

State of the Rule of Law in Europe in 2022



Reports from National Human Rights Institutions

Albania



Albania

People's Advocate Institution of the Republic of Albania

Impact of 2021 rule of law reporting

Follow-up by State authorities

The 2021 ENNHRI rule of law report has been well received and has been used by the NHRI as a synthetic source of information regarding common issues and diverse initiatives taken by the Albanian People's Advocate (PA) along with other NHRIs to promote and protect human rights on respective countries. As a result of the strong NHRI's advocacy for ensuring adequate budget in 2021, for the first time after several problematic years, the NHRI's financial resources for 2022 were increased by the Parliament. Furthermore, following the Declaration of the Committee of Ministers of the Council of Europe "Action to improve the protection of human rights defenders and promote their activities", the 2021 ENNHRI rule of law report, and the Resolution of the Albanian Parliament "For the recognition and support of the activity of human rights defenders in the promotion, and protection of human rights and fundamental freedoms, the strengthening of the rule of law and the consolidation of democracy", the People's Advocate Institution was granted by the Parliament an extra position to serve as focal point of the institution on challenges affecting human rights defenders (HRDs), starting beginning of 2022.

Impact on the Institution's work

The 2021 ENNHRI Rule of Law Report has provided a fruitful overview of the rule of law situation in Europe, which the PA has benefited from in several fields of its work. The report not only offers a comprehensive and informed assessment of the challenges facing human rights, rule of law and democracy in each country, but also has highlighted some of the pressing issues that require proper addressing as they are related directly to the NHRIs' mandate: to be in the front line for the protection and promotion of citizen rights and for enhancing an open and accountable government.

More specifically, the report highlights the issue of the level of implementation of the PA recommendations, stating that in several cases the institution's recommendations are not taken into consideration or public bodies do not respond or they respond beyond the legal deadlines. To address this issue, the People's Advocate has been involved in several initiatives with state authorities and civil society organisations (CSOs).

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Follow-up initiatives by the Institution

The People's Advocate has shared the 2021 rule of law report with her Commissioners as well with staff of regional offices, and has organised a meeting specifically aiming at reflecting on its possible use to feed the institutional short and midterm planning. Several best practices highlighted in the report were also included in the institution's strategy 2023-2027, which is currently being drafted.

In addition, the PA has sent in the report to the relevant state authorities and has made it a subject of discussion in several official meetings and joint public activities. The PA has also distributed the report through its online channels in order to raise public awareness on rule of law. References to the 2021 ENNHRI rule of law report were made at the Annual conference of the PA and will also be included on the occasion of the presentation to the Albanian Parliament of the PA Annual Report 2021.

As result of the advocacy dedicated to strengthening the PA's position in line with the recommendations issued, the government bodies actively supported the procedures for the PA to be part of the twinning project "Support to the Office of the People's Advocate and promotion of human rights in Albania". This project has three components, one of which is directly related to a better oversight and visibility mechanisms for the implementation of the People's Advocate recommendations. The project aims to strengthen the role and position of the PA as well as its cooperation with national stakeholders by organising different activities such as roundtables. The selection phases of the project are still in process. The project is foreseen to start in June 2022.

Independence and effectiveness of the NHRI

International accreditation status and SCA recommendations

The People's Advocate of Albania was last re-accredited with A-status in December 2020 (1).

The SCA recognised that the People's Advocate interprets its human rights mandate broadly. At the same time, it encouraged the NHRI to advocate for a broader mandate that includes the ability to address all human rights violations resulting from the acts and omissions of private entities.

During the session, the People's Advocate reported that its level of funding was insufficient to meet its human resources needs, including retaining staff in its regional office. The SCA encouraged the NHRI to continue to advocate for adequate funding, including to ensure full-time staff in its regional offices.

Finally, the SCA noted that its enabling law does not explicitly mandate the People's Advocate to encourage ratification or accession to international human rights instruments. While it acknowledged the NHRI interprets its mandate broadly, the SCA encouraged the People's Advocate to advocate for the appropriate amendments to its enabling law in this regard.

References

- (1) <https://www.ohchr.org/Documents/Countries/NHRI/GANHRI/SCA%20Report%20December%202020%20-%2024012021%20-%20En.pdf>

Regulatory framework

The national regulatory framework applicable to the People's Advocate has not changed since last year. The Albanian NHRI continues to function on a constitutional basis. The People's Advocate has the mandate to contribute to access to justice for individuals, including through complaints handling, providing legal assistance to individuals and awareness-raising. Furthermore, the People's Advocate can file a motion the Constitutional Court to review any law's constitutionality. The People's Advocate can also participate in judicial proceedings in the form of Amicus Curiae interventions, although the legal basis in force needs improvement.

The Albanian NHRI believes that its regulatory framework should be further strengthened. The legal framework that supports the activity of the People's Advocate institution needs revision and improvement in order to: ensure the implementation of the NHRI's recommendations and to make it a legal obligation for relevant authorities to provide not

only a timely, but also a reasoned reply; to provide NHRI's sufficient human and financial resources; as well as to broaden its mandate's scope to allow the Institution to address all human rights violations resulting from the acts and omissions of private entities.

References

- <https://ganhri.org/wp-content/uploads/2021/01/SCA-Report-December-2020-24012021-En.pdf>

Enabling and safe space

Awareness of the NHRI's role and mandate

According to the OECD 2021 monitoring report on Albania, the People's Advocate stands out among oversight bodies as the most trusted and most effective controller of the executive power, widely perceived as independent from political influence.

