

The OSCE Presence in Albania

1998/1999 have been remarkable years both in terms of political developments in Albania itself and because of events in Kosovo, which have affected not only Albania but also the region as a whole. The latter events in particular, because of the enormity of their political, humanitarian and economic impact, put Albania's still fragile democracy and infrastructure under very considerable pressure. But they also brought Albania into a new relationship with the international community and institutions that it could not have expected or aspired to before the crisis occurred. How Albania succeeds in coping with these dramatically changed circumstances in the longer term is a challenge not only for its government and people but also for the international institutions themselves, including the OSCE.

Against this background, the OSCE Presence in Albania has seen the need to respond and adapt flexibly to many unexpected situations and challenges, and it will continue doing so in the year to come. At the same time it must also seek to ensure, for the long-term good of the country, that the basic tasks for which the Presence was established - namely the promotion of democracy, the rule of law and the development of civil society - remain firmly in the forefront of public attention and the agenda of government.

In terms of domestic developments, 1998/1999 have seen some major steps forward in re-establishing the rule of law and the authority of the elected government in Albania following the near-total breakdown of both in the first half of 1997. A new Constitution was adopted by referendum at the end of 1998, a Civil Service Law and a State Police Law were drafted, aimed at depoliticizing these two important organs of civil administration, and the first steps were taken towards the decentralization of governmental authority through the reinforcing of local government. A number of other important organizational and qualitative reforms of similar significance to the development of a more just and civic society were introduced. There was also an encouraging growth in the activities of the NGO sector, at national and local levels, in areas such as the environment, refugee assistance and human rights defence.

In all of these developments the OSCE Presence has been closely involved in support of both the government and individual sectors in society. The Presence has also been active in a number of other areas, as diverse as weapons collection and destruction, economic and security liaison, parliamentary observation, and the monitoring of incidents on Albania's troubled northern borders - the latter proving its worth particularly during the conflict in Koso-

vo and the subsequent refugee influx. In most if not all of these activities, the Presence has been much assisted in its work in Tirana by a growing network of field office teams throughout the country. These offices have proved to be a major asset to the Presence and to the Organization, greatly enhancing the visibility and reputation of the OSCE and highly valued by the government and people of Albania.

The Presence's activities have also been strongly supported since October 1998 by the additional dimension of the local and international "Friends of Albania" group. Set up in reaction to the attempted coup of September 1998, the "Friends of Albania" bring together, on an informal and open-ended basis, representatives of all those countries and international organizations active in providing financial support, technical assistance and other forms of aid to help Albania realize its potential, and, in due course, join the Euro-Atlantic mainstream. The group, which meets locally in Tirana under the Chairmanship of the OSCE Head of Presence and internationally under the joint Chairmanship of the OSCE and EU in Vienna and Brussels, is engaged in a regular exchange of information to facilitate and co-ordinate international efforts, while at the same time encouraging and monitoring those of the government in tackling a number of key political and economic reform issues. In February 1999, in preparation for the group's second meeting at an international level, a comprehensive matrix was drawn up by the local "Friends" reflecting all the Albanian government's reform objectives. This matrix forms the basis of the group's monitoring of internal progress as well as the international assistance they give. Improvements in maintaining public order and the fight against corruption have been identified by the local and international "Friends" as a pre-requisite for the future political and economic development of the country. The issue was first highlighted at the second international meeting of the "Friends" held in Vienna in February, and even more prominently in the Conclusions of the third such meeting in Brussels in July 1999. These Conclusions had considerable resonance on the domestic political scene and succeeded in putting law and order issues high on the party political agenda for the rest of the year.

But as the events of September 1998 clearly indicate, progress has not always been achieved easily, nor has the process of democratization and reform enjoyed the universal support of all democratically elected forces in the country. Problems have been most evident at the party-political level, where disputes between the main opposition Democratic Party (DP) and the government have been mainly pursued outside the democratic framework of the Parliament, which the opposition has boycotted for most of the period since losing the June 1997 elections, until returning again in July 1999. In some instances this has complicated the work of government and deprived the democratization process of the wider consensus it deserves; in others it has

come very close to derailing the process completely, as happened in September 1998.

