



ΔΕΕΕΜ ΟΜΟΝΟΙΑ

Δημοκρατική Ένωση Εθνικής Ελληνικής Μειονότητας - ΟΜΟΝΟΙΑ
Bashkimi Demokratik i Minoritetit Etnik Grek - ΟΜΟΝΟΙΑ
Democratic Union of the Greek Minority - ΟΜΟΝΟΙΑ

Universal Periodic Review (October 2018)

Stakeholder Report on Albania

The "**Democratic Union of the Hellenic Minority**", **DEEM – ΟΜΟΝΟΙΑ** represents the Ethnic Greek Minority of Albania, which is officially recognized and it is the largest ethnic minority of the country. ΟΜΟΝΟΙΑ was founded on January 11, 1991 in the town of Dervitsani, with seat in the city of Saranta, Albania. The aims of the organization, apart from representation, are the promotion of the Greek culture, the teaching of the Greek language, the preservation of customs and traditions, the unity of all members of the Ethnic Greek Minority, irrespective of political affiliations, and the preservation of the national identity of the minority, through language, history and culture.

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During the **second Universal Periodic Review**, the Republic of Albania received the following recommendations:

- Ratify the European Charter for Regional or Minority Languages
- Intensify the dialogue with persons belonging to national minorities on the opportunities for the teaching of and in minority languages and, where appropriate, take the necessary steps to address any shortcomings
- Expand possibilities for the education of minorities, including learning minority languages, promoting identities and supporting minority cultures
- While finalizing the new law on administrative and territorial division, take into full account the European Charter of Local Self- Government of the Council of Europe and article 108, paragraph 2, of the Albanian Constitution
- Continue making efforts to integrate the rights of the minorities present in the country in its public policies and legislation
- Consider adopting comprehensive legislation on national minorities that would address, inter alia, the legal criteria for recognition as a national minority, the institutional framework for addressing minority issues and structuring the dialogue with representatives of national minorities.
- Guarantee the rights of minorities, elaborate and implement a legal and regulatory framework for the respect and protection of vulnerable populations
- Include in the future census a question on national ethnicity
- Consider alternative ways to ensure that members of national and/or ethno-linguistic minorities can officially uphold their identity, thus safeguarding the respect of their relevant rights
- Ensure equal access in practice to rights for persons belonging to all minorities throughout Albania, especially the right of education in and teaching of the minority languages
- Implement the measures contained in the resolution recently adopted by the Committee of Ministers of the Council of Europe on the implementation by Albania of the Framework Convention for the Protection of National Minorities, in particular those relating to the right of self-identification of minorities in the census processes and creating conditions for education in minority languages on the entire territory of the State
- Ensure that all members of ethnic and linguistic minorities, recognized as such or not, should enjoy all social rights and should be protected from any forms of discrimination
- Further strengthen its efforts to address minority issues with the aim of overcoming the remaining obstacles to the full implementation of the human rights of minorities as one of the most vulnerable groups within society

1. In view of the preparation of the Universal Periodic Review (UPR) on Albania and on behalf of the Democratic Union of the Greek National Minority “OMONOIA”, representing the largest National Minority in Albania, allow us, your Excellences, to present to you our approach on vital issues regarding the survival and well-being of the Greek National Minority in Albania.

A. The new Law on Protection of National Minorities

2. The Albanian Government, after a very long time of consideration, adopted and the Albanian Parliament voted the new Law on Protection of National Minorities in October 2017. “OMONOIA”, being the largest ethnic minority in Albania, participated in good faith in all preparatory consultations before the adoption of the Law, presenting its own approach on the new Law. The final text of the Law, however, did not take into consideration any of our proposals.
3. Besides this, the new Law provided that, within six months after its adoption, the Albanian Government should have adopted the Secondary Legislation. However, today, **almost a year after the adoption of the Law**, the Albanian Government **has yet to publish** the Secondary Legislation, which we expect that could rectify some problematic clauses of the Law, such as **the self-identification, the use of Minority language and the right of education in the minority language**. During the discussions in the Committee for National Minorities, the Representative of the Greek National Minority had expressed her strong opinion against the proposals of the Albanian Government as they were described in the draft Secondary Legislation. In particular:
4. **Right to self-identification (Articles 6 and 7):** The new law on the protection of national minorities in Albania **raises concerns regarding the effective guarantee of minority rights throughout the country**: This law continues a tradition, on the part of the Albanian state, of restricting the geographical scope of minorities’ protection, at least as far as the Greek National Minority is concerned. It does so by making dependent the exercise of the right of self-identification, on the Civil Status Office ethnicity data (Article 7 par.1) and the Census legislation (Article 6 par.1).
5. In this context it should be recalled that, to this day, the minority policies of Albania are defined by the theory and practice of “**minority zones**”, which were arbitrarily designed, in their current form, by the Hoxha communist dictatorship and whose existence Albanian governments categorically deny but continue to implement *de facto*. Up to this very day Albanian citizens of Greek ethnicity can exercise (some) minority rights only if they are residents of 99 villages (which constitute the aforesaid “minority zones”). Only these persons were registered as members of the Greek Minority in the Civil Registries. As a consequence, relevant “documentation” exists only for them.