The Albanian NHRI reflects that the relevant state authorities still do not have sufficient awareness of the NHRIs' mandate, independence and its role. Despite 20 years of institutional activity, the People's advocate has identified lack of proper awareness regarding the PA mandate and international instruments such as the Paris Principles, in some levels of state authorities, including members of the Parliament.

NHRIs' role and involvement in law- and policy-making processes

The Albanian NHRI raises concerns over the lack of satisfactory and adequate access to information and to policy makers. Furthermore, the PA also regrets that it is not sufficiently involved in all stages of legislation and policy making with human rights implications.

There is, in particular, a total lack of involvement of the PA in the process of consultation or approval of draft laws by the Council of Ministers. On a positive note, however, the PA observes a growing tendency for the Institution to be involved in the legislative process with the line Ministries and the Parliament. This is the result of the continuous proactive engagement on the side of the PA in submitting opinions and suggestions on draft laws. However, the tight deadlines for providing the opinions, which adds up to the PA's limited capacities to exercise this role, often constitutes a challenge.

More specifically, the involvement of the People's Advocate with the Albanian Parliament has mostly concerned the evaluation phase of the content of draft laws with a potential impact on human rights by the Parliamentary Committees. An important element in this regard is the organisation of public hearings with the People's Advocate.

As regards the phase of promulgation and publication of laws already approved by the Parliament, it is to be noted that laws approved by the Parliament are promulgated by the

President of the Republic within 20 days. After the promulgation by the President of the Republic, the law is published in the Official Gazette. Even at this stage of the process, the People's Advocate can maintain a proactive approach, especially referring to the constitutional deadline for the promulgation of the law by the President of the Republic. At this stage, acting upon the President's request the PA may address an expert advice to the President of the Republic, in order to inform the assessment carried out by the President of the Republic prior to the law's promulgation.

The People's Advocate engagement during the legislative process entitles the People's Advocate to address – without any additional conditions - a request to the Constitutional Court of the Republic of Albania, for a declaration of partial or complete incompatibility of the law with the Constitution.

Implementation of NHRI's recommendations

The public institutions are explicitly obliged to provide a timely reply to the PA's inquiries. The level of cooperation between state administration bodies and the institution of the People's Advocate in the context of its inquiries was worryingly inadequate during 2021. This has led to delays of the interventions undertaken by PA and hindered the Institution in fulfilling some of its legal and constitutional obligations towards citizens – namely handling complaints in due time to ensure relevant support to individuals (for example, in cases concerning violence at police stations). By not replying in a timely and exhaustive manner within a reasonable time to its requests and recommendations, public administration bodies (mainly local governmental bodies) caused difficulties in the administrative investigation of citizens' complaints. The authorities' failure to provide reasoned and exhaustive responses to the PA's inquiries caused delays and impacted the PA's obligation and ability to conduct a thorough investigation, to reply to the citizens, to identify the responsibility within the public bodies for their unlawful actions, etc.

The PA also regrets an unsatisfactory implementation of its recommendations. During the period January – December 2021, the institution of the People's Advocate has addressed 1268 specific recommendations in a total of 265 proposals. For all these recommendations, the administrative deadlines for providing a reply from the public institutions passed without a reply being provided by the relevant authority. According to the latest PA's report submitted to the Parliament in the topic of the implementation of the NHRI's recommendations, until 10.02.2022 the level of implementation of the recommendations results as follows: 17% of recommendations accepted and fully implemented; 34% recommendations accepted but partially implemented; 19% recommendations accepted but not implemented; 9% rejected recommendations; 22% recommendations without answer.

With its Decisions no. 49/2017 "On the establishment of the mechanism for systematic monitoring of the follow-up and implementation of the recommendations of independent constitutional institutions and those established by law", and no. 134/2018 "On the approval of the annual and periodic monitoring manual", the Parliament of Albania established mechanisms for the systematic monitoring of the follow-up and implementation of the recommendations of independent institutions. However, the establishment of this mechanisms has not yet led to concrete progress. This mechanism needs to play a more active role in addressing shortcomings in the level of implementation the NHRI's recommendations through the promotion of a transparent system and a more efficient evaluation of the implementation of the recommendations of independent institutions for the executive and subordinate bodies. An in-depth assessment of the effectiveness or efficiency of this mechanism and its real impact on increasing the level of implementation of recommendations is also needed. Further improvements are essential to make the mechanism more functional to enable the effective implementation of existing legislation and its improvement in areas related to human rights.

Protection of the NHRI's Head of Institution and its staff from threats and harassment

When it comes to ensuring the independence and protection of the NHRI against threats, the measures necessary to protect and support the NHRI, heads of institution and staff against harassment and any other forms of intimidation (including SLAPP actions) are in place, namely immunity guaranteed by the Constitution and Organic Law.

