

REPORT ON THE IMPLEMENTATION OF CEDAW CONVENTION IN ALBANIA

**PRESENTED BY THE PEOPLE'S ADVOCATE TO THE UNITED NATION
COMMITTEE ON ELIMINATION OF ALL FORMS OF DISCRIMINATION
AGAINST WOMEN**

Tirana, 2016

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UN Women Country Office Albania

Rr. Skënderbej, Pall. 8, ap. 29-31, Tirana, Albania

Tel: +355 4 450 2555 / 7575

Facebook: unwomenalbania

Institution of the Ombudsman

Blv. “Zhan D’Ark”, Nr. 2, Tiranë

Email: ap@avokatipopullit.gov.al

Tel: 04 2 380 300, 04 2380 333

Fax: 04 2 380 315

Facebook: Avokati i Popullit

Main contributors

Institution of the Ombudsman

Under the lead of Igli Totozani, People’s Advocate, we express our thanks to the staff who contributed to the compilation of the report:

Fatbardh Zenelaj, Secretary General,

Etilda Gjonaj (Saliu), Commissioner, Public Administration Department,

Jorida Rustemi, Head of Torture Prevention Unit (NMTP),

Anila Nepravishta, Assistant Commissioner,

Alket Jaupi, Assistant Commissioner,

Mimoza Morina, Assistant Commissioner,

Inesa Brokaj, Assistant Commissioner,

Mimoza Gjika, Adviser for the Civil Society and International Cooperation,

UN Women Country Office Albania

Ma. Fiorela Shalsi, Programme Manager, Leadership and Political Participation, UN Women

Aurela Bozo, National Expert of UN Women

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Literary editor: Gjylso Binaj

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LIST OF ABBREVIATIONS

ADRF	Albanian Disability Rights Foundation
AHC	Albanian Helsinki Committee
ALUIZNI	Agency for Legalization, Urbanization, and Integration of Informal Zones/ Constructions
CC	Civil Code
CCP	Code of Civil Procedures
CEC	Central Election Commission
CEDAW	Convention on Elimination of all Forms of Discrimination against Women
CEDAW Committee	Committee for Elimination of Discrimination against Women
CK	Constitutional Court
CLCI	Centre for Legal and Civil Initiatives
CMD	Council of Ministers Decision
CoE	Council of Europe
Constitution of RoA	Constitution of the Republic of Albania
CPD	Commissioner for Protection from Discrimination
CPU	Child Protection Unit
CR	Closing Remarks
CrC	Criminal Code
DV	Domestic Violence
ECHR	European Court for Human Rights and Freedoms
EU	European Union
FC	Family Code
FPNR	Fourth Periodic National Report
GDP	General Directorate of Prisons
HCJ	High Council of Justice
ICCNHRI	International Coordinating Committee of National Human Rights Institutions
IECD	Institution for the Execution of Criminal Decisions
INSTAT	Institute of Statistics
IPO	Immediate Protection Order
IPRLO	Immovable Property Registration Local Office
IPRO	Immovable Property Registration Office
IWG	Inter-Ministerial Working Group
JDC	Judicial District Court
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
LGU	Local Government Units
MCAW	Medical Committee on the Ability to Work

MCD	Medical Commission on Disability
MF	Ministry of Finances
MH	Ministry of Health
MI	Ministry of Interior
MJ	Ministry of Justice
MLSAEO	Ministry of Labor, Social Affairs and Equal Opportunities
MP	Members of the Parliament
MSWY	Ministry of Social Welfare and Youth
NBA	National Bar Association
NCTV	National Centre for Treating Victims of Violence
NPO	Non-Profitable Organization
NRM	National Referral Mechanism (for cases of domestic violence)
NSGEEDV	National Strategy for Gender Equality and Elimination of Domestic Violence
PA	People's Advocate
PO	Protection Order
PwD	People with Disabilities
RoA	Republic of Albania
SAA	Stabilization Association Agreement
SBS	State Bailiff Service
SCLA	State Committee for Legal Aid
SLI	State Labor Inspectorate
SSS	State Social Service
UJS	Unemployed Jobseekers
UN	United Nations
UN CRDP	UN Convention on the Rights of Disabled People
UNDP	United Nations Development Program
VET	Vocational Education Training

GREETING SPEECH OF THE PEOPLE'S ADVOCATE

Highly developed and democratic societies in the world today seem to have the key to success even in the chances and spaces they offer and create for women - the better half of the population - by putting to efficiency their talent, energy and commitment. The smaller the gap between men and women, the better is the performance of the society, from the social as well as from the economic perspective. There is a direct correlation between gender inequality in opportunities and real economic growth. And a society that aspires to democracy and sustainable development, for a better life and dignity of its citizens, must focus on the best investment - women's empowerment.

With the support of the United Nations Entity for Gender Equality and the Empowerment of Women (UN WOMEN), the Institution of the Ombudsman presented a report to the CEDAW Committee on the implementation of CEDAW Convention in Albania, and representatives of the institution participated in the 64th session of the CEDAW Committee, in July 2016. It is the first time that the Ombudsman, as an independent constitutional institution for the protection of freedoms and human rights, including the rights guaranteed by CEDAW Convention, contributed through a separate report on the implementation of the Convention in Albania. In this context, the position of an independent constitutional institution concerning the protection of women's rights is utterly important, oriented not only by the results achieved in connection with legal equality, but also in regard to the achievement of fundamental, substantial equality.

The report noted that the years 2010-2014 marked achievements in the field of gender equality in Albania. Steps have been taken in legislation, the implementation of legislation, institutional frameworks, policies and practices that have brought progress in some areas.

But, despite the improvements in legislation, women in Albania continue to face inequality and discrimination because they are women and much remains to be done, for the de facto enjoyment of rights and the effective protection of women from gender discrimination.

Issues raised in the report of the Ombudsman Institution and in the speech held at the session became part of the CEDAW Committee Concluding Observations on Albania. These Observations require an improvement of the legal framework of gender equality and non-discrimination in accordance with international standards, equal participation of women in political and public life, taking of the measures aimed at the removal of real barriers for the participation in the elections of women in need, increasing women's access to justice, monitoring the effects on women of special temporary measures in all areas, special attention to women in vulnerable

groups, prevention and effective protection of women from domestic violence, strengthening of the existing NRM and the establishment of new NRMs in all the local government units, reducing the difference in wages between women and men and equal access of women in the formal labour market, the organization of consistent trainings with the professionals of the justice system on women's rights, EU standards on the burden of proof in cases of discrimination in employment relationships, including sexual harassment at work, as well as recognition of standards under the CEDAW Convention on equality in labor relations, integration of gender issues into all policies, action plans and budgets at local level, etc.

As Ombudsman, I believe that gender-responsive governance has it as key condition the transformation of the national gender priorities into local ones. This requires a concrete gender action plan, where women have to play a crucial role in its design and implementation, with more coordinated and measurable actions during their achievement.

Concluding Observations constitute a working platform for the institution of the Ombudsman and all actors working in the field of Human rights and especially women's rights. Recognition and implementation of CEDAW Committee Concluding Observations on Albania serves to guarantee the rights of women in areas covered by the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW. Therefore, the development of an institutional working plan is considered as utterly important in implementing the recommendations of the CEDAW Committee, aiming at the exertion and enjoyment of rights and fundamental freedoms by women equally as men, in all areas covered by the Convention. We shall work together for its implementation.

We must break once and for all the prejudices, and together, our voices should be strongly heard: Women's rights cannot be separated from human rights. They are one.

PEOPLE'S ADVOCATE

Igli TOTOZANI

PART ONE

1.1. Purpose of report and methodology

This report, prepared by the People's Advocate (PA), represents an overview of the achievements and legal and actual gaps in relation with the fulfillment by the Albanian state of the obligations deriving from the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW¹) in several fields.

The articles of CEDAW Convention served as a reference point in drafting this report and in identifying the topics to be addressed, including participation of women in politics and decision-making, domestic violence, women's access to the justice system, the economic empowerment of women and their access to social services. In order to measure the progress made since the third periodical report of the Albanian state, this report focused on the steps undertaken to address the concerns raised, and recommendations made by the Committee on the Elimination of Discrimination against Women in its Closing Remarks, in its 46th session held on 12-30 July 2010, including recommendations related with the role of the institution of the People's Advocate (PA) in implementing the CEDAW Convention. The general recommendations of CEDAW Committee have also served as an orientation point for the analysis made in this report.

The report reviews the activity of the PA, expressed through the complaints it has reviewed and the recommendations made for solving them, cases it has initiated by its own initiative, legislative recommendations, preparation and presentation of annual and special reports for the Assembly of the Republic of Albania, its close cooperation with NPOs, inspections, etc., in order to assess the progress made and identify actual problems in guaranteeing women's rights in practice. The report

identifies problems found in the implementation of CEDAW Convention, the recommendations made by the PA, and the extent to which such recommendations have been followed by the legislative, the executive, and the judicial system.

In addition to the data obtained from the Fourth Periodical Report on the implementation of CEDAW Convention, meetings and interviews were also organized with representatives of various public and non-public agencies, using a specific questionnaire, which consisted of the topics selected to be addressed. This has enabled the preparation of a report that is based on thorough analysis, conclusions, and recommendations.

Reports and studies made by state actors, civil society organizations, particularly organizations focused on women's rights, progress reports on Albania, and reports of various international organizations, etc. served as a rich source of information.

The women's perspective and their needs have also come to this report through PA's cooperation with NGOs working for women's rights and gender equality.

The analysis refers also to the assessment and monitoring indicators of gender equality and violence against women, including domestic violence, its supervision, and the collection, and processing of such indicators as required by Instruction No. 1220, dated 27.05.2010 of the MLSAEO.

1.2. Introduction

1. By ratifying CEDAW Convention through Law² No. 7767, dated 9.11.1993 and its

1 Albania ratified CEDAW Convention by Law No.1769, dated 9.11.1993, published on the Official Gazette No. 33, dated 15.10.2008. Since its ratification, this Convention is, according to Article 122/1 of the Constitution of Albania, part of the internal legal system like any other ratified international agreement.

2 Law No.7767, dated 9.11.1993, "On ratification of the Convention on Elimination of all Forms of Discrimination against Women".

Additional Protocol³ by Law No. 9052, dated 17.4.2003, the Albanian state expressed its will to fulfill the obligations deriving from this Convention in relation to gender equality and elimination of all forms of discrimination against women.

2. Pursuant to Article 18 of CEDAW Convention, the Albanian state has presented its Fourth Periodical Report to the CEDAW Committee on the implementation of this convention, approved by Decision No. 806, dated 26.11.2014 of the Council of Ministers.⁴ Based on Order No. 112, dated 03.03.2014 of the Prime Minister “On the establishment of an Inter-Ministerial Working Group for drafting and reviewing reports in the framework of international conventions for human rights”, the institution of the PA has contributed to the work of the Inter-Ministerial Working Group (IWG) for preparing the fourth periodical report of the Albanian Government on the implementation of the CEDAW Convention in Albania.
3. It is the first time that the PA, as an independent Constitutional institution for protecting human rights and freedoms, including the rights guaranteed by CEDAW Convention, contributes through a report on the implementation of this convention in Albania. In this respect, the stand of an independent Constitutional institution that protects women’s rights is very important, guided not only by the achieved results on gender equality, but also by the gaps regarding the achievement of a substantial equality.
4. The institution of the PA was established in 1998 by the approval of the Constitution of the Republic of Albania (Law No. 8417, dated 21.10.1998). In 1999, the Parliament of the Republic of Albania approved Law No. 8454, dated 04.02.1999 “On People’s Advocate”, which describes the rules for the organization and functioning of the

3 Law No. 9052, dated 17.4.2003, “On ratification by the Republic of Albania of the Additional Protocol of the Convention on Elimination of all Forms of Discrimination against Women”.

4 Published on the Official Gazette of the Republic of Albania No.187, year 2014.

PA⁵.

5. PA is guided by the principle of impartiality, confidentiality, professionalism and independence. It protects the citizens’ legitimate rights, freedoms, and interests from the illegitimate and irregular actions or omissions of the public administration bodies, or third parties acting on its behalf. In addition, the PA is committed to play a proactive role in promoting the highest standards of human rights in the country.
6. Gender equality and nondiscrimination are part of the body of fundamental human rights and freedoms. Protection from discrimination constitutes a universal right, and it’s not only a right of individuals, but also an obligation of the state administration and all other actors and factors in the country.
7. Women’s rights issues have been addressed in the PA’s Strategic Plan and Action Plan 2013 - 2015, becoming thus part of the institution policies.
8. The PA’s activity is in line with the principles related with the status of the national institutions for the promotion and protection of human rights (“Paris Principles”) approved by the General Assembly in 1993⁶, and accredited by the International Coordinating Committee (ICC) of National Human Rights Institutions. The PA’s institution is accredited by the ICC Sub-Committee on Accreditation for the first time in 2004, and was re-accredited in 2008 by status “A” from this Committee. The ICC Sub-Committee on Accreditation re-accredited the PA with “A” status in March 2015, finding AP in compliance with Paris principles.

5 “Code of Administrative Procedure” (no. 8485, dated 12.5.1999), Law “On the right to information about official documents” (No.8503, dated 30.6.1999), Law “On the rights and treatment of prisoners and pre-trial detainees” (No. 9888, dated 10.3.2008), Law “On consumer protection” (No. 9135, dated 11.9.2003), and Law “On mental health” (no. 44/2012, dated 19.4.2012) represent the legal basis of the rights and functional duties of the People’s Advocate.

6 Principles relating to the status of national institutions for the promotion and protection of human rights (“Paris Principles”), General Assembly resolution 48/134 of 20 December 1993.

9. This report is in compliance with the recommendations of the ICC Accreditation Subcommittee after its accreditation by status “A” in 2008, which consisted among others in: strengthening of the PA mandate in the promotion of human rights and PA’s periodical cooperation with the international human rights system”.⁷ The preparation and presentation of this report to CEDAW Committee enriches the international activity of the institution⁸.
10. Through this report, the institution of the PA expresses its stand on the following issues: Participation of women in politics and decision-making, women’s access in the justice system, gender sensitive governance, women’s economic empowerment, domestic violence, and women’s access to social services, considered as the most problematic issues faced by women in Albania. This report covers the period, i.e. 2010-2014.
11. This report, similarly to all reports prepared by the institution of the PA, is characterized by the conviction that the existence of a legal framework that aims at ensuring respect for the fundamental human rights and freedoms by the public institutions, is often not sufficient, as it is rather the concrete fulfillment of such legal obligations that guarantees the real, equal, and non-discriminatory enjoyment of human rights and freedoms by women. The report intends to analyze not only the measures and initiatives undertaken, but also the impact that such measures, initiatives, policies, and practices have had in practice. PA’s recommendations aim at improving the work of the relevant bodies, so that they ensure that rights are equally enjoyed by women.
12. The preparation of this report is in compliance with Article 29 “Preparation of human rights reports” of Law No. 155/2014, “On amendments to Law No. 8454, dated 4.2.1999, “On People’s Advocate”, as amended. This provision provides that “The People’s Advocate contributes to the preparation of the Albanian state reports on human rights in the Republic of Albania for the international bodies pursuant to the conventions ratified by the Albanian state, and it (PA) may present parallel reports for them”. This law makes some important amendments regarding the promotion and protection of women’s rights, and addresses inequality and gender discrimination.
13. Naturally, the report raises some of the PA concerns about the partial response on the side of the state institutions to some of its recommendations, total lack of response to others, failure of the Assembly of Albania to discuss some of its special reports⁹ presented during 2010-2014, lack of financial support for seven regional offices of the institution in the main cities of the country, which employee volunteers, etc. A solution to all such concerns would actually increase the effectiveness of the PA in ensuring gender equality and nondiscrimination.

1.3. General Considerations

14. The period 2010-2014 has marked achievements in the area of gender equality in Albania. Considerable steps have been taken in terms of improving the relevant legislative framework and its implementation, the country’s institutional framework, and the respective policies and practices in many areas. The Albanian state has ratified several conventions on the human rights of women during the reporting period, including the Council

7 PA, “Suggestions and findings about the Roadmap on the 5 priorities approved by CMD No. 330, dated 28.05.2014”, Letter No.296 dated 01.10.2014, addressed to Minister for European Integration, Ms. Klajda Gjoshja.

8 PA is a full-rights member of eight international Ombudsmen’s organizations, including: International Coordinating Committee of National Human Rights Institutions (ICC), International Ombudsman Institute (IOI), European Network of National Human Rights Institutions (ENNHRI), European Ombudsman Institute (EOI), Association des Ombudsmans et Médiateurs de la Francophonie (AOMF), United States Ombudsman Association (USOA), International Ombudsman Association (IOA), Association of Ombudsmen of the Mediterranean (AOM).

9 The PA institution prepared and presented 7 special reports in 2012 and 5 in 2013 to the Assembly of Albania. Only some of them are discussed.

- of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by Law No. 104/2012; the UN Convention on the Rights of Persons with Disabilities by Law No. 108/2012. The ratification of such conventions has paved the way for the approximation of the national legislation with the international standards, and it indicates the increasing attention of the state and other stakeholders to domestic violence and the rights of persons with disabilities, including women.
15. The approval of Law No.93/2014 “On inclusion and accessibility of people with disabilities”, Law No. 33/2012 “On registration of immovable properties”, Law No.152/2013 “On civil servants”, Law No. 69/2012 “On pre-University education system”, and amendments to the Electoral Code (Law No.74/2012), Criminal Code (Law No.23/2012, and Law No.144/2013), Code of Civil Procedure (Law No..122/2013), Law “On measures against domestic violence” (Law No. 10329, dated 30.09.2010), Law “On legal aid” (Law No. 143/2013 and Law No. 77/2014), Law “On social aid and services” (Law No. 10399, dated 17.3.2011), Law “On the rights and treatments of the prisoners and detainees pending court decision” (Law No.40/2014), Law “On social insurance in the Republic of Albania” (Law No.104/2014), etc, represent significant steps taken to improve the legal framework that guarantees human rights by respecting gender equality and nondiscrimination. However, the implementation of these laws needs to be more effective.
 16. The National Strategy for Gender Equality and Reduction of Gender-Based Violence and Domestic Violence 2011-2015 (NSGEEDV), approved by Decision No. 573, dated 16.6.2011 of the Council of Ministers and its Action Plan are a program of the commitment of all the relevant stakeholders, which requires regular monitoring.
 17. The PA commends the improvement of the legal framework in all the fields covered by CEDAW convention. Other legal improvements are necessary aiming to guarantee the principle of equality and non discrimination.
 18. However, regardless of the legal improvements, the PA recognizes that women in Albania continue to face gender inequality and gender-based discrimination, and that a lot remains to be done until they de facto enjoy their rights, and until their protection from gender-based discrimination is effective. Thus, in terms of their representation in the public and political life, women continue to be underrepresented, with less than the 30% quota foreseen by the national legislation, and less than the 40% quota recommended by the CoE.
 19. The Albanian state has taken some special temporary measures to increase the participation of women in politics, decision-making, labor relations and other areas. However, their results have not been constantly monitored or assessed.
 20. Regarding the legal aid provided by Law No. 10039, dated 22.12.2008 “On legal aid”, amended the number of women beneficiaries is small compared to their needs, and they do not have sufficient information about the right to such aid, the role of the SCLA, and the criteria they should meet for benefiting legal aid, etc.

Regarding the execution of final court decisions, which oblige state institutions to compensate women, return them to work, give them parental rights, such as the right to see their children after divorce, ensure they get the alimony from their spouses after divorce, etc., have turned out to be problematic, affecting women’s access to the justice system and the rights they are supposed to enjoy from the CEDAW Convention like their right to enjoy equal rights in marriage, their family life, and in economic life, etc.
 21. Women continue to face legal and practical obstacles when they seek redress for acts of discrimination based on sex and gender. According to the law “On protection from discrimination”, the complainant, including women must provide evidence to substantiate their claim to prove discriminatory behavior, in cases of alleged discrimination on the

- grounds of sex, including in cases of sexual harassment at the workplace. In order to ensure women's rights to equality and protection from discrimination in their labor relations, the national labor and non discrimination legislation needs to be fully harmonized with the EU *acquis communautaire*, including the institute of the inverted burden of proof, protection from sexual harassment in the workplace, etc.
22. Unemployment rate, unpaid work in the family, lack of harmonization between family and professional commitments, gender pay gap, and gender discrimination are some of the problems women face in their labor relations. Their knowledge and use of the legal means available for ensuring their protection from gender discrimination and an effective implementation of the Law "On protection from discrimination in work relations" (2010) need to be strengthened.
 23. Women, particularly divorced women and single mothers, Roma women, women with disabilities, and other vulnerable women, face problems with their access to justice, inequality in the labor relations, and barriers in receiving the social and economic benefits to which they are entitled. There is also a lack of legal and administrative measures that would effectively improve Roma women's access to services, and participation in the public life.
 24. Disabled women are suffering from a double discrimination closely linked to their special living conditions. Women with disabilities face challenges in their access to justice, central and local government structures, media, business, and delays in getting the payment for disability. There is no sufficient data on measures taken from the Albanian state to deal with the particular situation of disabled women, including special measures to ensure they have access to employment, social security, education, health, social and cultural life, equally and without discrimination, as it is recommended from CEDAW General Recommendation no.18 for disabled women.
 25. Regardless of the developments in the legislation on social aid and service, women face difficulties in receiving economic aid in the pilot areas. The work of the local government on providing and delivering social services, and the variety of such services compared with the specific needs of the vulnerable people needs to be improved. In addition, there are no effective measures in place to facilitate women's access to bank loans. The gender impact analyses of social and economic measures are not regular.
 26. Domestic violence is a remaining problem which affects disproportionately women in the Albanian society. Although the legislation regarding policies and practices that address domestic violence is in place, their implementation is not sufficiently effective. Coordinated response in managing cases of domestic violence remains a challenge for the members of the Coordination and Referral Mechanism at the local level. The court fast proceedings for issuing Protection Orders and Immediate Protection Orders in favor of women and increased number of the court decisions with this object are not followed by the same fast response from the structures responsible for executing such orders, including the Bailiff Office, Police, and local government units. Social services need to be improved and meet the agreed standards, and be relevant, easily accessible, sufficient and well distributed in geographic terms, so that they provide victims, especially women and children, with safe accommodation. The number of women victims of domestic violence and other types of gender-based violence like trafficking and discrimination, who have benefited free legal aid, is small compared with the real need for such service. The allocation of resources in central and local level is necessary to help victims of violence to rebuild their lives, including job opportunities and shelter.
 27. Sexual abuse by people misusing their power or duty remains often unreported, and this leads to the need for amending the Criminal Code (CrC) and the Labor Code.
 28. The level of women's knowledge of the

legal means available for enjoying their rights to ownership remains limited. The Strategy on Property Rights Reform 2012-2020, the Law No. 33/2012 “On registration of immovable properties” and their implementation effects on women’s property rights are not gender monitored.

29. Although housing represents one of the social objectives guaranteed by the Constitution of the Republic of Albania, and although there are a series of legal and sub-legal acts regulating such right, housing continues to be one of the most serious problems faced by women, particularly vulnerable ones. Law No. 9232, dated 13.05.2004, “On social programs for housing urban inhabitants”, as amended, does not provide real possibilities for Roma community, including Roma women, to enjoy their right to housing.
30. Expressing its appreciation for the approval of an Action Plan for supporting women entrepreneurs for the period 2014-2020, and for the creation of a Fund for Supporting Women Entrepreneurs on one hand, the PA encourages efforts for enabling as many women as possible to benefit from entrepreneurship initiatives on the other.
31. Women from the LGBTI community face restrictions in enjoying their fundamental rights. Homophobia and transphobia are problematic phenomena faced by the women belonging to this community in all areas.
32. The PA notes that some of the reasons for Albanian citizens to apply for asylum include: blood feud, domestic violence (against women), discrimination (mainly among Roma and LGBT), trafficking in human beings, health problems, economic reasons, etc¹⁰. This shows clearly the need for measures to be taken to address these phenomena faced mainly by women.
33. Although the CEDAW Convention and its Additional Protocol have become part of

the training curriculum for civil servants both at the central and local level, and for other public administration employees, their understanding and application as important means for strengthening women’s rights, leaves a lot to be desired.

34. Further, this report identifies the problems that women face in enjoying the rights deriving from the CEDAW Convention, and makes some concrete recommendations.

10 PA’s Draft Report “On following, analyzing, and identifying the reasons that have led to an increased number of asylum applications from Albanian citizens in member states of Schengen zone”, 2014, pp. 12-13.

PART TWO

ANALYSIS OF SPECIFIC

AREAS¹¹

A. PARTICIPATION OF WOMEN IN POLITICS AND DECISION MAKING

ARTICLE 7, 8 & 4 of CEDAW Convention, paragraph 22 of the CR

1. The legal framework and the need for improvement.

35. Article 45 of the Constitution of the RoA¹² embodies the right of every citizen that has reached the age of 18 to elect, and to be elected. The vote is individual, equal, free, and secret.
36. The Law on Gender Equality in the Society introduced a gender quota with a view to ensuring equal gender representation in all levels of the legislative, executive, judicial

system, and other public institutions.¹³

37. The Electoral Code of the RoA¹⁴ (2008) refers to the active and passive right to vote as a right to be enjoyed by every Albanian citizen, without discrimination, including gender discrimination. The Code provides clear rules for the representation of both genders in the Central Election Commission, and a gender quota for the Commissions for the Electoral Administration Zones. No gender quota however is required for the Voting Centre Commissions or for the Ballot Counting Teams.

The 2012 amendments to the Electoral Code 2012¹⁵ made specific improvements from the gender perspective. Thus, they introduced the obligation for the political parties to ensure that 30% of their multi-

11 This analysis refers also to Article 4 and 8 of the CEDAW Convention, General Recommendations No.5 (special temporary measures), No.23 (political and public life), No. 25 of the CEDAW Committee (Article 4, paragraph 1, special temporary measures), and paragraph 22 of the CR of CEDAW Committee.

