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## مجلس حقوق الإنسان

الدورة العشرون

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

### تقرير المقرر الخاص المعني بحقوق الإنسان للمهاجرين، فرانسوا كريبو

إضافة

بعثة إلى ألبانيا\*

موجز

قام المقرر الخاص المعني بحقوق الإنسان للمهاجرين بزيارة رسمية إلى ألبانيا في الفترة من ٥ إلى ١٣ كانون الأول/ديسمبر ٢٠١١، حيث زار تيرانا ودوريس وشكودر، وعقد اجتماعات مع عدد من ممثلي الحكومة على المستويين المركزي والمحلي، ومع أعضاء في البرلمان، وممثلين عن القضاء والمجتمع المدني وعن المهاجرين أنفسهم.

وسلم المقرر الخاص باعتماد الحكومة لمجموعة كبيرة من القوانين والسياسات والاستراتيجيات لضمان اتباع نهج شامل وقائم على الحقوق في موضوع الهجرة بما يتماشى مع المعايير والالتزامات الدولية والأوروبية. كما لاحظ استمرار عدد من التحديات، من بينها الثغرة الكبيرة بين وضع السياسات وتنفيذها العملي، مما يؤثر تأثيراً مباشراً على قدرات الدولة ومواردها وخبراتها فيما يتعلق بضمان الأعمال والحماية الكاملين لحقوق الإنسان للمهاجرين.

\* يُعمَّم الموجز بجميع اللغات الرسمية. أما التقرير، الوارد في مرفق الموجز، فيُعمَّم باللغة التي قُدم بها وبالفرنسية فقط.

وفي هذا السياق، قدم المقرر الخاص عدداً من التوصيات إلى الحكومة، بما في ذلك توصيات عن تعزيز النظام الوطني للحماية، وحماية حقوق المهاجرين الألبان في الخارج والألبان العائدين إلى الوطن والمهاجرين الأجانب في ألبانيا. كما دعا الاتحاد الأوروبي والمنظمات الدولية الأخرى إلى مواصلة تقديم الدعم إلى ألبانيا لمواجهة التحديات المتبقية ولتكثيف التعاون مع البلدان المجاورة ومع بلدان المقصد الرئيسية في هذا الصدد.

## Annex

### Report by the Special Rapporteur on the human rights of migrants, François Crépeau, on his mission to Albania, 5–13 December 2011

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## I. Introduction

1. The mandate of the Special Rapporteur on the Human Rights of Migrants was created in 1999 by the Commission on Human Rights, pursuant to resolution 1999/44. Since then, the mandate of the Special Rapporteur has been extended by Commission on Human Rights resolutions 2002/62 and 2005/47 and Human Rights Council resolutions 8/10 and 17/12, each for a period of three years. The current Special Rapporteur on the human rights of migrants, François Crépeau, conducted an official visit to Albania from 5 to 13 December 2011 at the invitation of the Government. During the mission, which included visits to Durrës, Shkodër and Tirana, the Special Rapporteur met with Government ministers, State officials at central and local levels, members of Parliament, representatives of the judiciary, the United Nations country team, international and regional organizations and civil society, and migrants themselves. He also visited border crossing points with Montenegro (Hani I Hotit) and Greece (Qafe Bota and Kakavija), the reception centre at Tirana International Airport, the national reception centre for asylum-seekers (Babrru) and the closed reception centre for irregular migrants (Kareç).

2. The Special Rapporteur expresses appreciation for the excellent cooperation extended to him by the Government prior to, throughout and after the visit. He also thanks the United Nations country team, including the International Organization for Migration (IOM), as well as Albanian civil society.

## II. General background: Albania and migration

3. Migration stands out as one of the most important characteristics of Albania since its transition to democracy in 1989. While exact data is unavailable, it is estimated that approximately one quarter to one third of Albania's population (3.4 million)<sup>1</sup> reside abroad. Albania is thus one of the countries with the highest emigration flows in the world.<sup>2</sup> Emigration has been primarily circular, economically-driven and concentrated in the low-skilled and informal economy. Mass migration started immediately after the end of the isolationist Communist regime, when "movement from the country" was considered a criminal offence, and resumed in 1997 following the economic and political unrest caused by the fall of pyramid schemes. The primary countries of destination have been Greece and Italy, where the overwhelming majority of the Albanian diaspora live, followed by the United States of America, the United Kingdom of Great Britain and Northern Ireland, Germany, and Canada (CMW/C/ALB/1, table 3). Albanian migrants in Greece (approximately 700,000 documented Albanians) represent more than 50 per cent of its migrant population while Albanian migrants in Italy (approximately 500,000 documented Albanians) constitute third largest immigrant group in Italy.

4. While Albania has experienced sustained economic growth in recent years, it remains a developing country and one of Europe's poorest.<sup>3</sup> Migration, through remittances from its large population living and working abroad – 35 per cent of its active population – has thus contributed substantially to the country's economy and development. In the words

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<sup>1</sup> Albania, Report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/ALB/1), para. 215. According to the October 2011 census, the total population in Albania was 2,831,741.

<sup>2</sup> Albania, *National Strategy on Migration and National Action Plan on Migration* (Tirana, 2005), p. 1, and *Information and Communication Policy Document on Migration Issues* (2010), p. 8.

<sup>3</sup> United Nations Development Programme, *National Human Development Report: Capacity Development and Integration with the European Union* (Tirana, 2010), p. 11.

of one interlocutor: “migration has been the most important element of Albania’s social development for the last years”. Based on the National Strategy on Migration 2005–2010, Albania has moved towards a more holistic migration policy based on the rights of migrants, investment of remittances, and the development of a legal and policy framework. With the economic downturn in Europe, official remittances have declined sharply since 2008, however, prompting many Albanians to return to the country.

5. Sustainable return through reintegration support is a priority – but also a main challenge – of the country’s current migration policy, pursuant to the Strategy on Reintegration of Returned Albanian citizens 2010–2015.<sup>4</sup> The strategy was developed in the framework of the 2005 Readmission Agreement concluded with the European Union and concerns primarily Albanians forcibly returned under the Agreement, but also third country nationals. Albania has been identified by the European Union as a top third country in the fight against irregular migration. Current migration policies are thus closely interconnected and shaped by Albania’s aspirations of integration into the European Union and, conversely, by accession requirements of the European Union. The Readmission Agreement – signed pursuant to the 2006 Stabilization and Association Agreement concluded with the European Union – preceded the decision of visa liberalization for Albanian citizens in the Schengen area in December 2010. In line with these agreements, national migration efforts focus on fighting illegal migration, managing recurrent migration flows through promoting bilateral labour agreements with European Union member States, fighting the brain drain phenomenon and ensuring equal treatment of citizens of other countries who reside legally in the Albanian territory.<sup>5</sup>

6. Irregular migration from Albania has decreased in recent years. While law enforcement efforts have successfully reduced cross-border trafficking, internal trafficking for purposes of sexual exploitation and begging is reportedly on the rise, “particularly in connection with migration from rural areas to towns and seasonal migration to places of tourism”.<sup>6</sup> While still predominantly a country of origin, Albania is also a country of transit for migrants from Africa, Asia and the Middle East seeking greater fortune in life in Europe and, increasingly, an immigration destination due to its proximity to the European Union.<sup>7</sup> However, internal migration from rural to urban areas is on the increase due to a lingering socio-economic divide.<sup>8</sup>

7. As acknowledged by the Government, “managing external and internal migration remains a major development challenge”.<sup>9</sup> Similarly, Albania encounters major challenges in ensuring the protection and promotion of the human rights of all three groups of migrants assessed by the Special Rapporteur during his visit – Albanians abroad, returning Albanians and foreigners in Albania.