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- <https://www.parlament.al/Files/Projekte/vendim-nr.-49-dt.-20.4.2017-3.pdf>
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Developments relevant for the independent and effective fulfilment of the NHRIs' mandate

The People's Advocate has broadly interpreted its mandate, according to the Paris Principles General Observations, regarding in particular its competence to assess proposals for the ratification of international instruments. The PA has considered this competence to be part of the Albanian NHRI's mandate as promoter of the highest human rights standards in the country. For instance, the People's Advocate continued to address the requests to the relevant state authorities to change and improve national legislation, by adding the legal criteria foreseen by the binding legislation to ensure protection against discrimination, or by ratifying the European Charter for Regional or Minority Languages. These PA's efforts were formalized in 2019 when a recommendation was submitted to the

Albanian Parliament and the Government for the ratification process of the European Charter for Regional or Minority Languages.

As regards the PA's resources, the budget for the year 2022 was finally increased for the first time after several problematic years, as a result of the strong lobbying and advocacy efforts carried out by the PA during 2021 to be secured with adequate funding.

References

- <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20December%202020%20-%2024012021%20-%20En.pdf>

NHRI's recommendations to national and regional authorities

The PA recommends the relevant authorities to:

- Improve the human rights catalogue of the Albanian Constitution, in order to reflect the broad catalogue of the EU Charter of Fundamental Rights, including the right to good administration.
- Ensure direct engagement and necessary participation of the People's Advocate in the discussions on issues related to the rights of communities, developed by local self-government bodies.
- Increase institutional accountability regarding the implementation of the recommendations of the People's Advocate.
- Improve transparency and effectiveness of the mechanisms for systematic monitoring of the follow-up and implementation of the recommendations of independent institutions.
- Explicitly broaden the NHRI mandate in order to include the ability to address all human rights violations resulting from the acts and omissions of private entities, accompanied by relevant review of staffing and budgeting.
- Ensure implementation of NHRI recommendations and making it a legal obligation to provide not only a timely, but also a reasoned reply.
- Ensure NHRI's sufficient human and financial resources.

Human rights defenders and civil society space

Laws and practices negatively impacting on civil society space and/or on human rights defenders' activities

The Freedom House Report 2021 reports that civil society rating declined from 5.00 to 4.75, specifically pointing to episodes of disproportionate use of force as well as of violence by security services towards protesters in May 2020, during the contentious demolition of the National Theatre in Tirana, and in December 2020, after a citizen was fatally shot by police for violating a COVID-19 curfew order (1).

The PA monitoring work confirms that the situation of human rights defenders, civil society organisations (CSOs) and civil society space in Albania has remained worrying in 2021. The PA observes that the government took advantage of the pandemic to suppress civil society actions, restrict civil liberties, and pursue questionable legal initiatives that affected non-governmental organizations (NGOs), without consulting civil society actors. The government has showed a generally hostile attitude towards citizens' activism, witnessed in the raids and demolition of the National Theatre building in Tirana and the excessive use of force against protesters on several occasions. Restrictions posed in response to the COVID-19 pandemic seriously curtailed the general civic space and citizens' rights. As explained later in this country report, several attempts - justified as supposedly necessary measures to curb the spread of COVID-19 - were made to limit the freedom of association, freedom of assembly, freedom of expression or access to information. In particular, the right to assembly in Albania was violated to a great extent (for example, due to state authorities' refusal to authorise assemblies). However, several protests have been held anyway, which in the opinion of state authorities were considered unlawful. The year ended with a wave of protests against police brutality that led to the resignation of the Minister of the Interior.

Moreover, on 24th June 2021, the Albanian Parliament adopted the law "On the Registration of Non-profit Organisations" (2). Whereas the initiative was undertaken in response to recommendations of the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), the law was adopted without taking into account the evidence based advice provided by CSOs and their recommendations, aimed at avoiding a disproportionate impact of the new rules on their work. The law imposes the obligatory registration of all CSOs – contrary to the international standards on freedom of association, and utterly violates freedom of association, the principle of legal clarity, and that of proportionality of coercive measures.

The financial landscape for CSOs also remains very challenging. The implementation of the Law on Social Enterprises has proved impossible in practice. There is yet no evidence of successful VAT refund with regard to the implementation of the instruction on VAT reimbursement for CSO beneficiaries of EU funding and other donor grants. Tax incentives for corporate donations do not promote donations to CSOs and there are no tax incentives for individual donations.

The public funds to support the activity of CSOs are insufficient, especially for small and local CSOs which lack capacities to apply and compete for foreign donors' grants. The criteria to benefit from the Fund are unclear. The process of selecting partner CSOs is not transparent and is organised without CSOs consultation. Often, services consolidated over the years thanks to donor support are not selected and risk to shut down.

References

- (1) https://freedomhouse.org/country/albania/nations-transit/2021#footnote1_819unu1
For further info: https://www.balkanccd.net/novo/wp-content/uploads/2021/07/94-5-Regional-Monitoring-Matrix-Report-2020_FINAL.pdf
- (2) <https://exit.al/en/2021/06/24/albanian-parliament-passes-new-ngo-law/>

Access to and involvement of civil society actors in law and policy making

The inadequate implementation of the law "On the right to information" and the law "On public consultation" poses serious obstacles to CSOs' work. Many of the institutions' consultation processes are fictitious, and do not genuinely lead to CSOs' opinions on draft laws or policies being reflected in the law and policy making process (as it has been the case, for example, in relation to the above mentioned law on the registration of CSOs). The prolonged time of the adoption of legal acts (and approval of sublegal acts) causes ambiguity, affects negatively and hinders the activity of CSOs (i.e. as examples concerning the Law on Volunteering, Youth, Social Enterprises show).