Faced with such reminders of the vulnerability in the democratic process, which at the same time it is working to develop, the Presence has frequently been required to lend its "good offices" for political brokerage between government and opposition. In September 1998, this became necessary to avert the risk of breakdown in the democratic system altogether, but more often it has been in an effort to build bridges to help it function better. The review that follows seeks to illustrate these very different but mutually supportive roles of the Presence with accounts, on the one hand, of the rule of law activities of the Presence's Legal Counsellor's Office, and, on the other, of the political brokerage which has been a particular feature of the work of the Head of Presence over the same period.

The Kosovo crisis and the refugee emergency in Albania, have added yet another layer of urgency and complexity to the challenges already facing Albania, and hence to the tasks of the Presence. As the emergency developed from the end of March until mid-June 1999, the Presence responded in a variety of ways to requests from the Albanian government and international organizations for assistance. Because the crisis involved the Presence and its personnel in activities and areas not normally dealt with by the OSCE, it seems appropriate that these activities, and those of colleagues from the OSCE/KVM Refugee Task Force seconded to Albania to provide assistance, should also be detailed in this review.

Rule of Law

In early 1998, the need was recognized for a rule of law centre working with the OSCE Presence, as well as the international community, to analyse and help address the serious legal conflicts arising regularly in Albania. Accordingly, and in close co-ordination with the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), on 9 March 1998, with initial grant funding from the Open Society Foundation for Albania (OSFA/Soros) and the Constitutional and Legal Policy Institute (COLPI) - and with logistical, financial and other support from the OSCE Presence in Albania - the centre began operations as "The Legal Counsellor's Office" (LCO).

Mandate

The purpose of the LCO is to promote democratization through the development of democratic institutions, legal culture, and the rule of law, and to promote the protection of human rights. In promoting the development of the

rule of law in Albania, the LCO's mandate is quite broad. Among other things, the LCO

- serves as a legal think tank, providing rapid analyses of legal conflict situations that arise in Albania;
- implements and supervises a domestic human rights investigation and reporting programme called the Human Rights Alert Programme (HRAP);
- implements the constitutional law programme of the Administrative Centre for the Co-ordination of Assistance and Public Participation (ACCAPP);
- monitors judicial proceedings;
- assists in the co-ordination of legal reform efforts in Albania; and
- provides other forms of direct technical legal assistance to Albania.

Accomplishments

The following represent some of the LCO's accomplishments and activities during its first year of operations:

- **Legal Conflict Resolution/Analysis.** During its first year of operations, the LCO has provided the Presence with legal analyses relating to numerous political and social conflicts. For example, the LCO assessed last-minute amendments to the Local Election Law and through its analysis helped the Presence avert a threatened boycott of local by-elections. The LCO supported the Presence in reaching agreement with striking judges on amendments to the controversial 1997 Law on the Organization of Justice. The LCO also issued formal analyses/statements on the removal of the President of Albania's Constitutional Court, the removal of chairpersons of local government district councils, a draft law for the investigation of the Hajdari murder, and the voting and appeal procedures under the Albanian Referenda Law. The LCO recently prepared a written analysis identifying constitutional and other problems with the draft Law on State Secrets, and worked with members of Parliament and the legal expert of the National Information Service (SHIK) to modify the draft law before its approval. The LCO informally reviewed the new Law on the Organization of Justice after its quick passage through Parliament in December 1998, identifying certain incompatibilities with the new Constitution. The LCO has also prepared internal papers on socially tense issues, including the rules governing compelled testimony in a criminal case, the scheme of property laws relating to the claims of former property owners, and the laws governing building construction.