<sup>4</sup> Albania, “Strategy on reintegration of returned Albanian citizens 2010–2015” (2010), pp. 3 and 6.

<sup>5</sup> Albania, *National strategy for Development and Integration 2007–2013* (2008), p. 35.

<sup>6</sup> Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA), document GRETA(2011)22, report concerning the implementation of the Council of Europe Convention of Action against Trafficking in Human Beings by Albania, para. 10.

<sup>7</sup> *Information and Communication Policy Document*, p. 12.

<sup>8</sup> Albania and the United Nations, *Programme of Cooperation 2012–2016*, p. 12.

<sup>9</sup> *Ibid.*, p. 11.

### **III. Normative and institutional framework for the protection of the human rights of migrants**

#### **A. International legal framework**

8. Albania is a party to all core international human rights treaties, with the exception of the Convention on the Rights of Persons with Disabilities. Notably, Albania is one of only two European countries to have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In November 2010, the initial report of Albania on the implementation of the Convention (CMW/C/ALB/1) was considered by the Committee on Migrant Workers. While regretting that Albania had not yet made the declarations provided for in articles 76 and 77 of the Convention – allowing for the consideration by the Committee of inter-State and individual complaints – at the time of his visit, the Special Rapporteur was pleased to learn that Albania is currently preparing its second report on the implementation of the Convention.

9. Albania has adhered to the principal international treaties relating to the protection of refugees, the prevention, suppression and punishing of trafficking, and the International Labour Organization (ILO) conventions on protection of migrant workers (Nos. 97 and 143). As a member state of the Council of Europe since 1995, Albania is also a party to European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter (Revised) and the European Conventions on the Legal Status of Migrant Workers, on the Participation of Foreigners in Public Life at Local Levels, and on Action against Trafficking in Human Beings.

#### **B. National legal and institutional framework**

10. The Special Rapporteur was impressed by the comprehensive set of laws, policies and strategies to ensure a comprehensive rights-based approach to migration in compliance with international and European standards and obligations. He also welcomed a critical awareness of remaining shortcomings and recognition of the need for further improvement of the legal framework. In this regard, it may be recalled that, while international treaties become part of domestic legislation upon ratification and prevails over the latter in case of conflict, the Committee on Migrant Workers noted in 2010 that in practice in Albania there is no guarantee of primacy of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in case of conflict with the law. The Special Rapporteur therefore recalls the Committee's recommendation to Albania to harmonize its domestic legislation with the Convention (CMW/C/ALB/CO/1, paras. 4 and 10).

##### **1. National laws**

11. As the supreme law of the land, the 1998 Constitution guarantees that “the fundamental rights and freedoms and the duties contemplated in this Constitution for Albanian citizens are also valid for foreigners and stateless persons in the territory of the Republic of Albania, except for cases when the Constitution specifically attaches the exercise of particular rights and freedoms with Albanian citizenship” (art. 16).

12. This provision is replicated in article 5, paragraph 1, of the Law on Foreigners which governs the regime on entry, residence, employment, treatment and exit of foreigners in and from Albania. The law stipulates that “foreigners who are subject of this law are treated in conformity with the fundamental human rights and freedoms and international instruments ratified by the Republic of Albania, while recognizing the principle of reciprocity, non-

discrimination and treatment no less favourable than Albanian nationals” (art. 2). The Law on the Protection against Discrimination of 2010 protects against discrimination on any basis, including in employment, education, political participation, and access to goods and services. Importantly, it applies to “all persons who stay and reside in Albania, including both Albanian citizens and foreigners” (art. 4).

13. Alongside the Law on Foreigners, the Law on Asylum, the Law on State Border Control and Surveillance, the Law on Migration of Albanian Nationals for Employment Purposes and the Law for Encouraging Employment are the main statutory laws regulating migration.

## 2. National policies and institutions

14. With the financial and technical assistance of the European Union, United Nations agencies and IOM, Albania has established a remarkable framework of policies, plans and strategies on migration. The National Strategy on Migration 2005–2010 and its corresponding Action Plan and the Strategy on Reintegration of Returned Albanian Citizens 2010–2015 constitute the key pillars of this framework. The National Strategy and Action Plan on the Fight against Trafficking in Person 2011–2013, the National Strategy on Integrated Border Management and its corresponding Action Plan 2007–2014 and the National Action Plan on Remittances 2007–2010 complement these policies.

15. The importance attached to migration management in national policies is further reflected in the overarching National Strategy for Development and Integration 2007–2013, which sets out as one strategic priority the creation of favourable legal and institutional mechanisms which will ensure that “migration assists the development of Albania”, including by “protecting the rights of Albanian immigrants where they live”.<sup>10</sup>

16. The lead ministries responsible for the implementation of these policies are the Ministry of Labour, Social Affairs and Equal Opportunities, the Ministry of Interior and the Ministry of Foreign Affairs. As the ministry responsible for all labour-related aspects of migration, the former oversees the Directorate of Migration Policies, Return and Reintegration which formulates and implements the country’s migration policies. The Ministry oversees the monitoring and coordination of the National Strategy on Migration and, as such, chairs the inter-ministerial Technical Committee on Migration. Inter-ministerial cooperation was identified as a primary challenge in the implementation of the strategy, while cooperation with line ministries was reportedly steadily improving along with enhanced data collection. The Special Rapporteur has also been assured that a new national strategy on migration 2013–2018 will be developed, and is pleased to learn that the Ministry of Labour has established an interagency working group to draft such a strategy. The Special Rapporteur hopes that the new strategy will be developed in the light of the current recommendations and adopted by the Executive in a timely manner.

17. The Ministry of Foreign Affairs holds responsibility for the protection of the rights of Albanian nationals abroad, including through its consular offices, which collect and distribute information on social and employment legislation, with particular attention to social protection issues. The Ministry of the Interior controls the admissions of foreigners and the departure of Albanian nationals and adopts and executes measures against trafficking and irregular migration. Its Department of Border and Migration is responsible for implementation of Readmission Agreements and can receive appeals against expulsion orders.<sup>11</sup>

<sup>10</sup> *National Strategy for Development and Integration*, p. 32.

<sup>11</sup> CMW/ALB/CO/1, para. 23.