The Law on the National Council has not been amended to reflect changes in ministerial cabinet and representation in the Council, and to improve its functioning. The National Council for Civil Society is poorly operational, significantly lacks communication with CSOs throughout the country and does not play the proper advisory role for an enabling environment for the CSOs in relations with institutions.

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- https://resourcecentre.al/wp-content/uploads/2021/07/MM-Albania-Country-Report-2020_FINAL.pdf

Threats and attacks, including strategic litigation against public participation (SLAPPs)

The People's Advocate has observed a rising number of SLAPP actions brought before the courts against journalists (as reported in detail in this country report's chapter on media freedom, pluralism and safety of journalists).

Moreover, the People's Advocate has specifically reviewed and recommended to the structures of the State Police to take concrete to prevent and investigate arbitrary arrests of journalists. The People's Advocate considers that physical or psychological violence of the state authorities against journalists endanger the rights to personal integrity, life and freedom of thought and expression. Lack of due diligence in investigating, prosecuting and punishing all responsible persons or structures may result in an additional violation of access to justice and judicial guarantees for those affected and their family members. Attacks on journalists and other media actors, which also are human rights defenders, constitute particularly serious human rights violations because they target not only individuals but deprive others of their right to information, thus limiting the public debate that is at the heart of a pluralist democracy.

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NHRI's role in promoting and protecting civil society space and human rights defenders

Following the Declaration of the Committee of Ministers of the Council of Europe "Action to improve the protection of human rights defenders and promote their activities", the 2021 ENNHRI rule of law report, and the Resolution of the Albanian Parliament "For the recognition and support of the activity of human rights defenders in the promotion, and protection of human rights and fundamental freedoms, the strengthening of the rule of law and the consolidation of democracy", and in order to strengthen the relationship between the PA, HRDs and the CSOs in Albania, the People's Advocate Institution has requested the Parliament to be granted additional competences, so as to serve as focal point for the monitoring of challenges facing HRDs. This request was accepted by the Parliament in the end of 2021, and this function has been added to the institution's mandate at the beginning of 2022.

The People's Advocate of Albania actively participated in the Copenhagen 2021 Human Rights Forum focusing on LGBTI+ rights which took place in August 2021 in Denmark, with the participation of the UN Under-Secretary-General, the Danish Minister for Development and Cooperation, the Deputy Speaker of the Danish Parliament, and United Nations High Commissioner for Human Rights. The People's Advocate addressed the rights of the LGBTI community in Albania, the challenges of protecting these rights and the role of the People's Advocate institution in this regard.

The PA has also engaged within international and regional fora on the support of human rights defenders and civil society.

References

- The European Commission against Racism and Intolerance (ECRI), Report on Albania: <https://copenhagen2021.com/>

NHRI's recommendations to national and regional authorities

The PA recommends the relevant authorities to:

- Take all steps necessary to ensure a protection of human rights defenders, including journalists.

- Safeguard in law and in practice freedom of peaceful assembly to all civil society actors and the right to protest on matters of public concern.
- Investigate and prosecute security forces responsible for aggressive repression of any human rights activists.
- Amend the legal framework and regulation to recognise philanthropic activity and provide incentives for corporate and individual donations to CSOs.
- In view of poor progress and civil society remaining strongly dependent on donors' support, provide stronger political will and engagement in the implementation of the action plan of the Road Map 2019 - 2023 for the Government Policy towards a More Enabling Civil Society Development.
- The Parliamentary Resolution on Human Rights Defenders is of a declarative nature and the commitments reflected therein remain formal to a large extent. A special law guaranteeing effective protection for the human rights defenders is needed.

Checks and balances

The PA takes the view that the government's response to the COVID-19 pandemic exacerbated human rights violations and hindered the effective protection of human rights and led to a limitation in access or lack of information to the public within important decision-making processes.

In 2019, the Opposition in Albania demanded early parliamentary elections. The request came after the decision of the leader of the Democratic Party and other opposition parties to burn their parliamentary mandates. During 2 years, the Parliament has continued its work not with 140 deputies, but with 122. The departed deputies' seats were replaced with the successive candidates of the list from both parties, but without filling the full number of legislators. As per fact, the Opposition returned to Parliament in September 2021, while the elections were held in April 2021. For the first time in the history of Albanian pluralism, the Parliament of Albania in 2021 exercised its right to request the dismissal of the President of the Republic, request which was declined in early 2022 by the Constitutional Court.

The fact that the Constitutional Court was constituted in December 2020 with majority of members is positive. However, the remaining vacancies are still to be filled. On the other hand, due to the backlog of the Tirana Court of Appeals and the Administrative Court, today the cases need 3-4 years in the Appeal and not less than 7 years in the High Court.

The People's Advocate in Albania has played a proactive role in correcting laws, processes and practices that would impact greatly checks and balances and the democratic space. Below are three examples.

Right to private life

The People's Advocate submitted a request to the Constitutional Court to repeal a provision in the law on the State Police, regarding the interceptions that could be undertaken by the State Police. The Albanian NHRI stressed that this procedure violated constitutional and human rights of citizens as well as Article 8 of the European Convention on Human Rights. The provision did not respect a right to private life as the term "intelligence-tracking activity" is not only unclear, but turns the State Police into a body that oversees and tracks citizens, outside the criminal process, without any control by a prosecution and a court as well as without any necessary guarantees to the person intercepted. It does not meet the criteria of proportionality and necessity in terms of a protection of public interest. The Constitutional Court agreed with the NHRI's argumentation and revoked the provision in question.