- Human Rights Alert Programme (HRAP). The LCO has also developed the OSCE's Human Rights Alert Programme - a programme to investigate and report on alleged human rights violations and other abuses by the state administration. Still in its initial phase, the HRAP has received over 161 complaints, has investigated/analysed 39 of these, and has fully resolved eight others. Through the HRAP, the LCO has observed and will report on incidents of police violence, problems in the enforcement of court judgements, claims of wrongful employment termination, and a variety of other issues. In the coming period, the HRAP will focus on field investigations in several serious cases. HRAP is designed to include domestic NGOs in the investigation and reporting process, and will thereby develop local NGO capacity.
- Constitutional Programmes/ACCAPP. In January 1999, the LCO began to implement the continuing projects of the Administrative Centre for the Co-ordination of Assistance and Public Participation (ACCAPP). As the name suggests, ACCAPP provided administrative assistance to Albania in gathering widespread public participation and input, and domestic and foreign technical expertise, in the constitution drafting process. After approval of the new Constitution by popular referendum in November 1998, an equally important process is to begin - teaching the citizenry the principles found in the Constitution and building an expectation in society that constitutional rights will be honoured. Moreover, all legislation should be reviewed for consistency with the new Constitution. Thus, important post-referendum Constitution projects include: (1) the publication of educational and historical materials on the Constitution; (2) the design and implementation of education programmes on the Constitution; and (3) the review of new and existing legislation for consistency with the Constitution (when requested by the appropriate authorities during the law drafting/revision process). Thus far in 1999, the LCO-ACCAPP Project Unit has published and distributed throughout the country 21,000 copies of a pamphlet containing the Constitution and background materials; presented the first and only post-referendum educational programme on the new Constitution; and assisted in the review for constitutional compatibility of the Law on State Secrets, the Law on the Organization of Justice, the Law on the General Prosecutor's Office, a draft law on investigation of the Hajdari murder, and the State Police Law.
- Judicial Monitoring. In the role of neutral judicial monitors, the LCO lawyers have observed several criminal and civil proceedings at all levels of the Albanian court system. The LCO has monitored such proceedings when requested by one or both of the parties to the dispute. The LCO acts as an impartial observer in this role, attempting to encourage a

fair judicial process. The LCO does not represent any party to the dispute; nor does it act as "judge" or try to influence the outcome in any case. Under these strict guidelines, the LCO has monitored proceedings relating to six former government functionaries accused of crimes against humanity; an internal dispute relating to the leadership of the Christian Democratic Party (CDP); cases involving claims of unfair employment termination; criminal cases relating to the 14 September 1998 riots; a housing dispute; and other matters. On occasion, the LCO will issue monitoring reports containing observations on matters of civil and criminal procedure and judicial process, human rights issues, and other legal principles of general application in Albania - all with the goal of suggesting systemic improvements to the judicial system.

- Co-ordination of Technical Legal Assistance Efforts. The LCO has played a significant role in co-ordinating domestic and international efforts on several legal reform projects. For example, the LCO co-ordinated domestic and international assistance efforts relating to the draft Law on the People's Advocate (Ombudsman) and continues to work to facilitate the development of this important Albanian institution. The LCO has also worked closely with the Tirana Law Faculty staff and Soros/COLPI, and in co-operation with these organizations has drafted a Comprehensive Multilateral Action Plan (CMAP) to provide long-term assistance to the University of Tirana Law Faculty. The LCO has also helped design, and is facilitating the implementation of, an ODIHR/British government assistance programme at the University of Shkodra Law Faculty. The LCO has also provided technical assistance and support to a Catholic Aid (CAFOD/LAS) legal services clinic for the socially disadvantaged.
- Direct Technical Legal Assistance. The LCO's direct technical assistance efforts have included providing training and expertise on ethnic minority rights, assisting in regional round tables on the Constitution, drafting concept papers on constitutional issues, and providing input on the drafting of anti-dumping and countervailing measures legislation. The LCO has also assisted the OSCE Presence's Local Government Liaison Officer on local government decentralization issues. Moreover, LCO lawyers currently teach courses at the Magistrates' School and the University of Tirana Law Faculty in constitutional law, legal writing and reasoning, human rights, international public law, EU law, and bankruptcy law. The LCO provided assistance to a project of the Netherlands Association of Municipalities (VNG) teaching local government law. Finally, the LCO has prepared a draft plan for the development of the Albanian bankruptcy law, and stands ready to provide other direct technical legal assistance as needed.