18. Established under the Ministry of Labour, migration counters (*sportele migracioni*), located in all 36 Regional and Local Employment Offices, serve as focal points for registration, information, advice on and referral to employment opportunities and social services for returning Albanians, Albanians wishing to emigrate, and immigrants. The migration counters are mandated to provide information and advisory services.

## **IV. Cross-cutting concerns**

### **A. National human rights culture and protection system**

19. While considerable progress has been achieved in harmonizing national laws and policies with international and European human rights standards, the Special Rapporteur was informed of persisting gaps in their effective implementation and monitoring. Albania did not attain its candidacy status for European Union integration in 2010, owing in part to the need to improve its political and human rights performance. Insufficient institutional capacity and lack of resources in all sectors were main factors in this regard.<sup>12</sup> The Special Rapporteur recognizes the young democracy of Albania and the challenges facing a country, in the words of his interlocutors, “neither had a Ministry of Justice, nor a Ministry of Labour, twenty years ago”.

20. In this context, the Special Rapporteur was concerned at the lack of a comprehensive national human rights strategy. Support for the work of the People’s Advocate – the country’s national human rights institution – and the recently established Commissioner for the Protection from Discrimination is critical to this end. Within the realm of migration, the People’s Advocate has mainly focused on Albanian migrants abroad, but has also carried out visits to places of detention, including centres of undocumented migrants and asylum-seekers in its capacity as the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The work of the Commissioner in three priority fields – education, employment and services – and planned training programmes for social workers and border police will further be of importance to strengthening protection of the human rights of migrants.

21. The Special Rapporteur commends the programmes and activities of these entities, but remained concerned at their limited resources and donor dependency. Half of the budget of the Commissioner is donor-funded. Similarly, the Special Rapporteur was concerned at a lack of sustainability of civil society organizations.

### **B. Awareness and information on the human rights of migrants**

22. The absence of a strong human rights culture in Albania has repercussions on the level of awareness of and information on the human rights of migrants, specifically. Awareness among Albanian migrants abroad of their most fundamental rights is reportedly very low and the Government has acknowledged that there is currently “very little in terms of structure, official body or information resource dedicated to promoting and upholding [their rights]”.<sup>13</sup> Indicative of this, the Special Rapporteur’s meeting with the Albanian Bar Association was the first time that the rights of migrants were brought to the attention of the Bar Association. The Special Rapporteur noted a correlation between the lack of awareness

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<sup>12</sup> See also *National Human Development Report*, p. 26.

<sup>13</sup> *Information and Communication Policy Document* (2010), p. 24.

on migrants' rights and the low level of awareness of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, contrary to other international human rights treaties which are reportedly more closely monitored by civil society (see also CMW/C/ALB/Q/1, para. 11).

23. Pursuant to observations of the Special Rapporteur, lawyers and judges, social workers, border police and civil servants urgently need systematic training on international human rights law and on the human rights of migrants in particular. He was also concerned at a negative portrayal of migrants by the media and cautions that alarmist reporting can fuel anti-immigrant discourse and actions in society. In order to empower migrants to claim and defend their rights, increased information on and enforcement of the right to legal aid as guaranteed in the Law on Legal Aid is vital.

24. In this regard, the Special Rapporteur welcomed information that the recently established Legal Aid Commission started its work by focusing on vulnerable groups. He also noted as positive the agreement concluded between civil society and the Legal Aid Commission on the provision of legal aid by lawyers at local level. In this vein, the need to inform in particular police at border points about available lawyers was emphasized.

### **C. Reliable data and statistics**

25. Interlocutors repeatedly pointed to the absence of reliable data as a significant challenge confronting Albania in ensuring human rights protection of migrants. Most striking is the paucity of statistics on the number and location of Albanian migrants abroad, with no official data available on the number of undocumented migrants, estimated to make up half the emigrant population.<sup>14</sup> Concerning the lack of systematic and reliable data collection on returnees, the Special Rapporteur recognized the establishment of the Total Integrated Management System installed in all border points by the police to collect data on the exit and entry of all Albanians and foreign citizens. He learned, however, that this information is not disclosed or available for analysis and that it does not register asylum claims or other protection needs.

26. The Special Rapporteur was pleased to learn about the Government's efforts to renew the National Migrants Register.<sup>15</sup> First launched in 2008 to register potential Albanian migrants and Albanian returnees at Regional Employment Offices, it is now used by the migration counters to register all migrants. As registration is voluntary, this data does not necessarily reflect the actual situation of migration from, into and through Albania. While noting the decision in July 2010 to register electronically all asylum-seekers and refugees in the civil status registry for foreigners, the Special Rapporteur regretted that the process has not yet been concluded. Implementation of this decision and the release of the results of the 2011 Census of Population and Housing will help clarify the number, status and origins of foreign citizens residing in Albania.

### **D. Vulnerable groups and interface between migration and exploitation**

27. While acknowledging measures taken by the authorities to ensure that Albanians are informed of trafficking risks linked to migration,<sup>16</sup> the Special Rapporteur was alerted in his meetings about a lack of comprehensive understanding of the interplay between migration and different forms of exploitation of vulnerable groups in society, notably children,

<sup>14</sup> *National Strategy on Migration*, p. 9.

<sup>15</sup> Order of the Minister of Labour, Social Affairs and Equal Opportunities No. 84.

<sup>16</sup> GRETA(2011)22, para. 98.

women and Roma. Poor socio-economic conditions in parts of Albania continue to trigger a movement – often seasonal – of children to neighbouring countries for begging and other forms of forced labour. He heard about Roma children as young as 7 leaving Albania on short-term migration to beg, collect cans and pick tomatoes and engage in other types of agricultural work abroad.

28. In this context, the Special Rapporteur welcomed the current focus of the National Coordinator for Anti-Trafficking of Human Beings on economic exploitation and exploitation of children in particular. He commends the National Coordinator’s office for its admirable work in fighting trafficking, including through the creation of anti-trafficking police, partnership with civil society and providing shelters for victims of trafficking. Challenges still to be resolved in the fight against trafficking include the need to amend criminal legislation, measures for proactive identification of potential victims, and better referral mechanisms at the local level to prevent re-victimization and ensure reintegration in society.

29. The Special Rapporteur also learned that the process of visa liberalization with Balkan countries has resulted in reports of young Albanian women going as “singers” or “to marry” abroad. While noting that bilateral agreements with some neighbouring countries concerned have been proposed, he regrets that none have yet been concluded. Several interlocutors alerted the Special Rapporteur to the need for more research and analysis on women and the migration phenomenon in general. He was informed that Albanian women returnees were allegedly frequently victims of domestic violence and received most worrisome reports of an increase in killings of women during holiday seasons when their husbands or partners return home in the context of rumours of extramarital affairs and disrespect for family unity.

## **V. Albanian migrants abroad**

30. According to the Law on Migration of Albanian Nationals for Employment Purposes, the Government of Albania has the responsibility to verify and ensure respect for the rights of Albanian migrants abroad by the host countries (art. 17, para. 1). The law explicitly aims at “the protection of the political, economic and social rights” of Albanian emigrants (art. 1, para. 2 (b)). The Government has recognized that this duty is a major challenge due to the large number of Albanian migrants working and living abroad.<sup>17</sup> The limited capacity of consular services, the rights of children, persons deprived of their liberty and protection of social rights are priority issues in this regard.

