Petrit Kalukula, co-chair of the party, told Human Rights Watch/Helsinki he was, "convinced they [the Ministry]

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<sup>96</sup>Associated Press, July 1, 1993.

<sup>97</sup>Baleta (a former delegate to the United Nations under Hoxha) and Kalukula argued that the Democratic Party was not doing enough to punish former communists. Kalukula, formerly the Minister of Agriculture and head of the Democratic Party in Tirana, is famous for claiming in parliament that he would, "rather be a fascist than a communist." For this, he was removed from both his aforementioned positions.

<sup>98</sup>The Ministry of Justice said that the party's position on land restitution was against the constitution - a decision that was overturned by the Court of Cassation.

delayed our registration purposefully because they fear the right wing."<sup>99</sup> He also cited harassment against party members and poor access to the state media as evidence of unfair restrictions on his party.

In 1991 and 1992, there were attempts to limit the participation of the Greek minority in national elections. First, in July 1991, a law on political parties banned all parties of an ethnic or religious character. Omonia, an organization of the Greek minority, was thereby prohibited to operate as a party, although it was allowed to keep the five seats it had won in the first general elections of 1991. On February 4, 1992, however, six weeks before the second general elections, a new electoral law said that only official parties could participate in the election. Since Omonia had been denied the right to form a party under the law on political parties, it was prohibited from participating in the elections. After intense protest, domestically and from Greece, the Union of Human Rights was founded, and as a predominantly Greek party with a sampling of other minorities was allowed to field candidates.

### **FREE AND FAIR ELECTIONS**

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<sup>99</sup>Human Rights Watch/Helsinki interview with Petrit Kalukula, Tirana, April 14, 1994.

On May 29, 1994, local elections were held in four districts in the country. Reports from some political parties, journalists and the Society for Democratic Culture<sup>100</sup> confirm that voting in some areas was marred by procedural violations and a high incidence of threats and intimidation directed primarily, although not exclusively, against opposition candidates. In many polling areas, voters and electoral commission members were threatened by unknown people, either with violence or the loss of their jobs. One candidate for the Social Democratic Party told the Society for Democratic Culture that he had been forced to withdraw from a race in the town of Fier after receiving threats from the Socialist Party.<sup>101</sup>

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<sup>100</sup>The Society of Democratic Culture is a local organization supported by the National Democratic Institute in Washington D.C. It has monitored three of Albania's previous elections: the March 1992 general election, the July 1992 local elections and local by-elections in September 1993. It is also planning to monitor the 1996 parliamentary campaign.

<sup>101</sup>"Final Report of the Society for Democratic Culture Observer Mission to the May 29 Local By-election in the Peshkopie, Tirana, Fier and Mallakaster Districts and the June 5 Run-off Election in the Tirana District," Society for Democratic Culture, Tirana, June, 1995.

Of particular concern was the large number of Albanian soldiers who were bused to the village of Zall-Herr to vote. According to the Society for Democratic Culture, 858 soldiers voted, compared to 240 villagers. The soldiers were reportedly brought to the polls and supervised during the vote by their officers. In the village of Lubofshe, the Socialist Party complained that six of their deputies in parliament were beaten: Namik Dokle, Ilir Meti, Staqir Vokaj, Ndre Legisi, Musa Ulqini and Ylli Bufi. A complaint was registered with the Court of Cassation but, as of January 1995, no response had been given.<sup>102</sup> The party also complained that 35 percent of the ballots in Lubofshe had been declared invalid. There were also credible reports that a significant quantity of government aid was delivered to certain areas directly before the elections. According to the final report of the Society for Democratic Culture, a radio transmitter was transferred from Bellova to Reç shortly before the election day. Election observers also noticed cars with government license plates driving voters to the polling stations in certain towns.

Parliament's term expires in March 1996 and national elections are to follow. As of February 1996, no date had been set. President Berisha's four-year term ends in 1997.

### IMPROPER USE OF THE SIGURIMI FILES

The harassment of government critics and members of the opposition has frequently been accompanied by campaigns in the government-controlled news media intended to harm their reputations. These campaigns are sometimes centered upon the selective disclosure of information purported to be drawn from the files of the former secret police, the Sigurimi, to imply that they had been collaborators with the communist regime. The absence of means of redress to defamatory statements through the media or the courts poses significant obstacles for the opposition.

On December 1, 1995, parliament passed two laws to regulate the opening of the Sigurimi files of government officials (see the chapter on accountability and impunity). Until the introduction of these laws, however, all Sigurimi dossiers were supposed to be sealed at the Ministry of the Interior. Despite this, there were many

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<sup>102</sup>Human Rights Watch/Helsinki interview with Luan Hajderaga, Vice-President of the Socialist Party, Tirana, July 22, 1994.

cases during the past four years when a person's dossier was made public, usually in the pro-government press or on state-run television.

Most often, the dossier was of someone who had expressed opposition to the current government. At times, however, the opposition party papers published allusions to, or excerpts of, a government official's Sigurimi file.<sup>103</sup> In each case, there was no means to confirm the authenticity of what was released as being a Sigurimi dossier or to challenge its accuracy or interpretation.

- In the summer of 1993, two weeks after leaving the Democratic Party, Petrit Kalukula had excerpts of his file published in the Democratic Party paper, *Rilindja Demokratike*. According to Kalukula, the files are "being used systematically in a dishonest way."<sup>104</sup>
- In 1992, chrome miners in the town of Bulqiz went on strike to protest working conditions and low wages. The president of the strike committee, Hider Buci, was arrested and his file was made public.
- When Skender Vaqarri, president of the Union of Radio and Television Workers, came into conflict with the director of television, Skender Buçpapaj, for defending the interests of employees, the information contained in Vaqarri's file was made public on television and he was declared to have been a collaborator with the Sigurimi.
- In the spring of 1994, Preç Zogaj was accused in the pro-government press of being a former collaborator. As President of the independent Association of Professional Journalists of Albania and a writer for the Democratic Alliance newspaper, *Aleanca*, Zogaj was a vocal critic of the government, especially concerning issues of freedom of the press. He

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<sup>103</sup>In 1994, a Human Rights Watch/Helsinki researcher was shown a person's Sigurimi file by a Socialist Party member in the party's Tirana headquarters.

<sup>104</sup>Human Rights Watch interview with Petrit Kalukula, Tirana, April 14, 1994.

immediately admitted that he had signed a Sigurimi document as a teenager, but claimed that he was never actually a spy.

- Skender Gjinushi, leader of the Social Democratic Party and former Minister of Education in the last communist government, was accused of collaborating with the Sigurimi in *Rilindja Demokratike* in June 1995. He subsequently accused President Berisha of opening and manipulating the files to attack his opponents.

Human Rights Watch/Helsinki is aware of Albania's need to evaluate its past, which may include an investigation into the contents of the Sigurimi files. However, the violations that occurred before the secret files law was in place give reason to fear that the new law will be used for political purposes rather than as a move toward accountability and justice. Numerous examples from the last few years show that the selective opening of the Sigurimi files was being used to discredit those critical of the current government. There is no indication that this trend will cease.



## VII. FREEDOM OF EXPRESSION IN THE MEDIA

Freedom of the press in Albania has greatly improved in recent years. Once the faithful mouthpiece of the Party of Labor, the Albanian print media today is a lively contributor to the country's political, economic and cultural debates. More than 200 magazines and newspapers are registered at the Ministry of Justice, representing a broad array of viewpoints and political persuasions, although many of these do not publish on a regular basis.

Despite these advances, there are still serious infringements on freedom of the press. Since 1992, attacks by the state against the independent and opposition press<sup>105</sup> through litigation or financial controls have threatened the free flow of information in Albania. Human Rights Watch/Helsinki is aware of ten cases where journalists were physically attacked by unknown assailants after writing articles that were either critical of the state or charged a government official with corruption.<sup>106</sup>

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<sup>105</sup>The vast majority of Albania's newspapers are organs of a particular political party or organization. "Opposition paper," therefore, refers to papers of political parties that are not in government. For the purpose of this report, the term "independent paper" refers to those few newspapers that do not belong to a political party, although all papers in Albania have a strong political bias.

<sup>106</sup>Although there has never been proof linking the state directly to the attacks, the incidents usually occurred after the journalist had written what was considered a controversial piece. Many journalists told Human Rights Watch/Helsinki they believed that the secret police were involved in the attacks, but no evidence has been found to support these allegations.

In a few cases, foreign journalists were harassed by police and expelled from the country.

The state also maintains its firm grip on the electronic media. Censorship prior to broadcasting is common at the Albanian radio and television and programming is strongly biased in favor of the ruling Democratic Party and the president. Despite repeated promises by President Berisha, there is still no legislation allowing private radio and television stations in the country. In 1995, two independent private radio stations were shut down by the authorities.

### **LEGAL STANDARDS**

Freedom of expression is guaranteed in Albania's Law on Fundamental Freedoms and Human Rights. Article 2 of the law states:

The freedom of expression may not be violated.

Any prior censorship is prohibited.

No law may be enacted to restrict the freedom of speech, press or any other mass media, except in those cases where the protection of children's interests or the lives of people are concerned.

Everyone enjoys the right to express freely his opinions by speaking, writing or any other means of dissemination.

The right to information may not be denied to anyone.

The exercise of these freedoms and rights may not be restricted, except in those cases prescribed by law, which constitute necessary means in a democratic society in the interests of national security, territorial integrity, public safety and order, or for the prevention of crime, for the protection of health or morals, the reputation or rights of others, or preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Freedom of expression is also guaranteed by article 19(2) of the International Covenant on Civil and Political Rights (ICCPR), which Albania ratified. It states:

Everyone shall have the right to freedom of expression; this right shall include the freedom to seek, receive and impart information

and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of his [of her] choice.

The only permissible limitations on this right are set forth in article 19(3) of the ICCPR, which permits only those restrictions that:

are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order, or of public health or morals.

The term "provided by law" requires more than mere codification of a law. A law must meet fundamental principles of legality, including "knowledge of the existence of the law and accessibility to it by those affected and sufficient definiteness as to content and meaning."<sup>107</sup>

The European Court of Human Rights has strictly interpreted the second requirement of article 19(3) that a limitation be "necessary." A "necessary" restriction must meet a "pressing social need;" it is insufficient that its purpose be merely "useful," "reasonable" or "desirable."<sup>108</sup>

Moreover, any limitation must clearly be for one of the purposes enumerated in 19(3)(a) and (b). With regard to the purpose of protecting the "rights and reputations of others," the Siracusa Principles state that this limitation "shall not be used to protect the state and its officials from public opinion or criticism."<sup>109</sup> This does not bar a civil cause of action for libel or slander where appropriate, but underscores the principle that a free and open society must tolerate criticism of the

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<sup>107</sup>Karl Josef Partsch, "Freedom of Conscience and Expression, and Political Freedoms," in *The International Bill of Rights: The Covenant on Civil and Political Rights*, p. 220.

<sup>108</sup>*Sunday Times v. United Kingdom*, Judgment of 26 April 1979, Series A No. 30, para 59.

<sup>109</sup>Principle 37. The Siracusa Principles were the result of a 1984 meeting in Siracusa, Sicily, Italy of thirty-one legal experts from several countries convened by the United Nations Center for Human Rights and other organizations. The aim of the conference was to examine the limitations and derogation provisions of the ICCPR. See "Symposium: Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights," *Human Rights Quarterly*, No. 7, February 1985.

government. Similarly, the purposes of security, order, health and morals must be narrowly interpreted to apply to individuals rather than shield the governing institutions from criticism. As the European Court of Human Rights noted in a famous case concerning political defamation,

[t]he limits of acceptable criticism are accordingly wider as regards a politician as such than as regards a private individual. Unlike the latter, the former inevitably and knowingly lays himself open to close scrutiny of his every word and deed by both journalists and the public at large, and he must consequently display a greater degree of tolerance.<sup>110</sup>

According to the ICCPR, article 19, no restriction on freedom of expression or information on the ground of national security may be imposed unless the government can demonstrate that the restriction is prescribed by law and is necessary in a democratic society to protect a legitimate national security interest. The burden of demonstrating the validity of the restriction rests with the government. Mere criticism of government leaders does not ordinarily threaten an imminent breach of the peace, nor does it threaten the existence of the state, the respective hallmarks of danger to public order and national security.

Agreements pursuant to the Helsinki Final Act of 1975 also make clear that laws restricting the exercise of international norms of freedom of expression are inappropriate. At the June 1990 Copenhagen CSCE meeting, participating states agreed on the following:

[E]veryone will have the right to freedom of expression ... The exercise of this right may be subject only to such restrictions as are prescribed by law and are consistent with international standards.<sup>111</sup>

These agreements clearly define both substantive and procedural standards that are unmet by the Albanian government.

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<sup>110</sup>*Lingens v. Austria*, Judgement of 8 July 1986, Series A No. 103, para. 42.

<sup>111</sup>Article 9.1, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, June 1990.

## BACKGROUND

Under the communist regime, the media was primarily a means of political indoctrination. Journalists were viewed as disseminators of the party's word rather than objective observers and all news was reviewed by state censors.

Still, the print media played an important role in 1990 and 1991 as the country began the process of political reform. Prominent intellectuals and writers published a series of articles critical of the regime and calling for democratization. In January 1991, *Rilindja Demokratike* ("Democratic Rebirth"), the paper of the newly-formed Democratic Party and the country's first non-communist newspaper, was founded. Other newspapers sprang up in the following months and the country experienced a truly open and free press for the first time in fifty years. The personal stories of former political prisoners, abuses by communist party officials and debates on reform dominated the headlines. The problems papers experienced during the transition period were more practical than political, and usually involved difficulties such as securing newsprint, printing facilities and distribution.

Most of the newspapers, however, remained tied to a certain political party or organization. After decades as propaganda sheets, their content tended to be more rhetorical than informative. Even today, no newspaper in the country can be considered truly impartial. Journalists tend to blur the line between news and commentary, in order to advance a certain political perspective. Many papers also engage in gossip and sensationalism which occasionally leads to accusations of slander.

The early lack of professionalism by the press was used to justify the adoption of several restrictive measures on the media following the victory of the Democratic Party in March 1992. During the following year, journalists were imprisoned and harassed, and some were physically attacked. These attacks were aimed almost exclusively at journalists who wrote stories that were critical of the government.

Throughout 1993 and 1994, the situation for journalists worsened. In November 1993, a new press law allowed criminal proceedings to be initiated against several journalists, all of them from the opposition press.<sup>112</sup> Five journalists were imprisoned the following year, although not all were convicted under the press

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<sup>112</sup>For a review of the press law, see below and the section on legislative reform.

law. In 1994 a number of violent incidents against opposition journalists were committed by unknown assailants. Many journalists told Human Rights Watch/Helsinki that the attacks were in retaliation for articles the journalists had written that were critical of the state. In August 1994, journalists from Greece were mistreated by police during the trial of the five Omonia activists.

Harassment of journalists decreased somewhat in the second half of 1994 following a May 3 pardon by President Berisha of the five journalists already convicted because of their reporting. But restrictions on the independent and opposition press increased as 1995 progressed. In the summer, one journalist was fined U.S. \$1,000 for publishing what the government considered an untrue story. An editor was detained by the secret police in order to stop the paper from printing a satirical picture of President Berisha on the front page.<sup>113</sup> Also in June, the son of Enver Hoxha, Ilir, was sentenced to one year in prison for calling the current government a “pack of vandals” in a published interview.

With parliamentary elections scheduled for spring 1996, the Albanian media came under increased attack as 1995 drew to a close. A number of journalists were arbitrarily detained by the police, and had material and film confiscated. Two journalists were convicted of slandering government officials, one of whom was banned from participating in politics or writing publicly for one year.<sup>114</sup> In November, a powerful bomb destroyed the home of Nikolle Lesi, the publisher of *Koha Jone*, Albania’s leading daily newspaper. In December, the Law on the Moral Character of Officials banned all “collaborators” with the communist secret police from working in the state media or at any newspaper with a daily circulation greater than 3,000. The Constitutional Court later overturned the ban on the private media, but the restrictions on the state media remain.<sup>115</sup>

In January 1996 the government confiscated four distribution vans owned by *Koha Jone*, under the pretense of improper vehicle registrations. The paper asserted that the seizure was due to its unwillingness to back the Democratic Party ahead of the forthcoming elections. One week later another *Koha Jone* journalist was arrested, allegedly for assaulting two policemen. In February, allegations

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<sup>113</sup>The journalists involved were Arban Husani and Filip Çakuli respectively.

<sup>114</sup>Banning someone from participating in politics or writing publicly because of their writing is not in accordance with any Albanian law. See the case of Gjergji Zefi in this chapter.

<sup>115</sup>See the chapter on Accountability and Impunity.

surfaced that *Koha Jone* was funded by the Serbian government. A special commission was set up in parliament to investigate the matter.