12 Constitution of the Republic of Albania, Law No. 8417, dated 21.10.1998, as amended.

13 Law No. 9970, dated 24.07.2008 "On gender equality in the society", Article 15 "Participation in the decision-making process": 'Equal gender representation in all bodies of the legislative, executive, and judicial system and other public institutions is achieved when: a) a representation of more than 30 per cent for each gender is achieved, including their steering bodies; b) equal respect is ensured for both genders in the competition procedures and criteria for being appointed to these bodies; c) an inclusion of more than 30 per cent of each gender is achieved for each gender in the list of candidates for local elections; ç) inclusion of no less than 30 per cent for each gender is ensured for each gender in the lists of candidates presented by the political parties for the parliamentary elections; d) inclusion of more than 30 per cent for each gender is ensured in the local and parliamentary election administration bodies.'

14 Approved by Law No.10019, dated 29.12.2008, amended by Law No.74/2012, dated 19.07.2012.

15 Law No. 74/2012, "On amendments to Law No.10019, dated 29.12.2008, Electoral Code of the Republic of Albania'.

name list of candidates for each electoral zone belongs to each gender, and that one in every three candidates belongs to each gender (Article 67 of the Electoral Code “List of candidates of parties and coalitions of parties”). The amended Electoral Code contained also the right of the CEC to fine electoral parties by 1,000,000 Albanian lekë for non-compliance with the requirements for their lists of candidates for the Parliament, and 50,000 Albanian lekë for lists of candidates for the local elections¹⁶. The Code contains also some complementary sanctions that the CEC may impose in case of non-compliance. Such sanctions consist of replacing every vacancy in the lists of candidates by the next candidate in the list that belongs to the underrepresented gender until the gender quota is met. When a vacancy belongs to a mandate allocated to a certain gender for purposes of gender equality, that vacancy shall be filled by the next candidate on the list that belongs to that gender, regardless of his/her position on the list. The other candidates belonging to that gender move up on the list, taking the place of the previous candidate of the same gender¹⁷. In March 2015, the People’s Advocate sent a Recommendation (No. doc 201500100) to the Chairs of the Parliamentary Groups in the Parliament of the Republic of Albania, on “Concerning the initiative to amend the Electoral Code of the Republic of Albania towards ensuring equal gender representation in and access to the Albanian Parliament.” Succinctly, the three points made in the recommendation focused on: 1) Ensure equal gender representation (50%) in the Parliament of Albania; 2) Women account for 50% of membership in Municipal councils; and 3) Political party lists refused should they not meet the criteria of equal gender representation.

With the law no.31/2015, “On amendments in the law no.10019, dated 29.12.2008, “The Electoral Code of RoA”, as amended, it is envisaged the quota 50% for elections

of local organs, municipality council (one in two sequential names belongs to each gender) and non-compliance with this requirement is sanctioned with rejection of the list of electoral subject.

38. Law No. 10221, dated 4.2.2010, “On protection from discrimination” prohibits discrimination in exercising the right to be elected or appointed to a public office¹⁸.
39. There are actually no legal obstacles for women to represent the Government at the international level, or to participate in the proceedings of international organizations.

2. Participation of women in politics and decision-making. The de facto situation.

40. The PA has followed the implementation of Article 7 of the CEDAW Convention, particularly in terms of the elimination of discrimination against women’s participation in the political and public life. PA notes that despite the increased women’s participation in politics and decision-making as a result of the introduced gender quota, equality is not yet achieved and the result is still far from the gender quota foreseen by the law. PA has expressed its concern about the failure of the political parties to respect the gender quota. In the 2013 elections, the PA urged the political parties to ensure such quota in their lists of candidates for MPs¹⁹. In order to meet the quota, many political parties put women candidates on the bottom of their lists, where they would have no chance of winning. Although the CEC did give the political parties a possibility to correct their violation of the gender quota, they did not do so. The non-compliant lists were registered, and the CEC fined the political parties later²⁰.

16 Article 175 of the Electoral Code, “Sanctions regarding gender equality”, amended by Law No. 74/2012.

17 Electoral Code, Article 164, “Termination of mandate and filling of vacancies”.

18 Article 9, “Participation in politics”.

19 www.gazetaidea.com, 3 May 2013.

20 OSCE, “Parliamentary Elections”, 23 June 2013, OSCE/ODIHR-it Election Observation Mission, Final Report. This report is available on <http://www.osce.org/sq/odihr/elections/>

Fines provided for by the Electoral Code turned out to be low, and did not reach their purpose. This concern about the failure of the political parties to meet the gender quota was also raised by the US State Department in its Human Rights Report of 2013, which notes that “Not all parties followed the electoral code, and fines for noncompliance were low”.²¹

41. The separation of the ministerial from the legislative functions, making the current ministers give up their MP mandate, enabled their replacement by women candidates, as the less represented gender, increasing thus the number of women MPs in the Assembly of Albania.
42. Even though the Electoral Code required the replacement of every vacancy in the lists of political parties for MPs by the following candidates, belonging to the less represented gender, this purpose was not achieved. After the replacements made by the CEC following the resignation of MPs, who became ministers, the Assembly has 29 women MPs or 20.71 %. The replacement of the 20 vacancies created in the Assembly (2013-2014) increased the number of women MPs in the Assembly only by 4. This was also because even though the political parties had already been fined by the CEC for not complying with the gender quota in 6 cases, the CEC did not yet manage to apply the complementary sanction provided by point 2 of Article 175 of the Code, because of the lack of other women candidates in the parties’ multi-name lists of candidates. In these cases, the mandate was transferred to the next man candidate on the list²².
43. The parliamentary committees do not have more than 27 % women. In 2013, 63 % of the heads of the parliamentary committees were men, while 37 % women.

21 <http://albanian.tirana.usembassy.gov/latest-embassy-news/2014---deklarata/raporti-pr-t-drejtate-njeriut-pr-vitin-2013-26-shkurt-2014.html>

22 CEC, Report on the activity of the Central Election Commission, 1 January-31 December 2014, available on: http://www2.cec.org.al/Portals/0/Images/CEC/Legjislacioni_2015/VENDIME_2015/VENDIM_29/KQZ-Raporti%20per%20Kuvend%20%202014.pdf

The chairs of the parliamentary groups in the Assembly are all men²³.

44. “At the local level, after the elections of 2011, the situation was as follows: out of 65 municipalities – 3 have women mayors or otherwise put women account for 7,7% (Burrel, Konispol, and Patos); out of 11 mini municipalities of Tirana - 2 are mayors of the mini municipalities or otherwise 18 % (in units 1 and 5); members of municipal councils, 13,8%; 2 chairpersons of the communes out of 309, 0,6% and 1 chairperson of the region out of 12 regions”²⁴.
45. Although the active and passive right to vote is de jure guaranteed for every Albanian citizen without discrimination, women still face difficulties in de facto enjoying this right. PA has raised its concern about the phenomenon of blood feud hindering the exercising of this constitutional right by the citizens, including women.²⁵
46. The Commissioner for Protection from Discrimination (CPD) has received complaints from people with disabilities about violations of their right to vote, and from NPOs operating in this area. The CPD has observed direct discrimination by the local government units and the CEC, and recommended that they meet the criteria for adopting the voting centers and make sure they are located on the ground floors for people with disabilities to be able to vote²⁶.
47. Roma women have also faced difficulties in enjoying their active and passive right to vote. “Civil registration requirements and lack of identification among the Romani

23 INSTAT, Women and Men 2014. http://www.instat.gov.al/media/257796/femra_dhe_meshkuj_2014_.pdf, p.90.

24 http://www.unwomen.org/~media/headquarters/attachments/sections/csw/59/national_reviews/albania_review_beijing20.ashx, p.48.

25 AP, “On blood feud”, 2013, p. 7. This report was discussed in the Assembly of RoA. http://www.parlament.al/web/pub/2013_raporti_per_gjakmarrjen_15419_1.pdf

26 Decision No.100, dated 14.10.2013, <http://kmd.al/skedaret/1383048306-Vendim%20Nr%20100.pdf>; Decision no.101, dated 18.10.2013, <http://www.kmd.al/skedaret/1383048378-Vendim%20Nr%20101.pdf>

population made it difficult for many Roma to participate in the June 23 elections.²⁷..... There were no Roma elected to the assembly or serving in ministerial or sub-ministerial posts”.²⁸.

48. Law on Gender Equality in the Society (2008)²⁹ provides for a representation quota of no less than 30% from each gender in the legislative, executive, and judicial bodies, as well as in other public institutions. Steps have been taken towards respect for such quota in these bodies. The increase of the number of women ministers to 7 out of 20 is an important step.
49. PA has cooperated with NPOs and their coalitions by providing support, or by joining their initiatives for increasing the participation of women/girls in politics and decision-making.
50. PA commends the initiative of the Alliance of Women MPs for amending the Electoral Code with a view to improving women’s representation in politics. This cross-party alliance has played an active role in promoting gender equality.

Public life and diplomatic/international representation.

51. Regardless of the increased percentage of women in Defense sector, the state police, the justice system, the gender differences in public life representation continue to be present. The representation of women in management and professional positions in all organs of public administration is not at the desired level. In 2013, Albania had 83% men ambassadors, and 17 % women.³⁰ The participation of women in international activities increased, but there is still gender difference related mainly with the low participation of women in decision-making.

27 Albania 2013 Human Rights Report, <http://photos.state.gov/libraries/albania/10984/vangjelim/humanrights2013.pdf>, p.15.

28 Ibidem

29 Law No. 9970, dated 24.07.2008, “On gender equality in the society”.

30 INSTAT, Women and Men 2014.http://www.instat.gov.al/media/257796/femra_dhe_meshkuj_2014_.pdf, p. 93.

3. Recommendations.

52. Legal framework. In the relation to the legal framework, it is recommended that amendments be made to the Electoral Code in order to ensure a real gender balance of 50% men and 50% women in the Assembly of the Republic of Albania in order for the upcoming elections to emerge with no less than 70 women members of Parliament. The Electoral Code needs to be reviewed in order to improve the mechanisms that ensure the application of such quote, and provide for the rejection of the lists of candidates of political parties, which fail to meet the gender quota for the parliamentary elections. The recommendation (no.201500100, March 2015) was sent to the heads of the parliamentary groups of the Assembly of Albania.
53. Legal measures should be taken for increasing the number of women mayors by giving equal access to men and women to representation on the local government bodies.

Regarding the implementation of legislation and role of civil society

54. Electoral parties are recommended to fulfill the gender quota for the parliamentary elections, while the CEC is recommended to impose sanctions in case of non-compliance.
55. Local government units and the CEC should take the measures needed in terms of their personnel, equipment, etc. to guarantee the right to vote to voters, who are unable to vote on their own, eliminate barriers for Roma voters, and other marginalized groups.
56. The civil society, and other actors should strengthen their work in order for women to be interested in being part of the electoral lists of candidates, and in order for them to increase their capacities through training, so that the gender quota is not only a matter of numbers, but of quality as well.

4. Special temporary measures. Article 4 of the CEDAW Convention.

57. PA commends the special temporary measures taken for increasing women's participation in the areas of politics and decision-making, employment, vocational training, housing, social services, education, etc., during the reporting period, which were also presented in the State Report on the implementation of the CEDAW Convention. The Law "On gender equality in the society"(2008), the Decision of the Council of Ministers no. 143/12.3.2014 "On procedures for recruitment, selection, probation period, parallel transfers, promotion of civil servants to the executive, low and middle management level" and other laws and secondary legislation introduce special temporary measures in different areas.
58. While special temporary measures are actually taken, their effects on women's participation in politics, decision-making, and other areas like employment, education, etc., are not regularly monitored or evaluated.

5. Recommendations

59. Special temporary measures are recommended to be taken in all areas. The effects of the special temporary measures on women and girls' participation in politics and decision-making, employment, vocational training, education, social services, economic aid, legal aid, etc., should be regularly monitored. The authorities responsible for this like the CEC, MSWY, MJ, Ministry of Education and Sport, etc., are recommended to study the effects of the special temporary measures on women.

B. WOMEN'S ACCESS TO THE JUSTICE SYSTEM³¹.

ARTICLE 2 of the CEDAW Convention.

paragraphs 14, 15, and 27 of the Closing Remarks of the Committee on the Elimination of Discrimination against Women

Commending the steps taken to improve the legislation on gender equality and non-discrimination reported by the Albanian state in relation to Article 2 of the CEDAW Convention, we note that the report should have more clearly emphasized the implementation of the gender equality between men and women in practice, and effective protection of women from any discriminatory action. This is also related with the lack of monitoring of the effects of the legislation on gender equality and non-discrimination, which is also admitted in the state report³².

1. Aspects of the legal and actual situation regarding women's access to the justice system.

60. PA commends the initiatives undertaken to improve the legal framework on women's access to the justice system and protection from discrimination.

1.1. Women's right to claim compensation for gender-based discrimination.

61. The Law on Protection from Discrimination (2010) includes gender under protection from discrimination. The law gives persons or group of persons, who claim to have been discriminated, or organizations with legitimate interests, which claim that a person or a group of persons have been discriminated, the right to submit a complaint to the Commissioner for

31 An analysis of this case was also referred to in Article 15 of the CEDAW Convention, and paragraphs 14, 15 and 27 of the Closing Remarks of the CEDAW Committee.

32 Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.11.

Protection against Discrimination and/or to follow the court procedures. If the court concludes that there was discrimination involved, the court decides that compensation should be paid, and sets a deadline for it to be paid.

62. The institute of the “inverted burden of proof” is quite an important institute for the process of proving a claim in cases related with this right. The Albanian legislation is not in full compliance with international standards regarding this institute. PA has considered the review of the rules on burden of proof as important to insure equality between parties, as it is recommended from CEDAW Committee in General Recommendation no.33, on women’s access to justice.
63. The Law on Protection from Discrimination is largely in line with the EU acquis; however, its implementation is insufficient and a solid anti-discrimination case-law needs to be built.³³.

1.2. Counseling and legal aid for women, especially for women unable to pay for such aid, and for marginalized women.

Guaranteeing access to justice for the vulnerable groups, including vulnerable women and girls, as well as ensuring an effective execution of the final court decisions, has been one of the directions of PA’s work, considering it very important for the implementation of EU Recommendation 7 for Albania, “Judicial Reform”³⁴.

Legal framework on legal aid. The role of PA in improving the Law on Legal Aid, as amended (2008).

64. The approval of the Law on Legal Aid (2008) represents an important development for the legal framework that aims to guarantee the right to free legal aid.

PA commends the opportunities offered by Law No. 10039, dated 22.12.2008, “On legal aid” and the secondary legislation approved for ensuring women’s access to the justice system. The period 2010-2014 was characterized by developments in terms of approval of sub-legal acts for the implementation of Law No. 10039, dated 22.12.2008, “On legal aid”. Law No. 143/2013, “On amendments to Law No. 10 039, dated 22.12.2008, “On legal aid”, increased the scope of beneficiaries of legal aid, included persons who are in need of protection of their rights, through submission of a lawsuit but are not able to pay court fees and the necessary expenditures regarding notifications and other court services. In this case, the legal aid beneficiary needs to prove that he/she: i) is part of the programs of social protection, or meet the eligibility criteria; or ii) is a victim of domestic violence or a victim of trafficking in human beings³⁵.

First of all, this provision is beneficiary for women, as it is women, who are in most of the cases victims of domestic violence, and trafficking in human beings. Secondly, studies of non-profitable organizations note that court fees and tariffs have represented and continue to represent a barrier for the marginalized women in using the means available, and in enjoying their rights. According to this law, legal aid also includes exemption from court fees and tariffs for court notifications and other services in civil and administrative court proceedings³⁶. Such exemption is especially important for women victims of violent crimes in claiming compensation from the offenders.

65. Law No. 77/2014, “On amendments to Law No. 10 039, dated 22.12.2008, ‘On legal aid’, as amended” represents also another step towards guaranteeing legal aid for citizens, women included. Through

33 Albania Progress Report 2014, p.13. <http://www.integrimi.gov.al/al/dokumenta/progres-raporte/progres-raporti-2014&page=1>

34 PA Report “On the implementation of the measures foreseen by EU recommendations 6, 7, 10, 11, and 12 for Albania in the area of the activity of the People’s Advocate, and the activity of this institution regarding these recommendations during January-June 2012”, Tirana, July 2012, p.5. <http://www.avokatipopullit.gov.al/sites/default/files/ctools/Raport%20i%20vecante%20masat%20e%20BE.pdf>

35 The People’s Advocate has given his recommendations to the Parliamentary Law Committee on the amendments made to Law No.10039, dated 22.12.2008, “On legal aid”, suggesting the inclusion of the victims of trafficking and domestic violence as entitled to legal aid.

36 Law No. 143/2013, “On amendments to Law No.10039, dated 22.12.2008, “On legal aid”, Article 11.

its Letter No. 197/1, dated 13.06.2014, “Opinions and comments on the draft law ‘On amendments to Law No. 10039, dated 22.12.2008 “On legal aid”, as amended, the PA presented his opinion to the Parliamentary Committee on Legal Affairs, Public Administration, and Human Rights. Some of them were taken into consideration and reflected on the amendments made with law no.77/2014.

Thus, PA suggested the exemption of persons, who are part of the social protection programs, from the obligation of submitting supporting documentation with their application for legal aid, an obligation required by a decision of the State Committee for Legal Aid. The supporting documentation in these cases should be provided by the State Committee for Legal Aid itself, exempting the applicants from the financial costs. Law No. 77/101437, exempts persons, who are part of the social protection programs, and minors from the obligation to present supporting documentation with their application for legal aid, and requires the SCLA to cooperate with the relevant institutions for securing the necessary documentation.

PA has also suggested that minors are provided with legal aid not only when they are criminal offenders, but also when they are witnesses or victims of criminal offences. This suggestion was taken into consideration and reflected on amendments made to Law No. 10039, dated 22.12.2008 “On legal aid”, by Law No. 77/201438, which provides for the right of minors, for whom defense is obligatory by law both in the criminal proceedings and during trial, and minors, who are affected by a criminal offence, and who are entitled to legal aid through all the phases of proceedings foreseen in the Code of Criminal Procedures.

AP suggested that the eligibility criteria for

legal aid should take into consideration not only the applicant’s personal insufficient incomes, but even other circumstances such as the number of his/her family members, dependents, or minors, etc. Such suggestion was also taken into consideration and the amended point 3 of Article 13 of the law specifies that “The State Commission for Legal Aid evaluates the legal aid eligibility criteria like the applicant’s financial incomes and those of his dependents, his/her family composition, social status, inclusion or potential inclusion in social protection programs, as well as any other circumstances that make the applicant unable to privately secure the legal aid that he/she needs.”

Article 4 of Law No. 77/2014, “On amendments to Law No. 10 039, dated 22.12.2008, “On legal aid”, as amended” increases the number of subjects benefiting legal aid, including not only Albanian citizens resident in the territory of the Republic of Albania, foreign citizens, persons without nationality, who hold a resident permit, but also people of a foreign nationality, or without any nationality, who are in the process of applying for a residence permit or are in the process of complaining or in the court for having been rejected a resident permit or asylum³⁹. This law foresees immediate legal aid by the State Commission for Legal Aid (SCLA). For the above mentioned cases, the verification of eligibility criteria is foreseen at a later stage⁴⁰.

66. PA notes that the provisions of Law No. 10329, dated 30.09.2010 “On amendments to Law No. 9669, dated 18.12.2006 “On measures against domestic violence”, as amended” releases the plaintiff from all tariffs and fees for court expenses and state bailiff services (SBS), will increase the access of victims of domestic

37 Law No. 77/2014, “On amendments to Law No. 10 039, dated 22.12.2008, ‘On legal aid’, as amended, Article 16, “Submission of application and documentation for legal aid”.

38 Law No. 77/2014, “On amendments to Law No. 10 039, dated 22.12.2008, on legal aid’, as amended”, Article 13, “Eligibility criteria for legal aid”.

39 Article 11/1, of Law No. 10 039, date 22.12.2008, “On legal aid’ amended”, “Subjects that benefit legal aid”.

40 Law No. 77/2014, “On some changes and amendments in Law No. 10 039, date 22.12.2008, ‘On legal aid’ amended”, Article 16 “Submission of the claim and the documentation necessary to obtain legal aid”.

violence, especially women, who are disproportionately effected from domestic violence, to the justice system.

67. The People's Advocate has continuously contributed to reducing court fees by making recommendations. The Center for Legal Civic Initiatives (CLCI), a nonprofit organization that works to increase the access of women to the judiciary has submitted a complaint to the PA, arguing that Instruction No. 13, dated 12.02.2009, "On service fees for judicial acts and court services, as well as for services of the Ministry of Justice, Prosecutor's Office, notaries, and immovable property registration offices" of the Minister of Justice and Minister of Finance affect directly citizens' access to the judiciary, in particular the access of girls and women who are poor and subject to violence, discouraging them from using legal means. After considering the claim⁴¹, the People's Advocate issued a recommendation for the Minister of Finance and the institutions involved to revoke this instruction and clarify the terms 'tariff' in the Law "On national taxes" and "court tax". Such efforts, and the contribution of other actors, led to a reduction of the court tariffs by the Joint Instruction No. 5668, dated 20.11.2013 "On amendments to Instruction No. 13, dated 12.2.2009, "On service fees for judicial acts and court services, as well as for services of the Ministry of Justice, Prosecutor's Office, notaries, and immovable property registration offices", as amended.
68. It is important to point out that the Constitutional Court, through its Decision

No.7, dated 27.2.2013⁴², concluded that there are no obstacles for a judge to investigate or exempt the plaintiff from paying the court tariff, when he/she finds that the plaintiff cannot afford such tariffs. The Constitutional Court says that this is achieved by the Court through reviewing the presented documentation which proves that the citizen is unable to pay.

1.3. The de facto situation in relation to guaranteeing the right to legal aid.

69. PA commends the creation and functioning of a State Commission for Legal Aid by Law No. 10039/2008 and the secondary legislation that regulates its functioning raises, but raises a concern that although years have passed from its creation, the number of those who have benefited legal aid is small. Many of these legal services are offered by some donor-supported organizations⁴³. From the analysis of the Justice Ministry, it results that, there are 27 persons who have applied for the year 2011 and none of them have fulfilled the criteria of the free legal aid benefiting; there are 62 persons who have applied for the year 2012 and 45 persons have benefited; there are 171 persons who have applied for the year 2013 and 85 persons have benefited⁴⁴. Women have benefited primary and secondary aid for cases related to division

41 The claim was considered by the PA during the year 2010.

42 The case was about "Evaluation of the constitutionality of article 11/2, of the Law No. 9975, dated 28.07.2008, "On national taxes", as amended; Abrogation of the Instruction of the Minister of Finance and Minister of Justice No. 001/3, dated 02.03.2010, "On amendments to Instruction No. 13, dated 12.02.2009, "On establishing service tariffs for procedures and services offered by the judicial administration, Ministry of Justice, Prosecutor's Office, Notaries, and the Immovable Property Registration Office" as non-compliant with the Constitution; the final interpretation of Article 155 of the Constitution in relation to the implementation of Law No. 9975, dated 28.07.2008 "On national taxation", as amended, on the basis of affordability". The case was brought by Pogradec District Court, Tirana District Court, and the Center for Legal Civic Initiatives.

43 Document No.197/1, dated 13.06.2014, "Comments and opinions about the draft law "On amendments to Law No.10039, dated 22.12.2008 "On legal aid", as amended.

44 http://www.drejtesia.gov.al/files/userfiles/Analiza_e_sistemit_te_drejtisesise_FINAL/Analiza_e_sistemit_te_drejtisesise_FINAL.pdf, p.84.

of property, work conflicts, divorce, child registration, certificate of facts, custody, compensation, criminal charges, etc⁴⁵.

70. The lack of awareness about the State Commission and its work continues⁴⁶. Women seem to have limited information about their right to legal aid, SCLA, and the eligibility criteria. It was twenty two women in 2013 and 11 in 2014 that addressed the PA asking for free legal aid. The Albanian Helsinki Committee underlines in its report on the situation of human rights in Albania for 2014 that “With regard to free legal aid, which should be offered by public structures under the Ministry of Justice according to Law No. 10039, dated 22.12.2008, “On legal aid”, as amended, the citizens do not have the necessary information about this service and proper trust on this service. Since its creation, this service does not function as it should, it is not transparent about its activities, and does not have a sufficient budget to respond to the many requests of poor citizens, who need free legal aid”⁴⁷.
71. The institution of the PA has expressed its concern that during the reporting period, following complex procedures and collecting the required documents had cost money and time, which has discouraged women, especially women who are part of groups with special needs to apply in order to benefit from legal assistance from the SCLA, for civil, family or criminal cases when they are victims of violent crimes. This has affected access to justice for marginalized women. In practice, there have been cases when the failure to meet the deadline for completing the required documentation has led to the interruption of procedures for granting free legal aid⁴⁸.
72. PA notes that regardless of the SCLA

declared priorities in relation to benefits from legal aid, the number of Roma women, Egyptian women, women with special needs, women victims of domestic violence, trafficked women, and women who have faced discrimination, who can benefit from the services, remains limited. Thus, in the first half of 2014, only two women victims of domestic violence have received legal aid from the State Committee for Legal Aid⁴⁹. This has been recognized also in the fourth National Periodical Report⁵⁰ (FPNR) on the implementation of the CEDAW Convention, clearly stating the problems faced with the legal aid. In the state report, the data on the number of women benefiting from the legal aid by the SCLA and the data on the number of Roma and Egyptian women, women with special needs, trafficked women, are missing. The annual report of the Ministry of Justice provides data about the beneficiaries of free legal aid not segregated by gender, minority, and forms of gender based violence, disabilities, etc.

73. It should be noted that Law No. 9669, dated 18.12.2006, “On measures against domestic violence”, as amended, obliges the National Chamber of Lawyers and the State Commission for Legal Aid to provide courts with a list of the lawyers authorized to offer free legal aid. However, such list has not been provided to all district courts, causing negative impact, especially on women who are disproportionately affected by domestic violence.
74. Despite the criteria for evaluation of the SCLA, foreseen in its decision, “On evaluation criteria, forms and standards of quality control in offering legal aid”, there is not yet any consolidated practices of assessing such criteria and the standards

45 This information is given from SCLA's member I.A.

46 http://www.ecoi.net/file_upload/1226_1390300219_com-instranet1.pdf, p.16.

47 Albanian Helsinki Committee, Report on the situation of respecting human rights in Albania for the year 2014. Tirana, December 2014, p. 28.