### **A. Consular services**

31. Albanian embassies and consulates play a key role in upholding the rights of Albanian abroad, in particular through the provision of legal advice, assistance to detained Albanians and other services for Albanian emigrants in need. The Special Rapporteur was informed that due to limited resources, expertise and capacity, the ability of diplomatic and consular offices to duly fulfil this responsibility is severely hampered. While noting that improving consular services is a Government priority and that a first training on human rights for consular staff was provided in cooperation with IOM in May 2011, he is concerned that the planned activities for diplomats regarding training and legal expertise on human rights and migration policy, as well as regular reporting on assistance to Albanian

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<sup>17</sup> *National Strategy on Migration*, p. 12.

migrants, are yet to be implemented.<sup>18</sup> He also regretted that the Government's Information and Communication Policy with the Albanian Migrant Community, aimed at better informing Albanian migrants of their fundamental rights, has not yet been formally adopted.

32. The Special Rapporteur is deeply concerned that the 2006 Law on Emigration of Albanian Citizens limits its scope of application to Albanian citizens who have "migrated regularly" (art. 4; see also art. 14, para. 2 (b)). This severely restricts the enjoyment of the rights for all Albanian migrants, including the right to contact and cooperate with diplomatic and consular representatives in host countries (art. 7). Throughout his visit, the Special Rapporteur heard about the reluctance of many Albanians to approach the consular services from fear of being detected by the authorities and/or because of deep-rooted sense of distrust of State authorities. Another prevailing perception was that Government assistance required personal connections. Albanian returnees who met with the Special Rapporteur also expressed a feeling of abandonment by the authorities while abroad.

## **B. Children's rights**

33. The Special Rapporteur noted with serious concern the impact on the enjoyment of children's rights as a result of the aforementioned restrictions in law and practice. One key issue is ensuring the birth registration of Albanian children abroad, especially those born in Greece by parents in an irregular situation, leading to a situation of statelessness. He was also informed of lengthy processes of Albanian authorities to have children recorded in the civil status registry and noted with concern that late registration (two years after birth) is penalized with a fine. Registration of Roma children born to Albanians abroad was reportedly particularly difficult.

34. As a State party to the Convention on the Rights of the Child, Albania has an obligation to ensure the right of children to a name and a nationality and to free and compulsory birth registration (art. 7). In this regard, the Special Rapporteur welcomed the cooperation between the Ministry of Foreign Affairs and Tirana Legal Aid Society to increase the number of Albanian children to be registered abroad. The agreement commits the Government to instruct Albanian consular offices to retrieve maternity certificates from maternity homes abroad. Albanian children living abroad also face difficulties in receiving education in their native language, with host countries restricting the establishment of separate schools or not offering teaching in Albania at public schools. Measures should be taken with a view to ensuring that education of Albanian children abroad is directed at the development of the child's cultural identity and language.

## **C. Deprivation of liberty**

35. Thousands of Albanians abroad are deprived of their liberty, either under prison sentences or in police custody. In 2005, 52,365 Albanians were apprehended within the European Union.<sup>19</sup> Problems with access to lawyers and interpreters, as well as contact with relatives, are commonly reported. Legal defence is often poor, leading to unfair convictions and/or excessive sentences. The Government has envisaged that "embassies should provide free legal aid if necessary in cases where it is not guaranteed by the host country, in

<sup>18</sup> Ibid., pp. 30 and 31.

<sup>19</sup> IOM, *The Republic of Albania, Migration Profile* (Ministry of the Interior of the Republic of Slovenia, Ljubljana, 2007), p. 20. The largest numbers are in Italy and Greece.

particular to ensure that the concerned person benefits from the service of a translator in Albanian if needed”.<sup>20</sup>

36. In this respect, the Special Rapporteur notes that cooperation with and training for Albanian lawyers living abroad and ensuring systematic follow-up on individual cases by consular staff is critical to guaranteeing the protection of the rights of emigrants deprived of their liberty.

#### **D. Civil and political rights**

37. As noted in the National Strategy on Migration, a key implication of the high level of emigration is the level of political participation: many Albanian migrants cannot participate in Albanian elections although they make up a great part of the voters list. Whereas national law protects the political rights and freedoms of Albanian migrants abroad and provides that the State should create the necessary facilities for them to exercise the right to vote,<sup>21</sup> article 11 of the Electoral Code stipulates that this right can only be exercised on the territory of Albania. The Special Rapporteur heard criticism that independent voting at consular offices remains problematic.

#### **E. Social security**

38. In his meetings with returning migrants, the Special Rapporteur learned about their frustration at the lack of recognition of the social contributions paid while working abroad and about difficulties in accessing social services. In addition, in some of the principal countries of destination of Albanian migrant workers, a minimum of 15 years of continuous work is required in order to have access to the social system and benefit from social contributions. The Special Rapporteur recalls that under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 27), migrant workers and members of their families enjoy the same treatment granted to nationals with respect to social security and that the State of origin and the State of employment should establish the necessary arrangements to this effect.

39. The Special Rapporteur therefore welcomes the signing of bilateral agreements on social security with Belgium and Turkey, as well as the agreement on a pension plan between Albania and Greece, and reiterates the call by the Committee on Migrant Workers for Albania to conclude further bilateral agreements with the principal countries of destination (Italy and Greece) (CMW/C/ALB/CO/1, para. 28 (c)). In this regard, the Special Rapporteur welcomes the agreement of 19 July 2011 with Italy on seasonal workers, which stipulates that citizens of both countries who work in the territory of the other enjoy the same rights, including conditions of work, social protection, social benefits and fundamental rights of workers.<sup>22</sup>

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<sup>20</sup> *National Strategy on Migration*, p. 30.

<sup>21</sup> Law on Emigration of Albanian Citizens for Employment Purposes.

<sup>22</sup> Art. 11, *Accordo Bilaterale in materia di lavoro tra il Governo della Repubblica Italiana e il Consiglio dei Ministri della Repubblica di Albania* (translation from the Italian version of the agreement).

## VI. Returnees

40. Albanian law sets out that “emigrants, including returned emigrants” have the right to information and counselling free of charge in the field of vocational training, job-brokering services, social protection, freedom of association, possibilities for housing and social security.<sup>23</sup> Implementation of this provision has encountered significant challenges due to a failure of the law to clearly distinguish between “emigrants” living abroad and “returning migrants”, as a result of which a distinct set of criteria for benefits and entitlement assigned for returnees is lacking. The Special Rapporteur was pleased to learn that amendments in 2011 to the Law on the Emigration of Albanian Citizens for Employment Purposes clarify the benefits resulting from the status of migrant, but remains concerned at reports that the implementation of the law and the amendments thereto have not yet started. Moreover, the Government notes that, since the adoption of the Strategy for Reintegration of Returned Albanian Citizens 2010–2015, the migration counters have been established to tend to the needs of the returnees and assist with access to employment, education and professional services, including healthcare and social security. The Special Rapporteur notes, however, that the Strategy on Reintegration enables returnees to access only already existing public services available to all other Albanian citizens and does not envisage the creation of specialist services for returnees, apart from those that fall into clear legal categories, including victims of trafficking, unaccompanied minors and Roma.