Starting from a single international staff member in March 1998, the LCO has grown into a dynamic legal reform and assistance project in Albania. It combines the strength of its Albanian legal experts and project managers with OSCE's experienced international lawyers and human rights experts. Operating in its initial phases under the auspices of the OSCE Presence in Albania, the LCO has the potential to become in its own right one of the leading and most effective domestic organizations for the development of democratic structures and rule of law in Albania.

Political Brokerage

Constitutional Drafting Process

In June 1998, the Presence again became active in trying to convince the opposition - who had returned to Parliament a few months previously following a boycott - to join the constitutional drafting process, which by this time was well under way. This draft Constitution was under constant, and therefore fully transparent, review by numerous international experts, and was also being subjected to comment from national NGOs, as well as special interest groups such as lawyers, journalists and others. The Presence called for a second tri-parliamentary delegation (OSCE, Council of Europe, and the European Parliament), in order to promote dialogue and an inclusive final phase of the constitutional process. The visit duly took place on 29-30 June, and in its recommendations the delegation called on the Democratic Party to be constructive in its role as the main opposition party, whilst at the same time requiring the government to be firm and effective in addressing the serious problems of corruption, smuggling and insecurity in the country.

Unfortunately, within two weeks of the tri-parliamentary visit, hopes for improved dialogue between government and opposition were smashed. An ugly debate in Parliament on the findings of the Ngela Commission, set up to investigate the riots of Spring 1997, resulted in many personal accusations against Democratic Party leaders, as well as calls for their prosecution for alleged roles in the unrest. The debate culminated in a walkout by the majority of the opposition parties, and a second boycott of Parliament by the DP.

Efforts by the Presence to reconcile the two main parties, at least on the issue of the Constitution, continued. By promoting the idea that it should be seen as a national, non-partisan endeavour, and one for the benefit of all Albanians, the Presence succeeded in bringing about a review within the ranks of the DP. Sali Berisha offered to hold an all-party round table on 31 August in order to put forward what he promised would be serious, "professional"

comments on the draft Constitution. Although the government parties preferred a normal parliamentary discussion of the draft, they accepted the proposal on the basis that such dialogue might lead to a more regular bi-partisan approach.

This was not to be, for on 22 August 1998 the Prosecutor General ordered the arrest of six prominent former DP officials in connection with the riots of 1997. This move was one regretted by the Presence and the Council of Europe, (and publicly stated in a joint press statement) not least because of the timing, which caused an outcry from the DP and the immediate cancellation of the round table.

September Riots

In September 1998 the political climate grew steadily worse, despite ongoing attempts by the Presence to find a "middle road" wherever possible. Daily demonstrations in Tirana's main Skenderbeg Square, marked by vehement rhetoric, and marches down the main boulevard to the Prime Minister's Office, served only to heighten the tension. Party presses carried vitriolic articles day after day.

The tragic circumstance, which brought matters to a head, was the assassination of Democratic Party Member of Parliament Azem Hajdari on 12 September 1998, by persons unknown, though the blame was firmly placed by the DP on the ruling Socialist Party (SP). This murder was followed the day after by orchestrated rioting around the Prime Minister's Office, during which a number of cars were burnt. On 14 September, the funeral of Azem Hajdari took place, linked to another DP rally and march. Ugly scenes followed, with all the appearances of a coup d'état: the centre of Tirana echoed to the sound of heavy gunfire. The Prime Minister's Offices were first hit by gunfire and grenades, before being entered and set alight. Demands for the immediate resignation of the government were accompanied by the storming and plundering of many other government buildings, as well as the State Television studios.