### BROADCAST MEDIA

There is currently no legislation to regulate broadcasting by private radio or television stations.<sup>116</sup> The law does not explicitly prohibit such broadcasting, but two attempts to open private radio stations have been stopped by the authorities (see below). As a result, the one domestic television station in the country is state-run.<sup>117</sup>

The one Albanian radio station is also state-run and has local programming from most larger cities. Because of the mountainous terrain and poor distribution system for the print media, television and radio are the main sources of news for the majority of the population.<sup>118</sup>

According to the Law on Statutes for Albanian Radio and Television — passed on April 29, 1991 — state radio and television are managed by a board of directors that is appointed by parliament. The board is responsible for determining the organizational structure and programming of both medias, as well as for hiring the two directors. According to the law, both radio and television are independent institutions without ties to any political party or organization. Article 3 of the law states:

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<sup>116</sup>The head of Albanian Radio, Bardhyl Pollo and the head of the parliamentary commission on mass media, Uran Butka, both told Human Rights Watch/Helsinki that the government is working on a draft law to legalize private radio and television. But Human Rights Watch/Helsinki was not able to get a copy of the draft. Interviews held May 4 and May 6, 1995, Tirana.

In an interview broadcast on National Public Radio, President Berisha said that there would be a new broadcast law by early 1996. "America and the World," produced by the Council on Foreign Relations, September 23, 1995.

<sup>117</sup>Albanian households also receive television from Italy and many can receive stations from Greece or Yugoslavia. With a satellite dish, which is common, Albanians can receive a large variety of international programs, such as CNN, Euronews and NBC Super Channel. Most Albanians can also hear the Voice of America and the BBC on the radio. Both have Albanian programs.

<sup>118</sup>The Association of Professional Journalists of Albania estimates that 60 percent of Albanians get their only news from the television or radio.

The Albanian radio and television is a depoliticized institution where the activities of political parties are forbidden.

Nevertheless, both radio and television often present news heavily slanted in favor of the government. Extensive time is given to the activities of the ruling Democratic Party, while the activities of opposition parties are largely ignored. Members of the political opposition are sometimes attacked on the nightly news and are not given the opportunity to reply.<sup>119</sup>

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<sup>119</sup>For an account of a foreign journalist's encounter with Albanian television, see Tina Rosenberg, "Albania - Habits of the Heart," *World Policy Journal*, Winter 1994/95.



In December 1993, for example, a delegation from the opposition Democratic Alliance traveled to Belgrade to meet with Serbian opposition leaders. Upon returning to Albania, they were charged on the television news and in the pro-government newspapers with being "Serbian spies" and "traitors to the nation."<sup>120</sup> Other members of opposition parties or critics of the government were periodically accused on television of corruption or for having collaborated with the communist secret service. Rarely did they have the right to respond.

On October 20, 1994, the directors of two major international foundations and journalists from *Aleanca* and *Zeri i Popullit* were attacked on the nightly news for attending a meeting at Tirana University to which they had been invited by the students of journalism.<sup>121</sup> At 4:00, 6:00 and 8:00 p.m., the nightly news broadcast a statement by Koçi Petriti, Dean of the History-Philology Faculty, and Rudolf Marku, head of the journalism department, which said:

On Friday, October 20, political leaders of the Democratic Alliance and journalists from *Aleanca* and *Zeri i Popullit* newspapers entered illegally and contrary to the legal dispositions of our educational system and to the statutes of the university for a meeting organized by the second-year students in one of the halls of the Faculty of History-Philology. It is not the first time that certain political forces try to interfere and gain their lost ground among the students, under the old bolshevik pretext of taking care and defending the interests of the students...

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<sup>120</sup>*Rilindja Demokratike*, December 3, 1993.

<sup>121</sup>The students invited the two foundations, the International Media Fund and the Soros Foundation, as well as the journalists, to discuss the university's recent decision to close a student newspaper, *Reporteri*, that the foundations were supporting.

Such disgraceful interferences are a continuation of the anti-democratic attacks that the press of these political forces have launched against the new leaders and professors of this faculty. We want to remind these sirs once again that the time when the halls of faculties could be used by party organizations and cells is finished once and for all.<sup>122</sup>

The referendum for a new constitution in November 1994 was also covered in a manner biased toward the government position. President Berisha and other leading Democratic Party officials were shown extensively every night on the news campaigning for the draft constitution in villages across the country. Very little time was provided for alternative views.

Many state radio and television journalists told Human Rights Watch/Helsinki about blatant censorship in their departments. One person who worked in Albanian radio and wanted to remain anonymous, said:

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<sup>122</sup>Statement read on the Albanian nightly news, October 20, 1994.

[During the communist rule,] journalists here were afraid of a law against negative propaganda which meant imprisonment or internal exile. Now they fear losing their jobs.<sup>123</sup>

A foreigner who worked for some time at Albanian radio told Human Rights Watch/Helsinki of an incident that he thought typified the censorship at the station. He said:

Once a listener from abroad [of the foreign news broadcast] called in to ask how many parties were represented in the parliament. The journalists answered that there were six. The next day, the director of foreign news told him that he had made a great mistake. The Democratic Alliance was not a real party since its deputies had originally been elected as members of the Democratic Party. Maybe they are independent now, he said, but they are not a separate party.<sup>124</sup>

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<sup>123</sup>Human Rights Watch/Helsinki interview, Tirana, September 16, 1993.

<sup>124</sup>The Democratic Alliance was expelled from the Democratic Party (DP) in August 1992, after challenging President Berisha and the DP leadership for what they deemed increasingly totalitarian practices. Human Rights Watch/Helsinki interview, Tirana, October 12, 1993.

Since 1992 many journalists have been fired from their jobs at state radio or television for either voicing criticism of the government or for not expressing their support for the Democratic Party. One former radio journalist, who wished to remain anonymous, told Human Rights Watch/Helsinki that she had been fired because she let a caller on a talk show speak openly about corruption in the Ministry of Construction. Her mother was fired from her job at a state institute one week thereafter.<sup>125</sup> In July 1992, a television journalist, Arian Melonashi, and two cameramen, Gazmend Shtinon and Arian Negro, were dismissed from their jobs, ostensibly because of a "discipline problem." Melonashi had just conducted an interview with a Democratic Party deputy, Azem Hajdari, who voiced some criticisms of the party's leadership. Melonashi claims that his dismissal was politically motivated. On October 1, 1992, thirty-four employees of Albanian television were fired without notice, among them some of the country's more respected professionals. No official explanation for their dismissal was given, and there is wide-spread concern by Albanian journalists that their removal was for political reasons.

#### **Closures of Private Radio**

Two radio enthusiasts recently tested the ambiguity in the broadcast law. Ferdinand Llambro and Xhemil Behari started private radio stations in the towns of Vlora and Patos, respectively. After a few months of broadcasting in late fall and early winter of 1994-95, they were shut down by the local authorities and their equipment was temporarily confiscated.

According to Ferdinand Llambro, he purchased \$20,000 worth of radio equipment with money he earned working in Greece.<sup>126</sup> Because no citizen had ever tried to import a radio antenna, the officials did not know how to tax the item. Llambro spent two days in a port town before the officials cleared Llambro to take the equipment to Vlora.

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<sup>125</sup>Human Rights Watch/Helsinki interview, New York, January 19, 1996.

<sup>126</sup>Human Rights Watch/Helsinki interview with Ferdinand Llambro, Vlora, March 1, 1995.

Llambro told Human Rights Watch/Helsinki that he had consulted lawyers about the current state of the broadcast law. When they advised him of the law's ambiguity, he proposed forming a joint venture with the district government in Vlora which would have solved the problem of a privately-owned radio station. The government declined his offer, and Llambro began broadcasting Radio Vlora from his apartment on November 15, 1995.

The content was primarily popular music, and Llambro purposefully avoided any political commentary on the air for fear of attracting the attention of the local police.<sup>127</sup> Radio Vlora featured call-in programs, but callers were also reportedly careful to avoid controversial speech on the air. The station broadcast twenty-four hours a day and employed seven local people. Llambro said he made no profit from the station and paid salaries from his own savings.

According to Llambro, in mid-January local police took him into a Vlora police station for questioning about the radio station. They told him to shut down the station, and forbade him from stating on the air that the police had ordered the shutdown. They told him that someone from the government in Tirana had ordered the shutdown, but they would not disclose the source. He followed their orders and stopped broadcasting the next day. He told his story to the opposition papers in Tirana and to Associated Press and Reuters correspondents, who ran articles about the closure.

Llambro learned a few days later that local government officials were engaged in a fundraising campaign to start their own radio station. Disturbed that he might have been shut down to make way for a government-owned station, Llambro went back on the air and told the citizens of Vlora that the government had shut him down, and that it was wrong for them to stop a medium that had had such a positive influence on the town. The next day, the head of the police arrived and confiscated most of Llambro's equipment. Llambro told Human Rights Watch/Helsinki that the police had no warrant but insisted that they had been given permission by unspecified individuals to seize certain items.

Llambro went to court in Tirana and eventually obtained a judgment that ordered the authorities in Vlora to return the confiscated equipment. Despite the

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<sup>127</sup>Llambro told the Associated Press, "I have not included politics in my radio format and I do not think I have committed any crime by transmitting music." Associated Press, January 26, 1995.

court order, the government delayed the return for several months. The government of Vlora finally returned the equipment to Llambro in late April. He began broadcasting again immediately, but he expressed a fear that he would be shut down again. As of July 1995, the station was still in operation.

Xhemil Behari had a similar experience with the government of Patos.<sup>128</sup> Inspired by Llambro's efforts in Vlora, Behari started his own small station which was also shut down by the local authorities. The Patos government immediately seized the equipment from Behari and did not return it until Llambro's equipment had been returned. Radio Patos also began broadcasting again in late April 1995.<sup>129</sup>

#### **PRINT MEDIA**

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<sup>128</sup>Human Rights Watch/Helsinki interview with Xhemil Behari, Patos, May 1995.

<sup>129</sup>Human Rights Watch/Helsinki interviews with Albanian authorities in Tirana in May 1995 suggested they did not know that Radio Vlora and Radio Patos were back on the air. They stated that private broadcasting is illegal until parliament passes the broadcast reform law. Human Rights Watch/Helsinki interviews with Bardhyl Pollo, Director of Albanian Radio, Tirana, May 4, 1995, and Uran Butka, Head of the Parliamentary Commission on Mass Media, Tirana, May 6, 1995.

Since March 1992, there have been many cases of direct pressure by the state against the opposition and independent press.<sup>130</sup> By far, the two newspapers that encountered the most problems were *Zeri i Popullit* ("Voice of the People"), an organ of the opposition Socialist Party, and *Koha Jone* ("Our Time"), Albania's largest independent paper. *Koha Jone* is the largest paper in the country, with a daily distribution of about 34,000. *Zeri i Popullit* is second, with approximately 20,000 copies distributed per day. Other newspapers facing regular harassment include *Aleanca* and *Lajmëtari*, papers of the opposition Democratic Alliance. *Populli Po* and *Gazeta Shqiptare* have also experienced difficulties on occasion.

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<sup>130</sup>The opposition press is composed primarily of *Zeri i Popullit* (organ of the Socialist Party) and *Aleanca* (Democratic Alliance). Other large opposition papers include *Alternative SD* (Social Democrats) and *Republika* (Republican Party). The largest non-party newspapers, in order of circulation figures, are *Koha Jone* (Our Time), *Dita Informacion* (Daily Information), *Gazeta Shqiptare* (Albanian Gazette) and *Populli Po* (People Yes). Pro-government papers include *Rilindja Demokratike* (organ of the Democratic Party), *Lajmë i Dites* (paper of the state press agency ATA) and *Albania* (an allegedly independent paper that often represents the views of the government).

Attacks against these newspapers have come in many forms during the past four years. *Koha Jone*, for example, has been audited by the State Control Commission thirty times between 1992 and 1994. The frequency and intensity of the audits are extraordinary. Altogether, the newspaper has been involved in seven criminal cases during the past four years, ranging from prosecution for “revealing state secrets” to charges of tax fraud. On television and in the pro-government press, the paper is often accused of being pro-Greek or pro-Serb and “in league with communists.”<sup>131</sup> *Zeri i Popullit*, the organ of the main opposition party, has also come under repeated harassment from the state. At least twelve journalists and editors from the paper have been arrested or detained since 1992. Journalists from *Kombi*, *Alternativa SD*, *Populli Po*, *Lajmëtari* and *Hosteni 2000* have also encountered restrictions on their right to free expression.

#### **Legal Restrictions: The Press Law and Penal Code**

Since 1992, a large number of journalists have been convicted under various articles of the penal code or press law, most often for slander or revealing state secrets.<sup>132</sup> Without exception, they have been journalists from the opposition or independent press. Most of the cases clearly violated standards established by the European Court of Human Rights concerning the right to criticize political leaders, public officials, governments and institutions of state. The Court determined that, unlike private individuals, politicians have knowingly submitted themselves to the scrutiny of the public; that their critics can only be punished when their criticisms are purposefully false and intended to cause harm; and, that even then, any punishment must be proportionate to the offense.

The Albanian press law, passed in October 1993, states that the “press is free” but limits this freedom in a number of articles that restrict a journalist’s access to information, allow for confiscation of a publication on vague criteria and impose high fines on editors who allow “punishable material” to be printed.

According to articles 21 and 22, fines as large as U.S. \$8,000 may be imposed even for relatively minor violations of the law. Such an amount is grossly disproportionate to the income of an average journalist and would place an

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<sup>131</sup>In January 1996, state media outlets accused *Zeri i Popullit* and *Koha Jone* of being funded by the Serb government. Parliament established a special commission to investigate the charges.

<sup>132</sup>For a full description of the penal code and press law, see the chapter on legislative reform.



extraordinary financial burden on any Albanian publication, perhaps forcing it to close.

Certain articles of Albania's new penal code have also been used to limit the free press. Specifically, articles 119, 120, 239, 240, 241 and 267, which criminalize the defamation of public officials or national symbols, have been used against journalists who were expressing a journalistic critique of their elected representatives.

#### **Trials of Journalists**

##### *The Trial of the Koha Jone Journalists Aleksander Frangaj and Martin Leka*

Since 1992, legal action has been taken against a number of journalists from independent and opposition newspapers for expressing views critical of the government or for publishing information considered damaging to the state. The 1994 case of journalists Aleksander Frangaj and Martin Leka, from the independent newspaper *Koha Jone* ("Our Time"), was the most publicized of these and typified the state's attempt to restrict the free flow of information in the country.

On January 31, 1994, Frangaj and Leka were arrested in Tirana in relation to the publication of a Ministry of Defense order published in *Koha Jone* nineteen days before. The document, signed by Minister of Defense Safet Zhulali, ordered Albanian Army officers to leave their weapons in the barracks when off duty. *Koha Jone* reprinted a copy of the order and ran an accompanying text written by Leka entitled, "The Disarming of the Military." Leka was charged with slander against the minister and Frangaj, as the responsible editor, with revealing state secrets. Both were imprisoned.

The arrests were the fifth against *Koha Jone* journalists in the past two years and the second against Frangaj himself. In March 1993, he was arrested for writing about Albanian tank movements in the north. He was found innocent of "disseminating misinformation to incite panic," but not after spending twenty-five days in police custody.

The trial began on February 25, 1994, and was attended by a Human Rights Watch/Helsinki monitor. On the first day, the charges against Leka were changed to conspiring to reveal state secrets, after it was disclosed that the minister of defense had never submitted a formal complaint of slander. Leka was found guilty and sentenced to eighteen months in prison. Frangaj was charged with editorial negligence under article 20 of the press law but was acquitted.<sup>133</sup> Two

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<sup>133</sup>Article 20 of the press law hold editors and publishers legally responsible for the publication of material that may be considered a "violation of a penal act."

army officers involved in giving the document to the newspaper were sentenced to six months of probation and four years in prison, respectively.<sup>134</sup>

An appeals court on March 21 again changed the charges against Leka — back to slander — but upheld the eighteen-month sentence handed down by the district court. Frangaj was retried under article 20 of the press law, found guilty and sentenced to five months in prison. He was out of the country at the time.

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<sup>134</sup>On March 11, the judge in the case, Arben Ristani, was dismissed from his position and charged with corruption. After one day in prison he was released. See section on the High Council of Justice.

Both trials were conducted in a highly politicized atmosphere. The newspaper *Koha Jone* was attacked in the pro-government media for being anti-democratic and under the control of communists. A spokesperson for the minister of defense, Pandeli Ristani, declared publicly that "these people are hand-kissers of Belgrade, Enverists, irresponsible."<sup>135</sup>

On May 3, 1994, World Press Freedom Day, President Berisha pardoned Frangaj, Leka and three other journalists convicted under the press law or penal code. The pardon caused some discussion among legal experts since, at the time, Frangaj and Leka's cases were still in the appeal process at the Court of Cassation. On May 31, notwithstanding the pardon, the Court of Cassation found Frangaj and Leka innocent of all charges.

Despite the release of the journalists, the trial demonstrated that the government was willing to implement the new press law in a manner that restricted freedom of expression. Many journalists told Human Rights Watch/Helsinki that the risk of legal action had a chilling effect on the print media in the country. Since the Frangaj/Leka case, at least four other journalists have been convicted under the press law.

#### *The Trial of Blendi Fevziu*

On December 5, 1995, the editor-in-chief of *Aleanca*, Blendi Fevziu, was found guilty of slandering Blerim Çela, head of the State Control Commission, a parliament-appointed audit agency. The court ordered him to pay a \$2,000 fine - an amount equal to twenty months of his salary. Three days later, after protests poured in from Albania and abroad, President Berisha offered a pardon.<sup>136</sup>

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<sup>135</sup>Frangaj and Leka later initiated a slander case against Ristani. The case was dropped when the court ruled that slander can only be addressed to a specific person and not an indefinite group.