41. The Special Rapporteur heard testimonies of the difficulties facing returnees’ reintegration, particularly in finding employment. While voluntary return of migrants with valuable professional experience from abroad has increased in the last few years, the Special Rapporteur heard that Albania has not effectively benefited from returnees’ skills nor responded to their needs, especially in the light of the economic crisis.

### A. Return, reception and readmission

42. The Special Rapporteur was impressed by the professionalism of the Border and Migration Police regarding the pre-screening procedure in place since 2004 at almost all border points for the identification of foreigners and conducting interviews with returning Albanian citizens. Under this procedure, each returnee is interviewed, provided with food, accommodation and medicine (if necessary), and transported to the nearest urban area.<sup>24</sup> The Special Rapporteur was particularly pleased to learn about the presence of social workers and psychologists during interviews of unaccompanied minors and victims of trafficking (when anti-trafficking police also called in) or other forms of exploitation among returnees. He also welcomed the instruction of the Ministry of the Interior to the effect that all border crossing points have at least one female police officer to interview children and women.

43. Nevertheless, the Special Rapporteur identified several concerns with regard to the return process that require immediate attention. He is deeply concerned at reports of unaccompanied Albanian children returned to the borders by the authorities of neighbouring countries outside the framework of readmission agreements. These children, sometimes undocumented, are returned to the border without a prior assessment of their best interest and without proper follow-up in terms of social care. In this regard, the Special Rapporteur regrets that the Albania-European Community Readmission Agreement does

<sup>23</sup> Law on the Emigration of Albanian Citizens for Employment Purposes, art. 8. See also CMW/C/ALB/1, para. 97.

<sup>24</sup> “Strategy on reintegration of returned Albanian citizens”, pp. 10, 28 and 29.

not contain a specific clause on unaccompanied children and their protection needs and the absence of implementation protocols of readmission agreements.<sup>25</sup>

44. At one border crossing point, the Special Rapporteur learned about an informal arrangement with authorities of a neighbouring country for the return of Albanian migrants twice a week. Under this arrangement, information on the number and profile of Albanian migrants to be returned were not transmitted to the Albanian authorities in advance, much to the regret of the Border and Migration Police. The Special Rapporteur notes that this is in breach of the Readmission Agreement which requires that the competent authorities be informed of any transfer of readmitted persons.<sup>26</sup> The Special Rapporteur is further concerned that no procedure appears to be in place whereby reported complaints of misconduct, ill-treatment or abuse by authorities of the returning country are recorded and subsequently shared for follow-up and investigation. At one border crossing point, the Special Rapporteur received reports of wilful destruction of Albanian returnees' documents by the authorities of the readmitting country.

45. The Special Rapporteur observed that some border crossing points lacked and/or required additional female police officers and would require significant infrastructure improvements. While appreciating that all border points have separate reception rooms for children and women, some rooms lacked natural light. Of particular concern to the Special Rapporteur were the holding cells in three reception centres visited. One had nothing but a cement floor, open windows and humid conditions.

## **B. Reintegration: from border crossing points to migration counters**

46. The reintegration process of Albanians returned under readmission agreements or otherwise starts immediately upon arrival at the border.<sup>27</sup> After a preliminary interview for identification and investigation purposes, the Border and Migration Police are tasked to provide returnees with information on reintegration support, including employment opportunities. Nevertheless, the Special Rapporteur is concerned that the current procedure is too law enforcement-oriented. Information about the migration counters and other reintegration services is insufficient to ensure a dignified return process that responds to individual needs and rights.

47. The Special Rapporteur heard pleas for the Government to significantly improve assistance, technical advice and training on how to reinvest their skills upon return. A more active presence at the border of social workers and other civil servants to link returnees to reintegration would be pivotal in this regard. The Government relayed to the Special Rapporteur that the Strategy for Reintegration of Returned Albanian Citizens 2010–2015 emphasizes making use of existing reintegration services to assist Albanians returning to their country.

48. The Special Rapporteur observed that very low number of returnees have registered with the migration counters: only 973 during the period 1 July 2010 and May 2011,<sup>28</sup> to be

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<sup>25</sup> See Albanian Council on Foreign Relations, *Reconsidering EU Immigration Policies Towards Albania: Smoothing Asymmetries* (Tirana, 2010), p. 24.

<sup>26</sup> Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorisation, arts. 6 and 7.

<sup>27</sup> "Strategy on reintegration of returned Albanian citizens", p. 17.

<sup>28</sup> Information provided by the Ministry of Labour, Social Affairs and Equal Opportunities, December 2011.

compared to a total number of 52,917 returnees in 2010.<sup>29</sup> Representatives of the migration counters noted that a long-standing distrust in labour offices during the socialist era in part explained the low registration numbers. A group of returnees who met with the Special Rapporteur had never heard of the migration counters, indicating the critical need to step up outreach efforts and information campaigns on their work and on reintegration programmes and services in general.

49. The Special Rapporteur took note of the needs expressed by representatives of the migration counters regarding increased budgetary and operational autonomy and increased training opportunities for staff to be more effective. Increased financial support would enable them to follow up on individual cases and support returnees more proactively in their search for employment and social integration. In terms of State assistance, tax exemption for work by returnees and proper individual social aid schemes were also called for.<sup>30</sup>

### C. Women, youth and children

50. Women, youth and children require particular attention and support in the reintegration process. While noting the planned activities for readmitted children as well as for unemployed female job-seekers in the return strategy,<sup>31</sup> the Special Rapporteur was informed that many children and young women (aged 20–28) faced problems in accessing education, training and employment opportunities as well as school abandonment and isolation. In particular, the lack of a tailored strategy at local level to integrate children in schools or provide women with employment opportunities was stressed. The Special Rapporteur also learned that the recognition of diplomas of young returnees educated abroad encounters bureaucratic hurdles,<sup>32</sup> preventing the public administration from benefiting from expertise and experiences gained by highly qualified young Albanians.

51. The particularly dire socio-economic situation of women returnees and children living in so called “informal areas” or “informal housing settlements” in the outskirts of Tirana was highlighted to the Special Rapporteur. Access to essential services such as water, central heating and electricity in these areas is estimated to be less than half the average access in Tirana.<sup>33</sup> Awareness of and the level of trust of State support and social services is reportedly very low.

### D. The role of social workers

52. The Special Rapporteur learned with regret that, under the public administration system, social workers are primarily in charge of distribution of cash benefits and do not undertake case management which would allow for follow-up on individual cases at community level. A legacy of its past, Albania lacks a tradition of social work and social administration, resulting in the absence of a coordinated and sustainable community-based

<sup>29</sup> Government source, information provided by the European Union delegation, January 2012. Out of this number, 50,735 were returned from Greece, and 1,150 were returned from Italy.