Right to vote - legality and proportionality of the Covid-19 measures

The People's Advocate in Albania has played a proactive role in correcting the measures taken during the pandemic, as a result of the adoption of bylaws in violation with the principles of legality and proportionality. Such intervention was related to the recommendation for a complete annulment of the Order of the Minister of Health and Social Protection no. 219 from 19.04.2021 "On the quarantine of persons coming to the Republic of Albania from the Republic of Northern Macedonia and Greece". This order imposed the obligation of self-quarantine for a period of 14 days, for all citizens who would enter the Republic of Albania, by air, land or sea by the Republic of Northern Macedonia and Greece, from 20.04.2021 until 03.05.2021.

The Order was issued and entered into force, just a few days before the general elections, held on 25 April 2021. The People's Advocate emphasized that the persons to whom this sublegal act defines obligations could be potential voters. If they entered the territory of the Republic of Albania, before or on a day of general elections, they would have to be quarantined, therefore would be unable to exercise their right to vote. Any intention to restrict the right to vote must be in accordance with the rule of law and the objectives of the European Convention on Human Rights, and that the measure taken to pursue this aim must not be arbitrary or disproportionate. However, the Albanian NHRI's opinion was not taken into account by the government and the questioned provision remained in force.

Right to vote – accessibility of polling stations to persons with disabilities

The People's Advocate issued the recommendation concerning ensuring a right to vote and access to polling stations to all citizens, including persons with disability. The NHRI's recommendation aimed to improve the Instruction no. 1 from 05.12.2020, "Determining the rules for the establishment, designation and notification of the location of polling stations and preparation of the map of the local self-government unit for elections", approved by the Regulatory Commission of the Central Election Commission.

The Albanian NHRI flagged that the Instruction diminished the obligations and guarantees provided by the Electoral Code. The PA outlined that a minimum standard of conditions should be set in each polling station to facilitate the access of persons with disabilities throughout the voting process. Moreover, the Instruction did not indicate any control mechanisms over the fulfilment of the requirements established in this document. Lastly, the People's Advocate stressed that the Instruction did not address adequately the need to respect and ensure protection of the voting rights of persons with disabilities.

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Trust amongst citizens and between citizens and the public administration

In 2021 the Institute for Democracy and Mediation – an NGO dedicated to the advancement of societal capacities, skills and knowhow – has published a public opinion poll on trust in government for 2020 in Albania. The study shows that trust in police, health care institutions, media, central government and the armed forces has decreased while the most trusted institutions are international organizations, such as NATO, the UN and the EU.

Several scandals like the leakage of personal data have been impacting the already fragile level of trust between citizens and public administration, and have also created social tensions among citizens.

The first major leak happened in April 2021, a few days before elections. The database, contained 910,000 entries including names, addresses, birth dates, personal ID cards, employment information amongst others. It was claimed that the database belonged to the ruling Socialist Party and was compiled by state institutions and used for electoral purposes. The Socialist Party denied wrongdoing, insisting that the information was gathered in door-in-door surveys. The case is still with the prosecution.

On December 12, 2021, a file containing the monthly salaries, job positions, employer names and ID numbers of some 630,000 citizens, from both the public and private sectors for January 2021, circulated through WhatsApp. Another data leak of salaries for the month of April was released and circulated just one day later. It was followed by another data leak that contained private information about citizens' car plates. Citizens, media and CSOs have expressed shock and protested, while various Albanian government officials expressed concern over the issue. The opposition Democratic Party condemned the "extraordinary scandal" and accused the Socialist government of failing to protect citizens' private data, while the Prime Minister called it "an attempt to create confusion and to foster instability" and issued an apology for the leak: "I would like to apologise to all those who are rightly concerned about this intrusion into their private life and in the meantime, I would emphasise that this event deserves a thorough investigation." The case is under an investigation by the public prosecution.

These data leaks have a serious impact not only on national security, but on the public and private sectors and on Albanian society as a whole. Stronger cooperation among public authorities, agencies and the private sector is needed in order to remedy these violations and preventing this from happening again in the future.

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NHRIs as part of the system of checks and balances

As already signalled above, the People's Advocate in Albania has played a proactive role in correcting laws, processes and practices that would impact greatly the democratic space, including system of checks and balances. The Albanian NHRI has continued to exercise its mandate through statements, recommendations, Amicus Curiae opinions submitted to

courts, including the Constitutional Court, which have been also aimed at strengthening checks and balances.