48 Interview with citizen R.G., who said that the cause for the non-consideration of her request for free legal aid was lack of completion of the required documentation in time.

49 Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.19.

50 The Fourth Periodic Report of the Albanian state on the Convention “On Elimination of all Forms of Discrimination against Women” approved by CMD No. 806, date 26.11.2014. Official Gazette of the Republic of Albania No.187/2014, fq.10184 (4 cases/ 2013; 2 cases in the first half of the year 2014 – one Albanian citizen and one foreign citizen)

of service. Human resources and financial resources are not sufficient.

75. The lack of local legal clinics and their services has had an impact on access of women from different districts to justice. The regional offices of the PA claim that some of the citizens' complaints are also about lack of free legal aid⁵¹. There are not yet undertaken measures for establishing the proper infrastructure for the normal functioning of the local legal clinics, including the planning of sufficient funds State Budget.
76. The transparency of the SCLA activities with regard to its decision-making on the applicants who get or do not get approval to receive legal aid, the funds allocated by the state budget for the legal aid, contracts signed with lawyers and the NPOs that offer the service, is not in due level⁵². There are no detailed and regular reports on the activities of the SCLA regarding the number of applicants for legal aid, total number of beneficiaries, number of those who have benefited, desegregated from gender, results of the monitoring of the quality of the legal aid, from the year the law on legal aid has entered in force (2008).

A website of this institution to make public its activity and to be accessible for citizens, including women is missing.
77. At present, the citizens, including women, do not have the possibility to choose the lawyer who will offer them legal aid.
78. The State Commission for Legal Aid, as the institution responsible by law "On legal aid" (2008), has the authority to establish contracts with non-profitable organizations specialized in offering legal aid. In order to increase the number of

women benefiting from this service, this cooperation should be strengthened. Offering legal aid through contracting of the specialized NPOs would offer a service of quality by well-trained lawyers of these NPOs who are sensitive towards gender issues.

79. In June 2012, the PA signed an agreement of cooperation⁵³ with the State Commission for Legal Aid, through which the SCLA committed itself to assess and process cases referred by the PA in line with the law and secondary legislation, aiming at offering primary and secondary legal aid to vulnerable groups, which fulfill the criteria in accordance with the law. But the number of beneficiaries out of referred cases has been small. In the case of victims of domestic violence and victims of human trafficking, the PA has referred these cases even to the NPOs which offer services to these target groups.
80. In relation to the judicial fees, even the 2014 Progress Report for Albania points out that "Judicial fees deter many citizens and application procedures are too cumbersome. Free legal aid continues to be provided mainly by non-governmental organizations with donor funding."⁵⁴
81. Upon his visit in Albania during 23-27 September 2013, the Council of Europe Commissioner for Human Rights Nils Muiznieks, recommended that judges should be given a clear instruction, which would help them execute the decision of the Constitutional Court on exclusion from judicial fees.⁵⁵

1.4 Recommendations

Legal Aid

51 Interview with representative of the Regional Office Pogradec, E.R., published in "People's Advocate", Periodical Publication of the People's Advocate No. 1, November 2014, p.23.

52 Lack of transparency of the SCLA is one of the problems found by the AP Report "On implementation of measures foreseen in EU recommendation 6, 7, 10, 11, and 12 for Albania, which relate to the work of the People's Advocate as well as the activity of the institution with regard to these recommendations during the period January -June 2012, Tirana, July 2012, p. 6.

53 During 2012, the PA received 55 requests for legal service in total from citizens, including women who claimed that they had no possibility to hire private lawyers. 39 requests for free legal aid services were submitted to PA in 2013. The yearly reports of the PA are the source of data.

54 <http://www.integrimi.gov.al/dokumenta/progres-raporte/progres-raporti-2014&page=1>

55 http://www.ecoi.net/file_upload/1226_1390300219_com-instranet1.pdf, p.17.

82. Increase the efficiency of the SCLA for raising the number of those cases where primary or secondary legal aid is offered⁵⁶. Even the Progress Report 2014 on Albania recommends: As regards access to justice, the functioning of the SCLA should be improved and recent provisions on Legal Aid providing for the establishment of regional legal aid offices implemented.⁵⁷
83. The establishment and functioning of the local legal clinics would significantly contribute, through assistance for preparation of the request for legal aid and the required documentation⁵⁸. This requires the approval without delay of acts on the structure of the local legal clinics and the budget required for their functioning. This would bring better support for the needs of women, in the whole country, including in remote and rural area, making the implementation of the law more efficient.
84. The SCLA is recommended to be oriented in a more distinctive way from the support of individual cases, victims of human trafficking, of domestic violence, women with disabilities, Roma and Egyptians women, other of marginalized women, towards contracting nonprofit organizations that offer free legal aid for these target groups, aiming at increasing the number of beneficiaries, and the quality of services by trained lawyers.
85. Strengthening of the SCLA work in order to pay special attention to services offered to Roma women, women with disabilities, elderly women, women of the LGBTI community, etc.
86. The State Commission on Legal Aid is recommended continuously monitors the quality of the legal aid offered by the lawyers, or the nonprofit organizations, as a crucial element for guaranteeing justice for everyone, including women. It is recommended that the SCLA, ex-officio or upon a request of the Minister of Justice, continuously checks on the quality of the free legal aid offered⁵⁹. In order to conduct this evaluation in a professional and systematic manner, human resources capacities and the financial resources is necessary to be increased.
87. With regard to the implementation of Law “On legal aid”, as amended (2008), measures need to be taken for ensuring the implementation of Law No. 77/2014 “On amendments to Law No. 10039, dated 22.12.2008 “On legal aid”, as amended”, in order to facilitate the procedures and compilation of documents, through the support of the SCLA in cooperation with the responsible institutions.
88. Increasing of the transparency on the SCLA activities, with regard to the number of applicants, and the number of beneficiaries, identified by gender, relation with any minority, disability, etc.
89. It is recommended that an open list of advocates is created, so that individuals may choose their lawyer, a choice, which is subject to a decision of the Commission. As such, the institution of the PA thinks it will avoid subjectivism and abusive attitudes in selecting those who offer legal aid⁶⁰.

56 Lack of efficiency in the functioning of the State Commission for Legal Aid is one of the problems evidenced by the PA in the Report “On implementing measures foreseen in recommendations 6,7,10, 11 and 12 of the EU for Albania, which relate to the work of the People’s Advocate as well as the activity of the institution with regard to these recommendations during the period January-June 2012,” Tirana, July 2012, p.6. <http://www.avokatipopullit.gov.al/sites/default/files/ctools/Raport%20i%20vecante%20masat%20e%20BE.pdf>

57 <http://www.integrimi.gov.al/al/dokumenta/progres-raporte/progres-raporti-2014&page=1>

58 Law No. 143/2013, “On amendments to Law No. 10039, dated 22.12.2008, “On legal aid”, article 12/1, p.2, “Local legal clinics”.

59 PA, Report “On implementing measures foreseen in recommendations 6,7,10, 11 and 12 of the EU for Albania, which relate to the work of the People’s Advocate as well as the activity of the institution with regard to these recommendations during the period January-June 2012,” Tirana, July 2012, p.7. <http://www.avokatipopullit.gov.al/sites/default/files/ctools/Raport%20i%20vecante%20masat%20e%20BE.pdf>

60 PA, Report “On implementing measures foreseen in recommendations 6,7,10, 11 and 12 of the EU for Albania, which relate to the work of the People’s Advocate, as well as the activity of the institution with regard to these recommendations during the period January-June 2012,” Tirana, July 2012, p.7. <http://www.avokatipopullit.gov.al/sites/default/files/ctools/Raport%20i%20vecante%20masat%20e%20BE.pdf>

90. It is recommended that MJ, SCLA and NBA undertake measures aiming to fulfill their legal responsibility to provide courts with a list of lawyers who will offer free legal aid for the victims of domestic violence, in the process of issuing IPO/PO.
91. The SCLA should develop a website not only to increase transparency, but also to increase the level of knowledge and information available for people, who need free legal aid, including women.

1.5. Execution of final court decisions.

In the context of ensuring a due process of law, the PA has also followed cases of non-execution of final court decisions within a reasonable time, and whether proper procedures have been followed during investigation and trial. The issue of the execution of final court decisions is analyzed on one hand closely linked with women's access to the justice system and their right to fair trial, and with their right to equality in marriage and family life, a right guaranteed by the CEDAW Convention on the other.

92. The right to a due process of law is guaranteed by Article 42 of the Constitution of the RoA, and Article 6/1 of the ECHR. The jurisprudence of the Constitutional Court of the RoA and that of the ECtHR state clearly that the execution of final court decisions within a reasonable time represents an integral part of Article 6/1 of the ECHR.
93. Law No. 155/2014, "On amendments to Law No. 8454, dated 4.2.1999, "On the People's Advocate", as amended, authorizes the PA to receive complaints, requests, and reports on violations of human rights related with the administration of the judicial system, and the execution of court decisions.

Actual situation and institutional effectiveness

94. According to the PA, the process of execution of executive titles is not at the desired level. The PA received 68 complaints for the period October 2013–October 2014, including complaints from women. The PA notes with concern that the number of complaints from the citizens, women include, about court decisions not being

executed, is increasing. It is worth noting that there are an increasing number of women complaining about non-execution of final court decisions in relation with their divorce consequences, return to work, etc.

95. The PA has continuously raised its concern about the non-execution of the final court decisions in its annual reports, and on its special report "On the situation created because of the non-execution of the final court decisions"⁶¹, which turns the right of the complainants to access to courts into an illusion, because of such failure to execute the executive titles continues for a long time.

1.5.1. Regarding the failure to execute final court decisions on regulating consequences of divorce.

96. PA expresses its concern about the problematic situation caused by the failure to execute the court decisions related with the raising and education of children after divorce, and the parents' rights to meet with their children, and obligation to pay for their children's alimony. These issues affect particularly women after divorce, as children are usually left with their mothers to be raised and educated, and fathers, who are not given the right to raise and educate their children, are given the right to meet their children and obliged to pay their alimony. The monitoring of the court decisions regarding divorce, and its consequences shows that "After the marriage dissolution in most cases the children are left under the care of their mother. So mother remains as the main exerciser of the parental responsibility. In Tirana District court these cases cover 87-88% of the monitored decisions for the period 2011-2012; for Durrresi District Court such cases cover 90% of the monitored cases for the year 2011 and 82 % of the cases for the year 2012. Approximately the same figures are identified in Vlora and Shkodra district

61 PA, Special Report, "On the situation created as a result of the failure to execute final court decisions", no. 211, dated 27.07.2012, p. 5. http://www.parlament.al/web/pub/2012_raporti_per_vendimet_gjyqesore_15413_1.pdf

courts.”⁶² This is the concern addressed by a number of complaints submitted to the PA during 2010-2014. Thus, 14 complaints are submitted by women during this period related with the non-execution of the final court decisions regarding the right to meet with their children, 27 complaints for the non-execution of the final court decisions regarding the parents’ obligation for paying for their children’s alimony, 5 complaints for non-execution of the final court decisions regarding the raising and education of the children, and 2 complaints for non-execution of the final court decision regarding the obligation for handing over the children⁶³.

Some of the reasons for the failure to execute the final court decisions include: “former husbands have no assets that can be seized”⁶⁴, “the execution of the decision was suspended by the High Court”, “the acts presented to the Bailiff Office for execution have not been complete”⁶⁵, former husband who has to pay alimony for his children is abroad, etc.

97. The official data show also that there have also been cases of failure to execute final court decisions even in criminal cases of “Failure to provide means of living”, (Article 125 of the Criminal Code). The annual statistical register of the Ministry of Justice for 2011 shows that there have been 41 such criminal cases for which 42 persons have been punished⁶⁶. The same source of information shows that in 2012 there were 49 such cases for which 43 persons were punished, 89 cases in 2013, for which 45 persons were punished and

108 cases in 2014, for which 44 persons were punished. These official data show that the number of the criminal cases with this object is increasing. There was one woman punished for having committed this criminal offence in 2012, one in 2013, and another one in 2014, which shows clearly that the consequences of the failure to execute the court decision for paying for the children’s alimony affect mainly women.

98. The PA reviewed complaints submitted by women during the reporting period, which were related with the failure to execute final court decisions because of the court fees not having been paid.
99. The activity of the State and Private Judicial Bailiff Service in executing the mandatory executive titles leaves to be desired. The complaints received by the institution show that there are court decisions regarding the obligation of former husbands to allow their wives to meet their children, and to pay for their alimony after divorce, have not been executed for 2-3 years or longer after the issuance of the final court decision⁶⁷, affecting thus the rights gained through the court proceedings.

1.5.1.1. Recommendations

100. Increased effectiveness on the part of the Bailiff Service, Police and other relevant institutions, which have a role in the execution of court decisions on children’s custody, and parents’ rights to raise, educate, and meet children, and their obligation to pay for their alimony.
101. Positive measures to be taken by the state for ensuring the de facto enjoyment of the rights related with the execution of the final court decisions, especially with the obligation for paying for the children’s alimony, the raising and education of the children, and the right to meet with them. Regarding the obligation to pay for the children’s alimony. “There are no other positive obligations for the state. Meanwhile, it could be possible to draw

62 Prof.Dr.Arta Mandro (Balili) & Av.Aurela Bozo & Prof.Dr.Aurela Anastasi, Report on Knowledge and implementation of the gender equality standards in court decisions. Report on the main findings from monitoring of the judicial practice in Tirana, Durrresi, Shkodra and Vlora Districts. January 1, 2011-June 1, 2012. p.13, Tirana, December 2013.

63 These gender data are collected from the PA during November 2014.

64 Complaint by F.T, (2013)

65 Complaint by D.N., regarding the right to meet with the children. (2013)

66 These statistics do not make a distinction between the cases of non-execution of court decisions on parent’s obligation to pay for their children’s food from other alimony cases.

67 Complainant V.T. (2013) complains about the non-execution for three years of the court decision that obliges her husband to pay for his children’s food.

employment strategies for these persons, in order to secure the payment of alimony or compensation strategies, where the state can guarantee this payment and the debtor can repay his obligation at a later time.”⁶⁸

102. MJ to fulfill the responsibilities for the execution of the courts decisions when the debtor parents are living abroad, under the frame of implementation of international conventions in this field and agreements with other states.

1.5.2. Execution of final court decisions that oblige state budget institutions to compensate in cash in favor of the court case winning parties,

103. Legal and de facto situation. The PA raised the concern that the “engagement of the government to terminate the execution of all final court decisions (executive titles) issued over the years and that oblige state budget institutions to compensate in cash or carry out certain actions in favor of the court case winning parties, is not carried out appropriately”.⁶⁹ In cases of failure to meet the obligation of financial compensation, the state budget institutions justified their omission with lack of funds, saying that the compensation would be paid in installments, depending on the financial possibilities and provisions of Instruction no. 2, dated 18.08.2011, “Manner of executing the monetary obligations of state budget institutions to the Treasury”, issued by the Council of Ministers. This instruction contained definitions that do not comply with the legal provisions of the Civil Procedure Code on the mandatory execution of executive titles and allow room for failure to execute final court decisions within a reasonable timeline. The PA recommended to the Ministry of Justice through letter with Prot. no. K3/S8-6, dated

26.03.2012 and to the Ministry of Finance, informing also the Council of Ministers, through letter with Prot. no nr.K3/S8-9, dated 28.08.2012, amending Instruction no. 2, dated 18.08.2011, on the “Manner of executing the monetary obligations of state budget institutions to the Treasury”⁷⁰. Since there was no reaction related to the PA’s recommendation on amending Instruction no. 2, the PA addressed the Constitutional Court asking abrogation of this instruction for not complying with the Constitution. The Constitutional Court declared unconstitutional letter “d”, paragraph 7, of this Instruction. This instruction was annulled entirely by the Council of Ministers through Instruction no.1, dated 4.06.2014, on the “Manner of executing monetary obligations of central government units to the Treasury”. The PA is of the opinion that Instruction no.1, dated 4.06.2014, has gaps because it does not comply with some legal provisions on bailiff’s actions in the process of mandatory execution of executive titles obliging budget institutions to pay certain amounts of money.

104. The PA expressed the concern that, during the reporting period, contrary to the obligation set by a court or the Civil Service Commission, chairs of debtor budget institutions have not complied fully with the obligation to pay salaries to those who won a court case against these institutions, and have paid them modest amounts of 5,000 – 10,000 ALL. This “solution” not only covers just 1/10 or 1/15 of the monthly obligation, but it also harms the affected party and her family⁷¹. Women are also faced with this situation. The PA has noted that lack of financial means, used as an excuse for not fulfilling the obligations, is in contradiction to the ECHR’s jurisprudence stating that “No argument used by the public administration may justify the

68 Prof.Dr.Av.Aurela Anastasi, “In margine al Sinodo 2014”, “The execution of court decisions with regard to the payment of alimony in favor of the children in cases of divorce. (The case of Albania)”; Bari 2014, p.44.

69 This concern was raised by the PA in its Special Report, on the “Situation arising by failure to execute final court decisions”, July 2012, p. 6. (no.211, dated 27.07.2012) http://www.parlament.al/web/pub/2012_raporti_per_vendimet_gjyqesore_15413_1.pdf

70 PA, Special Report, on the “Situation arising by failure to execute final court decisions”, July 2012, p. 8. (no.11, dt.27.07.2012) http://www.parlament.al/web/pub/2012_raporti_per_vendimet_gjyqesore_15413_1.pdf

71 PA, Special Report, on the “Situation arising by failure to execute final court decisions”, July 2012, p. 8. (no.211, dated 27.07.2012) http://www.parlament.al/web/pub/2012_raporti_per_vendimet_gjyqesore_15413_1.pdf

failure to execute a right granted to a citizen by a court⁷². The PA examined the complaints received and recommended “taking measures for paying the entire amount, as the only action that should be taken to fulfill the obligation”⁷³.

105. We have identified cases of failure of the judicial bailiff’s officers to act in relation to fines issued against debtors or any other third party. These officers conduct irregular actions during the process of executing a court decision, do not meet deadlines, and do not execute the orders.
106. In case of debtor institutions that fail to execute final court decisions, even when the chairs of these executions are punished by fines based on Article 606 of the Civil Procedure Code, the fines have not been collected because the courts have annulled the judicial bailiff’s decisions.
107. Several budget institutions have not responded to the PA’s recommendations based on some complaints filed by women – complaint no. 00901831, no. 201001284, no. 201101285, no. 201100563, no. 201100086 and no. 201001682, etc.

1.5.2.1. Recommendations

108. Debtor state budget institutions are recommended to entirely fulfill their financial obligations arising from final court decisions. The accounts of debtor state budget institutions are recommended to be seized and fines to be imposed on their chairs in order for citizens, including women, to effectively enjoy their rights.
109. The implementation of the ECHR’s

72 PA, Special Report no.211, dated 27.07.2012, on the “Situation arising by failure to execute final court decisions”, July 2012, (no. 211, dated 27.07.2012), p. 26. http://www.parlament.al/web/pub/2012_raporti_per_vendimet_gjyqesore_15413_1.pdf Referring to the ECHR jurisprudence no. 54268/00, Qufaj & Co shpk vs. Albania, dated 30.03.2005.”Nothing, not even lack of funds justifies the failure to execute a court decision”.

73 PA, Special Report, on the “Situation arising by failure to execute final court decisions”, July 2012, p. 11. (no.211, dated 27.07.2012) http://www.parlament.al/web/pub/2012_raporti_per_vendimet_gjyqesore_15413_1.pdf

decisions is recommended, as failure to do so not only affects the citizens’ effective enjoyment of their rights, including women, but it may also lead to sanctions against the Albanian state as member of the European Convention on Human Rights.

1.5.3. Execution of final court decisions related to reinstatement to duty,

110. It should be highlighted that the complaints received by the PA relate to failure to execute final court decisions that order reinstatement to the previous job positions of employees who hold the status of civil servants. The justification by the public administration bodies that there are no free spots or that there have been job redundancies does not stand, and it affects even women who are faced with such a situation. The Constitutional Court, in its jurisprudence, declared that it is the responsibility of the debtor (public administration body) to find the most appropriate solution in order to restore the creditor’s right.

111. Although Law no.152/3013, on “Civil servants” entered into power in February 2014, the period of time prior to its entrance into force by decision of the Constitutional Court caused many problems for those who were dismissed or appointed by the civil service during this period of time. This is clearly seen also in court decisions – there is no unified case law during this period of time when the civil service law was “idle”⁷⁴. Still problematic is the situation of those individuals who were put in the waiting list before the law on civil service entered into force. Most of the complaints turned into lawsuits and the respective court decisions gave retroactive power to the decision of the Constitutional Court on the civil service law, thus declaring the waiting lists as invalid and ordering reinstatement of these employees into their previous job

74 Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the People’s Advocate on the 2014 Progress Report.

positions⁷⁵.

112. The work done by the Ministry of Justice and the General Directorate of the State Judicial Bailiff's Office in relation to managing and monitoring the execution of final court decisions, among which decisions with this object that affect women, has not been effective.
113. It is not timely discussed in the Assembly the special report on non execution of final court decisions. Law no. 155/2014, on "Amendments to Law no. 8454, dated 4.2.1999, on the "People's Advocate", as amended ", amended Article 28. The PA's Annual Report shall be reviewed in the Assembly within three months from its delivery. The PA's special reports shall be discussed in the Assembly within two months from their delivery. If the Assembly fails to respect the deadlines, the PA is entitled to publish the report.

1.5.3.1. Recommendations⁷⁶:

114. The responsible institutions should take measures for the timely fulfillment of the legal obligation to implement the recommendations of the PA on reinstatement to previous job positions of those, including women, who are granted this right by a court.
115. A database of the Bailiff's service practices is also recommended to be established, providing, among other, gender disaggregated data.
116. A sub-legal act on the manner and deadline of the execution of executive titles by state bodies, or on their taking certain actions (Article 605 of the Criminal

Procedure Code) should be drafted and adopted.

117. The management and oversight role of the Ministry of Justice and the General Directorate of the State Judicial Bailiff's Office in the execution of final court decisions, including those affecting women, should be strengthened⁷⁷.
118. A working group that will identify unexecuted final court decisions, including those issued in favor of women plaintiffs, against state institutions, and that will take measures for these decisions to be executed at the earliest is recommended to be established.
119. An action plan on the execution of court decisions on compensations and reinstatement of dismissed employees to their jobs is recommended to be developed⁷⁸.
120. The civil service Commissioner will serve as a warranty and important institution in the public administration reform process. Monitoring from external parties, not only by independent institutions but also by the civil society is recommended. In this view, they should be provided with the necessary access⁷⁹.
121. Timely discussion in the Assembly of special reports, including the report on the situation arising from failure to execute final court decisions is recommended.

75 Comments and opinions of the People's Advocate on the Council of Europe's 2014 Progress Report for Albania, Tirana 2014, p.2. Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the People's Advocate on the 2014 Progress Report.

76 Even though some of the recommendations of the PA seem gender neutral, their implementation would have a direct impact on women and on their rights granted by final court decisions. These recommendations are not limited to the failure of institutions to execute final court decisions that order reinstatement to previous job positions of the individuals who are granted this right by a court.

77 This recommendation was reflected in the Special Report, on the "Situation arising by failure to execute final court decisions", p.5. (no.211, dt.27.07.2012)

78 Comments and opinions of the People's Advocate on the Council of Europe's 2014 Progress Report for Albania, Tirana 2014, p.3. Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the People's Advocate on the 2014 Progress Report.

79 Comments and opinions of the People's Advocate on the Council of Europe's 2014 Progress Report for Albania, Tirana 2014, p.2. Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the People's Advocate on the 2014 Progress Report.

1.6. Aspects of respecting the right on due process of law through complaints against the court and the prosecutor's office.

Courts

122. The complaints examined by the PA relate to unfair and unreasonable procrastination of both civil and criminal court proceedings.

The prosecutor's office,

123. The PA has also received complaints that the prosecutor's office has failed to notify the plaintiff of the right to file a civil lawsuit in the criminal process and ask compensation for the damages caused, in accordance with Article 61 of the Criminal Procedure Code. This omission has obliged the damaged party, or the family members of the victims [damaged parties] to file a separate lawsuit asking for "Compensation for the damage caused by the criminal offence". The PA conducted a study and issued a legislative recommendation on amending articles 48 and 58 of the Criminal Procedure Code to include the assignment of a defense lawyer during the criminal investigation and trial in order to protect the legitimate rights and interests of the victims. This recommendation complies with the international standards and obligations that arise from the ratified international acts on the rights of victims of violent crimes, especially victims of trafficking in human beings or other violent crimes.

1.6.1. Recommendations

124. The HCJ is recommended to review the judgments and monitor the work of the judges. This would be in compliance with the recommendation of CEDAW Committee to "Develop effective and independent mechanisms to observe and monitor women's access to justice in order to ensure that justice systems are in accordance with the principles of justiciability, availability, accessibility, good quality and effectiveness of

remedies"⁸⁰. Data from monitoring, on the length of the procedures and their outcomes, should be disaggregated by sex of complainant.

125. Amendments to the Criminal Procedure Code are recommended to be adopted and include a clear definition of the professionals responsible for informing victims of violent crimes on their right to compensation and other rights.

126. The PA's proposal to amend articles 48 and 58 of the Criminal Procedure Code for a better protection of the victims' rights needs to be immediately approved. This would also benefit women victims of domestic violence, trafficking in human beings, etc.

Multiple discrimination

Article 2 of CEDAW Convention; in relation with paragraph 42 of the CR of the CEDAW Committee;

1.7. On improving the legal framework and measures for protecting the rights of women from the LGBTI community.

127. The Albanian state has made efforts to implement the Council of Europe Recommendation CM/Rec (2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity. Cooperation between the state authorities and civil society organizations regarding the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons was improved.⁸¹ A "Plan of Measures against Discrimination on grounds of sexual orientation and gender identity, 2012-2014" was approved in December 2012. The People's Advocate, as the main institution responsible for defending and promoting human rights in Albania, has presented its suggestions about the plan, and about additional

80 CEDAW Committee, General Recommendation no.33, on women's access to justice, 20 (a).

81 EC, 2014 Progress Report on Albania, p.56, <http://www.integrimi.gov.al/al/dokumenta/progres-raporte/progres-raporti-2014&page=1>

indicators that would help identify the level of implementation of such measures, as well as about the sources of financing needed by the relevant authorities to ensure the implementation of concrete measures.