<sup>30</sup> See also article 9, para. 1, of the Law on Emigration of Albanian Citizens for Employment Purposes and action point 36 of the “Strategy on reintegration of returned Albanian citizens”.

<sup>31</sup> Return Strategy, Action points 25 (i), 29, 30, 31, 32, 33.

<sup>32</sup> *National Strategy on Migration*, p. 11.

<sup>33</sup> Tsenkova, S, “The Phenomenon of Informal Settlements in Post-Socialist Cities: Factors and Patterns of Diversity”, *Urban Challenge*, vol. 21, No. 2 (2010), pp. 73-84.



social services and institutional capacity.<sup>34</sup> The role of social workers in facilitating sustainable reintegration through the promotion of social and economic rights of returnees at the local level is critical, in particular in regard to vulnerable groups. Noting the limited role assigned to social workers in the reintegration strategy,<sup>35</sup> the system of child protection units with dedicated social workers who provide psychosocial services to children and families at risk<sup>36</sup> could present a good practice to build on in this respect.

## E. Institutional oversight

53. The Special Rapporteur notes that accountability and monitoring of the return and reintegration strategy is entrusted to the Inter-institutional Committee on Measures against Organized Crime, Trafficking and Terrorism, with the assistance of the Ministry of Labour.<sup>37</sup> He is of the view that a return strategy with sustainable reintegration with human rights and social protection at heart may more appropriately be implemented under the guidance and responsibility of a body such as the Technical Committee on Migration or the Inter-Ministerial Committee on Migration.

## VII. Foreign migrants

54. Immigration to Albania is still negligent in comparison to the large number of migrants leaving the country. Some 4,000–4,500 documented foreign nationals are estimated to reside in Albania.<sup>38</sup> However, like other countries in Western Balkans, Albania is increasingly becoming a county of transit, characterized by the “transiting flow of non-European irregular migrants that enter the EU at the Greece-Turkey border and continue from Greece to other Member States”.<sup>39</sup> The Special Rapporteur received reports that the number of third country nationals who are refused entry into Albania has steadily increased<sup>40</sup> – a trend intimately linked to the common policy objective of the European Union and Albania to combat “illegal immigration more effectively”.<sup>41</sup> The Special Rapporteur is concerned at protection gaps in law and practice in the current response to irregular migration – immigration detention – with negative consequences also for a human rights based-asylum and refugee regime.

### A. Asylum-seekers and refugees

55. The number of refugees and asylum-seekers in Albania is very small. The Special Rapporteur learned from the Department of Citizenship and Refugees that 32 asylum-seekers, 58 refugees and 6 persons seeking temporary protection were recognized in Albania at the time of the visit. Amendments to the Law on Asylum – including the right to

<sup>34</sup> *National Human Development Report*, p. 56.

<sup>35</sup> “Strategy on reintegration of returned Albanian citizens”, p. 21.

<sup>36</sup> See report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67/Add.2), para. 90.

<sup>37</sup> “Strategy on reintegration of returned Albanian citizens”, p. 20.

<sup>38</sup> Submission to the Special Rapporteur by the United Nations country team, November 2011, p. 3.

<sup>39</sup> European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX), *Western Balkan Annual Risk Analysis 2011* (Warsaw, 2011), p. 4.

<sup>40</sup> Submission to the Committee on Migrant Workers by the United Nations country team, 2010.

<sup>41</sup> Readmission Agreement between the European Community and Albania, preamble.

appeal and provisions on interpretation and legal representation – have improved the legal framework. Nevertheless, shortcomings in law and practice remain.

56. The Special Rapporteur is concerned that persons in need of international protection may not be adequately informed of their right to seek asylum as guaranteed by article 1 of the Law on Asylum. At border crossing points, foreigners are asked if they wish to seek asylum during the pre-screening procedure. Yet several border police officers who met with the Special Rapporteur were of the view that many undocumented foreigners were in Albania solely in transit in their quest to reach the European Union with no interest of staying in Albania, including through asylum. The Special Rapporteur is therefore concerned that many protection claims may go undocumented.

57. Additional challenges observed by the Special Rapporteur include a shortage of available interpreters, a lack of pre-screening forms in the relevant languages and an absence of legal expertise on migration and asylum matters among Albanian lawyers. The limited institutional capacity of the Department of Citizenship and Refugees – restricted by law to three staff members responsible for asylum applications (Law on Asylum, art. 17, para. 1) – to handle asylum claims was also brought to the Special Rapporteur's attention. These limitations have a direct negative impact on the right to seek and be granted asylum. He also learned that the time frame of 51 days for consideration of asylum claims is rarely met and that six months is the average period for refugee determination.

58. The Special Rapporteur visited the National Reception Centre for Asylum-seekers in Babrru, Tirana. While the centre is intended solely for asylum-seekers pending consideration of their requests, at the time of the visit half of the 40 residents were refugees. He learned that one asylum-seeker had lived in the centre since 2004, now with refugee status. The Special Rapporteur regrets that the right of refugees to housing and shelter<sup>42</sup> has not been adequately implemented. In this regard, he notes with concern that the project on housing and shelter ("Help for shelter" project) for refugees may be in jeopardy subsequent to the reduced funding by the Office of the United Nations High Commissioner for Refugees, leaving the Government with sole responsibility for its implementation. The Special Rapporteur considers the review of the Law on Family Reunification and Integration offers a good opportunity to thoroughly revisit State support and assistance provided to refugees.

## **B. Detention of migrants in an irregular situation**

59. The law and practice in Albania relative to the detention of migrants in an irregular situation is a matter of serious concern to the Special Rapporteur. Articles 79, paragraph 1, and 80 of the Law on Foreigners stipulate detention in a closed centre – as an administrative measure – for foreigners with orders of removal, removal by force or expulsion and for foreigners readmitted on the basis of international agreements. The law also sets out that State authorities may, for reasons of public security, detain a foreigner whose identity or reasons for the stay are not clear (art. 79, para. 3). In application of the law, the closed detention centre in Kareç – constructed primarily with funding from the European Union – opened in April 2010 and is keeping a growing number of detainees: 227 in 2011 compared to 32 in 2010.<sup>43</sup> In order of numbers, detainees come primarily from Morocco, Afghanistan, Palestine, Algeria, Tunisia and Somalia – often after passing through Turkey and Greece.

<sup>42</sup> See Law on Family Reunification and Integration and Law on Asylum, art. 12 (rights of refugees).

<sup>43</sup> *Lista e personave te akomoduar be qendren e mbyllur per te huaj per vitin 2010, 2011*, information provided to the Special Rapporteur by the Kareç Closed Detention Centre, 12 December 2011.