In April 2021, general parliamentary elections were held in Albania. Free and fair elections are one of the essential pillars of the rule of law, therefore the role of the institution of the PA in this process is crucial. The People's Advocate institution has monitored closely the electoral process, focusing on: access and facilities created at polling stations for persons with disabilities, the implementation of the provisions of the Electoral Code that guarantee gender equality, compliance with the legal provisions that guarantee posting and distributing propaganda materials during the electoral campaign, exercising the voting right of elderly persons in Nursing Homes, the exercise of the right to vote by persons in places of deprivation of liberty in the election day, use of an ethical language of communication during the electoral campaign, etc. The People's Advocate has published a detailed report with the relevant findings. Some of these findings are as follows:

- Failure to establish polling stations in hospitals;
- Number of invalid ballots;
- No facilitation measures were taken in any polling station for the visually impaired;
- Polling stations located on the second floors of the buildings were inaccessible to persons with disabilities;
- Lack of posters with explanatory information about the election process in minority languages;

Regarding anti-COVID-19 measures, the PA observed that:

- Physical distancing between voters waiting in line was not respected;
- As part of the anti-Covid-19 measures, lack of measurement of the temperature of the members of the Polling Station Commissions;
- The members of the Commission in many cases did not wear the protective mask;

During 2021, the People's Advocate also intervened in a number of proceedings concerning the constitutional review of laws:

- Challenging the constitutionality of the second sentence of point 1 of Article 162 of the Electoral Code. The Court ruled that this provision, in imposing on the candidates proposed by the voters the same restriction on the electoral threshold as that of the candidates proposed by political parties or coalitions of political parties, violates the constitutional right to be elected, in relation to the principle of equality in law and non-discrimination.

- Acting as an Interested Party in the case brought before the Constitutional Court challenging constitutionality of the requirement of prior permission granted by a competent body to exercise freedom of assembly. The People's advocate stressed that the obligation to notify f. ex. state police about the rally may be proportionate. However, a requirement to receive a formal approval from state authorities to hold assembly as well as the punishment of the organisers and/or participants in a peaceful assembly with a fine or imprisonment of up to one year are unproportionate and therefore unconstitutional. The Court in its judgments agreed with the PA's opinion and ruled unconstitutionality of questioned provisions.
- Acting as an Interested Party in the proceedings initiated by the Association of municipalities of Albania, regarding unconstitutional ascertainment of the electoral process held on June 30, 2019 (for the election of local government bodies, mayors and members of municipal councils) and, consequently, the unconstitutional ascertainment of the election of members of these bodies and verification of the constitutionality of the activity of the party "Democratic Persuasion" in relation to its registration in court and the elections of June 30, 2019. In November 2021 the Constitutional Court decided to reject the request.
- Submitting a request to repeal a provision in the law on the State Police, regarding the interceptions that could be undertaken by the State Police. The Albanian NHRI stressed that this procedure violated constitutional and human rights of citizens as well as a right to private life protected under the Article 8 of the European Convention on Human Rights.

The Albanian NHRI also issued recommendations to state authorities on protection of voting rights of citizens. The People's Advocate stressed the importance of effective access to polling stations by persons with disabilities. Also, the PA called on the government to repeal the unproportionate obligation of self-quarantine for a period of 14 days, for all citizens who would enter the Republic of Albania, by air, land or sea by the Republic of Northern Macedonia and Greece, from 20.04.2021 until 3.05.2021 – also before the general elections held on 25.04.2021. The provision led to restricting the voting rights of people arriving to Albania from abroad.

Moreover, in support of the LGBTI community, the People's Advocate has prepared an Amicus Curiae opinion, upon request of the Administrative Court of First Instance Tirana, in relation to the lawsuit filed by a lesbian couple, who requested to register two twin minor children with both parents. After an in-depth analysis of the legislation which is implemented in Albania, referring to relevant case-law of the European Court of Human Rights, the People's Advocate in this opinion has provided some suggestions on how to

prevent discrimination and ensure the full enjoyment of rights by LGBTI persons. The proceedings are still pending.

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NHRI's recommendations to national and regional authorities

The PA recommends the relevant authorities to:

- Increase the transparency and quality of the legislative process (i.e. improve citizens' involvement in policy-making);
- Further promote and protect freedom of expression and freedom of assembly.

Functioning of the justice system

Independence and appointment of judges and prosecutors

The functioning of the justice system has continued to be affected by substantial challenges, notably due to a wide vetting process prompted by the ongoing Justice Reform, which has led to the dismissal of a wide number of judges and prosecutors. The fact that judges and prosecutors are facing vetting procedures also puts into question their impartiality and independence, since the process makes them vulnerable towards the executive. At the same time, the structure of the judiciary is being restored.

The vetting process has also proceeded at a slow pace, which caused unnecessary delays and major social and professional challenges affecting the performance by judges of their functions.

The Constitutional Court, after suffering from a shortage of judges since March 2018, has achieved the necessary legal quorum for the resumption of its functions and decision-making activity in December 2020. However, the appointment of two members still needs to be formalised for the full composition of the court to be restored.

Backlog of cases

The Head of the Supreme Court has stated that over 35 thousand cases have been waiting to be tried in the Supreme Court for years due to the backlog. This court should function with a number of 19 judges, but so far it is still incomplete, functioning with only 9 judges. There has been an improvement in the adjudication of cases as about 3609 decisions were taken in 2021 compared to 1478 decisions taken in 2020.

The backlog created in the only existing Administrative Court of Appeal has also hindered an efficient adjudication of cases. The provision of a regular judicial process within fast and reasonable deadlines is one of the basic principles of administrative trial, with the aim of guaranteeing an effective protection of subjective rights and legitimate interests of persons, as it is specifically emphasized by article 3 of law no. 49/2012 (law on Administrative Courts and Administrative Disputes). However, cases have accumulated and are going up to 4 years or more without a trial. The backlog continues to grow. To address the accumulated and raising backlog, changes were made during 2021 in the legislation regarding the number of judges that constitute judicial bodies.