<sup>136</sup>Protests came in from Human Rights Watch/Helsinki, The Committee to Protect Journalists and Article 19.

The case began in September 1993 when a deputy for the Democratic Alliance, Perikli Teta, presented parliament with a list of government officials he claimed were involved in corruption. The list, which included Blerim Çela, was published in a number of Albanian newspapers and transmitted on national television.

A year and a half later, parliament had still not investigated the alleged abuses. Then, in April 1995, three million dollars were reported missing from the company Blerim Çela had been accused of assisting. The director of the firm fled Albania, and Teta asserted publicly that Çela had assisted in his departure.

On August 4, Blendi Fevziu reported on Teta's actions in *Aleanca*. The article included no commentary, only the accusations made by Teta. Fevziu told Human Rights Watch/Helsinki that he had attempted to contact Çela for a response but was not granted an interview.<sup>137</sup>

Three days later, Çela pressed charges against Fevziu for slander in the name of the State Control Commission. Albanian law, however, only allows for slander against an individual. The charges were changed accordingly.

Fevziu's trial lasted two months and involved seven court hearings. Early on in the proceedings, the charges were changed again, this time to "the publication of slanderous material." The prosecutor sought a punishment of three months of imprisonment and a one-year ban on Fevziu's political activity, even though there is no Albanian law that contemplates such a penalty.<sup>138</sup> Fevziu was considering a candidacy in the forthcoming parliamentary elections.

On December 5, Fevziu was found guilty on the basis of article 5 of the press law, which obliges a newspaper to verify all information before publication. The court ruled that it was Fevziu's responsibility to confirm Teta's accusations against Çela before making them public. Fevziu argued, however, that he had only reported the words of Teta - who avoided prosecution himself because of parliamentary immunity. In addition, other newspapers and national television had already reported on the list of corrupt officials.

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<sup>137</sup>Human Rights Watch/Helsinki interview with Blendi Fevziu, New York, January 4, 1996.

<sup>138</sup>See the case of Gjergji Zefi below.

Three days after the verdict, President Berisha issued a pardon without explanation. The short decree found Fevziu not guilty of violating article 240/2 of the penal code, an article different from the one for which he had been found guilty by the court.

After the trial, Fevziu said the trial was an attempt by the government to remove him from his position as editor of *Aleanca*. He told Human Rights Watch/Helsinki:

This trial was an absurdity, completely a political game. But I'm afraid future attacks against journalists will not be such a game. They will not be in the courts, but on the streets.<sup>139</sup>

#### *The Trials of Gjergji Zefi*

Gjergji Zefi, a journalist with *Lajmëtari* and chairman of the Democratic Alliance's assembly, has been beaten twice by unknown assailants after writing sensitive articles, one about oil smuggling in the north and one about the murder of the Democratic Alliance activist Gjovalin Cekini. He has also been taken to court two times for slander, one time resulting in a conviction.

The first case occurred in February 1994 shortly after the arrest of the two *Koha Jone* journalists Aleksander Frangaj and Martin Leka (see above). In the newspaper *Aleanca*, Zefi vociferously protested against the arrests, writing:

This state has decided to attack all its political opponents. Everything that is happening in Albania speaks of a mentally sick state. Otherwise we can't explain the arrest of the two journalists from *Koha Jone*.

All of this is happening at a time when the criminal that killed Gjovalin Cekini is still free. What can you expect from a state that protects criminals and arrests journalists. This state does not merit the label of a juridical nation-state. This is a mafia band that seriously threatens Albania. If we don't raise our voices against what is happening in Albania today the coming generations will blame us.<sup>140</sup>

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<sup>139</sup>Human Rights Watch/Helsinki interview with Blendi Fevziu, New York, January 4, 1995.

<sup>140</sup>"This is not a State but a Mafia Band," *Aleanca*, February 4, 1994.

For this writing, he was charged with slandering the state, but the charges were subsequently dropped.

In the second case, Zefi was found guilty of slander on September 27, 1995, sentenced to one month in prison and forbidden to hold public office or write publicly for one year. He was released from prison, having already spent twenty-four days in pre-trial detention.

Zefi's conviction was based on two articles published in his newspaper, *Lajmëtari*, the first of which appeared on September 13, 1993, when Zefi was editor of the paper. The article accused a government official, Bujar Hoxha, of corruption, and Zefi was charged under article 20 of the press law, which holds editors of newspapers accountable for allowing the publication of slanderous articles. But, at the time of publication, the press law had not yet been passed. The second article appeared in April 1994 and concerned corruption with Ilber Myria, the Gjirokastër chief of police. Myria was later found guilty of misconduct by an Albanian court.

Zefi, who was detained on September 3, had been slated to run in the upcoming parliamentary elections for the opposition Democratic Alliance.

Zefi's punishment, a one-year ban on political activity and public writing, is not in accordance with Albanian law. According to article 39 of the penal code, a person may be forbidden to conduct an activity or profession only in those cases when the activity or profession requires a "special permission, attestation, authorization or licence given by the competent organ." The article does not apply to Zefi, since there is no law or regulation requiring journalists to be registered or licensed.

### **Printing and Distribution**

The opposition and independent press face a series of barriers that do not exist for the pro-government papers. For example, many papers complain that the state-run distribution agency — the only major distribution company in the country — does not adequately deliver their papers to the rural areas. On May 27, 1995, Tirana authorities announced that the sale of newspapers would be restricted to approximately twenty state-owned stores. After the threat of a strike by the nongovernment papers, the order was rescinded.

The most blatant restriction on newspaper distribution occurred on January 26, 1996, when the police blocked and searched six delivery trucks belonging to *Koha Jone*. Some 37,000 copies of the paper, plus 33,000 copies of eleven other newspapers, were confiscated for a brief period and then returned. But police impounded the six vehicles claiming that they were either defective or without the

proper documents. The Albanian Association of Professional Journalists condemned the action as a deliberate attack against the independent press before the elections.<sup>141</sup>

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<sup>141</sup>OMRI Daily Report, January 27, 1996, and International Freedom of Expression Action Alert, January 26, 1996.

In the absence of private printing presses, independent papers are subject to the arbitrary pricing of state-owned printing houses, which provide discounts to pro-government papers.<sup>142</sup> In this way, the government papers are supported by the opposition and independent press, which have a much wider circulation.

A modern off-set printing press supplied by the International Media Fund (IMF), a U.S. quasi-governmental organization, was originally provided in 1993 to assist the independent press but is now owned and operated by a foundation of seven Albanian papers, all of which have ties directly or indirectly to the Albanian government. As owners, the pro-government newspapers receive substantial subsidies.

#### **Access to Information**

Another constant problem for broadcast and print journalists is the unavailability of official information. Court decisions, parliamentary actions, and other public records are not routinely published or systematically archived; access to them is difficult if not impossible to obtain. Some government ministries do not have press offices, and ministers rarely hold press briefings.<sup>143</sup>

Journalists from independent and opposition newspapers often experience extra difficulty in obtaining official information. Breseida Mema, a journalist for Agence France Presse, told Human Rights Watch/Helsinki:

The papers must strive to fill the information gap. But the ministries have no effective means of information distribution. It is very rare to have press conferences. The government has no

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<sup>142</sup>*Zeri i Popullit* has its own printing press.

<sup>143</sup>This has often backfired, as was the case during the Omonia Five trial, when after each significant event the Greeks would hold a press conference within hours, while the Albanians wouldn't reveal their position until days later.



sense of accountability. The journalists' most common phrase is, "from an anonymous source."<sup>144</sup>

Article 4 of the press law obliges government officials to provide journalists with information except in three instances: if the information prejudices an ongoing civil or penal trial; if the information is considered a state secret; or if the information could damage a "public or private interest." These guidelines are unnecessarily vague and give government officials broad discretion to withhold important information from the public. According to article 19(3) of the International Covenant on Civil and Political Rights, ratified by Albania, the state may restrict freedom of expression only when provided for by law and necessary "for respect of the rights and reputations of others; for the protection of national security or of public order, or of public health or morals."

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<sup>144</sup>Human Rights Watch/Helsinki interview with Breseida Mema, Tirana, July 18, 1993.

Public officials are generally unaware of the press law's provision on access to information and routinely refuse to answer questions, especially from opposition journalists. Bureaucrats within the ministries, as a general rule, refuse to answer questions. Reporters told Human Rights Watch/Helsinki that it is virtually impossible for them to obtain information by phone.<sup>145</sup> Only the office of the president regularly gives statements to the press; the Foreign Ministry refuses to comment, even on stories of major significance to the foreign wires.

Journalists told Human Rights Watch/Helsinki that the government keeps a list of "preferred" reporters. Those journalists not on the list are reportedly often denied entrance to press conferences or open meetings. At government press conferences, the journalists from the independent and opposition press are rarely called on to ask questions. According to Nikolle Lesi, publisher of *Koha Jone*:

The independent newspapers do not enjoy the privilege to be invited to press conferences. So, our journalists walk in disguised as *Rilindja Demokratike* or *Zeri i Popullit* journalists to listen to our honorable president express his admiration for the independent press, which he is not at all helping.<sup>146</sup>

### **Economic Censorship**

One major complaint by print journalists is what they see as a form of economic censorship through high taxes. Currently, there are four different taxes levied against newspapers: a circulation tax of 15 percent on all printed copies; a newsprint tax of 25 percent (all newsprint is currently imported); an advertising tax of 15 percent on all advertising revenue; and a 15 percent tax on profit. A strike by the non-government press over the high taxes in August 1994 prompted a meeting with government officials. But, as of February 1996, the taxes are still in place.

Opposition and independent papers also complain that they never sell advertisements to government bodies, such as the privatization agency which is

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<sup>145</sup>Human Rights Watch/Helsinki interview with Rita Dhimgjoka, AP correspondent, Tirana, May 4, 1995.

<sup>146</sup>"The State Once More at War with the Independent Press," *Koha Jone*, June 18, 1994.

often announcing public auctions for state property. According to Preç Zogaj, President of the Association of Professional Journalists of Albania:

The state only helps the pro-government papers through various forms, one of which is the publication of information concerning the privatization of the national economy. The pro-government papers are also privileged to have offices for which they do not pay any rent at all. As you see, the system of paper production, distribution, sales and taxes threatens the independent papers and the press of the opposition, even though these papers have the highest circulation.<sup>147</sup>

#### **ALBANIAN TELEGRAPHIC AGENCY (ATA)**

The Albanian Telegraphic Agency (ATA) is the government-run news agency. It produces a daily bulletin in Albanian and English that contains news and information collected from its correspondents throughout the country and wire services for international coverage. Although the head of the agency denies it,<sup>148</sup> many ATA journalists told Human Rights Watch/Helsinki about a series of internal controls that censored news unfavorable to Albania's image or the Albanian government. Journalists were told how to cover certain stories, and directors and editors reportedly conferred regularly with top government officials.

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<sup>147</sup>Letter of protest from the Association of Professional Journalists of Albania, Spring 1994.

<sup>148</sup>Human Rights Watch/Helsinki interview with ATA Director Ilir Zhilla, Tirana, May 5, 1995.

Many employees of the agency were reportedly demoted or fired since 1992 because they complained about governmental interference in their work or reported in ways that were seen as detrimental to the Albanian government. One noted example was that of Mero Baze, former editor of the domestic news section and one-time head of the Albanian League of Journalists. In August 1993, Baze was demoted to a position as a reporter and subsequently fired by the agency for contradicting a statement published by ATA's director, Ilir Zhilla. The statement, published by ATA on August 4, denounced the BBC's coverage of a Socialist Party rally on July 30, and labeled the British radio the "British Bolshevik Company" for its supposedly slanted portrayal of the events.<sup>149</sup> The statement was signed in the name of "a group of ATA journalists," but, in a rebuttal published in some Albanian papers, Baze claimed that no ATA journalists had seen or endorsed the document. Baze also criticized the politicization of the ATA and said new statutes were needed to guarantee the agency's independence and impartiality. He accused the agency of using the "Hoxha practices of old," citing the recent firing of ATA Director of Foreign Information, Mirlinda Angoni.<sup>150</sup>

On September 13, Baze was demoted from his position as editor. Two months later, on November 12, he was fired for supposedly missing a deadline. An assistant editor at ATA, Faruk Myrtaj, was the only person at the agency known to have protested the actions against Baze. In November, Myrtaj was also dismissed. In mid-October 1993, Baze was reportedly forced to resign from his position as president of the state-affiliated Albanian League of Journalists. In meetings and in public, he had criticized the new press law that was being discussed in parliament at that time.

### **JOURNALISTS HARASSED, ASSAULTED OR IMPRISONED**

In addition to these general pressures against the non-government press, there have been a series of specific measures taken to silence critical voices in the print media. Some of the most egregious examples are summarized below in chronological order. They include cases of physical assault, imprisonment and

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<sup>149</sup>See the chapter on political participation and the electoral process for details about the July 30 Socialist Party rally.

<sup>150</sup>Human Rights Watch/Helsinki interview with Mero Baze, Tirana, October 12, 1993.

confiscation of publications, which illustrate a consistent attempt by the Albanian government to limit freedom of expression in the country.

*Frrok Çupi - Koha Jone*

The founding editor-in-chief of the Democratic Party paper, *Rilindja Demokratike*, Çupi has encountered regular harassment since becoming a journalist for the independent *Koha Jone*. On July 23, 1992, he was charged with corruption in relation to his work at that time as director of the International Cultural Center in Tirana. On August 5 Çupi left the country and his family left one month later.

Çupi returned to Albania in November 1992 and was investigated by the Tirana prosecutor's office on the corruption charge. During this time he was not allowed to leave the Tirana city limits. After one year of investigation, the case against him was dropped due to a lack of evidence.

*Aleksander Frangaj - Koha Jone*

Frangaj was arrested on March 26, 1993, for an article he had written on March 24 about tank movements in the north of the country. After twenty-four days in custody he was acquitted of charges of "disseminating information to incite panic."

*Abdurrahim Ashiku - Zeri i Popullit*

A correspondent for *Zeri i Popullit* in the district of Dibra, Mr. Ashiku was severely beaten in his office on April 22, 1993, by three people with batons. Ashiku had written an article on April 16 about a member of the state control board who reportedly fired a gun into a public bus, injuring one person. Thereafter, Ashiku claims to have been threatened by Medat Kaca, chief of Dibra's control board.

*Idajet Beqiri - Kombi*

Chairman of the National Unity Party and editor-in-chief of the party's paper, Beqiri was detained on July 12, 1993, and sentenced to six months in prison after writing an article under a pseudonym, in which he accused President Berisha of being the "assassin of the Albanian people." The court ruled that the article defamed the president. Beqiri was released on October 28.

*Panajot Zoto - Zeri i Popullit*

On August 5, 1993, Zoto was sentenced to one month in prison for slandering the minister of economics and finance, Genc Ruli. In an article that ran on June 18, Zoto claimed that Ruli had been seen at a Greek customs office declaring several trucks full of cigarettes.

Richard Orizio - *Corriera della Sera*

A reporter for the Italian daily *Corriera della Sera*, Orizio was detained on August 24, 1993, and held for one night in a Tirana prison after his paper published an interview with Nexhmije Hoxha, widow of Enver Hoxha. He was released following the Italian embassy's intervention.

Alban Kraja - *Lajmetari*

Alban Kraja was physically attacked on September 20, 1993, by unidentified persons in Shkoder after writing a series of articles critical of the local government. Police have not found the assailants.

Ilir Keko - *Alternative SD*

A journalist and brother of Democratic Alliance deputy Teodor Keko, Ilir Keko was detained on October 5, 1993, and held under house arrest for five days because he wrote an article ridiculing the linguistic capabilities of the newly appointed Albanian Ambassador to Malaysia. After five days he was released and no charges were brought against him.

Student Newspaper *Reporteri*

On October 22, 1993, four days after it published its inaugural issue, university authorities shut down the first independent student newspaper at Tirana University. The paper contained an article and editorial critical of the press law that was being debated in parliament at that time. Some members of the paper's staff reported being threatened with expulsion and poor grades by some of the university's professors and deans. The paper moved back into the university following the appointment of a new dean in the fall of 1995.

Apollon Bace - *Deutsche Welle* and *Dita Informacion*

On January 7, 1994, an unknown assailant attempted to stab Bace, a correspondent for the German radio station *Deutsche Welle* and a reporter for the paper *Dita Informacion*. Bace told Human Rights Watch/Helsinki that he opened his apartment door and someone lunged at him with a knife. He was saved by the cigarette lighter in his shirt pocket. The police have not identified the attacker.

Fatmir Zanaj - *Zeri i Popullit*

Zanaj received a suspended sentence of three months of imprisonment and one year of probation on January 17, 1994, for an article he wrote in October 1992

that criticized reform in the Albanian Army. The piece was considered "insulting to the Minister of Defense."

*Aleksander Frangaj and Martin Leka - Koha Jone*

On January 31, 1994, Frangaj, editor-in-chief of *Koha Jone*, and Martin Leka, a reporter for the paper, were arrested in relation to an article about the Albanian Ministry of Defense. After one month in prison, Frangaj was found innocent and Leka was sentenced to eighteen months in prison. An appeals court later found Frangaj guilty and sentenced him to five months of imprisonment. Both were later pardoned by President Berisha on May 3, 1994, in honor of World Press Freedom Day.