6. This is why even prominent members of the Greek National Minority, are not able to exercise their fundamental right of self-identification under the new Minority law, since their birthplace, was excluded from the “minority zones” in 1945 and, consequently, all of their documents register them as **of Albanian ethnicity**. This practice applies to the residents of numerous villages densely populated by ethnic Greeks, such as Himara, Narta, Palasa, Drymades, who are being deprived of their right to self-identification.
7. The reference made by the minority law **to the census legislation** as regards the exercise of a person’s right to declare his/her belonging to a national minority serves the same purpose. The census law currently in force was amended only three months before the holding of the 2011 census, introducing a 100.000 ALL (700 EUR) fine for incorrect replies to the questionnaire and determining that a reply would be considered “incorrect” if it did not correspond with data contained in the civil registry. Feeling that their rights were being denied, the minorities abstained from the process and denounced the census.
8. In this regard, it should be noted that the Advisory Committee of the CoE Framework Convention for the Protection of Minorities, in its Third Opinion on Albania (adopted on 23.11.2011) stated that the registry was an unreliable source of information and that the census procedure was not compatible with the principle of self-identification, a conclusion which was largely shared by the Committee of Ministers of the CoE (CM/ResCMN/(2014/1).
9. It is on this “unreliable source of information” (Albanian civil registries) and this internationally discredited census legislation that the new Albanian law on the protection of minorities makes **dependent the very exercise of the right to self-identification**, which of course constitutes the foundation upon which any minority right is built.
10. By doing so, it chooses to perpetuate instead of addressing them, serious flaws in terms of minority protection, which for years have been the object of consistent criticism on the part of competent international institutions.
11. Henceforth, from our point of view:
 - Civil status office documentation should not restrict in any way the right to self-identification of any Albanian citizen, a right which should be exercised throughout Albania and not only within specific geographical areas (“minority zones”).
 - Repeal of Article 20 par.1 and 4 of the Law on Census of 2011 which introduced a fine for incorrect responses to the questionnaire and stipulated that a reply would be considered incorrect if it did not correspond with the data contained in the civil registry.

- The right to self-identification should be exercised through a self-declaration of minority (subjective element) while taking into account objective criteria, in particular language and religious characteristics.

(a) The right of education in the minority language (Article 13)

12. The Law (Article 13) stipulates that: “*Persons belonging to national minorities enjoy the right to be taught in the minority language. In local government units inhabited traditionally or in substantial numbers by persons belonging to national minorities shall be ensured possibilities to learn or be taught in the minority language, in accordance to the respective legislation in the education area*”.

13. However, the enlargement of the Municipalities, due to the 2014 territorial reform, makes extremely difficult for the National Minorities to reach the threshold of 20%. On the contrary, we believe that it is imperative this right to take effect if the 20% threshold/traditional inhabitation by a minority occurs *at the level of the smaller administrative units/njësie administrative* (whose administrative borders coincide with those of the former Communes/Municipalities).

14. In this vein, the Advisory Committee has urged the Albanian authorities “to apply the criteria for opening a class in a minority language in a flexible way and to look at ways of simplifying the system”. In addition, they invited the Albanian authorities “not to rely exclusively on data on ethnicity contained in the civil registers, nor on the results of the census of 2011”, but instead to respect the principle of free self-identification, while taking into consideration both the subjective choice and the objective criteria relevant to a person’s identity, when deciding on opening classes in a minority language¹.

15. From our point of view:

- The right of education in the minority language should be ensured **for all 12 school grades**, “in local government units inhabited traditionally or in substantial numbers by persons belonging to national minorities”.
- In the primary school the ratio of subjects taught in the students’ mother tongue to the subjects taught in Albanian should be in favour of the former while in secondary education teaching in Albanian would be increased.
- **The opening of a minority school/class** should take place at the level of *the smaller administrative units/njësie administrative* (and not of the “enlarged” Municipalities),

¹ Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Albania adopted on 23 November 2011, pp.27-28

when the substantial number or traditional inhabitation criteria are met and the number of the pupils per class is at least 10.

- **The text books for the minority schools** need a substantial improvement in terms of quality and prompt preparation and delivery.