Judicial reform and court map

The Institution believes that, despite the ongoing Justice reform, it is too early to talk about increasing public confidence in the judicial system, due to the persisting lack of resources and the delaying of trials. In addition, changes in legislation introduced in 2021 provided for cases before the High Court to be heard in camera, with public court hearings being held only in exceptional cases. This has affected significantly public confidence in the justice system.

As part of the reform, a new judiciary map has been proposed and is in the process of public consultation.

According to the Evaluation Report on the new court map, the High Judicial Council (HCJ) proposes the following drastic changes:

- Out of 22 Courts of First Instance only 12 would be left;
- Out of 6 Administrative Courts of First Instance only 2 would be left;
- Out of 6 Courts of Appeal in all of Albania only 1 would be left.

Based on existing laws (in particular, Article 14 of Law no. 98/2016), the PA considers that the re-distribution of judicial districts should be done based on 3 criteria:

- guaranteeing access to justice, which is related to the proximity of the individual to the court;

- cost reduction, in order to use public resources efficiently;
- increasing the quality and suitability of the services provided.

The HJC, should have completed the adoption of the new judiciary map by now, after consulting with the public and interest groups, judges, lawyers, prosecutors, etc. It is important to listen to the critical voices of lawyers and professionals, and not repeating the mistake of stigmatizing the critics from the media actors which happened with the reform process.

The People's Advocate estimates that the current proposal by the HJC would actually hinder, instead of promoting, access to justice, due to:

- Violation of the principle of access to justice, given the insufficient number of courts and violation of the principle of proximity;
- Increase of costs for the citizens;
- Inadequate quality and suitability of the services provided.

The paragraphs which follow summarise the PA's assessment of the proposed reform.

Number of courts and judges per inhabitants

In the proposal, 20 courts are proposed to be closed in the first instance, the most drastic change in these 30 years in the Balkans region.

According to comparative data published by the Council of Europe-European Commission for the efficiency of justice (CEPEJ) regarding judicial systems of Council of Europe Member states, the number of courts per 100,000 inhabitants is already below the European median. For Albania, this number was approximately 1.3 in 2018, while the European median is approximately 1.5. On the other hand, the data in this dynamic database shows the same situation when it comes to the number of judges per 100,000 inhabitants, this number being approximately 12 in Albania, while the European median is of 17 judges per 100,000 inhabitants. Therefore, closure of these courts in the framework of this proposed map would only continue to lower the number of courts and judges per 100,000 inhabitants.

Except for Kosovo, which has a much smaller area and population than Albania, no European country has only one Court of Appeal as is being proposed by the HJC. For example, Slovakia has 8 Courts of Appeal: Croatia has 21 and is aiming to reduce them to 15; Bosnia has 16 Courts of Appeal; Slovenia has 4, and North Macedonia has 4 Courts of Appeal.

Furthermore, it is noted that the study conducted by HJC is mainly based on the Danish model of judicial organization. The reality of Albania and that of Denmark are not similar in this regard, this related to several factors such as social and economic reality, the effectiveness of the justice system and the administrative system, etc. In order to make a fair and proper assessment of the distribution of courts per 100,000 inhabitants, a study of the number of cases per 100,000 inhabitants is needed.

To conclude, the new Judiciary map has not been designed to ensure an adequate access of citizens to courts, but rather to address the low number of judges that remain in the system of justice.

Courts' accessibility

Guaranteeing access to justice is related to the individual's proximity to the court. The closing down of courts is a process that has happened before in other countries, Albania included, but the above criterion on guaranteeing access to justice in the distribution of judicial districts was applied in these instances, as there have been infrastructural developments and population shifts over the years.

The HJC has measured the proximity of the individual to the court based on the "Open Source Routing Machine ("OSRM") and "Google map" applications, which are not as accurate in Albania. The time an individual will need to access a court ranges from 2 hours and 30 minutes to 3 hours and 30 minutes respectively, this for the Courts of First Instance only.

Following the HJC proposal to completely close five Appeal Courts and leave only one open in the capital of Tirana, an individual could take from 2.5 hours to a maximum of 5 hours to reach the Tirana Court of Appeals. Using this logic, an individual living close to the borders will need, according to the HJC (based on applications used in the USA and EU), 5 hours to come and 5 hours to return, i.e 10 hours of traveling, to attend a lawsuit. This proposal does not improve access to justice, i.e the proximity of the individual to the court, but rather undermines this principle.

Costs increase

The main problem with the HJC's proposal for a new judiciary map is that it lacks a feasibility study as well as a planning on the timing of its deployment and application. Concentrating smaller courts and prosecutors' offices in larger courts and prosecutor's offices requires a feasibility study not found in the HJC's 170-page evaluation report on the new court map (i.e. increase of costs for the state budget, citizens' taxes and not their reduction; inefficient use of the prison system, etc.)

Failure to improve the quality and suitability of the services

To analyse this basic criterion based on current statistical data, an individual needs 3-6 months to complete a court procedure before the First Instance in the districts of Puka, Shkodra, Pogradec, Korca, Vlora and 6-10 months before the Court of Appeal.

Due to the current backlogs of the Tirana Court of Appeals and the Administrative Appeal Court, the whole court procedure takes 3-4 years in the Appeal and not less than 7 years in the High Court.