*Gjergji Zefi - Aleanca*

Zefi, the twenty-three year-old deputy editor of *Aleanca* and head of the Democratic Alliance in the town of Shkoder, was attacked on March 2, 1994, by unknown assailants in the streets of Shkoder. In an interview with Human Rights Watch/Helsinki, Zefi said:

At that time [8:00 p.m.], I left my home to have coffee with my friend. When I met my friend at a small path, a group of four people were waiting for me behind a building. They had a plan - all the lights were out... They attacked me; I didn't see anything. After ten minutes, someone came, and I went to the hospital. The doctor told me that I had been beaten by iron bars.<sup>151</sup>

Zefi claimed that the attack was related to recently written articles about the murder of a Democratic Alliance party member in Shkoder two months before.<sup>152</sup> He had also written about smuggling into Montenegro in violation of the U.N. sanctions against Yugoslavia.

When Zefi filed a protest with the local police, a police officer told him, "If I initiate investigations on this, my children will be without bread." Two weeks

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<sup>151</sup> Human Rights Watch/Helsinki interview, Tirana, January 16, 1995.

<sup>152</sup> See case of Gjovalin Cekini in section on attacks against the political opposition.

earlier, Zefi had been accused of libel by the state for an article he wrote protesting the Frangaj and Leka arrest. The article was entitled, "This is not a state, but a Mafia band."

Teodor Keko - *Aleanca*

A member of parliament for the opposition Democratic Alliance and editor-in-chief of the party's newspaper *Aleanca*, Keko was attacked on March 10, 1994, by unidentified assailants outside of his Tirana apartment house. Keko told Human Rights Watch/Helsinki that a group of men were waiting for him as he came home in the early evening.<sup>153</sup> Neighbors told him that the men had been loitering in the area all afternoon. When he arrived, the men struck him on the head with brass knuckles and iron bars. Keko and other Albanian journalists believe the attack was related to articles he had written recently in *Aleanca*. Around this time, Keko was also regularly harassed by Tirana prosecutors who demanded that he reveal the name of an anonymous author who had written an article in *Aleanca* about the January murder of the Democratic Alliance activist Gjovalin Cekini. Keko refused to name the writer.

Shyqyri Meka and Leftetar Matohiti - *Zeri i Popullit*

Matohiti was sentenced to two months in prison for a letter to the editor he wrote published in *Zeri i Popullit* in April 1994. Matohiti, a former member of the Democratic Party, criticized the government and reminded President Berisha that "there are other Avni Rustemis," a historical reference to the man who murdered the uncle of King Zog. The reference was considered an insult to the president. An editor at the paper, Shyqyri Meka, was fined U.S. \$1,000 under article 20 of the press law, which holds editors responsible for the publication of "criminal offenses." Meka was later pardoned by President Berisha on the occasion of World Press Freedom Day on May 3, 1994.

Ilirian Zhupa - *Populli Po*

Editor of the independent newspaper *Populli Po*, Zhupa was sentenced on April 7, 1994, to a two-month suspended sentence for defaming Bashkim Gazidede, head of the secret police (SHIK), in an article on the whereabouts of former Sigurimi agents that had appeared four months earlier. Zhupa and many other journalists said that his trial had been initiated because of another article published in February about the Arsidi scandal, an economic corruption case implicating a

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<sup>153</sup>Human Rights Watch/Helsinki interview with Teodor Keko, Tirana, March 1994.



number of top government officials. Zhupa told Human Rights Watch/Helsinki, "The SHIK case is just a pretext. In this move we see an attempt to shut the mouths of the papers."<sup>154</sup>

After the article appeared, the offices of *Populli Po* were broken into and a tape recorder, tapes and documents were stolen. Zhupa was also pardoned by President Berisha on May 3, 1994.

#### Newspaper *Koha Jone*

Police sealed the Tirana office of *Koha Jone* on July 27, 1994, claiming that the paper owed U.S. \$51,000 to a state-owned printing press. In court that week, *Koha Jone* proved that payments were made but that they had not been processed efficiently by the bank. The paper also proved that in fact, the state-owned printing press owed the newspaper approximately U.S. \$10,000.

Takis Diamandis - ET-1 (Greek state television) and newspaper *Eleftherotypia*;  
Thekla Kittou - Cypriot journalist; Kostas Markellos - Star Channel; and Agni Vravoritou - Star Channel

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<sup>154</sup>Human Rights Watch/Helsinki interview with Ilirian Zhupa, Tirana, February 19, 1994.

During the trial of five Greek activists accused of espionage and illegal possession of weapons began in late August 1994,<sup>155</sup> Human Rights Watch/Helsinki was told by numerous witnesses — both Albanians and Greeks — that police, often in plainclothes, harassed and detained journalists and other Greek citizens. Albanian journalists also complained of mistreatment, but the worst incidents seemed to involve journalists from Greece.

Thekla Kittou was arrested on August 23 and deported the following day for allegedly for not having proper press credentials. Agni Vravoritou and three technicians were detained and expelled; Kostas Markellos was also detained and expelled on September 7. Three days later, Takis Diamandis was arrested and deported. He was also declared *persona non grata* and told not to return to Albania for five years.

These incidents were part of general police harassment during the trial. On the first day of the trial, for example, Albanian police detained twenty-three Greek spectators and journalists outside the courthouse. An eyewitness description is cited in the section on the Omonia Five trial.

#### Ilir Hoxha - *Modeste*

The eldest son of former dictator, Enver Hoxha, Ilir Hoxha was sentenced to one year in prison on June 8, 1995, for "endangering the public peace by inciting hatred between sections of the population and slandering them." In an interview in the small paper *Modeste*, Hoxha called the current government a "pack of vandals." He added, "One day, those people who scoffed at my father and my family will have to pay for it." An appeals court upheld the verdict, as did the court of cassation. He is currently serving out his sentence.

#### Filip Çakuli - *Hosteni 2000*

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<sup>155</sup>For details on the Omonia Five case, see sections on the legal system and the Greek minority.

On June 20, 1995, at 1:30 a.m., a uniformed policeman and men in plainclothes who said they were from the investigative police arrived at the Tirana home of Filip Çakuli, director of the political satire magazine *Hosteni 2000* and general secretary of the Albanian Association of Professional Journalists. The police ordered Mr. Çakuli to accompany them to police station number two, where he was interrogated about an issue of the magazine that was at the printing press waiting to be printed. The front page had a satirical image of President Berisha. During the questioning, which lasted until morning, Mr. Çakuli was interrogated about his relations with Greece and the Greek Embassy in Tirana. At 9:00 a.m. a journalist from the magazine *Naim Naka*, was also brought to the police station: he was asked by inspectors of SHIK if Çakuli was a Greek or Serbian agent. By mid-morning both were released, but the entire issue of *Hosteni 2000* had been confiscated from the printing press Eurorilindja, and the police demanded, but did not return, the front page from Mr Çakuli.<sup>156</sup>

*Gjergji Zefi - Lajmëtari*

After twenty-four days in prison, Gjergji Zefi was convicted on September 27, 1995, of slander and forbidden from holding public office or writing publicly for one year. (See section on the trials of journalists.)

*Illir Babaramo - Koha Jone*

Correspondent Illir Babaramo was detained for a number of hours in a police station on September 26, 1995. Police demanded he provide information about an article he had written on irregularities at an Albanian border crossing with Greece.

*Felix Bilani - Koha Jone*

A photographer from *Koha Jone*, Felix Bilani, was detained by the police on October 28, 1995, after taking photographs of a murder scene in Tirana. His film was confiscated and destroyed.

*Nikolle Lesi - Koha Jone*

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<sup>156</sup>Human Rights Watch/Helsinki interview with Filip Çakuli and Naim Naka, Tirana, July 6, 1995.

On the evening of November 1, 1995, a bomb exploded in the Lezhe apartment of Nikolle Lesi, the publisher of *Koha Jone*. His wife and children, home at the time, were not hurt. The assailants are unknown, but journalists at *Koha Jone* told Human Rights Watch/Helsinki that the police did not undertake a serious investigation.

Sami Selishta - Albanian Radio and Television

According to the daily newspaper *Gazeta Shqiptare*, a bomb destroyed the car of television journalist Sami Selishta on November 7 in the northern town of Peshkopie. Police have not located the assailants.

Blendi Fevziu - *Aleanca*

On November 7, 1995, the editor-in-chief of *Aleanca*, Blendi Fevziu, was brought to trial on charges of slandering Blerim Çela, head of the State Control Service, a parliament-appointed audit agency. On April 4 Fevziu had written an article edition had accused Çela of large-scale corruption, based on a list of allegedly corrupt officials made public by a member of parliament, Perikli Teta. The list had been read aloud in parliament and was broadcast on state television prior to the publication of Fevziu's article.

On December 5, after protests by Human Rights Watch/Helsinki and other media organizations, the charges were dropped.

Gjergji Zefi - *Lajmëtari*

On January 7, 1996, the banned journalist Gjergji Zefi was attacked in Shkoder by three unknown assailants. He was admitted to a hospital with serious head injuries. The newspaper *Aleanca* speculated that the attackers have close links with the smuggling gangs who want to intimidate the local opposition.

Altin Hazizaj - *Koha Jone*

On January 31, 1996, the journalist Altin Hazizaj was arrested while reporting on a police action to evict former political prisoners from apartments they had occupied in Tirana. A *Koha Jone* photographer, Genc Shkullaku, had his film and camera confiscated.

Police held Hazizaj in detention for 48 hours and charged him with assaulting two police officers. As of mid-February, investigations were proceeding. Hazizaj must report two times a week to the police station and is confined to the Tirana city limits.

## **VIII. ILL-TREATMENT, DEATHS IN CUSTODY AND ARBITRARY ARRESTS**

Police abuse has lessened since communist times when police acted with absolute impunity. Nevertheless, the use of excessive force by police and prison guards still occurs on a regular basis and government authorities have not done enough to combat the problem.

Since 1992, scores of individuals have been beaten or otherwise mistreated by the police or security forces, sometimes resulting in death. Others have been shot dead in disputed circumstances. Amnesty International received over one hundred complaints of the unlawful use of force since the beginning of 1994 alone.<sup>157</sup> Human Rights Watch/Helsinki collected testimony from many judges and lawyers, as well as from victims of police violence, that documents many instances of excessive force used by the Albanian police and security forces.

The most common victims of police violence are normal citizens suspected of having committed a crime. But arbitrary violence is also used against members of the political opposition, in particular the Socialist Party or the Democratic Alliance. Members of other groups have also been victims, including members of the Greek minority, former political prisoners, striking workers or homosexuals.

Of particular concern is police mistreatment of detainees at the time of arrest and during pre-trial detention. In recent years, at least seven suspected criminals have died at the hands of the police in disputed circumstances, either during arrest or while in custody.

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<sup>157</sup>Amnesty International "Albania - Failure to end police ill-treatment and deaths in custody," (AI Index: EUR 11/04/95) London, June 1995.

In a few cases, the state investigated allegations of police abuse and punished those found guilty of using unnecessary force. For the most part, however, police are not held responsible for their actions.<sup>158</sup> While Albanian citizens may press charges against a policeman in a court of law, many have little faith in a criminal justice system that serves to protect itself.

In a statement published in October 1994, the Albanian Helsinki Committee, a local human rights group, noted that:

Reports of excesses by police officers are constantly reaching our committee....[The committee] is aware of disciplinary and punitive measures which the competent authorities have taken in some cases of this kind. However, we are obliged to note that the response [by the authorities] has been inadequate and absolutely disproportionate to the scale of this phenomenon. We call for this problem to be resolutely tackled and for more effective measures to be taken against those officers who instead of defending the law gravely violate it.<sup>159</sup>

The situation is further complicated by the rapid turnover in the police force since 1992. A large number of today's police officers are new appointees chosen from the ranks of the country's former political prisoners or from President Berisha's home region in the north. Most are poorly trained and unaware of standards established in Albanian and international law regarding police conduct and the rights of prisoners.<sup>160</sup> In addition, there is considerable concern in Albania that the new appointments were granted on the basis of political loyalty, which further undermines the professionalism of the police force.

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<sup>158</sup>Article 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment states that "each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities."

<sup>159</sup>Statement of the Albanian Helsinki Committee, October 1994.

<sup>160</sup>Article 8 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states that "the training of law enforcement personnel and of other public officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment."

### LEGAL STANDARDS

Article 3 of Albania's Law on Fundamental Freedoms and Human Rights, passed in April 1993, states:

No one shall be subjected to torture, or to degrading or inhuman treatment or punishment.

Article 86 of Albania's new penal code, which came into effect on June 1, 1995, punishes torture with imprisonment from five to ten years. Article 314 of the penal code makes the use of force by a police investigator to extract a confession from a defendant punishable by imprisonment for a period of three to ten years.

Albania has also ratified most major international human rights documents protecting individuals from the arbitrary use of lethal force and cruel, inhuman and degrading treatment or punishment. The police abuse described below violates articles 6 and 7 of the International Covenant on Civil and Political Rights (ICCPR), the U.N. Code of Conduct for Law Enforcement Officials,<sup>161</sup> the U.N. Body of Principles for the Protection of All Persons Under Any Form of Detention and Imprisonment,<sup>162</sup> the U.N. Standard Minimum Rules for the Treatment of Prisoners (and Procedures for Effective Implementation of the Rules) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Arbitrary arrests and detention are in contradiction to article 9 of the ICCPR, which holds that "[n]o one shall be subject to arbitrary arrest or detention" and that "[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by international law;"

### KILLING IN DISPUTED CIRCUMSTANCES

#### Romeo Gaçe

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<sup>161</sup>United Nations, General Assembly Resolution 34/169, December 17, 1979.

<sup>162</sup>United Nations, General Assembly Resolution 43/173, December 9, 1988.

May 15, 1993

According to press reports, Romeo Gaçe tried to evade two plainclothes policemen who were pursuing him because of an alleged theft. It is not known whether they properly identified themselves as police. One of the policemen fired his pistol as Gaçe fled, wounding him in the back. He died shortly thereafter. After local protests, the police opened a case against one of the officers for willful murder. The policeman was later sentenced to eight years in prison.

#### **DEATHS IN CUSTODY**

##### **David Leka**

Laç - August 14, 1993

David Leka was arrested in the town of Laç, reportedly for his involvement in a street brawl. Police claim he stabbed a police officer, Ilir Dosti, who tried to break up the fight, although witnesses reportedly disputed this. After three hours in police custody, a police doctor declared that Leka was in a coma, resulting from blows to the body. That weekend, a crowd of about 3,000 people demonstrated in Laç. Although local police denied any wrongdoing, four of them were subsequently found guilty and sentenced to prison terms ranging from one to seventeen years.<sup>163</sup> An appeals court on August 17, 1994, reduced their sentences to between one and eleven years.

##### **Irfan Nanaj**

Saranda - January 15, 1994

Mr. Nanaj was arrested in the southern town of Saranda, allegedly after an argument in a club. He was reportedly beaten in the police station and died in the hospital from internal hemorrhaging five days later. Two police officers, Besnik Memaj and Lavdosh Markaj, were charged with murder. Markaj was arrested on January 27, but Memaj allegedly fled the country. As of August 1995, however, the court in Saranda had still not reached a verdict.

##### **Dhimitraq Petro**

September 10, 1994 - Korça

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<sup>163</sup>The four convicted policemen were Tef Soboti, Ardian Haliti, Alfred Hima and Musa Hajdari.



Dhimitraq Petro was detained on September 10 and brought to the police station in Korça. At the station he suffered serious head injuries, and he died some days later. The police maintained that he fell down a flight of stairs at the station. An investigation was initiated, but the case was closed due to lack of evidence.

**Enrik Islami**

Vlora - November 23, 1994

After spending seventeen months in prison pending trial for murder, Enrik Islami of Vlora was reportedly beaten by police and died in custody. Police claim that Islami broke loose from his cell and attacked some police officers, who used force to bring him under control. Criminal proceedings were opened against six policemen, including Hasan Hasani, Bino Binaj and Vangjel Cani. As of August 1995, the case was still open.

### ILL-TREATMENT AT THE TIME OF DETENTION

**Arben Memolla**

Kavaja - September 23, 1994

On September 23, Arben Memolla was detained and mistreated in the Kavaja police station on the grounds that he had given money to the Socialist Party in the town of Rrogozhina. An investigation into the actions of police officer Bardhyl Bolba was dropped due to a lack of evidence.

**Gay Club Albania**

Tirana - October 13, 1994

Three members of the country's first gay club were detained by police in a central Tirana park and taken to a local police station.<sup>164</sup> All three were beaten by police, one badly enough to require hospitalization. The Interior Ministry said that those involved had not filed a complaint against the policemen and, therefore, no charges had been brought against them.

### THE ILL-TREATMENT OF PRISONERS

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<sup>164</sup>See section on the rights of homosexuals.

Conditions in Albania's prisons are much improved since the fall of the communist government. The notorious labor camps of Spaç and Burrel have been closed, their only visitors curious tourists or former prisoners confronting their pasts.<sup>165</sup> Conditions in the country's other prisons have gradually improved since the last wave of political prisoners was released in 1991.<sup>166</sup>

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<sup>165</sup>For an account of life in Albania's communist-era prisons, see Fatos Lubonja's "Thoughts Out of Prison," *Index on Censorship*, September 1992.

<sup>166</sup>Most political prisoners were released in May 1990. The remaining 1,100 prisoners were released in July 1991 after U.S. Secretary of State James Baker presented President Ramiz Alia with a list of remaining prisoners that had been compiled by the Albanian Helsinki Committee (at that time called the Forum for the Defense of Human Rights).