(b) Use of the minority language (Article 15)

16. Once again, we believe that the enlargement of the Municipalities, due to the 2014 territorial reform, makes it imperative that the use of the minority language be ensured if the 20% threshold or traditional inhabitation by a minority occurs *at the level of the smaller* administrative units/*njësie administrative* (whose administrative borders coincide with those of the former Communes/Municipalities). The relevant decision should be taken by the Municipal Council (since administrative units do not have administrative autonomy) and not the Regional Governor. In addition, the Municipal Council should be legally obliged to take this decision when the criteria set by the law on minorities are met.
17. The “names of the administrative units, streets and other topographical indications” should be displayed, in addition to the Albanian language, in the language of the respective minority, not only in units where more than 20 percent of the residents belong to a national minority (as stipulated in par.3) *but also In local government units traditionally inhabited by persons belonging to a national minority.*

In this context, the possibility of displaying the name of the Municipality in the minority language, should also be ensured.

In addition, the term “adequate request” should be defined in a way so as not to render this provision inapplicable or too difficult in practice (a request by 100 members of a minority, for example, should suffice).

18. “Local government units traditionally inhabited by persons belonging to a national minority” cannot constitute a different name for the former “minority zones”. For example apart from the “recognized” Finiq and Dropul Municipalities, areas traditionally inhabited by persons belonging to the Greek National Minority include also Himara, Narta, Moursi, Saranda, Gjirokaster, Korca and others. The term “non-traditionally inhabited” should denote areas where members of the minority reside due to, for example, displacements or internal migration, as for many members of the Greek National Minority is the case of Tirana and Durres.

B. The protection of Property Rights

19. As it is widely recognized, the property rights in Albania constitute the most complicated issues after the change of the regime in the early 90s. For the Greek National Minority, in particular, the protection of its property rights is vital for its survival in Albania.
20. One of the main problems is related to the Albanian legislation for expropriations. According to the Albanian law, there is no need for a Court decision to confirm the “public interest” for expropriation of citizens’ properties. On the contrary, the legislation for “Strategic Investments” provide for expropriation by the State in favor of the investor in case that the negotiations between investor and owner are inconclusive after 90 days (for sea-side properties situated in the part of the country with arguably the highest touristic potential, with sums ranging from €0,6 to €1,8 per square meter²!)
21. Needless to point out that the expropriation compensation is far below the actual market price and the owners are deprived of their properties immediately after the relevant decision of the Council of Ministers and, in most cases, without compensation, since they have to seek recourse to the Courts in order to get market-value compensation. In practice, owners are engaged in lengthy and costly legal battles until they get a final Court decision, which in many cases is very difficult to be implemented.
22. Another common problem is the non-registration of property titles by the Land Registries. This is a common phenomenon especially in the case of Himara, which due to its high potential for tourist development, becomes the target of big economic interests. One of the most telling examples of the non-implementation and violation of the property rights of the members of the Greek National Minority is the urban plan for the town of Himara.
23. In this regard, it should be recalled that the Albanian Ombudsperson, who following complaints from the residents, whose properties faced demolition and expropriation, inquired into the matter and received official replies from the State authorities involved, concluded in his relevant report, issued on 19th January 2017 (Doc. No. 201602238/6), that the urban plan was, on several grounds, not in conformity with the law and that the relevant administrative decisions had not even entered into force and were null and void. In this context, it should be recalled that while the Albanian Government has, ultimately, come to accept, at least in principle, that the affected residents are indeed the owners of the land and buildings to be expropriated (without, however, having yet registered their properties). In December 2017, the Administrative Court of Vlora, in its judgment, also agreed on the illegality of the urban plan.

² See the Albanian Council of Ministers Decision 89/3.2.2016, page 976, available (in Albanian) at http://qbz.gov.al/botime/fletore_zyrtare/2016/PDF-2016/14-2016.pdf

24. Another example is the case of Nivica, in which the owners, after a long legal battle, acquired a decision by the Supreme Court of Albania ordering the Municipality of Himara to issue ownership titles for large lands along the sea coast. The Municipality of Himara issued, in implementation of the Supreme Court Decision, the relevant titles, which, however, the Land Registry of Vlora refused to register.
25. Another case is the long legal battle that the Municipality of Finiq has been fought in connection with large agricultural municipal lands in the area of the village of Kostari, claimed by individuals who presented titles of dubious validity. The Municipality appealed the previous Decisions in the Supreme Court, which, unfortunately, is currently not functional due to the dismissal of many of its members through the vetting process.
26. The above are just some indicative cases concerning the property rights of the members and the Municipalities of the Ethnic Greek Minority. Through expropriations, arbitrary government decisions, administrative barriers and ambiguous Court decisions, the members of the Minority have to go through lengthy and cumbersome procedures in order to protect their properties, which are essential for their staying in their ancestral homes.