128. The institution of PA has prepared a special report, which was presented by the People's Advocate in the parliamentary human rights subcommittee of the Assembly of Albania, and was reviewed, by the Human Rights Subcommittee and the Subcommittee for Minors, Gender Equality, and Domestic Violence in December 2014⁸². One of the concerns raised by the People's Advocate includes the need for improving the legislation on the rights of the LGBTI community.
129. Regarding the legal framework. Main findings.
130. The Law "On protection from discrimination"⁸³ (2010) regulates the implementation of, and respect for the principle of equality in relation with the gender identity and sexual orientation.

The People's Advocate has contributed to the improvement of the criminal legislation for protecting the rights of LGBTI members. Thus, the PA has recommended the introduction of letter 'j' under Article 50 of the Criminal Code, which foresees the commitment of an offence for reasons, related with the sexual orientation as an aggravating circumstance, and this recommendation was accepted. Through Law No. 144/2013 "On amendments to Law No. 7895, dated 27.1.1995, "The Criminal Code of the Republic of Albania, as amended", article 50, letter 'j' was changed considering as an aggravating circumstance the commitment of an offence for reasons related with gender identity and sexual orientation, in addition to other grounds.

Article 265 of the Criminal Code "Incitement

of hatred or conflict"⁸⁴, as amended by Law No. 144/2013, "On amendments to Law No. 7895, dated 27.1.1995, 'The Criminal Code of the Republic of Albania', as amended, introduced the incitement of hatred or conflict because of sexual orientation, but it did not provide for gender identity as a case of the commitment of this criminal act.

In addition, Article 253 of the Criminal Code "Violation of the equality of citizens" includes now also distinctions made by state officials or public employees on the basis of sexual orientation or gender identity that lead to the creation of unfair privileges or refusal of a right or benefit that derives from the law.

131. The PA recommended in 2013 changes to Articles 119/a and 119/b of the Criminal Code that would introduce distribution of homophobic materials and insults made through the computerized network in relation with the sexual orientation and/or gender identity as criminal offences. The status of this recommendation is: Recommendation not implemented.
132. The PA finds that Article 9 of the Labor Code of the Republic of Albania (approved by Law No. 7961/1995)⁸⁵ does not guarantee equal treatment of LGBTI persons in terms of their right to employment and vocational training. Article 9 of the Labor Code (as amended) prohibits any kind of discrimination in the area of employment and professional development, but fails to include sexual orientation or gender identity. The PA shares the concern that failure to include discrimination based on sexual orientation or gender equality may represent a potential basis for affecting the right of LGBTI community members to employment. The PA has recommended to the Minister of Labor, Social Affairs, and Equal Opportunities to make sure that sexual orientation and gender identity

82 Special Report on the Activity of the People's Advocate during 2012 on the rights of LGBT persons. (No.245, dated 05.09.2012). http://www.parlament.al/web/pub/2012_raporti_per_lgbt_15412_1.pdf

83 Law No.10221, dated 4.2.2010.

84 Article 265, 'Incitement of hatred or conflict', amended by Law No. 144/2013, "On amendments to Law No. 7895, dated 27.1.1995 'Criminal Code of the Republic of Albania'", as amended.

85 Letter No. 116 dated 13.04.2012, Explanatory Report on amendments to Law No. 7961/1995, sent to MLSAEO. This remark has also been presented in the annual reports of the PA. (2012).

be introduced in the law as reasons of discrimination. PA commends the fact that its recommendation submitted on 13.4.2012⁸⁶ on introduction of sexual orientation and gender identity as additional causes of discrimination was accepted and reflected on the draft law on amendments to Law no.7961, dated 12.7.1995, “Labor Code of RoA”, as amended, approved by the Council of Ministers on 8.4.2015.

133. The PA has cooperated with the EC, CPD, and with the interest groups, and upon an initiative of the MSWY, a package of recommendations for legislative amendments was proposed in December 2014, including amendments to the Family Code⁸⁷, providing for the legalization of co-habitation of people of the same sex⁸⁸. This recommendation is not implemented.

Regarding de facto situation.

134. LGBTI community organizations express a concern about LGBTI women facing repression in their families, unemployment, and different forms of discrimination in the area of employment, acts of hatred and violence, domestic violence, discrimination in the area of education, threats of death⁸⁹ and a low level of reporting on crimes of hatred, because of lack of trust in the state institutions responsible for addressing such reports.
135. The 2014 PA report emphasizes that LGBTI representatives face difficulties in their daily life and restrictions of their fundamental rights. The report notes that “While Albania has made progress towards accepting LGBTI persons, homophobia and transphobia remain

very problematic phenomena all over the country. The situation of LGBTI persons in their workplace remains unclear, and due to high level of existing homophobia and transfobia, many of them choose to hide their sexual and gender identity. The same applies to the education and health system, where staff is not prepared to address and solve the problems that LGBTI face the most”. In 2014, the PA reviewed complaints of discrimination related with gender identity, speeches of hatred in the social media by public persons, and discriminatory publications containing a high level of hatred by politicians and other public figures.

136. In Albania, LGBTI persons, including women, do not enjoy the right to marriage, civil unions, etc.

137. PA addressed the Ministry of Education and Science, emphasizing that there is a strong need for reviewing the school texts and programs of the Faculty of Medicine and Faculty of Law of the University of Tirana, and brought to the attention of all the state structures that these texts contain discriminatory definitions against this community. This recommendation was implemented.

The PA has clearly expressed its concern about the need for improvements in the curriculum of pre-University education and creation of a suitable environment for cohabitation for the LGBTI persons, including the girls of this community.

138. In addition, regarding the promotion of the rights of the LGBTI community in Albania, the institution of the PA has played a very active role as the co-organizer of the Diversity Festival in Tirana on 17 May, and in other public-awareness activities.

86 Recommendation no. 116, dated 13.4.2012, addressed to Mr. Spiro Ksera, former Minister for Social Affairs and Equal Opportunities.

87 Law no.9062, dated 8.5.2003.

88 Reference to the Annual Report “On the Activity of the People’s Advocate”, 1 January -31 December 2014. A recommendation no.Doc.201501690/2 on amendments in the law no.9062, dated 05.08.2003, “Family Code of RoA” is sent to the Minister of Justice, in 2015.

89 NPOs working for this community report cases of transvestites having been continuously faced with death threats.

1.7.1. Recommendations

In relation with the legal framework

139. Approval of the legal amendments recommended by the PA on the Criminal Code introducing a more complete definition for crimes of hatred, changing Articles 119/a and 119/b of the Criminal Code, qualifying distribution

of homophobic materials and insults made through the computerized network based on sexual orientation and/or gender identity as criminal offences, legal amendments to the Family Code in relation with the cohabitation of people of the same sex and recognition of gender identity by the Law “On civil status”. Also, the inverted burden of proof in the Labor Code would increase guarantees for protecting LGBTI persons, including women, from discrimination at work, education, and services.

In relation with the de facto situation

- 140. Anti-discrimination measures to be taken in the areas of employment, education, and public services and benefits deliver by public and private employees, leaders of education institutions, and physical and legal entities offering goods or services to ensure fulfillment of the obligations deriving from the Law “On protection from discrimination” (2010).
- 141. NPOs working for LGBTI women’s rights are recommended to strengthen their role by presenting complaints on behalf of individuals or groups of individuals, who have faced discrimination, and reliable information to the CPD.
- 142. Inclusion of knowledge and information about the LGBT community in school curricula and programs in all levels of education. It would help to challenge prejudices based on sexual orientation or gender identity.

In relation to increasing capacities and awareness of professionals

- 143. Continuous training of judges, prosecutors, and judicial police officers by the School of Magistrates to ensure the implementation of the anti-discrimination law and criminal legislation, including the latest amendments regarding the rights of LGBTI persons, including women.
- 144. Continuous training of the academic staff and school psychologists to ensure no form of discrimination is allowed, and guarantee protection in schools from discrimination based on gender identity and sexual orientation. Such training is

recommended for the staff members and leaders of various public institutions for protecting this group from exclusion and discrimination.

1.8. Elderly women.

- 145. Although the lack of data about the elderly women was one of the concerns of the CEDAW Committee for Albania in 2010, CR, p.38, “There is not yet any analysis or statistics about the elderly women and their de facto situation as per the areas of the Convention”⁹⁰. Such situation is also recognized by the Fourth National Periodical Report on the implementation of the CEDAW Convention.
- 146. The PA has raised its concern about the lack of a law that would improve the quality of life of the third age, and continues to work with the relevant institutions for approving such a law.
- 147. The PA has raised its concern about the lack of a secure minimum of incomes that makes this social category and their families live in poverty, be excluded from the necessary health services, and have no sufficient incomes to live.
- 148. The PA has raised its voice about some cases of elderly people being fired from work before they reach their retirement age, and thus affecting their social security’s. These people have difficulties finding new jobs, and they face discrimination because of their age and gender.
- 149. The PA has identified problems regarding the physical conditions and quality of life of elderly people, women included, who live in residential and daily social centers.
- 150. It is important to note that the needs of the third age, including those of women belonging to this age group, have become part of the policies for social inclusion and social protection. But, the implementation in practice of these policies in favor of this group of women needs to be improved.

90 Fourth National Periodical Report on the implementation of the Convention “On Elimination of all Forms of Discrimination against Women”, approved by CMD No.806, dated 26.11.2014. Official Gazette of RoA no.187/2014, p.10178.

1.8.1. Recommendations

In relation with the legal framework

151. Approval of a Third Age Status with a view to strengthening elderly women, who may face discrimination because of their age, gender, etc, in all areas covered by the CEDAW Convention. Approval of a draft law on the third age, which would treat women as a separate category. Such draft law would have to be introduced together with the potential financial implications, and consulted with the interest groups. It would also have to be drafted taking into consideration the pension reform, government decentralization, and the territorial reform.

In relation with the de facto situation

152. Conduct of a thorough analysis and collection of data about elderly people, disaggregated by gender, de facto situation of elderly women, areas covered by the Convention, which would serve for identifying the measures that need to be taken and for strengthening the social and economic mechanisms by the relevant actors like the MSWY, local government, etc.
153. Continuous improvement of the physical conditions and quality of life in residential and daily social centers for elderly people by the Municipalities and the Social State Service.
154. Regular monitoring of the implementation of policies for social inclusion by the MSWY in order to measure their impact on the elderly women.

1.9. Roma women.

155. In relation with the legal framework and the need for its improvement. The PA has recommended the approval of a specific law, which would include a definition for minorities, and criteria for their recognition. It has also recommended the ratification of the European Charter for regional and minority languages and access to public education in minority languages for all members of minorities.
156. The special temporary measures foreseen

by the existing legislation on empowerment of the community, particularly of Roma women, have been considered insufficient by the PA. Therefore, the PA has made some legislative recommendations for amending Law No. 9232/2004, "On social programs for housing inhabitants in the urban zones", as amended. The PA has proposed that 5 % of the beneficiaries be Roma, and that Roma families be considered a priority and benefit from these programs, even when their incomes are under the level required by the law. In response to such recommendation, the Ministry for Urban Development and Tourism emphasized that the law does guarantee the Roma minority its right to housing. The Law "On Civil Status" (2009) determines the deadlines for citizens to declare, register, and change their place of residence. The deadline for declaring a new place of residence is 30 days from the date the citizen settles down in a new place. The same deadline applies to the declaration of dwellings that do not enjoy the status of a residence. However, a number of members of the Roma minority, including women, have changed their place of residence, but they are still registered with the civil registry offices of the previous municipalities or communes. Failure to take effective measures to ensure the registration of Roma members, including Roma women, in the civil registers where they actually live deprives them of their rights such as economic and social benefits, employment, housing, etc. The PA's recommendation addressed to the Minister of Interior for amendments to Law No. 10129, dated 11.05.2009 "On Civil Registry" has not yet received any response⁹¹.

157. The PA has recommended amendments to CMD No. 787/2005 "On the criteria, procedures, and level of economic aid", as amended, addressing the MSWY, but there has been no response to such recommendation. Regardless the fact that the legislation on economic aid aims equal

91 "Recommendation for measures to be taken for the registration of Roma members in the civil registers of the local government unit, where they actually live", addressed to the Minister of Interior and Prime Minister of Albania, 2013.

treatment, the lack of sustainable dwelling places, living in shacks and continues movement have effected non fulfillment of the legal criteria for the members of this minority, including Roma women. The PA proposed some amendments to be made to CMD No. 787/2005, so that these families may benefit economic aid regardless of the type of the dwelling place and reasons of their movement. The proposed amendments were presented to the Minister for Social Welfare and Youth and to the Prime Minister in 2012.

The de facto situation.

158. Regarding the practical application of the rights of the Roma community, Roma minority is a vulnerable group at risk, which, in more than a few cases, finds it impossible to benefit from our social system, including housing, civil registration, economic aid, or education, employment, health care, or any other benefits that our system offers the Albanian citizens. During 2012, the PA has reviewed individual and collective complaints involving a total of 183 persons of Roma minority, including Roma women⁹².
159. Roma women, who have been abused or trafficked, or who are single mothers, are at risk of living in poverty, because of their inadequate education and lack of access to the labor market, to mention only a few reasons⁹³.
160. AP has issued two recommendations addressed to the Ministry of Education and Sport, recommending to stop the segregation of Romani and Egyptian children in education. The segregation and non-fulfilling of the obligation of free transport for children⁹⁴ from some LGUs let space for abandoning of the

92 Annual Report "On the activity of the People's Advocate", 2012, p. 49.

93 National Strategy for Employment and Skills 2014-2020, approved by CMD "On approval of the National Strategy for Employment and Skills 2014 - 2020 and the Action Plan for its implementation", published on the Official Gazette no.188/2014, p. 10322.

94 The LGUs are obliged to provide free transport for all children who are attending the primary school and live more than 2 km from the school and for all children who attend 9 class school who live more than five km from the school.

school, especially from girls and minority girls⁹⁵. The AP has asked a proactive and sustainable engagement of education institutions in central and local level aiming to eliminate the segregation of Romani and Egyptian children in education. Amendment of the internal legislation and establishing of monitoring mechanisms are recommended.

161. The Government is currently carrying out programs for promoting the employment of Roma women based on its decisions like CMD No. 48, dated 16.01.2008, as amended, "On the level of, and criteria for benefiting from the program of promoting the employment of unemployed vulnerable jobseekers", which provides for benefits for unemployed jobseekers in difficulties, including Roma jobseekers. CMD No. 27, dated 11.01.2012, "On programs of promoting the employment of women from special groups", as amended, also targets women jobseekers belonging to special groups, including Roma women. The number of Roma women, who have benefited from this program, however, is not sufficient compared with the needs of this group.
162. The PA has made recommendations for the integration of Roma children in all levels of education⁹⁶, improvement of the living conditions of the Roma community, provision of adequate housing for Roma women evicted from their homes, measures for continuous treatment and health assistance for Roma community, registration of Roma children

95 Two complaints are submitted to PA from ERRC (European Roma Rights Center). The recommendations regarding the situation in the public 9 class school "Naim Frasherri" in Korca and the primary school in Morava, Berat are without answer yet from the Ministry of Education and Sport, although the legal deadline is passed, They are published in: <http://www.avokatipopullit.gov.al/sites/default/files/ctools/css/Rekomandimi%20MAS%202.pdf>
http://www.avokatipopullit.gov.al/sites/default/files/ctools/css/Rekomandimi%20MAS%203_0.pdf

96 Improvements to Law No. 69, dated 21.06.2012 "On the pre-University education system in the Republic of Albania", which would guarantee the integration of Roma children in the education system, from the pre-school level up to the highest level of education; (letter no.K1/l62-6, dated 23.12.2013).

in the elementary 9-year schools, etc.⁹⁷ The integration of Roma children, girls included, in all the levels of education, prepares them for a social life without exclusion and discrimination.

163. The PA considers housing as one of the biggest concerns for the Roma community, including Roma women. The number of Roma families, who have benefited from Law No. 9232, dated 13.05.2004, “On social housing programs for urban zones” is limited. “Women are less likely to apply, and consequently less likely to benefit from the social housing programs”⁹⁸. The appropriate housing of Roma minority, including Roma women, is closely related with the rights embodied in the CEDAW Convention. In 2014, the PA has reviewed complaint

97 Recommendation for the Ministry of Labor, Social Affairs, and Equal Opportunities for urgent interventions and verification of the serious social situation, and for a solution of the housing problem for the Roma inhabitants of the so-called ‘former Decor Camp’ (letter no.K3/M39-7 dated 12.08.2013). Recommendation for the Municipality of Tirana for a solution of the housing problem for Roma inhabitants of the so-called ‘former Decor Camp), letter no. K3/M39-5, dated 6.08.2013). Recommendation for the Chief of Police Commissariat no. 2 for investigating the criminal offences committed against the life and health of Roma inhabitants of the so-called ‘former Decor camp’; (letter no. K3/M39-6, dated 12.08.2013). Recommendation for the Ministry of Health for measures to be taken to ensure continuous health assistance and treatment for the Roma inhabitants of the so-called ‘former Decor Camp’; (letter no. K3/M39-8, dated 15.08.2013). Recommendation for the Regional Education Directorate of Tirana for measures to be taken to enable the registration of Roma children, who live in the so-called ‘former Decor camp’ on Kavaja street, in the elementary 9-year schools, and to provide them with books and other school tools for free. (Letter no. K1/L44-4, dated 12.09.2013). The PA has recommended the improvement of Roma living conditions in their settlements, including the former military building located in Sharra area in Tirana. (Letter no. K3/E53-2, dated 6.11.2013). Recommendation through Document No. 201401900/4, “Recommendation for guaranteeing and respecting the rights of Roma inhabitants in Selita, in relation with the social housing programs “, addressed to the Municipality of Tirana, National Housing Authority, Ministry for Urban Development and Tourism, and Ministry for Social Welfare and Youth (letter no. K3/Sh63-4, dated 18.11.2014).

98 UN Program for social inclusion support in Albania, “Social housing in Albania: needs assessment”, Tirana 2014, p.8.

of Roma women, who have applied for social housing in the Municipality of Tirana and has recommended immediate measures to be taken for solving the housing problem. Following the PA recommendations addressing certain complaints, the Municipality of Tirana has either responded by clarifying that the respective cases are still in the process⁹⁹ and in some cases has not responded at all¹⁰⁰. The number of Roma women is, however, limited.

The Progress Report on Albania also emphasizes that there is a lack of long-term and sustainable solutions for housing and that this community faces very challenging living conditions, including often discrimination and social inclusion, especially with regard to access to health care, social protection, employment, and housing”¹⁰¹.

164. There are no accurate data about Roma population and Roma women. Lack of data about Roma women makes it difficult to take measures that properly address their needs.

165. The PA has expressed its concern about its pending recommendations about the improvement of the living conditions and rights of this community, including Roma women. PA’s pending recommendations include recommendations for improving the living conditions of Roma ethno-linguistic minority addressed to several municipalities and municipality units in Tirana.¹⁰².

1.9.1. Recommendations

Regarding legal framework and other measures,

- 99 Complaint by Roma citizen M.K. Doc No. 201302695/10, K1/M65-10, dated 15/05/2014. (The recommendation sent to the municipality of Tirana was partially implemented).
- 100 Complaint by Roma citizen, M.SH. No. 201201724/9, K1/M27-9, dated 10/06/2014. (No response for the Recommendation sent to the Municipality of Tirana).
- 101 <http://www.integrimi.gov.al/al/dokumenta/progres-raporte/progres-raporti-2014&page=1>
- 102 People’s Advocate, Periodical Publication of the People’s Advocate, no.1, November 2014, p. 10.

166. Improvement of the legal framework for protecting minorities in terms of the rights provided for by the Council of Europe Framework Convention “For protection of national minorities”.

167. Legal improvements to the Law “On civil registry” (2009), Law “On social programs for housing inhabitants in urban zones” (2004), Law “On pre-university education system in the Republic of Albania” (2012), Law “On protection from discrimination” (2010), etc. in order to guarantee equal rights of the Roma community, including Roma women.

For protecting the rights of this community, the PA deems that it is very important to undertake initiatives for legal amendments that would enable a positive discrimination and facilitation of the legal criteria for Roma to benefit social service and increase the access of Roma minority, including Roma women, to housing, social services, and participation in the public life in the country, in vocational training and employment programs. Amendments of the internal legislation regarding the prevention and the elimination of segregation in education is recommended. The well-studied anti segregation measures are recommended to be undertaken from the education institutions in both levels.

168. PA has made recommendations regarding the appropriate housing of the Roma community, including women. Such recommendations include improvements of the existing legislation on the criteria to be met for benefiting social housing provided by central and local government, enabling marginalized women, including Roma women, to benefit from such schemes. The PA has recommended improvements to Law No. 9232, dated 13.05.2004, “On social programs for housing the inhabitants of urban areas”, as amended, including specific measures provisions for the Roma community, which would enable this community, including women, to enjoy their right to housing.

169. Simplification of the application procedures for giving Roma community and other vulnerable groups, a better

access to housing, and information about the process.

170. Respect should be ensured for the international standards for ensuring Roma community with appropriate housing when they are evicted from their homes, considering this right as very important for Roma women. In the case of women, especially vulnerable women, Roma women, benefits from the social housing programs are closely related with the rights embodied in the CEDAW Convention like the equal right to education, employment, equality in marriage and family life, etc.

171. Registration of the population (census) in a way that it is accepted by all minorities and communities. This would enable realistic figures about minority populations, disaggregated by gender.

1.10. Women with disabilities

172. As regards the legal framework. Guaranteeing the rights of persons with disabilities is part of Recommendation 11 of EU for Albania; therefore, our institution has evaluated and provided recommendations on the amendments to the legislation and policies on persons with disabilities, and their implementation.

The adoption of Law no.93/2014, “On the inclusion of and access for persons with disabilities” is an initiative that paves the path for approximating the national legislation with the standards stipulated in the UN Convention on the “Rights of persons with disabilities”, in order to guarantee the rights of persons with disabilities, including disabled women. This law addresses some important issues such as: evaluation of the disability, monitoring the implementation of the CRPD by the People’s Advocate and the Commissioner for Protection from Discrimination (CPD), support services to conduct an independent life, equality before the law, etc.

173. Law no.26/2012, “Amendments to Law no.8098, dated 28.03.1996, on the “Status of the blind” introduced amendments among which compensation of the payment of electricity and land line phone

bills for all blind people, according to article 1 of this law. The People's Advocate recommended to the Minister of Social Welfare and Youth, the Minister of Public Works and Transport, and the Minister of Finances to issue the secondary legislation of Law no. 26/2012 on "Amendments to Law no.8098, dated 28.03.1996, on the "Status of the blind"; Law no. 27/2012 on "Amendments to Law no. 8626 dated 22.06.2000 on the "Status of paraplegic and tetraplegic invalids", as amended and Law no. 7889 dated 14.12.1994 on the "Status of the invalid". This recommendation was taken into consideration and the secondary legislation was issued.

- 174. Law no. 47/2014 "Amendments and additions to Law no. 9355, dated 10.3.2005, on "Social aid and services", as amended, Article 5, stipulates that the members of the groups of persons with disabilities, as classified by decision of the Medical Commission on the Ability to Work (MCAW), stop benefiting the payment only 24 months after being employed.
- 175. CMD no.837, dated 3.12.2014 recognizes the sign language for mute and deaf people, which constitutes an important step in terms of the rights of these people, including women.

Regarding policies,

- 176. CMD.818, dated 26.11.2014, led to the adoption of the National Strategy on Employment and Ability 2014-2020 and the Action Plan. Some of the problems identified in this strategy regarding persons with disabilities, including women are: physical access to VET courses, lack of trained instructors, the lack of adequate materials, limited information, hesitation of public and private companies to employ persons with disabilities, lack of social services and people who may support them, as well as transport issues. It is important that this Strategy is accompanied by an Action Plan, respective budget and a clear monitoring system.
- 177. Regarding the de facto situation. Despite the improvement of the legal situation, the enjoyment of the rights by women with disabilities is still problematic. The

2013 annual report of the CPD highlights that, "Discrimination against persons with disabilities is present in all the spheres of public and private life, mainly in the area of employment, education, access to services and housing, physical access and access to information"¹⁰³. Despite the efforts, access of persons with disabilities, including women, to the justice institutions and government structures at the central and local level is still a concern due to lack of physical infrastructure. Civil society organizations that support women with disabilities report that they [disabled women] face double discrimination due to gender and the disability; they are more secluded than men with disabilities, are abandoned by their husbands when they give birth to children with disabilities, have low access to services, the labor market and to legal aid. "Disabled women and girls face more psychological violence from their families. They stay more at home. Being excluded from the society, they are automatically violated in every aspect of life"¹⁰⁴. Women and girls with intellectual disabilities were more likely to be abused and to face sexual abuse in particular¹⁰⁵.

- 178. In 2013 persons with disabilities have faced many challenges, such as several delays of the disability payment and of the compensation of the electricity and phone bills, urban and interurban transport, which are envisaged by the applicable legislation¹⁰⁶.
- 179. The access of disabled women to social services is not adequate. The existing social services are not sufficient and their geographical allocation is not easily accessible by disabled women living in remote rural areas. The inspections of the People's Advocate in nine Social Care Centers during 2014 found that, there is no specialized treatment of women with

103 <http://CPD.al/skedaret/1394541003-Raport%20vjetor%202013.pdf>, p.11.

104 Cani Drenofci, B (2012), Field notes on women with disabilities in the E&E region (Albania).

105 USAID, Women with disabilities in the Europe and Eurasia region", 2012, p.28.

106 Annual report on the "Activity of the People's Advocate", year 2013, p.15. (no.65, dated 21.02.2014)

serious mental health problems and the staffs in these centers lack the capacities to address their needs appropriately. There is no needs assessment for various groups such as, disabled women who live in rural areas, women with serious mental health problems, disabled women who are the heads of their households, etc.