Nevertheless, the state of Albania's prisons is still far below international standards.<sup>167</sup> There is no revised prison code or other statute to regulate the behavior of prison guards or outline the rights of prisoners. Many cases of mistreatment have been reported, including occasional violence.<sup>168</sup> Of particular concern is the treatment of detainees under the age of eighteen, who are kept together with older prisoners. Cases of sexual abuse of minors by adult prisoners have been reported.<sup>169</sup>

The Albanian Helsinki Committee has monitored conditions in Albania's prisons during the past few years. In various protests, they have remarked on the use of violence against prisoners and the poor access prisoners have to outside information, such as mail and newspapers. Many prisoners reported to the group that they were only allowed two forms of reading material: the Bible or the Koran. The Albanian Helsinki Committee also noted that hygienic conditions are below standard, although not life-threatening. Prisoners are often denied appropriate

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<sup>167</sup>Based on the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, General Assembly Resolution 43/173, December 8, 1988.

<sup>168</sup>Human Rights Watch/Helsinki interviews with members of the Albanian Helsinki Committee, Tirana, August 1993-July 1994.

<sup>169</sup>Article 8 of the United Nations' Standard Minimum Rules for the Treatment of Prisoners states, "The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment." In addition, Article 8(d) says, "young prisoners shall be kept separate from adults."

access to bathrooms and other hygienic facilities. Physicians rarely visit prisoners, and dental care is not provided. Because of poor conditions, the committee called for a closure of the Bardhore prison in Kavajë.<sup>170</sup> Another concern was the lack of fire extinguishers or evacuation procedures in case of an emergency.

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<sup>170</sup>Newsletter of the Albanian Helsinki Committee, June 1995.

## **IX. MINORITY RIGHTS**

Like most Balkan countries, Albania has a number of ethnic minority groups on its territory. By far the largest of these is the Greeks, but there are also populations of ethnic Macedonians, Serbs, Vlach and Roma.

The rights of these ethnic groups have improved since 1990, in accordance with Albania's general process of democratization. Still, some problems have arisen, notably with the Greeks, and the Albanian government has not always met its legal obligations to protect the rights of minorities. Despite this, relations between the Albanian people and the different ethnic groups in the country remain stable and friendly.

### **DOMESTIC LEGAL PROTECTIONS**

In April 1993, the Albanian parliament approved Law No. 7692, On Fundamental Freedoms and Human Rights. Article 26, on the rights of minorities, states:

Individuals belonging to minorities shall enjoy, with no discrimination and in equality before the law, fundamental human rights and freedoms. They may freely express, preserve and develop their own ethnic, cultural, religious and linguistic identity, teach and be taught in their mother tongue, and associate in organizations and societies to protect their interests and identity.

Article 25 of the law also states that, "No one may be discriminated against on account of sex, race, ethnicity, language, religion, economic and financial, educational and social conditions, political opinions, parentage, or any other personal circumstances."

Chapter 1 of Albania's Law on Major Constitutional Provisions incorporates international human rights law into domestic law. Article 4 of the law states:

The Republic of Albania recognizes and guarantees the fundamental human rights and liberties of the individual and ethnic minorities as recognized by international documents.

In November 1993, the Albanian government opened the Office on Ethnic Relations, under the direction of the prime minister. According to Albert Beja, advisor to the prime minister on ethnic relations, the task of the office is to seek solutions to inter-ethnic problems, coordinate the work of all governmental bodies dealing with ethnic relations and foster and maintain dialogue with the various minorities.<sup>171</sup>

### INTERNATIONAL LEGAL PROTECTIONS

International law protects the right of individuals to belong to an ethnic or national minority, and to express, preserve, and develop their cultural traditions:

To belong to a national minority is a matter of a person's individual choice and no disadvantage may arise from the exercise of such choice. Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (1990), Paragraph 32.)

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language. (International Covenant on Civil and Political Rights (1976), Article 27.)

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<sup>171</sup>Human Rights Watch/Helsinki interview with Albert Beja, Tirana, May 5, 1995.

The participating States...reaffirm that respect for the rights of persons belonging to national minorities as part of universally recognized human rights is an essential factor for peace, justice, stability and democracy in the participating States. (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 30.)

International law prohibits states from discriminating on the basis of ethnic or national identity and requires states to take positive measures to prevent discrimination on these grounds:

All are equal before the law and are entitled without any discrimination to equal protection of the law. (Universal Declaration of Human Rights (1948), Article 7.)

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. (International Covenant on Civil and Political Rights, Article 26.)

The participating States will adopt, where necessary, special measures for the purpose of ensuring to persons belonging to national minorities full equality with the other citizens in the exercise and enjoyment of human rights and fundamental freedoms. (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 31.)

The participating States...commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property.... (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 40.2.)

International law protects freedom of association, including political association:

Everyone has the right to freedom of peaceful assembly and association. (Universal Declaration of Human Rights, Article 20.)

[T]he participating States will...respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities.... (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 7.6.)

The participating States reaffirm that...the right of association will be guaranteed....[This right] will exclude any prior control. (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 9.3.)

Every citizen shall have the right and the opportunity [without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status]...and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives.... (International Covenant on Civil and Political Rights, Article 25.)

International law allows parents the right to choose the kind of education that shall be given to their children:

Everyone has the right to education....Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit....Parents have a prior right to choose the kind of education that shall be given to their children. (Universal Declaration of Human Rights, Article 26.)



By signing these international agreements, Albania has committed itself to ensure that minorities have adequate opportunities for instruction in their mother tongue:

The participating States will protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory and create conditions for the promotion of that identity. (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 33.)

The participating States will endeavor to ensure that persons belonging to national minorities, notwithstanding the need to learn the official language or languages of the State concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue, as well as, wherever possible and necessary, for its use before public authorities, in conformity with applicable national legislation. (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 34.)

Albania also committed itself to take account of the history and culture of national minorities when preparing curriculums, and to take other measures to promote racial and ethnic tolerance through education:

In the context of the teaching of history and culture in educational establishments, [the participating States] will...take account of the history and culture of national minorities. (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 34.)

The participating States [will]...endeavor to ensure that the objectives of education include special attention to the problem of racial prejudice and hatred and to the development of respect for different civilizations and cultures.... (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 40.4.)

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding,

tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. (Universal Declaration of Human Rights, Article 26.)

Albania has agreed to take additional measures to promote mutual understanding and tolerance:

Every participating State will promote a climate of mutual respect, understanding, co-operation and solidarity among all persons living on its territory, without distinction as to ethnic or national origin or religion, and will encourage the solution of problems through dialogue based on the principles of the rule of law. (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 36.)

The participating States [will]...take effective measures, in conformity with their constitutional systems, at the national, regional and local levels to promote understanding and tolerance, particularly in the fields of education, culture and information.... (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 40.3.)

International law allows states to take special measures (i.e., "affirmative action"), for a limited period of time, to ensure members of all ethnic groups the equal enjoyment and exercise of human rights and fundamental freedoms:

Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved. (International Convention on the Elimination of All Forms of Racial Discrimination (1969), Article 1.)

### THE GREEK MINORITY

The Greek community in Albania has experienced an increase in minority rights since the end of the communist regime in line with the broader reforms taking place in Albania. Political representation in local and national politics, the right to practice the Orthodox faith and improvements in Greek-language education have all been a result of Albania's democratic reforms. In addition, ethnic Greeks living in Albania have benefited economically due to the special relationship they enjoy with Greece.

Nevertheless, problems remain, and there are cases where the Greek minority has been denied basic rights. What is more, when violations do occur, the legal system does not provide adequate remedies for the victims.

In 1992, the Albanian government sought to stop Omonia, the organization claiming to represent the Greek minority in Albania, from participating in the national elections. Since then, there have also been some restrictions on freedom of assembly, religion and expression for ethnic Greeks during the past four years.

More serious, however, are the actions of the Albanian police and secret police in the south of Albania, where most ethnic Greeks live. Although the situation is much improved now, many people were arbitrarily detained and interrogated before the trial of five Omonia leaders, creating an atmosphere of fear among the Greek minority. The trial itself, which began in August 1994, was marred by violations of Albanian law and international standards regarding conditions of arrest and treatment in detention. The defendants' due process rights were violated and they were denied a fair trial. Although the Albanian Court of Cassation decided to release the five Omonia activists in February 1995, the violations of civil and political rights associated with the trial lent credibility to the claim that the Albanian government was arbitrarily attacking a lawful organization only because it represented the Greek minority at a time of tension with Greece.

Tensions between the Albanian government and the ethnic Greek minority are also evident in areas of cultural and educational policies, particularly as they regard education in the Greek language. It is incumbent upon the Albanian government to address the concerns of the Greek minority in consultation with the

Greek community, in order to ensure that all Albanian citizens fully participate in civil society.<sup>172</sup>

The abuses of the Albanian government that are documented here, coupled with the Greek government's response, have served to increase tensions between the local Greek and Albanian communities in the south and have also fostered a perception of actual and potential discrimination and hostility toward the Greek minority.

In general, however, it is clear that the two communities are committed to peaceful coexistence. Many Albanians of both ethnicities expressed a fear that pressure from Tirana and Athens was creating artificial divisions between the two groups. In general, as relations between Tirana and Athens worsened or improved, so did the situation of the Greek minority. A common attitude among local people was summed up by an older man from the village of Derviçan, who said:

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<sup>172</sup>Human Rights Watch/Helsinki does not take a position on the government's obligation to finance education in a minority language. International standards stipulate that minority groups have the right to preserve their own cultures, including education in their mother language. Governments, therefore, may not infringe on a minority's right to enjoy, preserve and protect its culture.

Albania and Greece must have good relations because, from the economic point of view, Greece has contributed a lot and we live better because of that. But their relations have been destroyed by two extreme viewpoints acting from both sides. Government relations are bad, and it is we who will pay.<sup>173</sup>

To avoid this, the Albanian government should expand its protection for the rights of all citizens as outlined in Albania's Law on Fundamental Freedoms and Human Rights and the international instruments to which it is party. In particular, the Albanian government should make every effort to assure that the Greek minority enjoys equal protection before the law and full respect for its basic rights.

#### **The Greek Minority Under Communism**

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<sup>173</sup>Human Rights Watch/Helsinki interview, Dervişan, July 5, 1994.

The treatment of the Greek minority under communism is a point of dispute. Leaders of the Greek minority assert that there was a policy of forced assimilation, involving random population transfers, name changes and the denial of schooling in Greek history and culture.<sup>174</sup> Others claim that Greeks did not suffer from discrimination but rather from the generally repressive atmosphere experienced equally by all Albanian citizens. Some believe that the Greek minority was afforded a special status due to Albania's attempt to ease relations with Greece.

Since Greek minority culture is closely tied to the Orthodox Church, the community did suffer disproportionately from the ban on religion and the destruction of churches. In addition, governmental pressure to change foreign and religious names to Albanian forms had a deleterious impact on Greek families, who often name children after religious figures.

Although some Greek families were relocated away from the south, there is little evidence at present to show that this was a consistent national policy aimed at diluting the Greek minority, as some Greek leaders claim. The random transferring of families, both Greek and Albanian, was a common practice of the communist regime.

Schooling in the Greek language from the first to the fourth grades did exist under communism for children who lived in the so-called "minority zone" where the Greek minority is concentrated.<sup>175</sup> Greeks living in other parts of the country did not have access to a Greek-language education. Greek-language newspapers were permitted although, like all papers, they were subject to censorship.

### **Greek-Albanian Relations**

The situation of the Greek minority in Albania has been a major point of contention between Tirana and Athens since the modern Albanian state was founded in 1912.<sup>176</sup> Since then, the Greek government has often accused Tirana of denying

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<sup>174</sup> See also, *Human Rights in the People's Socialist Republic of Albania*, Minnesota Advocates for Human Rights, Minneapolis, January 1990.

<sup>175</sup> The "minority zone" comprises the region along the border with Greece where most ethnic Greeks live. It does, however, exclude some towns and villages with a substantial ethnic Greek population.

<sup>176</sup> For background information, see Robert Austin, "Albanian-Greek Relations: The Confrontation Continues," *RFE/RL Research Report*, August 4, 1993, and R. Austin, K. Engelbrekt and D. Perry, "Albania's Greek Minority," *RFE/RL Research Report*, March 18, 1994.

ethnic Greeks their basic minority rights. The Albanian government responds that Greece harbors territorial claims on lands along the southern border, known to Greeks as "northern Epirus." Diplomatic relations between the two countries were restored only in 1987, when the Greek government formally withdrew claims to northern Epirus and ended what technically was still a state of war with Albania.

Despite diplomatic promises of mutual cooperation, state relations began to deteriorate soon after the beginning of Albania's democratic reform. The opening of Albania's borders allowed thousands of Albanians to enter Greece in search of work. While some were granted visas, the vast majority entered illegally, oftentimes crossing the mountains for days on foot.<sup>177</sup> Many were welcomed by local farms and businesses in Greece since they provided cheap labor.<sup>178</sup>

At the same time, Greece began to voice its concern for the treatment of the Greek minority in Albania. The abrupt closure of some public school Greek-language classes in Albania in 1993 nourished this concern. Albanian authorities, in turn, protested that the Greek consulate in the southern Albanian town of Gjirokastër was distributing Omonia documentation and claiming to represent the interests of the Greek minority within Albania. This activity furthered Albanian fears that the Greeks were interfering in their internal affairs. In addition, Albanians of Greek ethnicity were given preference in receiving Greek visas, which caused resentment among some ethnic Albanians.

Relations between the two countries worsened in June 1993 when Albanian authorities expelled an Orthodox priest of Greek citizenship who, they claimed, was fomenting separatism among the Greek community.<sup>179</sup> Greece

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<sup>177</sup>Since 1991, tens of thousands of Albanians have gone to Greece, Italy and, to a lesser extent, Switzerland and Germany in search of work. An estimated 300,000 are currently in Greece alone. While some have valid visas and work permits, the majority are there illegally.

<sup>178</sup>The economic relationship between Greece and Albania is bilateral. Albania relies heavily on remittances from Greece - the International Monetary Fund estimates that 15 percent of Albania's GNP currently comes from Albanians working abroad. But Greece also benefits from the cheap labor force Albanians provide. Also, higher income in Albania means a larger export market for Greek goods.

<sup>179</sup>See section on religious freedom. A controversial role is played by the Orthodox Church in Greece, considered by many Albanians to be a driving force behind Greek nationalism. See James Whittington, "Greeks clasp hands over the Albanian border," *Financial Times* (London), September 1, 1994.

responded immediately by expelling about 30,000 Albanians working in Greece. Many were abused by the Greek police.<sup>180</sup>

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<sup>180</sup>Abundant evidence points to large-scale abuse by Greek authorities against Albanian citizens living in Greece, especially when tension between Greece and Albania is high. Albanians are often rounded up and deported as a means of direct retaliation for abuses, real or perceived, of Albania's ethnic Greek minority, such as after the expulsion of Archimandrite Maidonis and during the trial of the Omonia leaders. Deportations have occurred in some cases even when ethnic Albanians are legally in Greece and possess the necessary documents to reside there. During these times, there have also been strong anti-Albanian campaigns in the Greek media.

Beatings and torture during these expulsions, as well as theft of Albanians' property by the Greek police, have also been widely reported. Although the Greek government was notified of such cases of brutality by Greek border police, no formal investigation was ever undertaken.

The Greek government's forced and sometimes violent expulsion of Albanian citizens working in Greece violated international prohibitions against cruel, inhuman or degrading treatment, and to the extent that Albanian citizens were legally residing in Greece, the Greek government violated basic due process rights. Some human rights organizations, such as the International Helsinki Federation, have sharply criticized the actions of the Greek authorities and called on the Greek government to establish a legal status for Albanians working temporarily in Greece.



Relations turned particularly sour after an incident on April 10, 1994, in which two Albanian soldiers were killed and three wounded in an attack on an Albanian army outpost near the village of Peshkopie (Episkopi in Greek), five kilometers from the Greek border. The Albanian government responded by arresting members of the Greek minority and prosecuting five activists from the organization Omonia. Although the Omonia activists were released in February 1995, Greece had already retaliated for what it claimed was the abuse of Albanian Greeks by expelling about 70,000 Albanians who had been working in Greece. There were numerous reports of excessive force and cruel treatment by the Greek police. Tension between the two countries is also due to grievances of the Çams (pronounced Chums), a group of ethnic Albanians who left Greece at the end of World War II. Leaders of the Çams claim they were falsely accused of collaborating with the Nazis and forcibly expelled. Greece says they left of their own accord to avoid legal retribution. Today Çams in Albania are calling for restitution of or compensation for their former properties in Greece. Greek authorities deny the existence of any Albanian minority in Greece, including a group of ethnic Albanians known as Arvanites who live in the center of the country.

Regional instability brought about by the conflict in former Yugoslavia has also had a negative impact on Greek-Albanian relations. Albania was one of the first countries to recognize the independence of Macedonia, a move that prompted criticism from Greece.<sup>181</sup> Albania has also established close ties with Turkey, Greece's long-time regional foe. In turn, Albania is concerned with what it perceives as a growing alliance between Serbia and Greece.