60. The Special Rapporteur is gravely concerned at issues related to accessibility, detention conditions, legal safeguards in law and practice and the treatment of migrants detained in Kareç. The centre is situated 20 km outside Tirana in a remote location practically inaccessible due to extremely bad road conditions. Such circumstances seriously obstruct the enjoyment of detainees' right to legal defence (art. 79, para. 4) and independent monitoring by national and international bodies. Its external and internal infrastructure, with high fences and detainees' rooms kept in a corridor locked behind bars, as well as its rules of "daily routine", reminded the Special Rapporteur of a mid- to high-security prison. He noted the unacceptably cold and humid conditions of the centre and was most concerned at reports of frequent and long power cuts. The centre has very limited possibilities for outdoor exercise: no sport facility or exercise yard were available.

61. A specific leaflet on detainees' rights "has been produced and contains basic information on fundamental rights for persons deprived of their liberty". However, the Special Rapporteur was concerned about the lack of translated copies in languages commonly spoken by detainees and very limited language skills of staff. Further, he noted that the lack of a specific provision to inform arriving detainees of their rights and the reason for their detention.<sup>44</sup> The Special Rapporteur heard pleas for a thorough individual assessment, including of potential asylum claims, of persons brought to Kareç. At present, such assessment was considered "superficial" by detainees.

62. The Special Rapporteur was particularly concerned at the presence of a Somali girl and her female relative in the centre. At the time of his visit, they had been staying in the centre for almost two weeks. They informed the Special Rapporteur that they had not had any contact with their families nor received information on the development of their case or on their right to access to a lawyer. They had been told to "wait". Staff had shown interest in their situation, they explained, only on the day of the visit of the Special Rapporteur, when the Somali woman was given a pair of socks. The girl further told the Special Rapporteur that, while initially with the police at Tirana International Airport she had been told that they would either stay in the centre or be sent back to Somalia. According to the girl, she had received no response when asking police what would happen to her if she decided to stay in Albania.

63. While noting information that children are not accepted at Kareç, he notes that the internal regulations contain provisions which foresee the presence of "minors" in the centre.<sup>45</sup> He is further concerned that the Law on Foreigners (art. 87) allows for detention of unaccompanied minors in a "social centre" on an exceptional basis. The Special Rapporteur recalls the general rule that separated and unaccompanied minors should not be detained.<sup>46</sup>

64. The Special Rapporteur is concerned at the lack of adequate training and sensitization of staff on international human rights standards and principles regarding the rights and treatment of persons deprived of their liberty. As the first of its kind in Albania, the Kareç centre presents a new challenge to the institutions and personnel responsible for its operation due to lack of funds, human resources and human rights expertise.

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<sup>44</sup> See in particular article 3 on entry and registration of detained foreigners in the closed centre.

<sup>45</sup> Arts. 14, para. 1 and 5, and 15, para. 6.

<sup>46</sup> Committee on the Rights of the Child, general comment No. 6 (2005) on treatment of unaccompanied minors and separated children outside their country of origin, para. 61. Council of Europe, Positions on the rights of minor migrants in an irregular situation, CommDH/PositionPaper(2010)6, p. 5.

### C. Migrant workers and members of their families

65. Likely due to their small number of foreign migrant workers living and working in Albania, the situation of foreign migrant workers living and working in Albania was seldom brought to the attention of the Special Rapporteur. He noted with concern, however, the position of the Government in 2010 that, owing to the low numbers of migrant workers, the issue is not considered a priority and no specific regulation is currently envisaged for this category of migrants (CMW/C/ALB/Q/1/Add.1, para. 87). In view of the reported increase of irregular migration into Albania, the Special Rapporteur urges the Government to revisit its position and ensure that laws and the new strategy on migration address and guarantee the enjoyment of the human rights of migrant workers and members of their families, regardless of their status. Special attention should be paid to reports of alleged exploitation of cheap labour force coming from other countries in the region and to the need to strengthen the monitoring role of the Labour Inspectorate in formal and informal markets.

66. The Special Rapporteur reiterates that as a State party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, Albania is under an obligation to ensure to “everyone” all fundamental civil, political, economic, social and cultural rights. In this regard, the Special Rapporteur notes that the current national legal framework does not fully comply with the country’s international human rights obligations. Article 5 of the Law on Foreigners restricts the right to possess documents that certify his/her identity, the right to appeal and the right to compensation and the right to association to foreigners staying “legally” or having “legal residence”. A review of the law should also ensure that the right to education not be restricted to “permanent residents” (art. 30) and include an explicit provision on the right to a nationality of children born to foreigners in Albania. The law should also contain the principle of the best interest of the child wherever it impacts on the situation of children in the context of migration.

## VIII. Conclusions and recommendations

67. **Albania has made commendable progress in putting in place a holistic and rights-based legal and policy framework for migration. With the crucial support of the European Union, the United Nations country team, international organizations and other donors, Albania has developed comprehensive national strategies on migration, reintegration of returnees and border management and brought laws in closer compliance with human rights obligations. The Special Rapporteur was impressed by the level of political commitment to giving effect to this framework.**

68. **Nevertheless, as a developing country with only two decades of democratic governance, public institutions and the public administration remain weak. A significant gap between policies and their practical implementation persists. This directly impacts on the capacities, resources and expertise of the state to ensure the realization and protection on the human rights of migrants. In its capacity as the main external stakeholder in Albanian migration management, the Special Rapporteur calls upon the European Union to support Albania in addressing these challenges. He reiterates that the protection of the rights of migrants is a shared responsibility of States and urges Albania to intensify cooperation with neighbouring countries and key countries of destination in this regard.**

69. **In the light of the concerns mentioned and information received, the Special Rapporteur wishes to propose the following recommendations to the Government.**

**A. Normative and institutional framework for the protection of the human rights of migrants**

70. The Government should:

(a) Undertake a comprehensive legal review of the level of harmonization of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families with domestic law;

(b) Adopt the new national strategy on migration 2013–2018 on the basis of a critical evaluation of the implementation of the National Strategy on Migration 2005–2010 and the country’s international human rights obligations. The Government is invited to incorporate the recommendations of the Committee on Migrant Workers and the present recommendations in the new strategy;

(c) Place vulnerable groups – children, women, youth and the Roma – at the heart of a human rights-based national migration strategy. The Government is called upon to undertake analysis on (i) the interrelation between migration and all forms of exploitation, including trafficking, and (ii) the human rights of women in the context of migration, and to ensure sustainability of shelters for victims of violence.