180. Persons with disabilities, including disabled women, face discrimination in the labor market, despite the low rate of reporting. “Article 15 of Law no. 7995 on stimulating employment of persons with disabilities and the ratio: 1 PD in every 24 persons has not been respected”¹⁰⁷. CMD no.248, dated 30.04.2014, “Program on promoting the employment of persons with disabilities”, as amended, states that employment offices should support financially the employment of persons with disabilities, including disabled women. This decision, adopted in April 2014, has been implemented partially and was used as a pilot project in two main cities, Tirana and Elbasan. In 2015, the CMD will start having its effect in all the regions of the Republic of Albania. According to ADRF observations, there is a low level of knowledge of the law in the community of the people with disabilities, but also among potential employers.¹⁰⁸.
181. Despite the free-of-charge access of disabled women to the public VET system, the physical infrastructure of the education centers is not adequate.
182. Even though the amendments to the law on social aid and services ensure that disabled women – single mothers or heads of households – benefit support services by public community centers (mentioned also in the 4th National Periodical Report on the implementation of the CEDAW Convention) we found that there is a lack of continuous gender monitoring of the implementation of these amendments and the number of women beneficiaries is

107 People’s Advocate, “Special report on the activity of the People’s Advocate on the employment of disabled people in central and local government institutions”, p.10, April 2013.

108 ADRF, “Objectives in the governmental program and plans for disability”, Survey report, December 2014, p. 28.

not identified.

183. The data on persons with disabilities are extremely fragmented and not aggregated based on gender¹⁰⁹.

Regarding the anti-discrimination mechanism

184. 23 of the complaints filed with the CPD in 2013 and from those carried over from 2012 relate to the disability. The 2013 annual report of the CPD highlights that “Employment of persons with disabilities continues to be problematic”, however, no complaints have been filed from persons with disabilities about discrimination¹¹⁰.

1.10.1. Regarding the legal framework, Recommendations

185. The continuous harmonization of the national legislation with the CRPD is recommended. AP recommends legal amendments aiming at increasing the access of persons with disabilities to the justice system: to add a specific provision in the Civil Procedure Code, Criminal Procedure Code and the Administrative Procedures Code that guarantees access to civil court sessions, criminal court sessions and administrative court sessions for persons with disabilities. It is also recommended to add specific provisions in the Law on Notaries that guarantee full and unaffected expression of the will of persons with disabilities in the process of drafting a notary act.
186. It is recommended the drafting of a sub-legal act of Law no. 7995/1995 on “Promotion of employment”, that details the rules, manner and procedure for the payment of the minimal salary to the National Employment Fund. The People’s Advocate finds that the issuance of such an act is delayed. The Council of Ministers [already] has a direct authorization to do so.
187. AP recommends to the MSWY to take measures for the implementation of

109 USAID, Women with disabilities in the Europe and Eurasia region”, 2012, p.5.

110 <http://kmd.al/skedaret/1394541003-Raporti%20vjetor%202013.pdf>, p.15.

CMD no.837, dated 3.12.2014 that aim at defining the tasks of the institutions that should offer the service of the sign language.

Regarding the de facto situation

188. The implementation of the new framework law on persons with disabilities requires considerable improvement of the infrastructure and equal access to services¹¹¹.

AP recommends:

189. Adequate working conditions to be provided for persons with disabilities, i.e. removal of barriers and ensuring equal access.

190. Gender-aggregated data on the employment of persons with disabilities by public and private institutions needs to be gathered. The gathering of data should not be based only on the benefiting from social schemes, but also gather data on areas such as domestic violence, employment, social and health care services, access to justice, attendance of mandatory education system, etc.

191. The relevant state authorities and the State Labor Inspectorate to monitor the implementation of the existing provisions of Law no.7995/1995 on “Promotion of employment” by employers, in order to guarantee the implementation of these provisions even by public or private employers¹¹².

192. Continuous monitoring of the implementation of the amendments to the law on social aid and services covering the granting of support services by public community centers to disabled single mothers or disabled women who are heads of households, as well as the implementation of the recent legal amendments.

193. The establishment of rehabilitating centers

and community service centers for women with serious mental health problems.

Regarding the anti-discrimination mechanism

194. Increasing the level of knowledge of disabled women on the legal means provided by the law on protection from discrimination (2010) and the role of CPD and the courts in addressing cases of discrimination due to disability and multiple discrimination.

195. An increased role of non-profit organizations in using the anti-discrimination mechanism through filing of complaints or provision of information about cases of discrimination against women with disabilities.

1.11. Women in the penitentiary institutions and police units

196. Inspections have shown that some Police units have not yet fulfilled their legal obligation to provide separate escort rooms for women.

197. Law No. 40/2014 “On amendments to Law No. 8328, dated 16.4.1998, ‘On the rights and treatment of prisoners and pre-trial detainees’, as amended” has provided the obligation to treat women pre-trial detainees and prisoners by respecting their fundamental rights and freedoms, and without discrimination. This law requires measures to be taken for providing protection, support, and legal counseling to pre-trial detainees and prisoners, who have experienced physical, psychological, or sexual violence before or during their stay in the institution. Individual treatment requires respect to be ensured for women’s specific needs. IECDs (Institutions for the Execution of Criminal Decisions), in cooperation with the Probation Service, Social Welfare Services, local government, and NPOs are obliged by law to develop re-integration programs upon release for addressing gender issues. Women pre-trial detainees and prisoners represent a special category in this law, which is entitled to full health care, including mental and reproductive health care, as well as treatment for the sexual abuse they might have experienced

111 <http://www.integrimi.gov.al/al/dokumenta/progres-raporte/progres-raporti-2014&page=1>

112 People’s Advocate, “Road Map” on the implementation of the reforms related to the fulfillment of the five key criteria for Albania’s EU integration, pp.16-17.

before their placement in the institution, etc. This law requires that adult and minor women pre-trial detainees and prisoners are controlled only by staff members of the same gender.

198. The National Mechanism for the Prevention of Torture (NMPT) has been an active part of the Working Group for Prison Reform in 2014, a reform led by the Ministry of Justice in cooperation with the OSCE Presence in Albania. In cooperation with the GDP, mail boxes were installed for persons deprived of freedom in all IECs in the country to enable the pre-trial detainees and prisoners, including women, to directly send their requests and complaints to the PA.
199. The PA institution has found during the inspections that some of the problems that women facing in the penitentiary institutions until 2014 such as overpopulation, poor infrastructure of the buildings, lack of appropriate rooms for meetings with their children, etc., were resolved by adopting on December 2014 the penitentiary institution "Ali Demi" in Tirana strictly for woman pre detainee and detainee. At the inspection to this institution on 2015 was concluded that woman at this penitentiary institution face with the need for a more qualitative legal service, problems in meetings with the children hosted on social care institutions, lack of treatment with personal hygiene products, etc. Furthermore the women who are entitled by a court decision, to mandatory health medication in a hospital environment, due to the lack of the Forensic Institution are kept in the special sector created at this Penitentiary Institution as well as at the Prisons Health Institution in Tirana, in contradiction with the law and the international standards for the Mental Health.

During its inspection of the Prison Health Institution, the PA found that patients were not separated into special sectors for pre-detainees pending the court decision, and detainees, as required by the relevant standards; there was no proper place for the patients to meet with their adult and minor family members; the internal regime rooms were not equipped with

an electronic bell for communication in cases of emergency; the patients' rooms were not equipped properly with furniture, sheets, mattresses, chairs and tables; there was no heating system in place, and here were no common spaces to enable religious, cultural, and sports activities by the psychological-social care sector; and there was no reserve funds allocated to patients suffering from tumour diseases, which require expensive medication, etc.

1.11.1. Recommendations

200. Measures are to be taken for ensuring the fulfillment of the legal obligation for providing separate escort rooms for women every Police Commissariat.
201. The standards provided for by Law No. 40/2014, "On amendments to Law No. 8328, dated 16.4.1998, 'On the rights and treatment of prisoners and pre-trial detainees', as amended" are to serve as indicators in monitoring the performance of the General Directorate of Prisons and IECs in relation to the respect for the rights of women sentenced to prison, or pending the court decision as pre-trial detainees.
202. Recommendations for the Institution for Execution of Criminal Decisions (IECD) Ali Demi¹¹³ are: Measures for equipping the institution with a register for documenting cases of violence; Measures for ensuring frequent contacts of the women pre-detainees and detainees with their lawyer in order for them to be able to become informed about the procedures for benefitting rewarding and special leave, probation service, etc; Measures for providing the pre-detainees/detainees with basic packages of personal and sanitary hygiene.
203. Respect for the international standards is to be ensured by the GDP and the IECs in relation with the treatment of persons, who are entitled to mandatory health medication based on a court decision, in special mental health institutions, outside

113 Recommendations for the Institution of Execution of Criminal Decisions Ali Demi were sent by Letter No. K4/I35-2, dated 02.09.2015.

the prison system. Recommendations for the Institution of Prison Special Health Service of Tirana¹¹⁴: Urgent measures for the complete reconstruction of the Institution of Special Health Service of Tirana as an institution that offers mainly health service, which requires treatment conditions that comply with the standards set by the national legislation and the European Human Rights Convention; Measures for separating patients into special sectors for pre-detainees pending court decision, and detainees, as required by the relevant standards; Measures for creating a proper place for patients to meet with their adult and minor family members in compliance with the standards; Measures for equipping every room of the internal regime with an electronic bell to facilitate the communication of the patients with the staff members in cases of emergencies; Immediate measures for providing heating for the entire institution by executing the relevant agreement signed with Tirana University Hospital Centre; Measures for equipping patients' rooms with furniture, sheets, mattresses, chairs and tables in order to ensure appropriate living conditions in compliance with the standards set by the legislation applicable and by the General Regulation of Prisons; Immediate measures for providing patients with the basic packages of personal hygiene; Measures for ensuring the complete repair of showers and toilets, and the improvement of their hygienic and sanitary conditions; Measures for making a shop available within the institution for the patients to have access to basic living products; Measures for creating common place for participating in religious, cultural, and sport activities organized by the psychological-social care sector; Measures for getting additional middle-level medical staff members, taking into account the special category of persons treated by this institution; Measures for getting a dentist as an additional staff member in order to provide patients with adequate dental service; Measures

for creating a reserve fund for patients suffering from tumour diseases, whose treatment requires expensive medication; Measures for ensuring additional Police staff for accompanying patients to other hospital centres within the University Hospital Centre without infringing the security conditions.

204. Human capacities need to be enhanced with people, who are specialized in providing individualized treatment for women prisoners and pre-trial detainees. Psychologists, social workers, and reproductive health professionals are necessary for meeting the needs of this group for social and health care.

1.12. Secluded women/girls

205. The People's Advocate has constantly raised concerns about the enjoyment by secluded individuals, including women, of the right to employment, education, and health care¹¹⁵.

Recommendations

206. AP recommends effective measures to be taken to guarantee the right to employment, health care services, and education for secluded women and girls.

1.13. Women emigrants

207. "The 2010- 2015 strategy on the reintegration of repatriated Albanian citizens and the action plan" provides for establishment of support mechanisms for emigrants.
208. Decision no.48, dated 16.01.2008, as amended, on the "Extend and criteria for benefiting from the program on promotion of employment of job-seekers in difficult conditions" includes as beneficiaries repatriated emigrants in difficult financial conditions. Even Decision no. 27, dated 11.01.2012, on "Program for promotion of employment of women members of special groups", as amended, includes also

114 Recommendations for the Institution of Special Health Service of Prisons were sent by Letter No. K4/I6-2, dated 22.01.2015.

115 Special Report of the People's Advocate "Blood food", p.7. (no.28/4, dated 22.04.2013) http://www.parlament.al/web/pub/2013_raporti_per_gjakmarren_15419_1.pdf

repatriated women emigrants who are in difficult financial situation as beneficiaries of this program.

1.13.1. Recommendations

AP recommends:

209. Continuous monitoring of the “The 2010- 2015 strategy on the reintegration of repatriated Albanian citizens and the action plan”, from gender perspective.
210. Continuous monitoring of the programs on promotion of employment, which aim at encouraging employment of repatriated emigrants, including women emigrants.

C. ECONOMIC EMPOWERMENT.¹¹⁶

Article 11 of the CEDAW Convention, paragraphs 32, 33 of the Concluding Remarks of the CEDAW Committee

The economic empowerment of women is closely linked to guaranteeing the right to work, the right to equal compensation, social insurance, job tenure, and protection from gender-based discrimination and discrimination at work.

1. The legal framework on gender equality and non-discrimination at work, its development and need for improvements,

211. The Constitution of the RoA, Chapter IV, “Freedoms and economic, social and cultural rights”, Article 49, sanctions the

right of everyone to earn their living through legitimate work chosen or accepted freely by them and the freedom of each individual to choose their vocation, jobs, and vocational education system. The Constitution of the Republic of Albania guarantees employees the right of social protection at work.

212. One of the requirements of Article 77 of the SAA, “Working conditions and equal opportunities” is the harmonization of the domestic legislation with the EU legislation on working conditions, health and security at work, and equal opportunities. The Labor Code is permeated from gender equality and non-discrimination principle in the area of employment. It envisages special protection to women employees, pregnant employees, breastfeeding women employees, etc.

213. Law no. 9970, dated 24.7.2008, “Gender equality in society” aims at eliminating employment discrimination and requires equal treatment at work, equal opportunities to work, non-discriminatory recruitment based on gender, as well as the setting of obligations of employers and rights of employees. This law provides for special temporary measures that aim at achieving gender equality at work. The law sets obligations for the employers to protect employees from discrimination and sexual harassment.

214. Law no.152/2013 on “Civil Service” aims to guarantee the rights of employees of the civil service, based on the principle of equality and non-discrimination.

215. Law no.10221, dated 4.2.2010, on “Protection from discrimination” regulates the implementation of the principle of gender equality at work.

216. Law no. 7995, dated 20.9.1995, on “Promotion of employment” aims at following active policies on employment, vocational education and training. Pursuant to this law, the Council of Ministers adopted decisions that empower women economically, especially women belonging to special groups. Decision no. 27, dated 11.01.2012, as amended by CMD no. 189, dated 2.4.2014 and

116 Some of the addressed issues are employment, active employment programmes, vocational education, social insurance and equal opportunities at work. Article 11 of the CEDAW Convention, paragraphs 32, 33 and 36 of the Concluding Remarks of the CEDAW Committee, General Recommendation no. 13 and issues addressed by Article 2 of the CEDAW Convention have supported this analysis.

CMD no. 4509, dated 9.7.2014, on the “Employment promotion program for women belonging to special groups” defines as beneficiaries of this program women job seekers belonging to special groups of the population, such as: a) women who have been unemployed for a long time (registered as unemployed job seekers for more than a year); b) women who benefit from economic aid schemes; c) trafficked women; ç) women above 50; d) Roma women; and dh) women with disabilities; e) young mothers; ë) divorced women in difficult social situations; f) repatriated women emigrants with financial difficulties.. CMD no. 248, dated 30.04.2014, stipulates that the respective employment office shall finance the employment and training of persons with disabilities. Upon completing the training, employers should recruit no less than 30% of the trainees for a period of six months. This program was first implemented during 2014. CMD no. 48, dated 16.01.2008, on the “Extent and eligibility criteria for unemployed job seekers, and those in financial difficulties, to benefit from the employment promotion program”, as amended, in addition to unemployed job seekers in difficult conditions, includes as beneficiaries persons with disabilities and the Roma community members. CMD no. 199, dated 11.02.2012, as amended, on the “Funding and the criteria and procedures for the implementation of the employment promotion program for young unemployed job seekers (UJS)” aims at supporting the employment of young people. CMD no. 873, dated 27.12.2006, as amended, “Funding and the criteria and procedures for the implementation of the internship programs for unemployed job seekers who have a university degree issued in the country or abroad”, UJSs graduated in the country or abroad benefit free internship programs until after 24 months from their graduation.¹¹⁷

217. Order no.286/16.12.2013 on the “Fees of the public vocational education system” of the Minister of Social Welfare and Youth

117 More information on the employment stimulation programmes may be found online at: <http://www.shkp.gov.al>

stipulates free education for all UJSs starting from December 2013, with effects applicable also to women UJSs.

218. Unemployment payment programs support financially all UJSs, including women.

Need for Legislation improvement,

219. Despite the legislation improvements, there is still room for improvement in the area of guaranteeing the principle of gender equality and non-discrimination at work. The People’s Advocate (PA) has recommended amendments to the Labor Code. During the examination of complaints, some of which by women, about the social right to work, the PA Institution found that, in addition to violations in terminating employment contracts, employers have repeatedly violated the employees’ right to work. In these cases, in addition to damaging the legitimate social-economic rights of individuals (through salary reduction or dismissals) we see also an affected mental health or psychological dignity, which leads to poorer performance or even harm the individual’s physical and mental health. The PA recommended¹¹⁸ amending Law no. 7961 dated 12.07.1995, “Labor Code of the Republic of Albania”, (as amended), i.e. including in paragraph 4 of Article 32 the moral harassment of employees by their employers with repeated actions, as they lead to degraded working conditions and violates the rights and the physical and mental health of the employees, including women. PA’s recommendation on introducing prohibition of moral harassment of employees by employers in the Labor Code addressed to the MJ and Ministry of Social Welfare and Youth was also accepted and made part of this draft law of Labor Code. The draft law is expected to be approved by the Assembly of RoA.

220. According to Article 82 of the Administrative Procedures Code of the Republic of

118 PA, Recommend amending Article 32 of Law no. 7961 dated 12.07.1995, “Labor Code of the Republic of Albania”, (as amended), 2013.Doc. No. 201301585/2.

Albania, the burden of proof lies with the interested parties. Article 115 of the Labor Code, “Equal compensation for people of different genders” stipulates that when employees provide serious indications of discrimination, the employer shall have to prove the opposite. A way of eliminating discrimination is by allocating to a discriminated employee a compensation that includes all the advantages granted to employees of the opposite sex. Article 105/1, paragraph 2 of the Labor Code stipulates that in case of termination by the employer of an employment contract with a woman in maternity leave or who has returned to work after completing the maternity leave, the employer shall prove that the reason for terminating the contract does not relate to the pregnancy or the birth of a baby”. Despite this provision, our national legislation does not fully comply with the EU law on the burden of proof. Law no. 10221, dated 4.2.2010, “Protection from discrimination”, Article 36, “Court procedures”, obliges the plaintiff to provide evidence that support the law suit. “...the burden of proof is arranged partially rather than as an inclusive standard in cases of discrimination. The Law on Gender Equality {2008} lacks this principle as well as the law on measures against domestic violence {2006, as amended}. The lack of a case law in this regard shows that difficulties still exist and the standards of reverse/shared burden of proof are still not being implemented – at least the laws that envisage such a standard¹¹⁹”. PA recommended including at the end of Article 9 of Law no. 7961/1995, “Labor Code”, as amended, a new paragraph stipulating that the burden of proof in cases of alleged discrimination should lie with the employer¹²⁰. This recommendation was accepted and made part of the draft law “On amendments to law no.7961, dated 12.7.1995, “Labor Code of RoA”, as amended, approved by the Council of Ministers on 8.4.2015. The draft

law is expected to be approved by the Assembly of RoA.

221. The draft law “Amendments to Law no.7961, dated 12.07.1995, “Labor Code of the Republic of Albania”, as amended, includes important amendments and adding related to gender issues such as, protection from all forms of discrimination, as envisaged in the Law on “Protection from discrimination”, including any cause that aims at or has as a consequence hindering equal exercising of the right to employment and vocation.

222. The PA has clearly expressed the need to improve the legal framework on protection from discrimination at work. Law no. 10221, dated 4.2.2010, “Protection from discrimination” regulates the implementation and abidance by the principle of equality in relation to gender, race, color, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, educational or social status, pregnancy, child custody, parental responsibility, age, family or marital status, civil status, residence, health status, genetic predisposition, disability, belonging to a special group, or any other cause. PA has recommended on amending the law on “Protection from discrimination”, by including as causes of discrimination the nationality, a claimed cause of discrimination; encouraging and helping discrimination.¹²¹ These legal amendments are not yet adopted and included in the law on “Protection from discrimination”. The status of this recommendation is: not-implemented.

Regarding sexual and moral harassment at work,

223. The Labor Code¹²², Law no. 9970, dated 24.07.2008, “Gender equality in society” and Law no. 10221, dated 4.02.2010, on “Protection from discrimination” provide

119 Prof.Dr.Arta Mandro, The status of achievements of the concluding remarks of the CEDAW Committee. Period: since the examination of the 3rd periodical report of Albania [July 2010]-November 2012, p.8.

120 People’s Advocate, “Road MAP”, on the implementation of the reforms related to the five key priorities in Albania’s EU integration process, p.10.

121 Recommendation No. 97 dated 05.04.2013. Report on improvements to Law no. 10221 dated 04.02.2010 on “Protection from discrimination”. Sent to the Ministry of Justice and to the MoLSAEO.

122 Adopted by Law no. 7961, dated 12.07.1995, as amended.

for protection of employees from being discriminated against by the employer, including sexual harassment at the work place. The law on “Protection from discrimination” obliges the employer to protect employees from sexual harassment by other employees as well as obliges them to include the necessary provisions in the employment contracts. The PA has recommended amendments to the Criminal Code to add provisions on “Sexual harassment” and “Moral harassment at work. The PA recommended adding a criminal provision on 1. “Sexual harassment”, to read as follows: “Harassing a person with the aim of benefiting favors of sexual nature shall be punished with imprisonment of three to seven years. When the victim is harassed by the employer, supervisor, or anyone to whom the victim is subordinate to, the latter shall be punished with imprisonment of 5 up to 10 years” and 2.”Moral harassment at work” to read as follows: “Harassing someone through repeated actions that aim at or lead to such degradation of the working conditions that it may lead to violation of the rights and dignity of the individual, may affect his/her physical or mental health or may damage his/her professional future, shall be punished with up to five years imprisonment”. These recommendations were addressed to the Minister of Justice. Therefore, Article 108/a “Sexual harassment” is added after Article 108, with Article 24 in Law no. 144/2013, “Amendments to Law no. 7895, dated 27.1.1995 ‘Criminal Code of the Republic of Albania’, as amended”. The Article 108/a “Sexual harassment” does not include the case of sexual harassment by an employer, supervisor or whoever the victim is subordinate to. The status of this recommendation is: partly implemented. The status of our recommendation to add a criminal provision on “Moral harassment at work” is: not implemented. As regards moral harassment at work, the PA has based its recommendations on the problems identified by the institution and especially on the complaints related to social protection at work. From several complaints AP has received and continuous monitoring of the public administration bodies is alleged violation

of the right to work due to psychological violence or continuous pressure by the employer coercing to apply disciplinary measures, dismissal, fines, salary reduction, etc. AP considers the inclusion of a provision on “Moral harassment at work” as indispensable and will continue to work for the implementation of this recommendation¹²³. The implementation of this recommendation would impact mostly women, who are disproportionately affected from moral harassment at work.

Reporting of sexual harassment at work and use of legal means,

- 224. The PA considers that the burden of proof in case of sexual harassment against women at work is an obstacle to the effective use of the existing means.
- 225. The PA considers the initiatives to address the issue of sexual harassment in the central and local policies as a positive step.

1.1. Recommendations

Regarding the legal framework and protection from discrimination at work

- 226. Improvement of the law on “Protection from discrimination”, by considering the nationality, any public claims of discrimination, and the help and encouragement of discrimination, as grounds for discrimination, and improvements of the Criminal Code related to “sexual harassment”, committed by an employer, supervisor, or whoever the victim is subordinate hereto, and “moral harassment at work”. It is recommended that the Labor Code is amended so that it requires employers to protect women from moral harassment committed by other employees. Including whistleblowers in the Labor Code would serve to identify cases of moral harassment at the work place and address them with the

123 PA, “Proposal to amend the draft document prepared by the Ministry of Justice to amend the Criminal Code”, 2013.

respective structures¹²⁴.

On promotion of employment,

227. Initiatives are recommended to be taken as part of the legislation on promotion of employment, to include women victims of domestic violence and the LGBTI community as beneficiaries.

Regarding reporting of sexual harassment at work and the use of legal means,

228. The active role played by the media, employers, educational institutions, and civil society organizations should be strengthened in order to further raise awareness regarding reporting of sexual harassment at work and use of legal means.
229. PA's recommendation to transfer the burden of proof in case of sexual harassment at work to the employer is expected to be approved. This would increase the use by women of legal means available, as well as their effectiveness.

2. Regarding social insurance, the legal framework and the need to improve it,

230. The right to benefit from this system is regulated by Law no.7703 dated 11.05.1993 on "Social insurance in the Republic of Albania", as amended, as well as by the respective secondary legislation.
231. Law no. 7703, dated 11.05.1993, on "Social insurance in the Republic of Albania", as amended, provided for positive discrimination of women related to the retirement age.
232. To improve the situation of current beneficiaries, the PA recommended changing the pension calculation formula to establish a more direct link between the pension and contributions. The PA sent a recommendation to the Minister of Finance to improve Law no. 7703

124 These suggestions were sent to the Parliamentary Committee for Legal Affairs, Public Administration, and Human Rights during 2015.

dated 11.05.1993 "Social insurance in the Republic of Albania", as amended, Article 32, in order for pensioners to enjoy a more favorable pension¹²⁵.

233. Law no. 104/2014, dated 31.07.2014, on "On some amendments and additions to Law no. 7703, dated 11.05.1993, "Social insurance in the Republic of Albania", as amended, was approved and it will also affect women. For all citizens who will reach the retirement age after 01.01.2015, the new formula shall be applied, based on the contributions paid through the years and the respective salary on which the contributions are paid.
234. The maternity leave duration shall be 365 calendar days, including a minimum of 35 days before child birth and 63 days after. The new law aims at eliminating women's privileges gradually. First, the right of including the period of university studies for a woman as a period of work for determining the pension payment rate shall be recognized until 31.12.2032.¹²⁶ After this date this right shall be annulled. Second, women's retirement age will increase gradually, with the aim of women having the same retirement age as men. Women's retirement age increased with two months per year aiming to become equal to that of men. As regards family pension, despite the amendments to the law, there still is positive discrimination for women – widows benefit family pension at 55. Widowers' retirement age has not

125 Report on the activity of the People's Advocate 1 January-31 December 2013, no.65, dated 21.02.2014, www.avokatipopullit.gov.al. The recommendation on a more favorable old age pension rate was taken into consideration. Through letter no. 8492/3 dated 03.07.2013 the Ministry of Finance answered to our institution that amending the law to provide a more favorable pension rate has a considerable financial effect. This recommendation is expected to be reviewed as part of the reform in the area of social insurance payment.