Despite these problems, 1995 saw a considerable amelioration of Greek-Albanian relations and a definite improvement in the situation of the Greek minority in Albania. In November, Greece lifted a veto it had placed on U.S. \$43 million of European Union aid to Albania, and some diplomats returned to their respective posts in each country. The release of the Omonia prisoners in February was received positively in Greece and led to a March 1995 visit to Tirana by Greek Foreign Minister Karoulias Popoulias. Discussions with Albanian Foreign Minister Alfred Serreqi and President Sali Berisha focused on economic cooperation, a legal status for Albanian guest-workers, as well as the possibility of military cooperation.

Two weeks thereafter, seven alleged members of the clandestine Northern Epirus Liberation Front were arrested in Greece for planning an armed attack on southern

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<sup>181</sup>Greece has objected to the name "Republic of Macedonia," saying it implies territorial claims on a province in Greece with the same name. The country has been accepted into international bodies as the Former Yugoslav Republic of Macedonia to accommodate Greece's protest.

Albania. Albania greeted the arrests as a sign of goodwill between the two countries. On June 21, 1995, a new law on private education was passed in Albania which allows for private high schools to teach in foreign languages.

Throughout these vacillations in Greek-Albanian relations, the Greek community in Albania has continued to live in relative peace with other Albanians.<sup>182</sup> Although some problems do exist, at their worst when state relations are strained, many ethnic Albanians and ethnic Greeks throughout Albania told Human Rights Watch/Helsinki that they were committed to multi-ethnicity. Many expressed concern that they are caught between the aggressive politics of their mother countries.

### **The Greek Minority Today**

#### *Political Representation*

The Democratic Union of the Greek Ethnic Minority, known as Omonia, was founded in January 1991 to represent the political, social and cultural demands of the Greek minority in Albania. The organization participated in the first multi-party elections held in Albania on March 31, 1991, and had five deputies elected to parliament. In July 1991, a new law regulating political parties outlawed the "formation of parties on a religious, ethnic and regional basis" (Law No. 7502). Although this prohibited Omonia from forming a political party, the organization was allowed to keep its five seats in parliament.

On February 4, 1992, one month before Albania's second multi-party elections, a new electoral law (Law No. 7556) stipulated that only parties, groups of parties or individuals may run for office. Because Omonia was prohibited from forming a party under Law No. 7502, the new law effectively banned it from participating in the election. Omonia claimed the new law was a direct attempt to keep a Greek organization from participating in local and national elections and was a flagrant violation of minority rights. Similar protests were issued by the Greek government and various international organizations.

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<sup>182</sup>See, for example, Henry Kamm, "Conflict with Greece Leaves Some in Albania Perplexed," *The New York Times*, December 19, 1994.

The issue was resolved when the Albanian Ministry of Justice allowed the formation of the Union of Human Rights, founded predominantly by members of the Greek minority but including some Albanians and other minorities in an attempt to diversify its ethnic character. The Union of Human Rights presented candidates in the second general elections held on March 22, 1992, winning two seats in the national parliament. Although the elections were declared free and fair by international observers, seven Union of Human Rights candidates were disqualified by the electoral commission a very short time before the election on the grounds of not having collected enough valid signatures in their districts. The seven disqualifications put the party below the number of candidates necessary to receive proportional representation based on the national party list. Without this, party leaders claim, many potential voters in non-Greek areas did not vote for the party.<sup>183</sup>

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<sup>183</sup>According to the electoral law in force at that time, one hundred deputies were elected directly in single-member districts. The remaining seats, forty in this parliament, were apportioned to candidates from the parties' national lists, assuming the party had presented at least thirty-three candidates and had secured at least 4 percent of the total vote. (A new electoral law, passed in February 1996, raised the number of directly elected deputies to 115.)

Originally, the Union for Human Rights had placed thirty-six candidates on the ballot. But eleven of these were disqualified on March 12 by the central electoral commission on the grounds of not having the required 400 signatures on their petitions. After an appeal to the Supreme Court, four of them were reinstated on the ballot. The final total of twenty-nine, however, was still below the minimum number of candidates required. After the elections, the Union of Human Rights did not take any legal action to challenge the electoral results.

According to the U.S. State Department's *Report on Human Rights Practices for 1992*, international observers also witnessed voting irregularities in favor of the Union of Human Rights in Greek-populated areas. Also, in those areas, some non-Greek candidates for the Socialist and Democratic Parties were reportedly harassed, as was one ethnic Greek candidate for the Union of Human Rights. Tension was also reported between the Greek and Albanian communities in some southern towns when Omonia and the Greek government helped bus back thousands of Albanian citizens of Greek ethnicity to vote.

Since communal elections in July 1992, ethnic Greeks hold positions in local government (primarily in the south), as well as in the national parliament and various ministries. In addition to the two Union of Human Rights deputies, there are four ethnic Greeks in parliament representing other parties. According to the Albanian government, thirteen commune chairmen, fifty-nine commune council members, thirty-two city councilors and fifty-three district councilors are ethnic Greeks. In addition, the chairmen of the districts of Gjirokastër, Saranda and Delvina and the mayor of Saranda are of Greek origin.<sup>184</sup>

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<sup>184</sup>Some members of the Greek minority claim that they are underrepresented in the civil service, especially the police and military. Omonia claims that over 300 ethnic Greeks were either fired or forced to resign from the Albanian military during the last two years. Human Rights Watch/Helsinki was provided with a list of 215 ethnic Greek officers in the Albanian military who reportedly lost their jobs after 1992, but was unable to confirm the allegations.

Albanian officials admit that some ethnic Greeks have left the civil service, but attribute this to the general restructuring that is taking place in the country. In fact, it is difficult to verify Omonia's claims since all areas of the public sector are undergoing radical reform, often involving drastic cutbacks. In many cases, such as with the police and military, no numbers on ethnic makeup are available. Although it is difficult to verify the validity of

*The Trial of the Omonia Five*

During the fall of 1994, five Albanian citizens from the Greek minority were convicted of espionage and illegal possession of weapons. Numerous violations of both Albanian and international law marred the trial, including the circumstances of arrest, treatment under detention, denial of the defendants' access to counsel, and the failure to ensure an impartial and public trial. The trial adversely affected relations between Albania and Greece. The arrests and interrogations that occurred prior to the trial, as well as the harassment of some journalists and others who tried to attend the trial, helped foster an atmosphere of fear among Albania's Greek minority.

On April 18, 1994, a coordinated police action was undertaken in the southern region of Albania in which the Greek minority is concentrated. The police action came just eight days after a small Albanian military post in the border town of Peshkopie was attacked in the early hours of the morning. Two Albanian soldiers were killed and three were wounded by gunmen who were reportedly dressed in Greek military uniforms. An irredentist organization in Greece called the Northern Epirus Liberation Front claimed responsibility for the attack. Relations between Greece and Albania took an immediate plunge, as each country expelled diplomats of the other and closed their respective border crossings.

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Omonia's claims of discrimination in the civil service, it is clear that, for those who are victims, there is no mechanism to seek redress.

During the April 18 action, about thirty people were detained for up to three days in offices of the police and SHIK, most of them leading figures in the organization Omonia, the main cultural and political organization of ethnic Greeks in Albania, or the related political party, Union for Human Rights. Police forcibly entered the offices of the two organizations, and confiscated random documents. Of those ethnic Greeks detained by the police, five were subsequently arrested and charged with two counts of treason and one count of conspiracy. Three of the five were also accused of possessing weapons without a license.<sup>185</sup> The accused were<sup>186</sup>:

Theodhori Bezhani [in Greek: Theodore Bezanis], president of the Omonia branch in Gjirokastër.

Kosta Qirjako [in Greek: Costas Kyriakou], member of the county council of Sofratika, Gjirokastër and local secretary of the Association of Former Political Prisoners.

Irakli Sirmo [in Greek: Herakles Syrmos], vice-president of the Omonia branch in Gjirokastër and local president of the Association of Former Political Prisoners.<sup>187</sup>

Vangjel Papakristo [in Greek: Vangelis Papachristos], president of the Omonia branch in Saranda.

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<sup>185</sup>One count of treason, which carried a maximum sentence of life imprisonment, was dropped on the first day of the trial.

<sup>186</sup>A sixth ethnic Greek, Kosta Cavo, was tried separately and convicted on September 17 of illegal possession of weapons. He was later freed as part of a general amnesty.

<sup>187</sup>Both Qirjako and Sirmo spent long periods in prison during the communist regime for political reasons.

Panajot Marto [in Greek: Pangiotis Martos], president of the Omonia branch in Delvina.

The police carried out another action from May 26 to 28, during which approximately sixty individuals, mostly from the Greek minority, were taken to Gjirokastër for questioning. All of them were later released.

Some of those detained during the police actions, as well as various witnesses, reported that excessive force was used by policemen, who broke into homes in the middle of the night without warrants, often terrorizing the residents. Such police searches did not fall under any legal exceptions to the prohibition against warrantless searches and were therefore illegal under Albanian law.<sup>188</sup> All documents found in Greek, including family albums and bank books, were confiscated without any written record of what was taken. The wife of Irakli Sirmo, one of the arrested Omonia leaders, told Human Rights Watch/Helsinki:

They [the police] came to our house at 10 p.m. on May 18. My husband was at a cafe. They opened the door and entered and one of them said, "Check the house!" There were ten policemen with automatic rifles and batons. I screamed for my sister-in-law and they held me and covered my mouth. The police held me until my husband returned, which he did because he knew he was innocent. They took all the Greek books, including the children's books and our bank book, which has still not been returned. They also took a hunting rifle, for which we have a license. They

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<sup>188</sup>According to Albanian Law No. 7692, Article 16, entry into a house without permission of the inhabitant is possible only by a court decision or "where this is necessary to avoid any imminent danger to the life or health of dwellers, to protect property, or when a crime is being, or has just been, committed."

took no inventory of what they confiscated, and damaged the house. Then they took my husband and left.<sup>189</sup>

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<sup>189</sup> Human Rights Watch/Helsinki interview with Mrs. Sirmo, Dervişan, July 3, 1994.



Family members of four of the six Omonia activists reported similar stories. The families were denied contact with their arrested relatives, and learned of the charges leveled against them on May 20 through Albanian television reports. Visiting rights were not granted until the end of July, two weeks before the trial.<sup>190</sup>

The trial began on August 15 in Tirana with international observers present from the United States, Denmark, Poland, the Netherlands, Greece and Cyprus, as well as numerous journalists. At times there were problems with access to the courtroom, although this was partly due to poor organization and limited space. Aside from portions of the first day, only Albanian television was allowed to film in the courtroom.

Both before and during the trial, numerous violations of both Albanian and international law severely impeded the defendants' right to a fair trial. With the exception of Theodhori Bezhani, who holds an American passport, none of the defendants were allowed to meet with the lawyers of their choice. Three of the defendants were allowed to meet their personal lawyers in the final days before the trial. The prosecution presented documents signed by the accused waiving their right to be represented by the counsel of their choice, but was not able to prove that they had signed these documents of their own accord without coercion.

While admitting numerous witnesses for the prosecution, the court rejected all witnesses for the defense without explanation. The defendants also complained of physical and psychological mistreatment during detention.

A delegation observing the trial for the Minnesota Advocates for Human Rights concluded that:

The defendants were not fully afforded certain fundamental protections under international law, including the rights to examine witnesses against them and present witnesses on their behalf, to obtain legal representation with sufficient time to

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<sup>190</sup>Vice-Prosecutor Fatos Dervishi said in an interview that regulations allow prisoners to receive visitors two times per month, and that the Omonia defendants had been granted this right. Interview with Fatos Dervishi, Tirana, July 13, 1994.

prepare a defense, and to be presumed innocent. The Minnesota Advocates' delegation expressed further concern over whether the evidence presented at trial was sufficient to meet the prosecutor's burden of proof on the espionage charge, especially given questions regarding the admissibility of evidence.<sup>191</sup>

On September 7, all five defendants received prison sentences of between six and eight years for one count of treason and one count of conspiracy. Three of the defendants were also convicted of illegal weapons possession.

Outside of the courtroom, there were cases of police harassment and violence during the trial. On the first day of the trial, the Albanian police detained twenty-three spectators and journalists outside the courthouse, including ethnic Greeks from Albania and Greek nationals. Mary Tzora, a journalist with Greek citizenship from Mega Channel television, told Human Rights Watch/Helsinki:

On the first day of the trial, at 9:00 a.m., all the journalists and cameramen were outside the court. Many had permission to enter. Then the police came with many cars. They said, "Just go away, go away!" We went 200 meters. They came back very angry and said, "Go 400 meters!" We went.

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<sup>191</sup>Minnesota Advocates for Human Rights, Press Release, (Minneapolis, Minnesota), September 7, 1994.

One hour later, two Greek lawyers who were inside came out of the courthouse to explain what had happened. During our interview, people from the Greek minority came over. The brother of Qirjako and the wife of Sirmo also were giving interviews. Immediately, 200 policemen came with three big trucks. They took [detained] me and a cameraman and others. They took away the cameras. It was terrible. Very violent. They took seven cameramen, eight journalists, two Greek deputies, two lawyers and the vice-mayor of Thesonoliki, whom they hit.<sup>192</sup>

Other witnesses reported similar violence by the Albanian police, who beat and dispersed a crowd of people, some of whom were chanting and holding protest signs in front of the courthouse. Albanian and Greek journalists reported random detentions, searches and harassment throughout the trial by people identifying themselves as "criminal police."<sup>193</sup>

After the verdict, relations between Greece and Albania worsened dramatically. The Greek ambassador to Albania was recalled for a period of time and Greece closed its border to Albanian traffic. Albania initiated a visa requirement for Greeks to enter the country. From mid-August through the week after the trial, Greece expelled about 70,000 Albanian immigrant workers. Greek

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<sup>192</sup>Interview with Mary Tzora, Corfu, Greece, September 30, 1994. The Greek official she refers to in her report is Theodoros Aspasides, vice-president of the Thesonoliki City Council.

<sup>193</sup>For a detailed report on the trial, see "Trial Observation Report: The Albanian Trial of Five Ethnic Greeks for Espionage," Minnesota Advocates for Human Rights, (Minneapolis, Minnesota), September 1994. Also see protests issued by the International Helsinki Federation, September 2, 1994, and Amnesty International, August 18, 1994.

police and border guards indiscriminately beat many Albanians, destroyed their travel papers and stole their personal items.

The volatile situation caught the attention of the international community, which feared a spread of the Balkan conflict. Protests regarding the trial were issued by the European Union and Council of Europe, while behind the scenes there were diplomatic efforts to broker a settlement.

Under pressure from the international community to alleviate the crisis, a Tirana appeals court on October 6, 1994, reduced the sentences of Bezhani, Papakristo, Marto and Qirjako by one year. Sirmo's sentence was reduced by two years, from eight to six. Then, on November 26, all of the defendants had their sentences cut further by one-third as part of a general amnesty granted to over 500 prisoners. Kosta Cavo was released.

One month later, on December 24, Irakli Sirmo was released from prison, along with fourteen other prisoners, pursuant to a presidential pardon. Fifty-two other prisoners had their sentences reduced, including Qirjako (two years), Bezhani (one year), Papakristo (one year) and Marto (one year).

On February 8, 1995, the Albanian Court of Cassation reviewed the case. Chairman of the Court, Zef Brozi, argued for a finding of innocence based on the legal violations in the proceedings of the previous courts. The other two judges confirmed the guilty verdict, but decided the defendants should be released on probation.

Zef Brozi claimed that the court's decision to release the defendants infuriated the president, general prosecutor and head of SHIK. He told Human Rights Watch/Helsinki that the head of SHIK, Bashkim Gazidede, called his office directly after the court's decision and called him "un-Albanian" and "a traitor." He allegedly told Brozi, "we will get rid of you."<sup>194</sup>

The assistant general prosecutor immediately ordered a suspension of the Court of Cassation's decision, which prevented the defendants from being released. Faced with pressure from foreign embassies and journalists covering the trial, the defendants were released from prison around midnight.

Greece responded positively to the release, and diplomatic relations returned to normal. In April and May 1995, police in Greece announced that they

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<sup>194</sup>Human Rights Watch/Helsinki interview with former Chief Justice Zef Brozi, New York, December 1, 1995.

had arrested five activists from the Northern Epirus Liberation Front in connection with last year's attack on the Peshkopie camp.

*Minority Language Education*

Tension between the Albanian government and the ethnic Greek minority is especially evident in the area of education in the Greek language. The following section documents the various aspects of this dispute. International human rights standards prohibit governments from denying minorities the right to enjoy their culture, including their language.<sup>195</sup> In this regard, the way in which the Albanian government addresses the particular concerns of the Greek minority can do much to reduce tension and foster an atmosphere of tolerance and good faith.

In 1991, the transitional government in Albania extended lessons in the Greek language, available in the first through fourth grades, to include grades five through eight for schools within the "minority zone," the area in southern Albania where the Greek minority is concentrated. Classes in Greek were also begun in seven towns and villages outside of the zone, notably in Saranda, Delvina and, in 1992, Gjirokastër.<sup>196</sup> Minority education was then enshrined in the Law on Fundamental Freedoms and Human Rights, approved by the Albanian parliament in April 1993. Article 26, on the rights of minorities, states that all individuals belonging to any minority may "teach and be taught in their mother tongue."