**B. National human rights protection system**

71. The Government should:

(a) Elaborate a national human rights strategy in broad-based consultation with, *inter alia*, members of the Parliament and the judiciary, civil society, the People’s Advocate, the Commissioner for the Protection from Discrimination, representatives of vulnerable groups, academics, and the media. Such a strategy should include specific action points on the promotion and protection of the human rights of migrants in Albania and Albanian migrants abroad;

(b) Strengthen the human, technical and financial resources of the People’s Advocate and the Commissioner for the Protection from Discrimination and significantly ease their donor dependency;

(c) Appoint an official body, entity or focal point responsible for monitoring, evaluating and recommending action for the protection and promotion of the human rights of migrants, or assigning an existing entity with such specific responsibility;

(d) Enforce the Law on Legal Aid, including by: (i) identifying a line for its implementation in the State budget; (ii) implementing the 2011 agreement between civil society and the Legal Aid Commission on provision of legal assistance; and (iii) disseminating information on available lawyers under this agreement to relevant professional groups, in particular to the Border and Migration Police and social workers;

(e) Establish a centralized mechanism for data collection, management and analysis of all migration issues – disaggregated by sex, age, nationality, socio-economic background – as a foundation for rights-based policymaking on migration;

(f) Undertake systematic training on human rights and migration for lawyers and judges, social workers, migration and border police, civil servants, representatives of the media and members of parliament. The Government is strongly encouraged to continue and further develop, in partnership with civil society, the training programmes on migration law undertaken by the School of Magistrates in Tirana;

(g) Strengthen anti-trafficking measures, notably through increased funding of shelters for victims of trafficking, amendments to the Criminal Code (providing for victims to be legal parties in criminal proceedings), and putting in place a mechanism for proactive identification of potential victims of trafficking.

### **C. Albanian migrants abroad**

72. The Government should:

(a) Formally adopt the Government's Information and Communication Policy with the Albanian Migrant Community and launch a comprehensive outreach and information campaign on the human rights of Albanian migrants, irrespective of their status, living and working abroad;

(b) Significantly strengthen the number, staffing and expertise of Albanian consular offices and embassies, conduct specialized training courses on human rights and migration for consular officers and diplomats, and designate consular officers with expertise on the human rights of migrants to follow-up on individual cases;

(c) Take urgent necessary consulate measures necessary to guarantee to each child born to Albanian parents abroad the right to free and compulsory registration, a name and nationality. The Government should contemplate a study on the difficulties encountered by Albanian migrants abroad to register their children and implement the cooperation agreement between the Government and the Tirana Legal Aid Society on increased birth registration;

(d) Promote the right to education for Albanian children abroad by strengthening current consulate initiatives such as the distribution of "ABC" text books to these children and intensifying negotiations with the relevant host countries on provision of education in the their mother tongue;

(e) Facilitate access to legal assistance of Albanians deprived of their liberty or under judicial proceedings abroad through free legal aid by consular offices. The Special Rapporteur also recommends the Government to explore cooperation arrangements with practicing Albanian and other lawyers and the national human rights institution of the host country;

(f) Guarantee in law and practice the right of Albanian citizens abroad to participate in national public life and to vote, including through the review of the Electoral Code;

(g) Enforce the Agreement on Seasonal Workers concluded with Italy in July 2011 through a complementary agreement on its implementation and conclude further bilateral agreements (starting with Greece and Italy) on social security.

### **D. Returnees**

73. The Government should:

(a) Take urgent measures to ensure that the return of Albanian unaccompanied children from neighbouring countries only takes place pursuant to an analysis of the best interests of the child and is properly followed-up on an individual basis by national authorities. Authorities of the concerned countries should conduct an in-depth assessment of the situation and put in place prompt measures to ensure that no child is returned outside of the formal readmission agreements;

(b) Undertake a human rights assessment study of the implementation of readmission agreements concluded with the European Union and countries in the Western Balkan and, on this basis, formulate detailed and human rights-based implementation protocols. These should ensure that detailed information on the profile and protection needs of each returnee is systematically received by the Border and Migration Police in advance of readmission. Provision of a complaint procedure on alleged human rights abuses should also be considered;

(c) Conduct a thorough human rights-based needs assessment of all border crossing points regarding infrastructure, capacity and human resources with a view to ensuring, inter alia, an adequate presence of female police and availability of psychologists and social workers. The Special Rapporteur calls for immediate renovation and refurbishing of all holding cells in border crossing points;

(d) Consider a permanent presence of social workers or representatives of Regional and Local Employment Offices at border crossing points where return rates are high (such as Kakavija) in order to strengthen protection measures, improve information on employment opportunities and facilitate referrals to appropriate social services;

(e) Conduct reform of social workers to give them a proactive role in the reintegration process, including through case management;

(f) Intensify media and information campaigns on the reintegration support provided by the migration counters and consider mobile sub-units to reach remote rural areas and “informal areas” to inform the most economically disadvantaged groups of returnees of opportunities and services. The Government is invited to contemplate ways to increase budgetary and operational autonomy of the migration counters;

(g) Formulate, in partnership with returnee women and children themselves, specialized programmes for Albanian women and children migrants returning voluntarily or forcibly for their reintegration at local level;

(h) Review the mechanism of institutional oversight of the Strategy on reintegration of returned Albanian citizens to ensure a strong human rights-based and oriented implementation.

## **E. Foreign migrants**

74. The Government should:

(a) Take prompt steps to ensure that the right to seek and enjoy asylum is fully respected. The Special Rapporteur recommends regular updates and debriefing to Border and Migration Police on the situation of countries of origin of third country nationals arriving at the Albanian border. Availability of interpreters and pre-screening forms in all relevant languages and training of Albanian lawyers on migration and asylum matters should be addressed as issues of priority;

(b) Complete without undue delay the electronic registration of all asylum-seekers and refugees in the civil status registry for foreigners and provide them with the relevant identification and travel documents. Necessary measures to ensure their integration into society, notably through implementation of their rights to housing, work and social services, should be considered promptly;

(c) Conduct a thorough review of the Law on Foreigners to ensure its compatibility with international human rights obligations and that it guarantees the

enjoyment of all fundamental civil, political, social, economic, cultural rights to all foreigners on its territory. The principle that migrant children should not be subjected to detention, or only in exceptional circumstances as a last resort and for the shortest period of time, should be explicitly protected. The Government is invited to seek technical assistance from the Office of the United Nations High Commissioner for Human Rights (OHCHR);

(d) Urgently conduct a comprehensive review and human rights assessment of the closed detention centre in Kareç. Issues of accessibility, the physical infrastructure, the right to be informed in a language understandable to detainees of his/her fundamental rights, contact with the external world, outdoor exercise and independent monitoring should be addressed as matters of priority. The Special Rapporteur urges the Government to strictly ensure that no child is held in the centre. He calls upon the European Union to take work jointly with relevant national authorities with the view to facilitating implementation of this recommendation;

(e) Revisit the system of immigration detention and initiate discussion with the European Union, the United Nations country team, IOM and other partners on the possibility of introducing a system of alternatives to detention, including community-based alternatives, to encourage regular migration and a human rights-based migration management;

(f) Undertake a study on the situation and enjoyment of rights of migrant workers and members of their families in an irregular situation living in Albania.

## **F. Role of the international community**

75. The Special Rapporteur calls upon the European Union, the United Nations, IOM, OHCHR and other international organizations and donors to continue and strengthen their technical assistance to the Government of Albania in the areas of human rights, rule of law and good governance in order to strengthen institutional capacity and resources to ensure the protection and promotion of the human rights of migrants in all aspects of migration. The Special Rapporteur encourages the international community to support the Government in the implementation of the recommendations contained in this report.