The Presence tried to maintain calm by incessantly calling on radio and private TV channels to admonish people not to be provoked, and urging the demonstrators to leave the streets, abandon the State TV studios (from which a call of "victory" had been made) and to hand back two tanks that had been captured from a local army unit. Throughout this highly charged day the government made itself noticeable by its absence, and only the Interior Ministry held out, which was subsequently to prove the salvation of the situation. In the main though, this was achieved thanks to the non-response of the population to the violence, both in Tirana and in the countryside: by showing clear disgust with the way politics had once again turned ugly, the people en-

sured that the troubles orchestrated in Tirana did not spread to other areas. 14 September was, however, used as an excuse for widespread criminal activities not directly connected to the uprising. As the day wore on the police gradually retook possession of the streets and drove back the remaining rioters to the area of the Parliament building and the DP headquarters. The State TV studios were freed during the evening, following a tense period of negotiation by the Presence between the 200 or so occupiers, some of them armed, and a heavy presence of Special Police, intent on gaining entry to the building. By 15 September all resistance had been broken and order restored. These traumatic events caused a total breakdown of trust between government and opposition, rendering any attempt at reconciliation, a return to Parliament, and participation in the drafting of the Constitution, useless. Parliament, without the DP, approved the Constitution and set a date for a popular referendum on it.

Some positive steps however followed. In October, as a result of the 14 September riots, the government was reshuffled, and an active campaign to urge the people to speak out on the Constitution was launched. The DP called for a boycott by voters, rather than a NO-vote, despite international calls to have maximum participation in the referendum, and give all a chance to air their views. The Presence encouraged and facilitated wide dissemination of the text of the Constitution, and organized public information meetings. But while urging people to use their democratic right to go and vote, the Presence remained neutral on the substance of the vote throughout the whole campaign.

November Referendum

On 22 November 1998, the referendum duly took place, and despite gloomy predictions on the part of some, it transpired peacefully. OSCE monitors were present in many locations, together with monitors from the Council of Europe and the European Parliament. Following completion of voting, a joint declaration was issued, indicating the general correctness of the voting process (and indeed a significant improvement). The declaration also confirmed the participation of more than 50 per cent (just) of the electorate. Of the 50 per cent that turned out, 95 per cent gave their approval. Of course, the boycott called for by the DP kept a large number of NO-voters away, and in addition an estimated 30 per cent of the electorate stayed abroad and so were not in a position to vote. On the 28 November - Albania's National Day - the new Constitution was formally proclaimed by the President.

Continuing Mediation Efforts

After the referendum, the political climate improved in December 1998, with the new Prime Minister making conciliatory gestures, and the Presence at the same time strongly encouraging a resumption of dialogue. A student strike offered the opportunity of a direct meeting between, on one side, SP leaders Pandeli Majko and Ilir Meta (Prime Minister and Deputy Prime Minister) and, on the other, DP leader Sali Berisha and his Vice Chairman Genc Pollo. The Presence had helped to break the stalemate over the strike, together with and at the request of, senior DP Parliamentarian Ylli Visiu, and was credited with having paved the way for this first SP-DP encounter. More confidence-building steps followed, including a soccer match between government and opposition refereed by the Head of Presence and televised live!

Sadly this progress was short-lived, and during the month of January 1999 the momentum failed and a return to more confrontational politics became noticeable. Although the six arrested DP-officials were released and placed under house arrest, as had been repeatedly urged by the Presence, and the Hajdari murder case had been more professionally reopened - with the assistance of a Norwegian prosecutor, provided by OSCE - there still appeared little willingness on the part of the DP leadership to return to Parliament, despite calls to the contrary from within the party.

In March 1999, the Kosovo crisis took more and more precedence over domestic issues, but sad to record, even an event of such magnitude failed to unify the two main parties giving them a common ground. Initial joint stances quickly dissolved into further political division when Berisha called for the rejection of the Rambouillet Agreement - this a stand he reversed after a few days. When the conflict over Kosovo escalated and hundreds of thousands of refugees poured into Albania, again both opposition and the government stood apart, with the DP accusing the government of total incompetence and fraud over aid deliveries.