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<sup>195</sup>Article 27 of the International Covenant on Civil and Political Rights, for example, states that "...minorities shall not be denied the right, in community with other members of the group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

<sup>196</sup>Classes were also opened in the villages of Meteç, Kumil, Blestrica and SMT.

Shortly before the 1993 school year began, however, the Albanian government passed a new regulation that kept Greek-language classes in the minority zone, but required grades five through eight to combine both Greek and Albanian.<sup>197</sup> The Greek-language classes that had been started in the seven towns and villages outside of the zone continued, but new first-grade classes were not opened.<sup>198</sup>

Most pupils and teachers were not informed ahead of time about the changes. Some teachers refused to stop teaching in Greek and the police were ordered to enforce the revised curriculum. Some incidents of excessive force by the Albanian police were reported. For example, Kristaq Toli, head of the Union for Human Rights in Gjirokastër, told Human Rights Watch/Helsinki:

In 1993, two days before the school began, Government Decision No. 19 was issued by the Ministry of Education to close the

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<sup>197</sup>According to Albert Beja, advisor to the prime minister on ethnic relations, the new regulation was intended to create a more natural balance between Greek and Albanian language instruction for the Greek minority. While some Greeks would like to see more classes taught in Greek, he said, many recognize the value of having their children taught in the language of the country in which they are citizens. Human Rights Watch/Helsinki interview with Albert Beja, Tirana, July 13, 1994.

<sup>198</sup>According to the new regulation (Governmental Decision No. 19), new classes in minority languages could be opened only with the approval of the Ministry of Education, based on the proposal of the local district council. In 1993, no new classes were approved.

seven classes and make changes in grades five through eight giving priority to Albanian. To enforce this, they used the police. Not only to block the activity, but they also used force against the pupils, parents and teachers.<sup>199</sup>

According to the Albanian Ministry of Education, Greek pupils in Gjirokastër<sup>200</sup> were then offered free transportation to the village of Deriçan, seven kilometers away, where there was a Greek school, but most refused.

Omonia then tried to open a Greek-language school of its own in Gjirokastër, which was deemed illegal by the Albanian government and closed. The Albanian Ministry of Education claimed that most parents voluntarily withdrew their children when they learned that their degrees would not be recognized. However, this is disputed by representatives of the Greek minority.

According to current regulations, a Greek-language class can be opened outside of the minority zone if there are at least thirty-two minority students plus a minority population that comprises at least 30 percent of the local population. Since Gjirokastër and Delvina fall below this minimum, their Greek-language classes have remained closed. The town of Saranda has an ethnic Greek population large enough to warrant a school, but one still does not exist.

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<sup>199</sup>Interview with Kristaq Toli, Gjirokastër, July 5, 1994.

<sup>200</sup>About 4,000 Greeks live in Gjirokastër, out of a population of 30,000.

On August 22, 1994, another governmental regulation was passed that did not reestablish the arrangements of 1991, but did make an effort to address the concerns of the Greek minority. The new regulation offered two options to pupils from minority populations living outside of the minority zone. First, when there are enough students for one class (approximately twenty-five), they can be transported by bus, free of charge, to a minority-language school in a neighboring village; or, they can have two to three hours of instruction per week in their mother language in one of the larger regional towns. The new regulation also established a clear procedure for applying to open such schools outside of the minority zone.<sup>201</sup> As of July 1995, Human Rights Watch/Helsinki was not aware of any applications that had been submitted.<sup>202</sup>

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<sup>201</sup>To apply for a minority language school outside of the minority zone, local citizens must submit a formal request to the mayor at least six months before the beginning of the next school year. After confirmation of the student list, the mayor must decide no later than one month before school begins if the minority language is to be offered. The final decision, however, rests with the Minister of Education. In special cases, when the number of minority students is below the requirement, the minister of education may decide unilaterally to begin minority-language classes.

<sup>202</sup>Complicating the matter is the educational assistance coming from Greece. Yzeir Poshi, Gjirokastër representative for the Albanian Ministry of Education, complained that Greek teachers are receiving training abroad, and textbooks are being sent from Greece without any consultation with the Albanian Ministry of Education. Numerous sources also confirmed reports that some Greek teachers were getting paid extra from Greece to continue teaching in Greek, in violation of Albania regulations.



One on-going complaint of the Greek minority has been the absence of legislation allowing the founding of private schools.<sup>203</sup> After three years of debate, parliament finally approved a Law on Private Education on June 21, 1995, that allows for private foreign-language or religious high schools. In both cases, partial instruction in the Albanian language is still mandatory; text books may come from private sources but must be approved by the Ministry of Education. One year advance notice is required to open such a school.<sup>204</sup>

There is some concern about the fate of children of mixed marriages. Those who are officially registered as ethnic Albanians do not count as members of a minority population and, therefore, are not eligible for schooling in a minority language, even if their parents desire this.

According to the Albanian Ministry of Education, there are currently eighty school directors in the Gjirokaštër district, thirty of whom are from the Greek minority. In 1993, the University in Gjirokaštër opened a new department of Greek language which has twenty students, some of them ethnic Albanians. Gjirokaštër also has a school to train teachers for Greek language schools. In 1995 there were four classes with 132 pupils.<sup>205</sup>

As discussed above, international law does not stipulate specific requirements to provide public education in a minority language. However, Albanian and international law does guarantee the right of a minority group to enjoy its culture, including its language. The Albanian government should, therefore, be especially sensitive to the Greek minority's language and education concerns, both to reduce tensions in the region and to allow the minority to enjoy its culture. Furthermore, the Albanian government should resolve these disputes through proper consultation with representatives of the Greek minority.

#### *Restrictions on Religious Freedom*

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<sup>203</sup>Human Rights Watch/Helsinki objects to prohibitions on private education, especially for minorities, as an infringement on free speech, on free association and on the right to enjoy one's culture. At the same time, any private school must meet the minimum educational standards established by the government.

<sup>204</sup>A private Islamic school had been in operation for three years in Tirana despite the absence of a law allowing private education. There is a Turkish flag outside of the school, but Turkish authorities claim that it is not a Turkish school.

<sup>205</sup>Human Rights Watch/Helsinki interview with Yzeir Poshi, Gjirokaštër district representative for the Albanian Ministry of Education, Gjirokaštër, July 5, 1994.

After almost five decades of state atheism, considerable progress has been made to ensure religious freedom in Albania. The transitional constitutional laws guarantee freedom of religion, and many foreign religious organizations, including Christian and Islamic fundamentalist groups, are active in the country. Religious schools have been established, mostly for Muslims, but also including a Catholic seminary and a seminary for the Autocephalous Albanian Orthodox Church.

All of the major religions, Muslim, Orthodox and Catholic, are struggling to reestablish themselves after the total destruction of religious life in communist Albania.<sup>206</sup> However, the Albanian Orthodox Church, which consists of ethnic Greeks and Albanians, has experienced certain difficulties that church officials consider a direct attack on their religious freedom. Controversy began in June 1992, when the ecumenical patriarch in Istanbul appointed a Greek citizen, Anastasios Yannoulatos, as archbishop of the Autocephalous Albanian Orthodox Church. The Orthodox Church has strict regulations for the appointment of bishops, and maintained that the destruction of the Albanian church had left the country without anyone qualified to assume the position.<sup>207</sup> The Albanian Orthodox Church is independent, however, and Anastasios's appointment prompted fears among some Albanians that the church would become "hellenized." Nevertheless, the Albanian government agreed that Archbishop Anastasios could head the church until an Albanian was properly trained. Three other bishops, all of them Greek citizens, however, were not accepted.

On June 25, 1993, the Albanian authorities expelled Archimandrite Chrysostomos Maidonis, a priest whom Archbishop Anastasios had invited to preach in Gjirokastër.<sup>208</sup> The Albanian government claimed that Maidonis had abused his position in the church to promote separatism among the Greek minority, and that he did not possess the proper residency permit.<sup>209</sup>

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<sup>206</sup>An estimated 1,608 places of worship, including churches and mosques, were destroyed by the communist regime. Many religious leaders were imprisoned or killed.

<sup>207</sup>According to Archbishop Anastasios, there were between 350 and 400 Orthodox priests in Albania before World War II. Today, eleven are left, all of them over the age of seventy. Interview with Archbishop Anastasios, Tirana, January 2, 1995.

<sup>208</sup>Greece responded by expelling up to 30,000 Albanians working in Greece. See above.

<sup>209</sup>Archbishop Anastasios told Human Rights Watch/Helsinki that Maidonis had received the proper papers one week before his expulsion. He also claimed that the evidence of separatist propaganda presented by the Albanian authorities had never been linked directly to

On the morning of June 25, the police went to Maidonis's Gjirokaštër home, took him into custody and expelled him from the country. According to numerous accounts, the police used excessive force when demonstrators gathered in front of his door to protest his detention.

Four days later, the Albanian police in Gjirokaštër denied an Albanian Orthodox Church request to authorize a demonstration protesting the expulsion. A group gathered nevertheless and clashed with police outside of Gjirokaštër.

In early 1993, the Albanian parliament considered a draft law that guaranteed freedom of religion, but also stipulated that religious leaders be of Albanian nationality and receive the approval of the president. The Albanian Orthodox leadership claimed this requirement was a direct attempt to remove Archbishop Anastasios. The draft law was scrapped after domestic and international protests, but it raised concerns about governmental intervention in religious activity.

The issue of Albanian citizenship for religious leaders arose again in a proposed constitution that was considered in a national referendum on November 6, 1994. Article 7, paragraph 4, of the proposal stipulated that the leaders of all major religious communities be Albanian citizens who have lived in the country for at least twenty years. Again, the Orthodox Church complained of state interference in religious affairs and called the proposal "an attempt to oust the archbishop."<sup>210</sup> The proposed constitution was rejected by 54 percent of the electorate. There were strong attacks against the archbishop in the pro-government press before the referendum; rarely was he granted the right to reply.

Orthodox church leaders also complained about a series of governmental restrictions on church activities.<sup>211</sup> In early April 1994 the local authorities denied permission to inaugurate a new church in the city of Korçë. Similarly, on October 19, 1994, the inauguration of St. Demeter Church in the city of Berat was prohibited. Tirana police also denied permission for an open-air procession to celebrate Good Friday on April 29, 1994. The Easter procession following it, however, proceeded without interference.

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<sup>210</sup>Interview with Albanian Orthodox Church spokesman, Thoma Dhima, Tirana, October 20, 1994.

<sup>211</sup>Interviews with Thoma Dhima, Tirana, October 20, 1994, and Archbishop Anastasios, Tirana, January 2, 1995.

A further point of contention between the Albanian Orthodox Church and the Albanian government is the return of church property appropriated by the Hoxha government. Some land and churches held by the state have still not been returned, despite repeated requests by the Orthodox Church.<sup>212</sup> Although restitution would, in some cases, result in the displacement of families, there are properties that could be returned without such detrimental consequences. In addition, many holy icons and vessels of the Orthodox Church are being held in national museums, allegedly because the Albanian government is concerned with protecting these valuable artifacts. According to church leaders, eight Orthodox monasteries have not been fully returned by the state. The most prominent of these is the Ardenica monastery in central Albania, which is being used as a state-run hotel and tavern.<sup>213</sup>

Concerning the return of church property, Archbishop Anastasios said:

The return of property is not for the church to get rich. It is a necessity for the church to exist. Not returning the property is an attempt to hinder the growth of the church.<sup>214</sup>

Church leaders also complain that the Albanian secret police harass Orthodox priests. In addition, visas were not granted to some foreigners who wanted to come to Albania to teach at the seminary or to provide assistance with 1994 Christmas services.

Still, Archbishop Anastasios believed that many of the problems experienced by the Orthodox Church are a result of poor state relations between Albania and Greece. He told Human Rights Watch/Helsinki:

The two people [Greeks and Albanians] are very near to each other, but the states are sometimes having difficulties. The

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<sup>212</sup>Muslim and Catholic communities also complain about the slow pace of restitution.

<sup>213</sup>The other monasteries are St. Nicholas, Prophet Elias, Holy Trinity, St. Athanasios, St. George, St. Tessarakonta Martiron and Monastery of the Assumption. Churches and other church property that have allegedly not been fully returned by the state include: the Cathedral of the Assumption in Permet, Church of St. Nicholas in Kiparou, Church of St. Demetrios in Seranda, Church of the Assumption in Libohovo, headquarters of the Diocese of Gjirokastër and other properties in the city.

<sup>214</sup>Human Rights Watch/Helsinki interview with Archbishop Anastasios, Tirana, January 2, 1995.

church must be a factor of unity and not division. It must work to help overcome the differences.<sup>215</sup>

*Restrictions on Freedom of Assembly*

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<sup>215</sup> Human Rights Watch/Helsinki interview with Archbishop Anastasios, Tirana, January 2, 1995.

According to Albanian law, in order for a public gathering to take place, the organizers must obtain permission from the local authorities. Organizers must submit the exact time and place, as well as the purpose of the meeting and the slogans to be used.<sup>216</sup>

Most gatherings are generally permitted, although sometimes with a change of date or venue. However, in addition to the church inaugurations that were not allowed, several events involving the Greek minority have been prohibited by the Ministry of the Interior. As mentioned previously, on June 30, 1993, Gjirokastër police prohibited a demonstration to protest the expulsion of the Archimandrite Maidonis. Protesters gathered anyway and some were beaten by police. Similarly, on March 25, 1994, the Association of Greek-Albanian Friendship wanted to organize a concert in Gjirokastër in honor of a Greek national holiday, but the police turned down their request.

*Restrictions on Minority Access to the Media*

As with the rest of the political opposition, Omonia and the Union for Human Rights are denied equal access to the electronic media. News reporting is often biased, presenting only the perspective of the Albanian government. Political opponents are often attacked or slandered on television without a proper right to reply. Kristaq Toli, head of the Union for Human Rights in Gjirokastër, commented on the period before the trial of the five Omonia activists:

On television came the news that the police had searched for illegal arms and drugs. But the paradox is that they only searched the ethnic Greeks. Our members of parliament issued a protest, but television reflects only the interests of the [ruling] Democratic Party.<sup>217</sup>

Greek newspapers printed in Greece are available in the south, and two local Greek papers, *Lajkovima* and *Voice of Omonia*, are published in Gjirokastër. Ten hours per week of programming on Radio Gjirokastër are in the Greek language. Greek television and radio are also available in areas close to the Greek border.<sup>218</sup>

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<sup>216</sup>See the section on freedom of assembly.

<sup>217</sup>Interview with Kristaq Toli, Gjirokastër, July 5, 1994.

<sup>218</sup>A church-funded radio station, "The Voice of Orthodox Greeks," is broadcast from the village of Konitsa in Greece into Albania. Run until December 1994 by an

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Orthodox Bishop, Sevastianos Economidis, the station runs programs on Greek history and culture aimed at the ethnic Greek community in Albania. Albanian authorities have labeled the program "dangerous propaganda," and criticized Bishop Sevastianos for supporting the annexation of what Greek nationalists call northern Epirus.



A number of journalists from Greece have complained of harassment by the Albanian authorities. On April 12, 1994, a Greek journalist, Mary Tzora, and her cameraman, Spiros Skordilis, were detained in Gjirokastër while on assignment for the Greek television station Mega Channel. Skordilis's video camera was confiscated and held for a few months before being returned. Tzora was also detained for eight hours in Saranda on September 21, 1993. A large number of Greek journalists covering the trial against the Omonia activists were detained, and some of them expelled from the country.<sup>219</sup>

#### OTHER ETHNIC MINORITIES

In addition to the Greeks, other minorities in Albania include Vlachs, Roma, Macedonians, Serbs and Montenegrins, all of whom maintain their own political and cultural organizations.

Government figures put the size of the Macedonian minority at around 5,000, most of whom are located in eight villages along the border with Macedonia. Education in the lower grades is available in the Macedonian language. Ethnic Macedonians who spoke with Human Rights Watch/Helsinki did not complain of state discrimination. Their main concern was adequate access to education in the Macedonian language.

Some Vlachs contend that their numbers are as high as 300,000, although the last Albanian census in 1989 puts the number at 1,300. In general, the Vlach community is assimilated into Albanian society and does not complain of official discrimination. In recent years there have been some calls for the right to education in their language, but Vlach-language classes still do not exist.

Census figures from 1989 indicate that approximately 1,300 Roma live in Albania, although most people in Albania consider this a gross underestimation. According to Gurali Mejdani, president of the Democratic Union of Roma of Albania, there are approximately 100,000 Roma in Albania in four distinct groups, each with a different dialect. According to Mejdani, economic conditions are the biggest problem for Albania's Roma. He noted difficulties with housing, health care and employment. In general, however, Mejdani said there was no state discrimination. He told Human Rights Watch/Helsinki:

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<sup>219</sup>See section on the Omonia trial and on freedom of the press.

We have good relations with Albanians so we can work and eat together. We have been together in difficulties and in happiness.<sup>220</sup>

Mejdani noted the murder of a Roma in Gjirokaštër, but when his organization went to Gjirokaštër to protest, the murderer was arrested and convicted. Human Rights Watch/Helsinki was not informed of any cases of police complicity or involvement in violence directed against Roma.

A very small number of Serbs and Montenegrins live in northern Albania in or around the city of Shkoder. Some of them left Albania for Yugoslavia in 1991 and 1992 where they were resettled by the government in the province of Kosovo. After a brief period of time, most decided to return to Albania. In the last year, they have complained of discrimination but Human Rights Watch/Helsinki has not been able to confirm this.