126 Law no. 104/2014, dated 31.07.2014, on "Amendments to Law no. 7703, dated 11.05.1993, on "Social insurance in the Republic of Albania" as amended, article 42. According to this article, "Regarding women, the period of full time university studies, starting from 1.9.2000 until 31.12.2032, despite the country where these studies were attended and for longer than six years, shall be recognized as a period of work only for the purposes of determining old age pension payment".

changed, it continuous to be 60. There is a five years difference in the retirement age of widows and widowers. The law complies with an international standard regarding child care. After the post-birth 63 days of maternity leave, the father or an ensured adopting parent is also given the right to take paternity leave in case the mother cannot or chooses not to use it. This law entered into force upon its publication in the official journal no. 137, dated 1.9.2014 and is become effective starting from 1.1.2015.

235. Every citizen who has turned 70, regardless of gender, and has been residing in Albania at least in the last five years, and who is not eligible for any type of pension deriving from the mandatory social insurance scheme, and does not have any income or the income from any other source are lower than the amount of the social pension, shall benefit social pension. If we consider that women are the ones who face unequal treatment in the labor market, this change shall impact mainly them. The PA raises the concern that, during the transition period, many Albanian citizens, especially women, were unemployed and have not paid their social contributions voluntarily. Women who do not meet the requirements for benefiting old age pension will remain without any income until when they turn 70 – the age when they may benefit social pensions.

236. The provision that a person “should have been residing in Albania at least for the last five years” affects directly Albanian emigrants, including women.

237. The PA has raised the concern that, “Failure to set a minimum living standard in Albania hinders the establishment of social policies for groups of people in need”¹²⁷. The PA recommended to the Prime Minister of Albania to establish a working group for this purpose. The implementation of this recommendation

127 Comments and opinions of the People’s Advocate on the Council of Europe’s 2014 Progress Report for Albania, Tirana 2014, p.4. Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the People’s Advocate on the 2014 Progress Report.

is still ongoing¹²⁸.

Regarding the de facto situation,

238. Being part of the formal labor market is a key prerequisite for benefiting the old age pension, unemployment payment, sick leaves and maternity leave. Statistics show that the informal labor market includes a higher percentage of women than men, thus a much lower number of women are part of the system¹²⁹.

239. The PA has received 123 complaints on social insurance during October 2013-October 2014¹³⁰. 16 of the 101 complaints filed with our institution on social insurance during 2014 were submitted by women. The complaints consisted to unfair calculation of old age pensions, failure to recognize years of work, reduction of the early retirement pension, the time of benefiting the right to retire, the lack of information on the complaints against decisions of the Social Insurance Regional Directorates, unfair interruption of old age pensions, refusal to provide copies of the documents contained in the pension file, etc.

2.1. Recommendations

PA:

240. Recommends that social pensions should be benefited upon being granted the right

128 The Prime Minister’s response in June 2014 informed us that a working group of managers and experts will provide concrete recommendations on the manner and procedures to be followed in order to define a minimum living standard for Albania. The recommendations of the working group will be sent to the Minister of Social Welfare and Youth, who will take concrete, steps for the issuance of the secondary legislation.

129 The National Strategy on Employment and Abilities 2014-2020, adopted by a CMD no. 818, dated 26.11.2014, on the “Approval of the National Strategy on Employment and Abilities 2014 – 2020 and its Action Plan”, published in the Official Journal no.188/2014, p.10322.

130 Comments and opinions of the People’s Advocate on the Council of Europe’s 2014 Progress Report for Albania, Tirana 2014, p.4. Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the People’s Advocate on the 2014 Progress Report.

of inclusion in the pension scheme rather than upon reaching the age of 70. The implementation of this recommendation would be beneficial for elderly women, who have not paid the mandatory pension contributions or any volunteer pension contributions.

241. Recommends that the social pension should be benefited by every Albanian citizen, including women, even if they have not been residing in Albania in the last five years and do not receive any income in the countries where they have been working as emigrants.
242. Recommends that the social pension should not be considered in the calculation of the old age monthly pension because it [social pension] goes only to those individuals who do not meet the requirement of the minimum period of paid contributions and who do not benefit any types of pensions. They need to declare their minimum revenues on which the pension.
243. There is a need to declare a minimum living standard, which would serve as the basis for calculating the monthly pension is calculated.

Regarding safety and health at work,

244. Although Law no. 10237, dated 18.02.2010, on "Safety and health at work" obliges employers to take measures to eliminate risks and guarantee safety and health at work, its implementation and monitoring leaves to be desired.
245. The Annual Statistics of the Ministry of Justice for 2013 indicate 34 cases of "violation of the rules on protection at work" - Article 289 of the Criminal Code - and 34 individuals sentenced over such criminal offence.

Employment and vocational education and training policies,

246. Economic empowerment is one of the four key priority areas in the National Strategy on Gender Equality and Reduction of Gender based Violence and Domestic

Violence 2011-2015¹³¹. Empowerment of women and girls through employment, promotion of entrepreneurship, and vocational education is one of the key priorities of the government on gender equality and domestic violence issues for 2013-2017.

247. The PA agrees that increasing the involvement of special groups, including women and girls, in the labor market contributes considerably to the employment and vocational education strategies and policies, and highlights the outcomes resulting from implementation of such policies.

3. The de facto situation

The labor market – employment

248. INSTAT data show that the "Degree of participation in the workforce of women between 15-64 years old is 50.1 %, while for men of this age group it is 70.2 %. There is a difference of 20.1 points of percentage in favor of men, which reflects a more active participation in the labor market of the latter".¹³²
249. Employed women are mainly working in the service sector (as compared to the agriculture and industry sectors) where they hold 42% of the jobs¹³³. The fact that young women focus on typical "feminine" jobs, which are less paid and do not require many skills, increases the gender gap in terms of salaries and the women's ability to find jobs in the informal sector¹³⁴.

131 This Strategy is adopted by the CMD no. 573, dated 16.06.2011.

132 INSTAT, "Women and men in Albania", 2014. Available at: http://www.instat.gov.al/media/257796/femra_dhe_meshkuj_2014_.pdf, p.65.

133 INSTAT, "Gender Perspective in Albania", Gender analysis of the 2011 census results for people and dwellings, Tirana 2014, p.68.

134 National Strategy on Employment and Abilities 2014-2020, adopted by the CMD "on the improvement of the National Strategy on Employment and Abilities 2014 – 2020 and its Action Plan", published in the Official Journal no.188/2014, p.10355.

Employment promotion programs

250. CMD no. 27, dated 11.01.2012 “Stimulation of employment of unemployed women job seekers” led to the implementation of four programs where 36 women were employed¹³⁵. CMD no. 47, on the “Employment through on-job training” Program provided 28 entities to train 436 unemployed job seekers. After completing the internship, 58% of the participants or 252 individuals of who 134 women – were employed for at least six months, as established by the program¹³⁶. The employment promotion program funded by UNDP – implemented by 20 business companies – involved 126 unemployed job seekers registered in the Employment Offices and contributed to the economic empowerment of women. After the internship, 32 individuals of who 25 women, were employed by these companies¹³⁷. Women’s employment is important also in terms of their access to the social insurance schemes. Statistics show that the informal sector includes a higher percentage of women relative to men, thus leading to a poor coverage of women by the social insurance system¹³⁸.
251. The category of secluded women may benefit from the unemployment payment scheme while it is difficult for them to participate in the employment promotion programs of the National Employment Service due to their specific conditions¹³⁹.

Vocational education programs

252. In 2013, the vocational education programs included 9254 registered individuals of

whom 8884 were certified. 3896 of the trainees were women, constituting 43% of the total number¹⁴⁰.

The right to work and discrimination at work,

253. INSTAT data show that among the economically non-active individuals, women are more prone to discouragement. In 2013, the discouraged unemployed individuals constituted 23% of all economically non-active individuals (20.8 % men and 24.2 % women)¹⁴¹. In 2013, the unemployment rate for women was 13.2 %¹⁴².
254. The population living in rural areas is not included in the country’s unemployment data because they are considered as self-employed in their agricultural family economies and, therefore, they may not benefit from the social and health insurance schemes. Women are especially affected by this phenomenon¹⁴³.
255. Women face various forms of discrimination at work and difficulties regarding the harmonization of their family duties with their jobs¹⁴⁴.
256. There is a difference in salaries paid to women and men, especially in the private sector, including the construction, services, and garment industry. Women earn less from employment than men. The earnings differential for 2011 was 5,725 Albanian lekë, i.e. women earned 17.4 percent less¹⁴⁵. This is also affected by the areas of studies chosen by women in comparison to men. “Women tend to focus

135 National Employment Service, 2013 Labor Market Bulletin, p. 28. Available at <http://www.kerkojpune.gov.al>

136 National Employment Service, 2013 Labor Market Bulletin, p. 27. Available at <http://www.kerkojpune.gov.al>

137 National Employment Service, 2013 Labor Market Bulletin, p. 28, Available at <http://www.kerkojpune.gov.al>

138 The National Strategy on Employment and Abilities 2014-2020, adopted by CMD no.818, dated 26.11.2014.

139 PA, “Blood feud”, no.28/4, dated 22.04.2013, f. 29. http://www.parlament.al/web/pub/2013_raporti_per_gjakmarrjen_15419_1.pdf

140 National Employment Service, 2013 Labor Market Bulletin, p. 32, available at <http://www.kerkojpune.gov.al>

141 http://www.instat.gov.al/media/237073/tregu_i_punes_2013.pdf, p. 7.

142 http://www.instat.gov.al/media/237073/tregu_i_punes_2013.pdf, p.6.

143 National Strategy on Gender Equality and Reduction of Gender based Violence and Domestic Violence 2011-2015, adopted by CMD no. 573, dated 16.6.2011.

144 Meetings of the PA with NPOs in Berat on 30 September 2014.

145 Gender Alliance for Development Centre, “Gender inequality in pay, an Albanian case”, Tirana 2012, p.31.

on education, humanitarian sciences and arts, followed by medicine and care –78, 75 and 72 per cent respectively. On the contrary, male students tend to choose areas of studies such as services, engineering, production and construction, followed by agricultural studies, forestry and fishing with 68, 61, and 58 per cent respectively¹⁴⁶. No special measures have been taken to address the gender gap in terms of differences in salaries, access to enterprise opportunities and to loans¹⁴⁷.

257. "... a much higher number of women conduct unpaid jobs compared to men (91 versus 40 per cent)"¹⁴⁸. Women spend more time taking care of the elderly family members and of their children. Paid working days for men are on average one and a half hour longer than for women (7:39 against 6:11 hours), while the unpaid working days for women are much longer than those for men (5:42 versus 2:06 hours)¹⁴⁹. The number of day care centers for the elderly and children is restricted, what leads to women playing a key role in caring for elderly family members and children at home and to find it difficult to match harmonize their family and professional responsibilities. There are no effective mechanisms that enable women who conduct unpaid jobs to benefit from community services, employment policies, etc.
258. Regarding female owners/administrators, "27.8 % of the total number of active enterprises is managed by women. 33.4 % of the commercial activity is managed by women; 14.4 % of enterprises with more than 50 employees is managed by women"¹⁵⁰;
259. The 4th National Periodic Report on the

implementation of the CEDAW Convention highlights that "Between 2010 and 2014: 4491 uninsured employees (45% female) in 54,524 businesses inspected, with a total number of 567,631 employees"¹⁵¹. These data resulted from the inspection conducted by the State Labor Inspectorate in the premises of entities licensed in the Republic of Albania. There is a lack of effective measures to address this problem. The Annual Statistics of the Ministry of Justice for 2013 indicate 34 cases of "violation of the rules on protection at work" - Article 289 of the Criminal Code - and 34 individuals sentenced over such criminal offence.

260. We have found cases of violation of the legal procedures on dismissals and of the rights granted by law in the public administration¹⁵². In August-December 2010 there were 36 complaints on labor relations, of which 17 were filed by women; in 2011 there were 144 complaints on labor relations, of which 33 were filed by women; in 2012 there were 268 complaints on labor relations, of which 89 were filed by women; in January-September 2014 there were 161 complaints on labor relations, of which 59 were filed by women. The complaints relate to violations of the Labor Code, unfair transfers or failure to be paid or receive rewards, annual leaves, unfair dismissals and being put in the waiting list, dismissal during maternity leave, failure to respect the legal deadlines for dismissals, violations of the procedures on dismissals and failure to reason them, as well as non-compliance with the obligation set by the Civil Service Commission and with Law no. 8549, dated 11.11.1999, "Civil servants' status", etc. Some of the complaints were filed by women serving as heads of their

146 INSTAT, Women and Men 2014. www.instat.gov.al/media/257796/femra_dhe_meshkuj_2014_.pdf, p.38.

147 <http://www.integrimi.gov.al/al/dokumenta/progres-rPAorte/progres-rPAorti-2014&page=1>

148 INSTAT, "Women and Men in Albania", 2014. Available at: www.instat.gov.al/media/257796/femra_dhe_meshkuj_2014_.pdf, p.78.

149 http://www.instat.gov.al/media/257796/femra_dhe_meshkuj_2014_.pdf, p. 77.

150 http://www.instat.gov.al/media/247026/regjistri_ndermarrijeve_2013.pdf, p.9.

151 Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.38.

152 233 complaints have been examined by PA for the period October 2013-October 2014. Comments and opinions of the People's Advocate on the Council of Europe's 2014 Progress Report for Albania, Tirana 2014, p.1. Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the People's Advocate on the 2014 Progress Report.

households and without any revenues. The PA examined the complaints and provided recommendations to help these women enjoy their rights and to hold accountable the responsible individuals.

261. AP has examined complaints, indicated violation of equality or discrimination which led to alleged violation of other rights. The PA initiated an administrative investigation in case of a refusal of a doctor to work together with a nurse wearing a burka and recommended disciplinary measures against the doctor and the engagement of the health authorities not to allow any repetition of such cases of discrimination not only against the medical staff, but also against patients. This recommendation is implemented.
262. Attorneys, lawyers, the public administration staff, judges, and prosecutor's knowledge on the international standards in the area of employment, including those introduced by CEDAW Convention leave to be desired.
263. Women's knowledge of their rights in the area of protection from discrimination in employment is insufficient.

3.1. Recommendations

Institutional development

264. The capacities of the respective authorities in the area of work relations as the Ministry in charge of gender equality issues, the National Employment Service, the State Labor Inspectorate, and the State Social Service, should be strengthened, respecting the principle of gender equality and non discrimination. Increasing human and financial resources is necessary.

Equality at work

265. Priority should be given to the policies on the participation of women and girls from the economic aid schemes to active employment programs, as well as in the vocational education and training system¹⁵³. Increasing the number of active training and employment programs

153 People's Advocate, Special report no.208 dated 24.07.2012, on "Violence against women and the activity of the People's Advocate", July 2012, p.36.

especially for women is important in terms of including them [women] in the social protection system.

266. An increased involvement of women in the vocational education system would contribute to reducing gender differences in terms of salaries, orienting them towards better paid professions. Salaries are also recommended to be increased in the women-dominated sectors, promoting involvement of women in scientific and technological jobs, positive discrimination in recruiting women who are as equally qualified as men, encouraging entrepreneurship by women and monitoring of these policies.
267. The number of day care centers for the elderly and children is recommended to be increased, and efforts ensuring a child care system available, accessible and in good quality need to be intensified. This would reduce the number of unpaid hours of work for women and increase their role in the public sphere.
268. Women's representation in economic decision-making is recommended to be increased. Local strategies need to include women and their employment needs.

Monitoring

269. Continuous monitoring of the implementation of Law no. 9970, dated 24.07.2008, "Genderequality in society", the Law on "Protection from discrimination" and of the labor legislation from a gender perspective is recommended.
270. Gender studies need to be made in the area of employment of women heads of households, women with disabilities, trafficked women, women victims of domestic violence, Roma women, LGBTI women, etc.

Training

271. The professionals need to be trained on the international standards, including the CEDAW Convention, on equality in employment. These training sessions should be organized for lawyers, judges, prosecutors, attorneys, public administration staff and employers.

Regarding the role of NPOs

272. The activity of NPOs related to the rights of women at work and protection from gender and/or multiple discrimination needs to be strengthened.

D. DOMESTIC VIOLENCE

(Articles 1 and 2, and 5 of the Convention on the Elimination of all forms of Discrimination against Women, CEDAW)

General Recommendation No. 19 of the Committee on the Elimination of Discrimination against Women, CEDAW)

The national population-based survey¹⁵⁴ 2013 on “Domestic Violence in Albania” shows that 59,4 % of women (more than 1 out of 2 women) reported that they had experienced domestic violence in their marriage/intimate relationship “in their live”, and 53.0 % of women (1 out of 2 women) were “currently” experiencing domestic violence (within the 12 months prior to the interview).

1. The legal framework on domestic violence

273. The legal framework addressing domestic violence in Albania has improved during 2010-2014, being increasingly harmonized with the international standards. Law no. 9669, dated 18.12.2006, “Measures against domestic violence” has been amended to prevent and provide more effective protection from domestic violence to family members, especially to women as the most affected by domestic violence¹⁵⁵. CMD No. 334, dated 17.02.2011, “The coordination mechanism for the referral of cases of domestic violence and the manner of its operation” envisaged the establishment of a Coordination

154 INSTAT, “Domestic Violence in Albania”, National population-based survey 2013. The report is prepared by Dr. Robin N, Haarr, UNDP International Consultant, p.33.

155 Official data from the State Police and reports of non-profitable organizations show that women are the most affected by domestic violence.

Mechanism and referring cases of domestic violence. Special laws are in place aiming at extending the range of beneficiaries of legal and financial aid, etc., including victims of domestic violence.

274. The amendments made to the Criminal Code by Law No. 23/2012 and Law No. 144/2013, envisage domestic violence as a criminal offence, addressing different forms of domestic violence with legal remedies, they stipulate harsher punishment for perpetrators and perpetrators are punished even in case the victim withdraws from the proceedings.

1.1 Civil and administrative legislation on preventing and reducing domestic violence, and its implementation;

The Family Code

275. The Family Code (FC) lacks provisions that link domestic violence incidents directly with the misuse or serious neglect of parental responsibility. The Family Code lacks provisions that envisage supervised visits of children by their parent when the court has declared the latter to be a perpetrator and has issued a protection order against him/her.

Law No. 9669, dated 18.12.2006, “On Measures against Domestic Violence”, as amended;

276. Law No. 9669, dated 18.12.2006, “On Measures against Domestic Violence” is an administrative-civil law whose legal means are being increasingly used by victims of domestic violence.
277. The legal means - IPO/PO - provided by Law No. 9669, dated 18.12.2006, “On Measures against Domestic Violence”, as amended, offer immediate protection through a range of protection measures, without any financial implications for the victim, and for a clearly predetermined period of one year with the right to readdress the court. Victims may ask the court to issue an IPO/PO, despite the criminal proceeding.
278. Law no. 10329, dated 30.09.2010, “Amendments and additions to Law no. 9669, dated 18.12.2006 “On Measures

against Domestic Violence”, as amended” envisages important amendments that provide for: the establishment of a coordinated network of institutions; establishment of a national social care service for victims of domestic violence; the employees of the social care service and the legal representatives and defense lawyers to keep the confidentiality of the personal data of domestic violence victims; exemption of requestors of a IPO/PO from any taxes and fees applied by courts and the state bailiff’s office; and more immediate and effective protection of children from domestic violence, etc.

Recommendations

279. The ratification by the Albanian Government of the Council of Europe Convention “On Preventing and Combating Violence against Women and Domestic Violence” requires harmonization of the national legislation with the standards stipulated in the convention on the range of subjects who enjoy legal protection against domestic violence, compensation of victims of domestic violence, benefiting of services regardless of victims’ report, etc.
280. Practice dictates the need to amend the Family Code for parents to exercise the visitation rights under the supervision of a psychologist, social worker or another person authorized by the court. Supervised visits are recommended also in cases when victims are accommodated in a shelter during the time that an IPO/PO is applicable. In this case, the meeting with the former spouse should be done under the supervision of an employee of the shelter for victims of domestic violence or a psychologist, social worker or a person authorized by a court. When the abusive parent has the right of an appointment with his/her children, the decision should have attached a safety plan that would provide protection for the children and prevent exposure to more extreme violence.

Regarding the implementation of the administrative-civil law “On measures against

domestic violence”,

281. Despite the increasing number of immediate protection orders or protection orders, the high percentage of IPO/PO court case dismissals continues to raise the issue of the effectiveness of the implementation of this law. “There is still a large number of decisions on cessation of IPO/PO in general and especially of those where the plaintiffs are females. In Tirana Judicial District Court, in 91 % of the IPO/PO claims were filed by females. In Durrës Judicial District Court, approximately 84 % of the decisions on cessation, claims were filed by females¹⁵⁶”.
282. Article 13 of Law No. 9669, dated 18.12.2006, “On Measures against domestic violence”, as amended, on the authorities eligible to file public charges, has not been implemented accordingly by the Police and the Prosecutor’s Office. Were the police or the prosecutor’s office to exercise the right to file public charges, it would lead to reduced number of dismissed cases and would enable courts to continue proceedings even if victims withdraw from the process. The High Council of Justice Inspectorate has found that Elbasan Region Police Commissariat applies good practices (during the inspection period, the Police Commissariat had submitted 40 cases to the Elbasan District Court, which were identified directly by the State Police itself), while Përmet Police Commissariat had filed two cases with the Court.¹⁵⁷

156 Prof. Dr. Arta Mandro (Balili) & Av. Aurela Bozo & Prof. Dr. Aurela Anastasi, Report on Knowledge and implementation of the gender equality standards in court decisions. Report on the main findings from monitoring of the judicial practice in Tirana, Durrës, Shkodra and Vlora Districts. January 1, 2011-June 1, 2012. p. 53, Tirana, December 2013.

157 The Inspectorate of the High Council of Justice, “Thematic report on domestic violence and security measures in case of illegal possession of fire arms”, January 2014. One of the topics subject to their inspection was the role of courts in combating domestic violence by checking cases in which an “Immediate Protection Order is issued” and cases in which a “Protection Order is issued”. 28 national courts were inspected six of which were appellate courts and 22 first instance courts. The thematic report may be accessed at: <http://kld.al/kornizaligjore/akte-nenligjore/raport-mbi-dhunen-ne-familje>

283. The effectiveness of court proceedings and the access by victims of domestic violence to the justice system is closely linked to the duration of the trial. The High Council of Justice Inspectorate identified violations of legal deadlines in 183 of the 2689 inspected cases, which constitute 6.8 % of the case load at the national level.¹⁵⁸ The same finding is seen in reports from non-profit organizations, stating that "...failure to gather the evidence in due time often leads to postponement of trials. This is the reason why there are more cases of failure to meet the legal deadlines for protection orders [15 days deadline] compared to requests for issuing immediate protection orders [48 hours deadline]."¹⁵⁹ The [long] duration of court procedures in case of IPO/POs and expiry of the legal deadlines contradicts the purpose of the law, i.e. to take immediate measures to prevent and ensure protection from domestic violence.

284. Despite the public education programs to raise the awareness of the representatives of all relevant institutions, there is still room for improvement in this regard. The School of Magistrates has organized training sessions for judges and prosecutors related to domestic violence and other forms of gender based violence. 238 judges, prosecutors and judicial police officers benefited from the training sessions on amendments to the Criminal Code with Law No. 23/2012 and Law No. 144/2013, organized by the School of Magistrates during the academic year 2013-2014.¹⁶⁰ It has been in the focus of the trainings handling cases in a gender sensitive manner and protecting of women against secondary victimization in their interactions with law enforcement and judicial authorities.

158 Ibid.

159 CLCI, Study, "Increase of the effectiveness, transparency and public faith in the judiciary", Findings from the monitoring of court sessions and studying of the court jurisprudence related to protection of the principle of equality and non-discrimination in the judicial districts of Tirana, Elbasan, Shkodër, and Vlora. Monitoring time period: February 2012 - October 2013, p. 59. This report may be accessed at: www.qag-al.org

160 www.magjistratura.edu.al

Recommendations

285. Despite the improvement of the legal framework, there is a need for increasing the effectiveness of the enforcement of the legislation on domestic violence. Measures should be taken for the implementation of the deadlines envisaged in Law no. 9669, dated 18.12.2006, "On Measures against Domestic Violence", as amended, on the examination of lawsuits for issuance of IPO/POs, in order to provide urgent protection for victims of domestic violence.

286. Sanctions against responsible employees who do not fulfill the legal obligations related to the execution of IPO/POs need to be better implemented.

287. The School of Magistrates needs to continue training of judges on recognizing the IPO/POs at any legal proceeding against the same person.

288. The continuous training for the police, prosecutor's office and those holding the right to file public lawsuits for IPO/POs are recommended.

289. Local authorities responsible for the implementation of the legislation against domestic violence needs to be continuously trained.

The establishment and strengthening of the Coordination and Referral Mechanism for cases of domestic violence

290. Regarding the institutional mechanism, the PA defines in its special report on violence against women that some of the main challenges are the insufficient human resources for gender integration, appointment of full-time gender employees and the establishment of a network at the central and local level, as well as strengthening their capacities, etc. The PA deems important the establishment of specialized structures or appointment of specialized individuals in state institutions covering domestic

violence issues¹⁶¹. In some municipalities, the gender employee serves at the same time as the local coordinator of the Coordination and Referral Mechanism, as well as other duties in some cases, which makes it difficult to focus on the task of coordinating and referring cases of domestic violence.