One result of the Kosovo crisis, however, was to emphasize the degree to which the Democratic Party's policy of non-co-operation had isolated and marginalized it at a time when Albania was very much at the centre of world attention, and government leaders were playing host to numerous visiting world leaders. Once the crisis began to ebb at the end of June 1999, the DP leadership, responding to pressure from within the Party, from various international parliamentary bodies and from the OSCE Presence and the US Embassy in Tirana, took the decision to abandon its boycott, and finally returned to Parliament on 21 July 1999.

Refugee Emergency Assistance

For some four months from March until mid-July 1999, Albania became the place of refuge for up to 470,000 deported Kosovo Albanians, almost 15 per cent of its native population, who entered the country either directly from Kosovo or via neighbouring countries.

Despite the tremendous burden this unexpected influx placed on Albania's already fragile infrastructure and economy, the Albanian people and government were united in insisting that all displaced Albanians entering the country should be cared for within Albania, so as not to further the ends of "ethnic cleansing" or prejudice the prospects of an early return of the refugees to their homes.

The OSCE Presence has a remit to assist Albania, working closely with the government of Albania and other governments and international organizations, to promote democracy, the rule of law and the development of civil society. As such, the Presence has an established and well-defined role in support of the Albanian government and people, which predates the refugee emergency, and will continue through and beyond it. The OSCE is not a relief organization, but given its relationship with government and the role and presence of its field offices throughout Albania, it found itself in a unique position when the crisis occurred to contribute to the co-ordination and implementation of national and international relief efforts.

When therefore it became clear, within the first few days of the emergency, that Albania was having difficulties establishing procedures and an operational plan to handle the refugee influx, the OSCE Presence, at the request of the government and working jointly with UNHCR, lent its support, advice and personnel for the foundation of an Emergency Management Group (EMG) within the Prime Minister's Office to oversee and facilitate national and international relief efforts.

As the emergency developed and the international relief effort grew in size to meet the challenge, the role of the Presence evolved within its broadly defined remit to facilitate and assist co-operation between government and the lead international players. With the assistance of the assets of the OSCE/KVM Refugee Task Force (some 75 ex-KVM staff members withdrawn from Kosovo), the Presence and its Field Officers supported the emergency co-ordination efforts of the government and UNHCR in the following specific areas:

- In Tirana, OSCE Presence and KVM Refugee Task Force members staffed the Information Desk of the EMG which acted both as a "clearing house" for information within the Group itself, and as a source of information on the status of the emergency for other Albanian and interna-

tional partners. Central to this work was the production by the Information Desk of situation reports twice a day, collating, assessing and distributing information about needs and the means of satisfying them to the government and relevant national and international partners.

- The OSCE has also assisted with the liaison between the EMG and local government and prefectures throughout Albania using the network of the Presence's field offices and mobile KVM teams to monitor and assist in the local relief efforts, identify difficulties and needs, and report back rapidly to the EMG. The mobility and communications assets of field offices and KVM teams greatly facilitated the allocation of aid and the timely identification and resolution of shortcomings and bottlenecks.
- In addition, through its network of Field Offices and KVM teams, the OSCE provided logistical and *ad hoc* support wherever possible, using its staff and vehicles to supplement the efforts of the local prefectures and international agencies to deliver aid and facilitate communications.
- The Presence continued to assist as described from the start of the repatriation process in mid-June until early July 1999, when the KVM Refugee Task Force teams were withdrawn from Albania, and the last of the OSCE staff seconded to the EMG returned to the Presence, having been replaced by UNHCR and Albanian government personnel.
- Last but by no means least, the OSCE Presence in Albania did not see its role in the emergency as confined to helping the government and international agencies to address the needs of the refugee situation alone. It also sought to ensure, through the continuation of its existing programmes of work, that the regular business of government and the established pace of reform were maintained to the greatest degree. The Presence has continued to work with the government of Albania to help it meet the combined challenges of the crisis and the ongoing task of developing civil society in Albania. In doing this, it has not only had the advantage of a mandate and a relationship with government established more than two years before the emergency, but the assets of its nationwide network of internationally-staffed field offices, giving it a unique capacity for assisting Albania and its people at local as well as national and international level.