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<sup>220</sup>Human Rights Watch/Helsinki interview with Gurali Mejdani, January 3, 1995.

## **X. THE RIGHTS OF WOMEN**

As with all citizens, Albanian women suffer from government restrictions on many civil and political rights, such as freedom of association, assembly and expression. In addition, however, they are also the victims of some abuses simply on the basis of gender. In particular, domestic violence against women continues to be a serious problem. The government keeps no records on domestic abuse, provides no shelters and has not equally applied the law against men who abuse their wives.

### **LEGAL PROTECTIONS**

Albanian law stipulates that women are granted full equality with men. Article 24 of the Law on Fundamental Freedoms and Human Rights forbids discrimination on the basis of race, ethnicity, religion or sex.

Albania has also ratified international instruments that guarantee equality for all citizens before the law, without regard to their sex, such as the International Covenant on Civil and Political Rights (ICCPR). Albania is also a signatory of the Convention to Eliminate Discrimination Against Women (CEDAW), which prohibits sex discrimination by requiring state parties “to pursue a policy of eliminating discrimination ... [and] to ensure that public authorities and institutions shall act in conformity with this obligation.”<sup>221</sup>

Although domestic violence by definition is committed by private individuals, states nonetheless are bound by numerous international laws and norms that oblige them to protect women’s lives and physical security. Where states routinely fail to prosecute domestic violence against women because of the sex and status of the victim, in contrast to their efforts to prosecute other criminal violence, they deny women equal protection of the law.<sup>222</sup>

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<sup>221</sup>CEDAW, article 2.

<sup>222</sup>See “The Human Rights Watch Global Report on Women’s Human Rights,” August

## **WOMEN'S RIGHTS UNDER COMMUNISM**

With regard to political repression, women suffered equally with men during the communist regime. All people were under the watchful eye of the omnipresent secret police (Sigurimi), and suffered brutal punishments for challenging the Party of Labor's monopoly on thought and power in any way.

Although accurate statistics are difficult to obtain, most people agree that there were fewer female political prisoners than male. Mostly, this is due to Albania's traditional society, which ties women more closely to the household. However, whole families were sometimes sent into internal exile for the crimes of one family member.

In theory, women were granted absolute equality with men. Socialist theory preached of the emancipation of the Albanian woman in the creation of the new society. This was clearly reflected in article 41 of the constitution which stated:

The woman, liberated from political oppression and economic exploitation, as a great force of the revolution, takes an active part in the socialist construction of the country and the defense of the Homeland. The woman enjoys equal rights with man in work, pay, holidays, social security, education, in all social-political activity, as well as in the family.

In fact, the communist government did achieve some progress for women, especially when compared to their position in society before World War Two. Women were very present in the work force, earned equal wages, made up one half of the students at universities and participated in official political life to a degree unheard of before the war.

In 1989, one third of the deputies in parliament were women. According to a 1988 report from the Union of Women, women made up 33 percent of the Party

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1995, Chapter 6.

of Labor's membership. Women were also active as professors and other professionals.

Another success of communist-era policy was the literacy campaign that reached into the most remote villages. Although no accurate figures are available, illiteracy was common among Albania's mostly rural pre-war population. By the late 1980s, literacy was up to more than 90 percent. Women benefitted greatly from this, since they gained better access to educational opportunities.

For the vast majority of women, however, equal rights during the Hoxha regime was just another ploy of communist propaganda. Mobilized to support the "socialist revolution," women were forced to join women's organizations and be faithful to the party, all while keeping their place in the household.

Women were also victims of the country's population policy. In an attempt to achieve a population of four million by the year 2000 (the 1989 population was 3.2 million), abortion was made illegal and women were encouraged to have children.

Contraception could be purchased at drugstores, but only with a doctor's prescription. As a result, population growth in Albania during the late 1980s was the highest in Europe, around 2.3 percent. To support the high population growth, the government instituted an extensive work-leave and day-care system. The Albanian constitution guaranteed maternity leave and access to day-care facilities.

Evidence suggests, however, that women were adversely affected by these policies. Although women had equal access to work opportunities, the emphasis on producing babies forced many women to hold two jobs: one at the workplace and one in the home. Even today, men rarely assume an equal share of the housework, leaving women to manage the tasks of work, home and child-rearing.

### **WOMEN'S RIGHTS TODAY**

Without question, women have experienced great change in the last four years. Like men, women are now more free to participate in political, social and cultural organizations. They may travel, practice their religion and express themselves more openly.

Still, for a large percentage of Albania's women, the recent changes have not had as dramatic an affect as they have had for men. Because women's lives are predominantly in the home, the arrival of much-heralded civil and political rights, such as freedom of speech, assembly and association, do not have as much impact.

Instead, many women are left to confront the economic hardships brought by the transition from command economy to capitalism. According to the United

States Bureau of the Census, unemployment rates for women in 1993 were 38 percent, compared to 28 percent for men.<sup>223</sup>

At the same time, women are still susceptible to many of the abuses they suffered before. Of particular concern is the government's lack of action against what appears to be a high rate of domestic violence against women.

The government does not keep statistics on domestic abuse, but women's rights activists told Human Rights Watch/Helsinki that spousal abuse occurs in many Albanian homes, especially in the countryside. Valentina Zaçe, former dean of the Law Faculty at the University of Tirana, told Human Rights Watch/Helsinki:

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<sup>223</sup>In comparison, the unemployment rate for women in 1989 was 9 percent, compared to 7 percent for men. U.S. Bureau of the Census, International Programs Center.

It is a big problem, but the Albanian mentality is not to talk about it. Now with high unemployment, women are forced to stay home and endure the behavior of men. If the woman has no money, where can she go if she is beaten? She is obliged to stay at home.<sup>224</sup>

According to women's rights activists, societal pressure keeps many women from making formal complaints. Those that do register their grievances in court face great resistance from the legal system. In many cases the prosecutor simply fails to prosecute a man for abusing his wife. If a trial does occur, men are often acquitted or punished to the lightest extent of the law.

Delina Fico from the women's group Klub Reflexione, told Human Rights Watch/Helsinki that women face great social and legal barriers when reporting domestic abuse to the courts. She said:

Many women fear complaining or going to the court. When they do go, they get a very negative response.<sup>225</sup>

The reportedly routine nonprosecution of domestic assault is a violation of Albania's commitments under the ICCPR, which guarantee all citizens equal treatment before the law, regardless of gender. In addition, the government's unwillingness to keep statistics on domestic abuse or to undertake a public campaign to raise awareness about the problem are violations of CEDAW, which requires states "to pursue a policy of eliminating discrimination." There are also not any public services for women to receive counseling. Shelters for battered women do not exist.

Abortion became legal in 1990 and is easily available. However, women's rights activists and female doctors told Human Rights Watch/Helsinki that there is a

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<sup>224</sup>Human Rights Watch/Helsinki interview with Valentina Zaçe, Tirana, February 7, 1995.

<sup>225</sup>Human Rights Watch/Helsinki interview with Delina Fico, Tirana, January 6, 1995.

need to improve women's access to health care facilities, including counseling and services in family planning, especially in the rural areas.

Women also play a limited role in the public life of the country. Very few women hold top positions in state companies, institutes or government. There are currently eight female members of parliament. Valentina Zaçe told Human Rights Watch/Helsinki:

In the law, there is no prohibition for women to work in high positions like professors, doctors or deputies. But in reality it is difficult for women to have a position in a higher sector of life.<sup>226</sup>

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<sup>226</sup>Human Rights Watch/Helsinki interview with Valentina Zaçe, Tirana, February 7, 1995.



## XI. THE RIGHTS OF HOMOSEXUALS

During the communist era, homosexual acts were punishable by up to ten years in prison. Over the years, dozens of people were convicted on these charges, although rarely had those prosecuted been caught committing a sexual act. In March 1994, while the communist law on homosexuality was still in force, a group called the Gay Club Albania officially declared its existence. Frightened by possible legal action by the state, the leader of the group simply announced a post office box number in an interview with a Tirana newspaper. In the interview, he said the organization was formed to spread positive and objective information about the homosexual community and fight against prejudice, fanaticism, hatred and AIDS.

On October 14, 1994, three members of the group were in a park in the center of Tirana. According to the leader of the club, at approximately 6:00 p.m. three plainclothed policemen arrested the three and took them to police station number one, where they were severely beaten. At the station, the police demanded to know the identity of other members of the group. Under physical threat one of the club members named names, and the police soon picked up other men at their homes. All those arrested or detained were subsequently released. One of the three people arrested on October 14 had his leg broken as a result of the beatings and spent one week in the hospital.<sup>227</sup> The responsible police officers have not been punished.

Under a draft penal code presented to parliament in the winter of 1995, homosexual acts were still a punishable crime, although the punishable sentence was lowered to either a fine or a maximum of three years in prison. After substantial protest from human rights groups in Albania and abroad, the article was dropped. The new penal code that came into force on June 1, 1995, does not contain an article criminalizing homosexuality.

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<sup>227</sup>Human Rights Watch/Helsinki interview with members of the Gay Club Albania, Tirana, January 7, 1995.



## XII. UNITED STATES GOVERNMENT POLICY

The U.S. government has played a very active role in Albania during the past five years. Diplomatic relations were reestablished in 1991, and U.S. support for the Democratic Party was critical in its victory in the 1992 elections. William Ryerson, the first U.S. ambassador, was on the podium next to Sali Berisha at election rallies across the country. Support from U.S. organizations like the National Democratic Institute and the International Republican Institute helped supply computers, cars and election materials to the Democratic Party at that time.

Since President Berisha's election, the U.S. government has been a major supplier of foreign aid. According to the U.S. embassy in Tirana, the U.S. has provided approximately U.S. \$113 million of aid annually under the Central European Economic Development program (CEED). The USAID budget for fiscal year 1996 allocates \$31 million for Albania, primarily for economic restructuring. Most favored nation status was granted to Albania in August 1992, although trade between the two countries remains low.

The U.S. has also taken careful steps to cooperate closely with the Albanian military. In February 1994, Albania became a member of the Partnership for Peace and, since then, it has engaged in numerous military training operations with the U.S. and other NATO troops, including nine in 1995 alone. In the winter of 1994, and again in the summer of 1995, the U.S. government announced that a CIA reconnaissance plane had been deployed in Albania to monitor military activities in the former Yugoslavia. U.S. military experts are permanently stationed in Albania and work closely with officials at the Albanian Ministry of Defense and officers of the military. In the summer of 1995, about one hundred American soldiers were in Tirana to help rebuild a military hospital. On January 9, 1995, the U.S. Army finished building a radar station in northern Albania that will be handed over to the Albanian military.

According to the U.S. embassy, approximately U.S. \$175,000 was granted under the International Military Education Training (IMET) program in 1994, in the form of non-lethal military assistance.<sup>228</sup> According to *The Washington Post*, the

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<sup>228</sup>Human Rights Watch/Helsinki interview with U.S. Ambassador Joseph Lake and Deputy Chief of Mission, Douglas Smith, Tirana, January 14, 1995.

Pentagon has earmarked \$2 million in its 1996 budget to help Albania purchase two TOW anti-tank systems and five Vulcan anti-aircraft weapons.<sup>229</sup>

On October 16, 1995, Albanian Defense Minister Safet Zhulali and Secretary of Defense William Perry signed an agreement for closer military cooperation. Albanian soldiers have been trained in the United States to participate in peacekeeping operations, and more joint military exercises are planned for the coming year. American soldiers have also trained in Albania, allegedly for NATO operations in Bosnia. During a visit to the United States in September 1995, President Berisha announced that all Albanian ports and airfields would be available for NATO use.

In general, the United States continues to wield considerable political leverage with the Albanian government, especially in the realm of foreign policy. Fearing a southward spread of the conflict in the former Yugoslavia, the U.S. has encouraged Albania to adopt a moderate policy toward Yugoslavia and Macedonia, where there are substantial Albanian populations. Following the signing of the Dayton Accord in December 1995, President Berisha told Albanians in the Serb-dominated region of Kosovo that they should accept autonomy rather than full independence from Yugoslavia, as they had been demanding.

The U.S. government has also played a role in mediating between Greece and Albania. A letter from Bill Clinton and statements by the U.S. State Department helped alleviate tensions between the two sides, especially during the Omonia trial.

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<sup>229</sup>*The Washington Post*, November 20, 1995.

Yearly reports on human rights abuses in Albania produced by the State Department have pointed out some of the problems the country is experiencing but failed to reflect fully some of the more serious abuses. While the challenges facing Albania in this transition period are indeed great, the State Department reports sometimes used the country's past as a justification for continued threats to human rights in the country, thus softening its criticism of the current government. Still, the 1994 report was an improvement over the report in 1993. While the latter began, "Albania continued to make progress toward establishing a multi-party democracy with legal guarantees of human rights," the more recent report opened with, "Albania continued to struggle in its efforts to establish a democratic society."

President Berisha undertook an official visit to the United States in September 1995, meeting with top officials at the Department of the Treasury, State, Defense and the Pentagon. Following a meeting at the White House, a U.S. spokesperson said that President Clinton had expressed his concern about the Greek minority in Albania, especially "with respect to educational opportunities, freedom to practice one's religion and freedom from discrimination in the workplace..."<sup>230</sup>

Shortly after the visit, the U.S. State Department issued a strong press release criticizing Albania's lack of an independent judiciary, especially the recent dismissal of Zef Brozi, chief justice of Albania's Court of Cassation. The release said:

The United States is deeply concerned that following the visit [of President Berisha to the United States] the Albanian parliament removed the chief justice of the Court of Cassation under circumstances which do not appear to comport with democratic procedures...

Recent developments in Albania thus bring into question Albania's compliance with the Helsinki Final Act and other documents adopted under the Helsinki process. Accordingly, the United States has decided to raise its concerns about conditions in Albania at the October 2-19 OSCE Human Dimension Implementation Review.<sup>231</sup>

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<sup>230</sup>Press briefing by David Johnson, Deputy White House Press Secretary, Washington D.C., September 12, 1995.

<sup>231</sup>United States Department of State, Press Release, October 6, 1995.

The American delegation followed up on its promise. In a statement made to the OSCE meeting plenary, a delegation member said that the U.S. government has “the distinct impression that [Brozi’s removal] was done for personal and political, rather than legal, reasons.”<sup>232</sup>

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<sup>232</sup>Plenary statement of J. Sherwood McGinnis, U.S. Delegation to the OSCE Human Dimension Implementation Review Meeting, October 9, 1995.

### **XIII. EUROPEAN POLICY**

Since 1991, the European Union has given U.S. \$671,600,000 worth of aid to Albania, making it the leading donor to the country. At times, the delivery of aid has been blocked because of concerns about democratic reform. On November 28, 1994, for example, the EU announced that it would delay delivery of a U.S. \$43,000,000 grant because of Greek complaints about the Omonia trial. The aid was released in stages after the ethnic Greeks were released by the Albanian Court of Cassation.

In March 1995, the EU stated that it will make aid available to Albania based on the process of democratization and the government's respect for human rights.<sup>233</sup> During that year, however, a large amount of aid was released, despite continued human rights violations committed by the government. On October 26, the EU's PHARE program granted U.S. \$275,600,000, and, on December 22, U.S. \$32,500,000 was added for infrastructural aid.

Albania became a full member of the Council of Europe in June 1995 but has still not ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>234</sup> At that time, Albanian representatives promised to adopt a new constitution, further reform the judiciary and improve press freedom within three years. Council of Europe advisers work closely on developing new legislation and assisting with judiciary reform. Rapporteurs regularly monitor the status of human rights and the rule of law.

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<sup>233</sup>Reuters, March 23, 1995.

<sup>234</sup>The Council of Europe allows new member states one year to ratify the convention.

## **XIV. CONCLUSION**

With approximately three million ethnic Albanians living in the neighboring countries of Yugoslavia, Macedonia and Greece, a democratic society in Albania can do much to promote stability in the region. Albania has made progress in the last five years toward establishing a pluralistic democracy with full respect for human rights. But, as this report shows, there is still much to be done.

Some problems stem from Albania's tragic past. The destruction of civil society and democratic institutions under Enver Hoxha's regime left a shaky foundation for the construction of a new society rooted in tolerance and respect for human values. However, this is only part of the story. The actions of the current government are also to blame for human rights abuses that are occurring today. While there are many people in government working to establish the rule of law and full respect for human rights, there are also many cases where revenge and greed have won out over justice and equality.

Restrictions on the right to free expression, association, assembly and a free press all demonstrate government violations of civil and political rights which Albania is bound to uphold as a party to international and regional human rights instruments. The state's manipulation of the courts, the secret police and the media reveal a government agenda to discredit rivals and consolidate power. Albania's economic crisis clearly makes the situation worse. But foreign investment and economic development will only come when there is a stable legal framework based on independent courts and the rule of law.



**APPENDIX A: LAW ON GENOCIDE AND CRIMES  
AGAINST HUMANITY COMMITTED IN ALBANIA  
DURING COMMUNIST RULE FOR POLITICAL,  
IDEOLOGICAL AND RELIGIOUS MOTIVES**





**APPENDIX B: LAW ON THE VERIFICATION OF THE  
MORAL CHARACTER OF OFFICIALS AND OTHER  
PERSONS CONNECTED WITH THE DEFENSE OF THE  
DEMOCRATIC STATE**

















## **APPENDIX C: LAW ON THE PRESS**