291. The establishment and operation of the Coordination and Referral Mechanism (NRM) for cases of domestic violence has improved the management of such cases at the local level. However, even though there is a NRM in 27 municipalities¹⁶², coordination of the work among the relevant actors, members of the NRM leaves to be desired.
292. It should be highlighted that lack of NRMs in all municipalities of the country exposes women victims of domestic violence to a higher level of risk due to lack of an interdisciplinary approach for the management of cases.
293. The PA considers that since the number of victims of domestic violence in rural areas is increasing¹⁶³ and services for victims of violence are not easily accessible to rural women, it is important to establish inter-disciplinary teams in rural areas and to work with the management of difficult cases, referred by rural areas teams. The cooperation models between municipalities and rural areas in addressing domestic violence cases are limited.
294. Municipalities should allocate better funds to gender issues and domestic violence cases – as gender based violence - and

a better monitoring of the use of budget funds in order to increase the effectiveness of the coordination mechanisms at the local level. Lack of possibilities to accommodate domestic violence victims in shelters at the regional level makes them [victims] hesitant to report cases of domestic violence and hinders them from receiving the necessary services. Lack of a 24 hour phone line and other necessary services hamper the fulfillment of duties by CRMs. Even the 4th National Periodic Report on the implementation of the CEDAW Convention sets the establishment of a 24-hour hotline and of regional shelters as some of the priorities for a de facto improvement of the VaW/DV situation.¹⁶⁴ These services would help local government units fulfill their legal obligations and improve the effectiveness of the Coordination and Referral Mechanisms at the local level.

295. Violations of protection orders reflect clearly the shortcomings in the coordination of work among the relevant actors responsible for executing court IPO/POs. Referring to the 4th National Periodic Report on the implementation of the CEDAW Convention, “violations of POs have increased in 2011, 2012 and 2013. There are records of 86 PO violations in 2011, 119 PO violations in 2012 and 138 PO violations in 2013¹⁶⁵”.
296. Domestic violence victims may benefit accommodation or other services in the Centre only if equipped with a PO/IPO. This practice does not comply with the standards of the Council of Europe Convention on preventing and combating violence against women and domestic violence, which requires Services should not be provided only to victims, who are willing to report the case or testify against

161 The PA, Special Report No.208 dated 24.07.2012, “Violence against Women and the Activity of the PA”, July 2012, p. 22.

162 The 4th National Periodic Report on the implementation of the Convention on the “Elimination of all forms of Discrimination against Women”, approved by CMD No.806, dated 26.11.2014. The Official Journal of the Republic of Albania no.187/2014, p.10183.

163 The National population-based survey 2013, “Domestic violence in Albania” shows that women in rural areas (60,8 %) were also significantly more likely to “currently” experience domestic violence of all types, compared to women in urban areas (47,6%). INSTAT 2013, p. 53.

164 Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.18].

165 The 4th National Periodic Report on the implementation of the Convention on the “Elimination of all forms of Discrimination against Women”, approved by CMD.806, dated 26.11.2014. The Official Journal of the Republic of Albania no.187/2014, p. 10184.

- a perpetrator¹⁶⁶;
297. The establishment of a national online database, as one of the priorities of the government for 2013-2017 and entering of data in the system only in 29 municipalities¹⁶⁷ shows that there is a need for other municipalities to follow.
298. The number of women victims of domestic violence who benefit free legal aid, based on the law on legal aid, is limited. During the first half of 2014, only two women victims of domestic violence benefited legal aid from the State Commission on Legal Aid. This is identified also by the 4th National Periodic Report¹⁶⁸ on the implementation of the CEDAW Convention. This figure identifies clearly the problems related to accessing legal aid.
299. The police continue to be an important actor in implementing Law no. 9669, dated 18.12.2006, "On Measures against Domestic Violence". Complaints show cases when victims of domestic violence are not informed on the steps taken by the police or about the decisions of Judicial District Courts, etc.¹⁶⁹ The examination of the complaints filed during 2014 identified cases of police officers who have failed to observe the respective legal provisions¹⁷⁰.
300. "... 4,400 health professionals were trained during 2009- 2013; from these, 1,275 women were trained in 2010, 730 in 2011 and 1,067 in 2013."¹⁷¹ Despite the continuous training of health care employees (general practitioners, nurses and specialists) on domestic violence, or the publication of manuals on how to treat victims of domestic violence, there is still room for improvement with the identification of cases of domestic violence by the medical staff, with the provision of psychological support in addition to the health care, provision of a medical certificate, provision of certified documents in court, as well as in terms of accompanying or transporting the victims.
301. Non-unified fees for psychologists and social workers and lack of continuous training for them constitute a burden to access of domestic violence victims in the system. The institutionalization of the position of psychologists by law is expected to guarantee better the rights of victims of domestic violence.
302. The social service offices in the municipalities made further steps in fulfilling some legal obligations, such as the referral of DV cases, the orientation of victims of DV; the participation in the court sessions for the release of the PO for minors; installation in several cases of daily telephone connections with the help provided by different donors; establishing social and rehabilitation centers for the victims in some municipalities, but they also need to fulfill other legal obligations, such as: submitting to the court the request for PO for minors and the IPO; they should guarantee the implementation of court decisions for IPO/PO, providing the rehabilitation programs for victims and perpetrators in all municipalities, install a 24-hour telephone support line, etc. The accompaniment of victims of violence and provision of transport in cases of an extreme danger requires better budgeting by the local government.
303. In the absence of services for victims at the local level, the National Centre for the Treatment of Victims of Domestic Violence
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- 166 Article 18 of the Council of Europe's Convention on "Preventing and combating violence against women and domestic violence".
- 167 See Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.21}.
- 168 Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.19}. (4 cases/ 2013; 2 cases in the first half of 2014 –one Albanian and one foreign citizen)
- 169 The administrative investigation of the case of plaintiff Zh.P showed that the victim was not informed that the decision of Fier Judicial District Court to grant a protection order was still valid. (Complaint examined by the PA Doc No. 201400928/4, 2014).
- 170 Annual Report on the "Activity of the PA", 1 January-31 December 2014.
- 171 http://www.unwomen.org/~media/headquarters/attachments/sections/csw/59/national_reviews/albania_review_beijing20.ashx, p.34.

played an important role. This centre has been functioning since April 2011, and until September 2014 the number of people benefiting from its services reached to 174 of who 69 are women and 105 are children¹⁷².

304. Our institution has provided recommendations related to the center standards of social services and integration of victims of violence¹⁷³. “Upon its own initiative, the PA inspected during 10.04.2012-12.04.2012 the National Centre for the Treatment of DV Victims, in Kamëz, Tirana. The inspection was initiated based on complaints by some women sheltered in the Centre and on a video footage by a TV station on the treatment of women and living conditions in the premises of the Centre. Upon the inspection, the PA recommended: 1. Dismissal of the Director of the Centre, with immediate effect, based on the reasons set forth in Article 153 of the Labor Code. 2. Reorganization of the staff and indispensable recruitment of a lawyer and psychologist. 3. Measures related to the protection and accompaniment of victims by specialists when they go outside the Center’s premises, using the official vehicles of the institution. 4. Continuous training of the staff on how to treat and communicate with the women and children in the Centre. 5. Drafting an internal regulation that defines clearly the rights and obligations of the staff and women sheltered in the Centre, in compliance with the Constitution and the fundamental human rights and freedoms. 6. The Ministry of Labor, Social Affairs and Equal Opportunities (MLSAEO) must issue Guidelines on the implementation of standards in accordance with the CMD

172 Data provided by Ms. Fatbardha Hoxhalli, Director of the National Centre for Victims of Domestic Violence, September 30, 2014.

173 Services provided directly by the Centre: food, clothing, temporary housing at the Centre, individual support/counseling, psycho-social assistance, children programs, education, therapeutic group treatment, case management, medical assistance, legal assistance, vocational training, occupational and rehabilitation activities, preparation for referral and integration, mediation for reintegration into their families, monitoring and evaluation of cases after their referral to reintegration centers or community, community based services for beneficiaries in transition, etc.

No. 505, dated 13.07.2011. 7. Improved nutrition with an enriched variety of seasonal products – within the defined amount”. These recommendations were fulfilled.

305. However, the shelter continues to apply unnecessarily restrictive criteria for admission¹⁷⁴. Domestic violence victims may benefit accommodation or other services in the Centre only if equipped with a PO/IPO. Services should not be provided only to victims, who are willing to report the case or testify against a perpetrator¹⁷⁵. Non offering of accommodation for victims during the period of 48 hours in which the court decide on issuing IPO, face them with a high risk for life.

306. The standards of services defined in CMD No. 505, dated 13.07.2011, on the “On the approval of social care standards for victims of domestic violence in public and private residential centers” constitute a guide for the National Centre for the Treatment of Victims of Violence (NCTV) staff work. Their fulfillment is hindered by the lack of human and financial resources such as lack of a full time lawyer and psychologist, etc.

307. Another issue identified in the 2011 annual report on the PA work is the fact that “The National Strategy on Gender Equality and Reduction of Gender Based Violence and Domestic Violence 2011-2015, approved by CMD No. 573 dated 16.06.2011, has envisaged, inter alia, the subcontracting NPOs for the provision of certain services for victims of domestic violence. The possibility and the obligation for cooperation between the local and central government regarding social services is defined clearly in Law No. 9669, dated 18.12.2006 “On Measures against Domestic Violence”. Yet, for a rigorous implementation of this law it is required that the competent state bodies finance civil society organizations, to enable the latter to provide proper services to victims

174 <http://www.integrimi.gov.al/al/dokumenta/progres-raporte/progres-raporti-2014&page=1>

175 Article 18 of the Council of Europe’s Convention on “Preventing and combating violence against women and domestic violence”.

of domestic violence, as well as to prevent and rehabilitate the perpetrators¹⁷⁶”.

308. In big municipalities there is a large number of NPOs that provide services, but LGUs do not have any agreements with the organizations in order to use their capacities. In general, LGUs do not procure social care services¹⁷⁷. “There is no detailed legal basis enabling LGUs to outsource, delegate and procure social care services by NPOs”¹⁷⁸.

Recommendations

309. The existing NRM should be strengthened to protect from and prevent domestic violence effectively.
310. All LGUs are recommended to establish referral mechanisms for domestic violence cases¹⁷⁹.
311. Awareness of local government units needs to be further raised on how to budget for gender issues and make them part of their policies and action plans.
312. Legal and other measures are recommended to be taken to ensure that the provision of services does not depend on the willingness of the victim to use the legal means or to testify against the perpetrator, and the relevant actors need to become aware of such standard.
313. Measures envisaged in the National Strategy on Gender Equality and Reduction of Gender Based Violence and Domestic Violence 2011- 2015 that require the setting of procedures and possibilities to subcontract NPOs for the provision of services¹⁸⁰ are recommended to be

implemented.

314. A national 24/7 phone line is recommended to be established to support victims of domestic violence, addressing all forms of violence in a professional and confidential manner;
315. Since social services are functions provided by the local government units, according to Article 10 of the Law on the Organization and Functioning of the Local Government¹⁸¹ (2000), the latter should allocate special funds, based on their generated revenues, to provide such services in their territory¹⁸².
316. Cooperation between the central and local government and NPOs that provide services to victims of violence needs to be strengthened. In order to have an effective collaboration, there should be a revision of the possibility of local government units to finance civil society organizations with their funds or from the state budget¹⁸³.
317. Members of the inter-disciplinary technical team on the obligations deriving by Law No.9669, dated 18.12.2006, “On Measures against Domestic Violence”, as amended, need to be continuously trained. The implementation of the legal obligation of the responsible actors to inform the victims of domestic violence on the steps that are followed by the responsible authorities and their results needs to be ensured. The changes made in the Criminal Code with Law No. 23/2012 and Law No. 144/2013, in relation to domestic violence and the changes to the Law “On legal Aid” (2008), the Law “On social assistance and services” (2005), etc. have

176 The PA, Special Report, “Violence against Women and the Activity of the PA”, July 2012, p.33. (No.208 dated 24.07.2012)

177 The Albanian Helsinki Committee, “The reform of social services and the local government’s role”, Tirana 2014. p. 45.

178 http://www.qag-al.org/WEB/publikime/kontraktimi_ojf.pdf

179 The PA, Special Report No.208 dated 24.07.2012, “Violence against Women and the Activity of the PA”, July 2012, p.36.

180 The PA, Special Report No.208 dated 24.07.2012, “Violence against Women and the Activity of the PA”, July 2012, p. 37.

181 Law No. 8652, dated 31.07.2000 on the “Organization and functioning of the Local Government”.

182 The PA, Special Report No.208 dated 24.07.2012, “Violence against Women and the Activity of the PA”, July 2012, p.25.

183 The PA Report on the “Implementation of measures envisaged in the EU Recommendation 6, 7, 10, 11 and 12 to Albania, which relate to the scope of the PA work and to its activity related to the respective recommendations, during January-June 2012”, Tirana, July 2012, p.13.

<http://www.avokatipopullit.gov.al/sites/default/files/ctools/Raport%20i%20vecante%20masat%20e%20BE.pdf>

an impact in the work of this mechanism, which should be recognized.

318. The coordination of work between the police, the bailiff's office and the social service offices in the municipalities would enable the implementation of IPO/PO, their continuous monitoring and the prevention of further cases of domestic violence.
319. Cases of domestic violence that have been dealt with at the local level in all municipalities are recommended to be registered.
320. It is recommended that the responsible actors to have as one of their legal duties the ensuring that victims are informed, at least in cases where the victims and the family might be in danger, when the perpetrator escapes or is released temporarily or definitively, a standard accepted by the Albanian state with law no. 104/2012, "On ratification of Council of Europe Convention on preventing and combating violence against women and domestic violence".

1.2. The Criminal Code and protection from domestic violence through its implementation.

321. The PA commends the approval of the amendments made to the Criminal Code through Law No. 23/2012¹⁸⁴, and Law No. 144/2013¹⁸⁵ regarding domestic violence as important steps towards the fulfillment of the CRs made by the CEDAW Committee on Albania both in 2010 and before. Law No. 23/2012, "On amendments to Law No. 7895, dated 27.1.1995, "Criminal Code of the Republic of Albania", as amended", introduced "domestic violence" as a separate criminal offence under a new article, i.e. Article 130/a. Stalking (Article 121/a of the Criminal Code) constitutes a criminal offence punishable by six months up to four years of imprisonment. The law contains stronger sanctions when this

criminal offence is committed by a former spouse, former co-inhabitant, or a person, who has had spiritual relations with the damaged person, in which case the punishment is increased by one third; when the same criminal offence is committed against a minor, a pregnant woman, or a person, who is unable to protect himself/herself, and when it is committed by a person, who is masked, or when the act is accompanied by possession or use of weapons, the punishment is increased by half. Law No. 23/2012 specifies that any acts committed in contradiction with the decision of the court in relation with the tasks emerging from the protection orders issued by the court, constitutes a criminal contravention¹⁸⁶, and is punishable by up to two years of imprisonment.

322. Law No. 144/2013 considers a criminal offence committed during or after a court order for protection from domestic violence as an offence committed in aggravating circumstances¹⁸⁷. "Murder on the grounds of family relations is punishable by no less than twenty years of imprisonment or by life imprisonment¹⁸⁸." First paragraph of Article 102 of the Criminal Code is amended as follows: "Sexual intercourse by violence with adult females or between spouses or cohabitants, without the consent of one of them, shall be punishable by three to ten years imprisonment."
323. The Albanian state has made sure that investigation of, and the criminal proceedings against such offences are not entirely dependent on a report or complaint presented by the victim, so that the proceedings may continue even when the victim withdraws her statement or complaints, complying thus also with

184 Law No. 23/2012, "On amendments to Law No. 7895, dated 27.1.1995 Criminal Code of the Republic of Albania", as amended.

185 Law No. 144/2013, "On amendments to Law No. 7895, dated 27.1.1995 Criminal Code of the Republic of Albania", as amended.

186 Article 321 of the Criminal Code, "Acts in contradiction with the decisions of the court".

187 Criminal Code, Article 50, "Aggravating circumstances", e/1. (Law No. 144/2013, "On amendments to Law No. 7895, dated 27.1.1995 "Criminal Code of the Republic of Albania", as amended).

188 Law No. 144/2013, Article 79/c, "Homicide because of family relations".

the Istanbul Convention¹⁸⁹. With the latest amendments to the criminal legislation, proceedings against domestic violence are now initiated ex officio¹⁹⁰.

324. The PA has recommended an additional provision to the Criminal Code on “Moral harassment at home”, with the following content: “Harassing the spouse, partner, or the cohabitant through repeated acts that cause, or intend to cause a degradation of the living conditions, leading to a distortion of the person’s physical or mental health is punishable by up to three years of imprisonment, when such acts cause total disability to work for a period shorter than, or equal to eight days, or when they do not cause any type of disability to work, and by five years of imprisonment when they cause total disability to work for more than eight days. The punishments foreseen under the above provision shall also be applicable to harassment committed by former spouse, former partner, or former cohabitant of the damaged person”. This recommendation was sent to the Ministry of Justice, but it is not yet approved by the Assembly of Albania.

Aspects of the implementation of the criminal legislation on protection from domestic violence.

325. During 2014, the PA has been informed about investigations conducted in relation with reported cases of domestic violence, and about the Police work in preparing the required documentation for court’s IPO/PO, and has presented a recommendation to the General Director of the State Police, informing at the same time the Minister of Interior and the Prosecutor General, on “Improving Police preventive work and the effectiveness of the law enforcement agencies in combating criminal acts of

domestic violence”. The recommendation emphasizes the need for strengthening the role of the Police in preventing domestic violence by being closer with the community, and by cooperating with the local government, increasing the efficiency and effectiveness of the judicial police acts, in order to bring the perpetrators to justice, and ensure the integration of the victims of domestic violence in the society. The PA 2014 annual report also notes that.¹⁹¹

326. The Annual Statistical Report of the Ministry of Justice for 2014 shows that, for criminal act foreseen from the article 130/a of the CC “Domestic violence”, the court adjudicated 531 cases of domestic violence for which 476 persons were punished as follows: 16 by a fine, 452 by up to two years of imprisonment and 8 by 2-5 years of imprisonment. Regarding article 321 of the Criminal Code “Acts in contradiction with the court decisions”, there have been 46 court cases, involving 55 offenders, including three punished by a fine and 52 by up to 2 years of imprisonment.
327. Regarding the latest amendments to the Criminal Code, one of the concerns raised in AP’s annual reports is that psychological violence is difficult to prove, which leaves often the perpetrators unpunished. This finding becomes particularly important in the context of the amendments to the Criminal Code, envisaging the criminal acts related with the psychological violence like “stalking” (only 6 offenders sentenced in 2013), “mistreatment of minors” (only 2 offenders sentenced in 2013), etc., and the small number of court cases involving these criminal offences, and the number of persons punished by the court.

328. In practice, people hesitate to report sexual violence, when such violence occurs among spouses, although this has, in more than a few cases, caused divorce. There are only very few cases of criminal proceedings against violent sexual relations between spouses or cohabitants. This is admitted even in the

189 Council of Europe Convention “On preventing and combating violence against women and domestic violence”, ratified by Law No. 104/2012;

190 Domestic violence is not included in the category of criminal offences foreseen by Article 59 of the Code of Criminal Procedures, whose criminal proceedings are initiated by a request of the injured accuser or the category of criminal offences investigated on the basis of the damaged person’s complaint according to Article 284 of the Code of Criminal Procedure.

191 Annual Report of the PA “On the activity of the PA, 1 January-31 December 2014”, p.12.

Fourth National Periodical Report on the implementation of CEDAW Convention. According to this report, “Regarding sexual violence, there is one recorded criminal charge for the commission of sexual relations by force between spouses or partners (2013)¹⁹²”.

329. The PA is very concerned about the number of women murdered by family members. The concern about the increasing number of women murdered by their family members was also expressed in the Fourth National Periodical Report on the implementation of CEDAW Convention, which referred to 17 such cases for 2013¹⁹³.
330. The PA has followed, at its own initiative, cases of domestic violence against women with disabilities¹⁹⁴. The PA raise the issue that the authorities responsible for implementing the legislation are not fully aware that disability represents a risk factor for women with disabilities in their family relations.
331. Responding to the reports of victims of domestic violence becomes particularly important, when the victims belong to vulnerable groups like women with

disabilities¹⁹⁵, or Roma and Egyptian women, etc. Complaints to the PA have shown that Police have sometimes failed to fulfill their legal obligations in responding to reports about domestic violence, taking measures for enabling forensic expertise for the victims, etc. The PA has also identified cases of Police officers and other actors trying to reconcile the victims with their perpetrators, which is in contradiction with the logic of the law on preventing and combating domestic violence.

332. “The process of compensating women, who have been subject to torture, sexual violence, or other forms of mistreatment, is vague in practice. Civil claims are very rarely used in criminal proceedings.
333. The PA has expressed its concerns and has made its recommendations about domestic violence, both through its annual and special reports. Thus, in July 2012, the PA produced and submitted to the Assembly of the RoA a special report “On violence against women, and the activity of the PA”.

Recommendations regarding the legal framework,

334. Review of the criminal legislation on domestic violence aiming its approximation with the Council of Europe Convention on preventing and combating violence against women and domestic

192 Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.21}.

193 Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.21}.

194 Thus, the PA has followed the case of M.D, a woman with disabilities, who has been subject to violence on the grounds of her family relations (August 2013).

195 This was the case no. 201302146, which was initiated ex officio by the PA based on the information provided in the print media. The PA carried out an administrative investigation and visited the place where the case occurred (commune of A, Lushnje), and found out that the citizen M.D., was a women with disabilities, who was mistreated by her father K.D. and brother E.D. who had tied up her hands and legs. Following this event, the victim reported it to the Police Commissariat of Lushnjë, where she was received by the police officer L.P, who did not evaluate her report, and did not request the court to issue a protection order. In addition, L.P. did not draft a decision for ensuring the forensic expertise of the victim. Instead, the police officer took the two alleged offenders in the Police Commissariat, and confronted them with the victim M.D., who, under the circumstances, gave a written statement, saying that “she had not been under any kind of pressure from her family, and that they had not exercised any violence against her”.

violence. Review of the legislation to ensure sufficient compensation for women who have been subject to serious body injuries or health injuries, by the state within a reasonable time. This requires a functional state compensation scheme, which would help the victims of domestic violence and other violent crimes to rehabilitate themselves.

335. Ensure the right of victims to compensation not only on the basis of civil or administrative law, but also on the basis of criminal law, as part of the sanctions provided for by the criminal law.
336. Amendments to the Code of Criminal Procedure to define the status of the victims of violent crimes, as well as their rights, including the right to information, the right to be represented in the court proceedings by a lawyer, and define the role of the authorities responsible for guaranteeing the rights of the victims in the spirit of the international standards ratified by the Albanian state. The recommendation on amendments to be made to the Code of Criminal Procedures No. 220, dated 12.08.2013 is sent to the Ministry of Justice, but such amendments are not yet approved. In this context, the right of the victims to be represented by a lawyer in criminal proceedings requires a special attention.
337. Introduction of legal obligations for informing victims of domestic violence, when the victim and their families are in danger, about cases when their perpetrator escapes or is temporarily or permanently released. Ensure information of the victims about the ongoing investigations and criminal proceedings by the law professionals.

Regarding the de facto situation

338. Police officers are recommended to pay attention to every single report of domestic violence in order to prevent its escalation.
339. More work should be done by the Police and the judicial system for implementing the latest amendments to the Criminal Code, identifying the offenders, and for

punishing them within as a short time as possible, ending impunity.

340. The use of civil claims in criminal proceedings requires a higher awareness among the justice professionals about the right of the victims of domestic violence to compensation, as well as about their rights to legal aid, etc.
341. Continuous training by the School of Magistrates for judges, prosecutors, and judicial police officers on the latest amendments to the Criminal Code, different forms of domestic violence like psychological, sexual, and other forms, as well as strengthening of a victim-oriented approach.
342. Ensure that the responsible actors who do not fulfill the obligations foreseen by Law No. 9669, dated 18.12.2006 “On measures against domestic violence” as amended, or commit discriminatory acts or inactions are made accountable.
343. Strengthening the role of the Assembly of Albania in addressing domestic violence through legal improvements, resolutions, etc. Timely discussion of the special reports produced by the PA with a view to publishing and using resolutions as a means for improving the efforts against this phenomenon.

In relation with other forms of violence against women

344. PA has also paid attention to other forms of gender-based violence like trafficking in human beings, which represents a phenomenon that has a disproportional impact on women. Commending the amendments to the legal framework and the role of various policies, the PA sent a recommendation on 17.02.2014 “On preparation and submission for approval to the Council of Ministers of an “New National Action Plan for Combating Trafficking in Human Beings” and the “Action Plan for Combating Trafficking in Children and for Protection of Children Victims of Trafficking”. Ensuring the rights of the victims of human trafficking in practice requires a strong commitment by the relevant actors. The approval of

the amendments to the Code of Criminal Procedures would strengthen a victim-oriented approach against this form of gender-based violence. Issues related with the access of the victims of trafficking in human beings regarding legal aid, economic benefits, and social services are addressed in this report.

E. ACCESS TO ECONOMIC BENEFITS AND SOCIAL SERVICES¹⁹⁶,

Article 13 of CEDAW convention, paragraph no. 37 of the closing remarks

1. Aspects of women's access to social aid and services. The legal situation.

345. The legislation on social aid and services improved during the reporting period, offering de jure more opportunities for increasing women's access to such benefits and services. Law No. 10 399, dated 17.3.2011, "On amendments to Law No. 9355, dated 10.3.2005, On social aid and services", as amended provides access to social aid and services also for the victims of trafficking from the moment they leave the social care institutions until they are employed, as well as for the victims of domestic violence during the time they are protected by a court PO/IPO ¹⁹⁷. The economic aid consists of 3000 (three thousand) Albanian lekë per month. The law gives also the right to both spouses in a divorce process to apply for economic aid, when they are still pending the final court decision. In this case, the economic aid is assigned in half to each spouse. The secondary legislation

issued for the implementation of this law has also introduced regulations which affect women. Decision no. 375, dated 11.06.2014, "On amendments to Decision No. 904, dated 12.12.2012 of the Council of Ministers, "On the eligibility criteria, procedures, and documentation required for benefiting economic aid in the pilot zones" gives women the right to apply for, and receive the economic aid for their families. Instruction No. 9, dated 23.6.2014 "On the implementation of CMD No. 904, dated 12.12.2012, "On the eligibility criteria, procedures, and documentation required for benefiting economic aid in the pilot zones", makes wives responsible for receiving the economic aid and contains also some simple procedures applicable to people in need, victims of trafficking in human beings and domestic violence. Thus, the victims of trafficking are required to present their individual birth certificate, a copy of their ID card, and a certificate that proves that they were treated by a social care institution, while victims of domestic violence are required to present not only their family certificate and a copy of their ID card, but also the court PO/IPO. CMD No. 505, dated 13.07.2011, "On approval of social care service standards for victims of domestic violence in residential, public and non-public, centers" introduced standards of service for the victims of domestic violence in order to improve the lives of the victims, putting the victims and their rights in the centre of such services.

346. Commending the conditioning of the economic aid distribution by community work, and the time limitation of the economic aid introduced by amendments to Law No 9355/2005, it is important for the provisions of this law to be implemented in practice.

347. Paying special attention to the rural areas, the PA has also recommended special programs to be developed in these areas, connecting the economic aid with the children's education, health care, etc. This recommendation was followed. Amendments made in 2014 to Law No. 9355, dated 10.03.2005, "On social aid and services", as amended, introduced additional subsidies for every child

196 This part addresses issues related with Article 4 of CEDAW Convention, and paragraph 37 of the Closing Remarks of CEDAW Committee on Albania in 2010, too.

197 Article 2 of Law No. 10 399, dated 17.3.2011 "On amendments to Law No. 9355, dated 10.3.2005 "On social aid and services", as amended.

that attends the mandatory education cycle, and for every child belonging to beneficiaries of economic aid that gets vaccinated.

348. The Social Service Reform in Albania is guided by the principle of equality and non-discrimination. Transformation from residential service to day care service, de-institutionalizing these services and new type of services are some novelties expected from this reform. The gender perspective was integrated in the process of drafting the Strategy for Social Inclusion 2015-2020.

2. De facto situation regarding aspects of women's access to social aid and services.

Regarding economic aid,

349. Regardless of the opportunities provided by the Law on Social Aid and Services (Law No. 9355, dated 10.3.2005) and the relevant secondary legislation, women heads of families have been excluded from the economic aid scheme in a number of cases. The pilot project for the distribution of the economic aid to the families in need electronically, applying a weighted formula, covered the cities of Tirana, Durrës, and Elbasan. The eligibility criteria, procedures, and the documentation required for benefiting economic aid in the pilot areas were determined by CMD No. 904, dated 12.12.2012¹⁹⁸. The implementation of this project was accompanied by some problems, which are reflected in submitted complaints. On 04.12.2014, about 250 complaints about exclusion from economic aid were registered. "The pilot project on economic aid turned out to have excluded heads of families living alone, and families with a small number of members from the social

aid scheme of benefits¹⁹⁹. The PA received 185 complaints (including 72 from women) in 2014 about rejection or termination of economic aid. The complaints were mostly about the amount of the economic aid, its termination, irregularities in the evaluation of the applications for economic aid (giving thus economic aid to illegible candidates), failure of the state institutions to provide economic aid in time, exclusion of the secluded families from the scheme, etc. The PA has contributed to solving such complaints through its recommendations for the local government and the State Social Service.

350. A good practice seems to have been established in some municipalities in relation to provision of economic aid to women victims of domestic violence under a court PO/IPO. The number of trafficked women, on the other hand, who have benefited economic aid, is limited. This is partially because of the mentality and prejudice about victims of trafficking exploited for sexual purposes. The PA notes that the economic aid available for women heads of families, victims of domestic violence, and victims of trafficking in human beings is not sufficient to meet their needs for rehabilitation.

351. Requests addressed to the PA show that the level of information that citizens, women included, have about the benefits from the legislation on economic aid is not sufficient.

Regarding disability payment for persons with disabilities, including women,

352. Complaints addressed to the PA show that there have been months of delays in giving people with disabilities, included women the disability payment to which they are entitled. Thus, in 2012, The PA reviewed 8 complaints from women and 65 in 2013. In 2014, out of 57 complaints about disability rights, 11 were submitted

198 Decision of the Council of Ministers No. 904, dated 12.12.2012, "On the criteria, procedures and documentation for benefiting economic aid in the pilot areas".

199 Comments and opinions of the PA on the Council of Europe's 2014 Progress Report for Albania, Tirana 2014, p.3. Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the PA on the 2014 Progress Report.

by women. Some of the complaints were about delays in payments given to the blind people. PA sent a recommendation (Recommendation 201204106/2, 2012) to the Ministry of Social Welfare and Youth and Ministry of Finances to ensure timely delivery of such payments. The PA recommended the ministries to allocate the necessary funds as soon as possible for paying people with disabilities. All the above complaints were solved with the allocation of the respective funds.

353. The PA has recommended through Recommendation No. 201300614/2, 2013 an immediate allocation of funds for subsidizing the electricity bills of persons with disabilities, including women, in the Municipality of Berat. This recommendation was sent to the Ministry of Social Welfare and Youth and to the Ministry of Finances, and it was followed, benefiting women with disabilities as well.

Bonus for childbirth

354. PA has received complaints from citizens, who have not received the Government's bonus for childbirth to which they were entitled, and contributed to solving those cases.

Regarding access to social care services

355. Although the law envisages to provide citizens, including women, with access to social services, the actual situation leaves to be desired in terms of the geographic distribution of such services, the level of access for women, women with disabilities, for trafficked women and victims of domestic violence to these services, and the extent to which victims of domestic violence benefit regardless of using the legal means.

356. PA has contributed to improving the standards of the National Reception Centre for the Victims of Trafficking in Linza by identifying the education needs of the beneficiaries, offering psychological services and full-time interpreters, as well as by giving recommendations for addressing the problems.

357. Allocation of a budget for social services at

the local level has been made possible only in some municipalities, including Shkodra, Korça, Vlora, etc., with the support of UN Women, UNDP, etc. However, the amount of money dedicated to gender issues by some municipal budget is limited. Regardless of the legal provisions, the budget for the social aid and services is mainly covered by the state budget. PA has drawn the attention of the local government units also to the sustainability of such services, especially in the context of their decentralization.

358. Although the National Strategy on Gender Equality and Reduction of Gender-Based Violence and Domestic Violence (2011-2015) provides for subcontracting NPOs for providing social services, the steps taken in this direction are not sufficient. Although this strategy has envisaged the improvement of the legislation of procurement and public financing to make possible contracting of services from the specialized NPOs during years 2011-2013, legal initiatives are necessary to be undertaken.

359. From the inspections conducted by the PA in the residential institutions on care and development of the persons with disabilities, elderly people, etc., it has resulted that the living conditions leave to be desired, there is a lack of funds for investments, and lack of human resources. Recommendations are sent by the PA to mayors and the State Social Service regarding all inspected residential institutions.

3. Recommendations regarding social aid and services

Regarding economic aid and disability payment,

360. Review of the weighted formula used for identifying the applicants eligible for economic aid in the pilot areas, and a thorough analysis of the application form and the questions it contains. Re-evaluation of all cases of families excluded

from the economic aid scheme²⁰⁰ is recommended. This recommendation was sent to the MSWY, and this ministry had stated that it would commit itself to reviewing the coefficients used with a view to including as a large group of vulnerable groups as possible, including women²⁰¹. The fulfillment of these recommendations would bring positive effects on women, especially women heads of families.

361. Review of the amount of economic aid is recommended. In the case of the victims of domestic violence and victims of trafficking in human beings, the amount of economic aid needs to serve realistically the rehabilitation of them.
362. Provision of programs by the local government units for involving economic aid beneficiaries in community services in order to increase their incomes, and empower women beneficiaries.
363. Timely delivery of economic aid and disability payment to people with disabilities, including women, by the local government units.

Regarding access to social care services

364. Being aware of the role that local government may play in terms of provision of social services, PA also recommends that social services are developed and offered in compliance with standards monitored and assessed in cooperation with the State Social Service. Such monitoring should be beneficiary and gender oriented. Social services should be distributed and designed in accordance with the needs of women, including vulnerable women.

365. It is recommended that services in the residential institutions are improved through improvement of the conditions and additional personnel, including care takers, psychologists, and social workers.

366. Increased number of public, and non-public, social service providers at the local level, in order to meet the needs of women, especially the marginalized women.
367. Strengthening of cooperation between the state and the non-profitable organizations in providing social services to the citizens, including women. The Law on Public Procurement needs to be completed and interpreted through amendments or secondary legislation so that it may provide for a special procedure in cases of social services²⁰². Improvements are also needed to be made to the Law on Public Procurement to enable contracting non-profitable organizations for providing social services at the local level, particularly for vulnerable groups.

368. Measures should to be taken for implementing Law No. 125/2013, "On concessionary agreements and public-private partnership" in order for local government to develop public procurement procedures for social services.

369. Provision of women victims of violence and victims of trafficking, who leave the social care institutions with employment opportunities in order to enable their economic empowerment. This requires a good combination of the passive schemes with active employment schemes for vulnerable groups like trafficked women, women victims of domestic violence, etc.

200 PA comments and opinions for the CE Progress Report on Albania for 2014, Tirana 2014, p.3. Minutes of the meeting of the Parliamentary Committee on Legal Affairs, Public Administration, and Human Rights, held on 12.11.2014, hearing session with the PA on 2014 Progress Report.

201 Recommendation No. K1/V12-4, Doc. No. 201401869/4, dated 4.12.2014, "Recommendation on concrete measures for improving the weighted formula used for evaluating the eligibility criteria for economic aid", addressed to the Minister of Social Welfare and Youth, Mr. Erion Veliaj. <http://www.avokatipopullit.gov.al/sites/default/files/ctools/css/REKOMANDIMI%20per%20ndihmen%20ekonomike.pdf>

4. Regarding access to bank loans, collateral loans, and other forms of bank credits

202 CLI Report, "Analysis of the legal framework on subcontracting of NPOs by the central and local government for providing services related with domestic violence". This reports is available at www.qag-al.org

370. Regarding access to bank loans and other forms of financial credits, it should be noted that there is no specific clause favoring women in the Albanian bank legislation, including the regulatory acts of the Bank of Albania, or the Manuals and Regulations on second-level bank loans. However, there are no legal, regulatory, or technical clauses that would be an obstacle for women either.”²⁰³
371. There are no effective measures in favor of facilitating loans for women, rural women, women with disabilities in particular, etc.
372. The positive measures that may include special micro credit programs or partnerships with financial institutions, which are ready to give loans to women, are limited, and the number of women beneficiaries continues to be small.
373. Reports of non-profitable organizations show that women are not well informed about their rights to financial credits, or about their obligation in relations to the credit guarantees.
374. The Fourth National Periodical Report on the implementation of CEDAW Convention also admits that “Limited access to credit and lack of collateral, such as in the cases where women are either not registered as co-proprietors or are joint owners of collateral with men, stand in the way of women’s right to starting a business”²⁰⁴.

Recommendations

375. Effective special measures need to be taken for increasing women’s access to bank loans as a mean of ensuring their economic independence through starting their own business and empowering themselves economically. Increasing of women’s level of information on these rights is recommended.

203 A. Mandro, “Women’s property rights, the case of Albania”, Tirana 2013, p.89. Prepared with the technical and financial support of UN Women in cooperation with the Ministry of Social Welfare and Youth and the Ministry of Justice.

204 Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.44).

5. The legal and actual situation regarding property rights and registration of immovable property.

(Article 13 of CEDAW Convention, paragraph 36 and 37 of the Closing Remarks of the CEDAW Committee)

376. In terms of the legal framework, PA notes that there are still gaps in the Family Code regarding equal rights and obligations of cohabitants.
377. In terms of policies, the PA commends the development of a new strategy on property, “Property rights Reform, 2012-2020”.
378. In terms of the de facto situation, although the Civil Code (CC) and the Code of Civil Procedures (CCP) do recognize women’s equal property rights with men, their implementation in practice has not led to equal results.
379. Men are less active than women in filing lawsuits for the division of properties, as they already enjoy their property de facto, and have no ‘interest’ in the court division of such properties. Most of the court decisions on division of property, where women are the claimants, are suspended. Monitoring of Tirana Judicial District Court showed that it was 70% of such decisions suspended in this court. Withdrawing from the court proceedings in order for the court case to be suspended is certainly a right recognized by law, but the high number of women, who do this, seems to come as a result of some other social and economic factors, as well as from the poor understanding of the law²⁰⁵.
380. The level of understanding by women of the Civil Code (CC), Family Code (FC), property regimes, and legal means available to enjoy property rights is not sufficient.
381. A World Bank Study showed that out of 27.741 women owners, 9418 of them own

205 http://www.qag-al.org/WEB/publikime/raporti_shqip.pdf p.46.

less than 25 % of the property²⁰⁶.

382. Practices related with property heritage include cases when women's rights as co-owners have not been respected regarding property gained during marriage. This has in turn influenced the way property was divided among other heirs violating the rights of women as spouse²⁰⁷. The division of inherited property in practice starts without first deducting the ½ that belongs to the outliving spouse as part of his/her marital co-ownership. Regardless of the increasing number of women inheriting property reported in the State Report, such problems are still faced in practice. Regarding co-ownership gained by law, women often withdraw from the ownership right to which they are entitled. "This happens because of the culture, but it may also happen because women might be deceived, intimidated, or even subject to violence from the male co-owners"²⁰⁸.
383. There is no monitoring of the implementation of Law No. 33/2012, "On registration of immovable property", and the effects it has had on women. Article 41 of this law "Registration of co-owned immovable property" regulated spousal co-ownership, providing that "If a property, which is subject to a property transfer contract made in favor of natural persons, who, in the civil register, have the status of 'married persons', is a property gained during marriage, as defined under Article 76 of the Family Code, such property shall be registered as co-owned by both spouses". Although this legal provision obliges clearly the Immoveable Property Registration Office (IPRO) to register

husbands as assumed co-owners in cases of property gained during marriage, there is no unified practice among IPROs in implementing this provision.

384. Women and wives are often taken as guarantors for signing loan agreements or certificates of guarantee for the bank when taking loans²⁰⁹. Practice, however, has shown that women are not always aware of the liabilities they have to face in these cases if their husbands fail to repay the loans.
385. "Property rights Reform, 2012-2020" asks respecting of gender equality on issuing decisions on property rights, but the progress in this aspect continues to be slow.
386. PA has raised its concern about the failure of the state bodies to execute court decisions related with property rights, when such rights are given, recognized, or even suspended by the court. Such practice has negative effects also on women.

Registration of legalization permissions

387. The practices followed by ALUIZNI and the preparation of the application files in the name of men heads of families, and not on the family certificates, exclude women from the process and affects them. A World Bank report confirms very low daily application during 2013 for the registration of legalization permit by female applicants. The main reason for this might be the very low number of legalization permits that have been issued on the name of women and girls, which prove the gender negative impact of the implementation of legalization Law and the need for improvement.²¹⁰
388. PA has received a number of complaints about procrastination of legalization for years. This process is closely related with a series of other very important processes

206 Gender disaggregated data-Western Balkans, Statistical Reports 2005-2013, p. 60. http://www.fao.org/fileadmin/user_upload/nr/land_tenure/Genders_Report_WB.pdf

207 A.Mandro, "Women's property rights, the case of Albania", Tirana 2013, p. 64. Prepared with the technical and financial support of UN Women in cooperation with the Ministry of Social Welfare and Youth and the Ministry of Justice.

208 CLCI, "Property rights and women", Informative Brochure, Tirana 2014, p. 10. This brochure is prepared by the Centre for Legal and Civil Initiatives with the financial and technical support of UN Women in the framework of the Cooperation Program between the Government of Albania and the United Nations 2012-2016.

209 CLCI, "Property rights and women", Informative Brochure, Tirana 2014, p. 20.

210 Gender disaggregated data-Western Balkans, Statistical Reports 2005-2013, p.70. http://www.fao.org/fileadmin/user_upload/nr/land_tenure/Genders_Report_WB.pdf

like the restitution and compensation of property to former owners, the registration of immovable property, urban planning, etc. Thus, any delays in the legalization process delays the entire chain of other processes related with it²¹¹. Such practice has had an influence on the registration of women's property, division of property in case of divorce, etc. PA has recommended "A legislative initiative for improving the provisions of Law No. 9482, dated 3.04.2006 "On legalization, urbanization, and integration of illegal buildings", as amended, in order to set a clear deadline for all the administrative proceedings related with the decision-making on the legalization of informal buildings, or informal extensions to existing buildings". There has been no response to this recommendation.

389. PA is of the opinion that the procedures for the legalization of informal buildings, and their urbanization and integration, are too complex, especially for women in need.

5.1. Recommendations regarding women's property rights

390. Cross-Sectorial Strategy, Property rights Reform 2012-2020 has defined that, "There is a need for improving the legislation, increasing women's access to institutions responsible for ensuring the enforcement of property rights, monitoring the implementation of the law, training central and local staff dealing with property rights, and for organizing awareness raising campaigns for promoting women's rights. These measures need to be planned in line with the National Strategy for Gender Equality and Reduction of Gender-Based Violence and Domestic Violence, and its Action Plan²¹².

211 Legislative recommendation on improving the provisions of Law No.9482, dated 3.04.2006 "On legalization, urbanization, and integration of the illegal buildings", as amended, No.K3/Th16-2 dated 19.11.2014, (Doc.201401933/2), addressed to the Minister of Urban Development and Tourism, Ms. Eglantina Gjermeni, and to the General Director of the Agency of Legalization, Urbanization, and Integration of Informal Zones/Buildings, Mr. Artan Lame.

212 Cross-Sectorial Strategy, Property rights Reform 2012-2020. <http://www.drejtesia.gov.al/>, p.25.

391. Strengthening of capacities. There is a need for training the staff of the local Immovable Property Registration Offices, so that they have a good and unified understanding of Article 41/2 of Law No. 33/2012, "On registration of immovable property", which regulates spousal co-ownership.

392. Awareness rising. Women need to be provided with more information about the provisions of the Family Code on ownership during marriage, divorce, and cohabitation. NPOs need to strengthen their role in this aspect.

393. Provision of more information for women in rural areas about fiscal facilities and supportive ranking criteria for women-led agricultural enterprises.

394. Strengthening of the role of the notary offices in informing women about their property rights in cases of marriage and cohabitation.

395. Acceleration and simplification of procedures for the legalization, urbanization, and integration of informal buildings in order for women, especially vulnerable women to have access to such procedures.

396. Unification of ALUIZNI practices, so that the application files are prepared on the basis of the applicant's family certificate, and not on the applicant's personal certificate of birth (with applicant's being men/heads of the families in most of the cases).

6. Regarding women and housing

397. PA received 119 complaints about housing during October 2013 - October 2014²¹³. In 2014, PA received 159 complaints about housing, including 50 from women. The complaints are mostly about delays in

213 Comments and opinions of the PA on the Council of Europe's 2014 Progress Report for Albania, Tirana 2014, p.4. Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the PA on the 2014 Progress Report.

the evaluation of applications for benefits from social programs, lack of transparency, etc. Most of the women complainants are heads of families/single mothers.

398. The housing criteria are difficult for most of the homeless families to meet, especially for Roma families, including women.
399. Some of the families, who have already benefited from the social programs, are faced with the risk of being moved out of their homes, because they could not afford paying their installments. Thus, PA followed with concern the case of some Roma families in Korça, which were at risk of being moved out of their homes for not meeting their contractual obligations. In cooperation with the General Directorate of the National Housing Authority in Tirana, it was decided to review the loan contract terms for those families, which could not afford their monthly installments, extending the payment term, and decreasing the installments and portion of installments to be paid per month. In addition, PA recommended employment opportunities to be provided to members of homeless families as a matter of priority.
400. Regardless they are foreseen as beneficiary subjects in the law 54/2012²¹⁴, women and girls who survive different forms of gender-based violence and domestic violence face housing problems.

6.1. Recommendations regarding women and housing,

401. Central and local government should cooperate and coordinate their actions in order to introduce more social housing programs²¹⁵. This would in turn increase the number of beneficiaries, including women.

214 Law No. 54/2012 amending Law “On Social Programmes for Housing Inhabitants in Urban Areas”.

215 Comments and opinions of the PA on the Council of Europe’s 2014 Progress Report for Albania, Tirana 2014, p.5-6. Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the PA on the 2014 Progress Report.

402. Special attention should be paid to special cases and vulnerable groups like people with disabilities, including women.

403. Enabling women and girls who have been victims of different forms of gender-based violence and domestic violence to benefit from the social housing programs would help with their re-integration.

404. Measures should be taken for ensuring functional temporary housing alternatives for vulnerable groups.

7. Women’s entrepreneurship

405. The Action Plan for supporting women entrepreneurs 2014-2020, as a follow up of the Business and Investment Strategy 2014-2020, aims at guaranteeing support policies for women entrepreneurs, raise their capacities, integrate them in financial support schemes, and for women entrepreneurs in rural areas, etc.

406. The creation of a fund in 2014, for supporting women entrepreneurs of 26 500 000 lekë for a four-year period, represents an important step on economic empowerment of women, through subsidizing the norms of interests of loans for micro, small and medium enterprises, which are directed by women as owners or administrators.

7.1.Recommendations

407. Regardless of the efforts made, there is still a lot to be done to enable and increasing the number of women to benefit from various initiatives in practice. Even the Fourth National Periodical Report on the implementation of CEDAW Convention recalls that in 2013, the Innovation Fund approved 7 projects, none of which run by a female.²¹⁶

408. Initiatives that effectively strengthen the enterprises directed or administered

216 Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.43].

by women should be taken. Regular monitoring of the effects of the fund on women entrepreneurs are recommended.

F. GENDER BUDGETING.

Steps taken in terms of legislation and its implementation. article 3

PA notes that “Gender mainstreaming should be part of the social, economic, and political policies in Albania in order to have a sustainable development by fully exploiting the country’s human potential and by ensuring the enjoyment of such achievements by all social groups²¹⁷”.

At the central level

409. CMD No. 465, dated 18.7.2012 “On gender mainstreaming in the mid-term budget program” represents an important step towards gender budgeting. This decision requires now all the line institutions, starting from 2013, to apply gender budgeting, and introduce measurable gender indicators in their budgets, aiming at ensuring a gender perspective in the existing budgeting process. The decision aims, among others, to harmonize gender budgeting with the National Strategy for gender equality and reduction of gender-based violence and domestic violence 2011-2015. “Implementation of CMD No. 465/16.7.2012 “On Gender Mainstreaming in Medium-term Budgeting” was piloted by two ministries in 2013 and eight ministries in 2014 (nine budgeting lines)”²¹⁸.

410. Instruction No. 21, dated 21.06.2013 “On setting the procedures for gender mainstreaming in the mid-term budgeting program” describes clear procedures for preparing the Mid-Term Budgeting Program 2014-2016 for purposes of ensuring the implementation of Council of Ministers Decision No. 465, dated 18.07.2012 “On

gender mainstreaming in the Mid-Term Budgeting Program”. This instruction requires all the line ministries to select those budgeting programs, where gender budgeting shall be applied, based on the objectives of the National Strategy “On Gender Equality and Reduction of Gender-Based Violence and Domestic Violence, 2011-2015”. All the line ministries include gender equality in the criteria introduced for the competitive grants submitted by the local government. According to this instruction, the Secretariat of the Fund for Regional Development (DEBASKON) under the Council of Ministers, takes into consideration the integration of the gender perspective when assessing and approving project proposals presented to the Secretariat by the respective secretariats of the line ministries.

411. The gender budgeting capacities of the specialists involved in budget planning and gender focal points in ministries have increased through training. In 2012, training was delivered to 248 participants (165 women and 83 men) involved in the development of financial and gender equality policies and programs both at the central level (65 participants in total: 59 women and 6 men) and local level (183 participants: 106 women and 77 men)²¹⁹.

412. Not all the line ministries and local government units have appointed full time gender equality employees. According to the Fourth National Periodical Report on the implementation of CEDAW Convention, “By September 2013 only three out of 15 central ministries had a dedicated gender officer in their structures, while the rest only had GE focal points.”²²⁰.

At the local level

413. Gender budgeting experience at the local level had identified the need for raising the

217 PA, Special Report No. 208, dated 24.07.2012, “On violence against women and the activity of the PA”, July 2012, p. 36.

218 Fourth National Periodical Report on the implementation of the CEDAW Convention, approved by CMD No.806, dated 26.11.2014. Official Gazette of RoA no.187/2014.

219 UN Women Report on Gender Budgeting, 2012. UN Women reports for cooperation with the Government in the framework of the UN-Albanian Government Cooperation Program 2012-2016.

220 Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.13}.

capacities of local authorities to ensure the application of gender budgeting. An analysis of the sectorial strategies from the gender perspective would identify the needs for women's and men's rights in the various sectors of the economy and society to be ensured²²¹.

414. Gender budgeting and planning was applied in the municipalities of Tirana, Vlorë, and Shkodër²²² in 2013.
415. Gender-oriented policies and action plans have also been developed in the municipalities of Korçë, Burrel, and Fier²²³ and other municipalities during 2013-2014, integrating gender equality, or including specific policies and action plans on gender equality.
416. According to the Fourth National Periodical Report on the implementation of CEDAW Convention, "At the local level, out of 65 municipalities, 18 have dedicated GE offices and full-time gender officers, while 47 municipalities have GE focal points²²⁴".

Recommendations

417. Gender equality mechanisms should be established and strengthened both at the central and local level, and full time gender employees should be appointed both at the ministries, and at the local level. Fulfillment of this recommendation would secure gender integration in policies, budgets, etc.
418. Measures are recommended to secure the sustainability of gender employees and strengthening of their capacities in both levels.

221 PA, Special Report No. 208, dated 24.07.2012, "On violence against women and the activity of the PA", July 2012, p. 19.

222 UN Women has continuously contributed to this process.

223 These policies and action plans are prepared with the support of the UN Development Program and other UN agencies.

224 Consideration of reports submitted by state parties under article 18 of the Convention, Fourth Periodic Report Albania, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ALB/CEDAW_C_ALB_4_7078_E.pdf, p.13}.

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Complaints

- Complaint by F.T, (2013)
- Complaint by D.N., regarding the right to

meet with the children. (2013)

- Complainant V.T. (2013)
- Complaint by Roma citizen M.K. Doc No. 201302695/10, K1/M65-10, dated 15/05/2014.
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- Complaint by Zh.P, Doc. No. 201400928/4, 2014.
- The case of M.D, a woman with disabilities, who has been subject to violence on the grounds of her family relations (August 2013).

Interviews

- Interview with citizen R.G.
- Interview with representative of the Regional Office Pogradec, E.R., published in "People's Advocate", Periodical Publication of the People's Advocate No. 1, November 2014, p.23.