If the proposal to shut down the Courts of Appeal would be accepted, then at least the individuals of the other 5 districts will join the misfortune of those of the Tirana district who will have to wait at least 3-5 years for the process, because the judges of the National Court of Appeal will treat their cases as pending cases.

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Role of the NHRI in contributing to the effective functioning of the justice system

As illustrated above, the People's Advocate is participating actively in the discussion on the new judiciary map.

In addition, the People's Advocate has paid careful attention to the approval of law no. 111/2017 "On legal aid guaranteed by the state", as well as its implementation (issuance of bylaws, establishment of structures provided by law and their effectiveness) and issuing a recommendation to the Ministry of Justice regarding the issues assessed to be resolved.

One of the most frequent complaints addressed by citizens who were to benefit from legal aid is related to the exemption from the payment of court fees and expenses. Court decisions in this regard have remained merely unenforceable as the Regional Chambers of Advocacy have not appointed a lawyer in the respective cases. The People's Advocate institution has alerted the Local Chamber of Shkodra and the National Chamber of Advocates regarding this issue, but there was no reaction and response from both these structures. Given the fact that the chambers of advocacy are not institutions of public administration, the People's Advocate mandate is not extended to these offices. The lack

of cooperation with the institution of the People's Advocate for the implementation of a court decision and to guarantee free legal aid to citizens within the regular legal process, shows marked negligence.

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NHRI's recommendations to national and regional authorities

The PA recommends the relevant authorities to:

- Accelerate and finalize the justice reform. Filling vacancies in the Constitutional Court, the Supreme Court, the courts of appeal and those of the judicial districts, in order to increase the quality of the administration of justice and the provision of judicial services within a reasonable time frame in accordance with applicable legal requirements and the recommendations of Venice Commission;
- Increase the training and professional capacity of the judiciary. Increasing the capacity of the clerical staff in the Justice System;
- carry out the judicial reorganization in consultation with all actors involved in the process, such as judges, lawyers, Independent Institutions, representatives of civil society, etc. Particular attention must be paid to optimizing human resources in justice and increasing the quality of service without compromising access to justice.

Media freedom, pluralism and safety of journalists

According to the Freedom House Report 2021, the Independent Media rating has declined this year from 3.75 to 3.50, reflecting the legal harassment and smear campaigns of independent journalists by politicians and powers brokers, as well as intimidation and prosecution of journalists for allegedly spreading panic. According to the Council of Europe's Media Freedom Report, the main areas of concern included physical attacks, harassment and intimidation towards journalists, effects of lockdown measures on press

freedom, impunity, criminalization of journalism, judicial harassment, undue defamation proceedings, media capture and online harassment.

As mentioned above in the section on civic space, the People's Advocate has observed a trend in arbitrary arrests of journalists, and a rising number of SLAPP actions brought before the courts, including against journalists. According to the reporting of the organization Res Publica- a CSO that over the past 11 years, has represented journalists in the courts - there are currently more than 50 lawsuits where journalists are being sued for defamation. More specifically, they report that the two new phenomena that have emerged recently are the strategic lawsuit against public participation and the defamation campaigns of other media outlets that, that seek to damage a journalist's reputation and credibility in the public eye.

Nonetheless, the Albanian NHRI notes that the overall situation in Albania for media freedom, pluralism and safety of journalists has improved since last year.

Improvements have been noticed in particular as a result of the many interventions that have forced the authorities to reflect and make due changes. Following the unfavourable opinion of the Venice Commission and wide criticism on draft amendments to the media law (Law no. 91/2019 "On some changes and additions to law no. 97/2013 On audiovisual media in the Republic of Albania) aimed at regulating online media and some aspects of defamation, the authorities were more careful on their attempts to control the media.

At the same time, however, the People's Advocate expresses concern over developments at national level that may negatively impact media freedom. In September 2021 (DCOM No. 512, dated 18.9.2021) the Albanian Government set up a new state Agency for Media and Information (MIA). Citizens and civil society criticised the move and referred to this new entity as a "propaganda ministry", as the Agency's spokesperson will be at the same level as that of a state minister. The Agency's head will have the power to appoint and dismiss spokespersons of all state institutions; the Agency will produce audiovisual and press information about all government's activity; supervise and monitor the media and mass communication tools; and monitor public perception and views about activities of government institutions and the public administration. Although the stated objective of MIA is to increase public administration's transparency and information for the public and media, as well as to keep the Council of Ministers informed on issues addressed by news and media outlets, there is room for scepticism, as the functioning of this structure risks reinforcing the government's ability to put pressure on the media, increases its monitoring and control capabilities on independent media, and thus constitutes a potential threat for freedom of expression and freedom of information. MIA may be used by the government as a tool to control the flow of public information to the media and to influence citizens'

opinions. The creation of this Agency was opposed by media organisations, six of which partnered under the Media Freedom Rapid Response group, and called on the government of Albania to abandon plans to create this agency.

The People's Advocate has been very active in drawing attention to the numerous problems presented by Law no. 91/2019 "On some changes and additions to law no. 97/2013 On audiovisual media in the Republic of Albania", as amended, and has continuously monitored the numerous discussions in Albanian state bodies as well as the recommendations and comments of interest groups and international partners.

On 2nd June 2021, the Presidency of the Assembly of Albania issued a decision stating that media employees will no longer be able to attend parliamentary sittings. Rather, they will be able to watch them via an audio-video system in a designated room. This was an attempt to ban media presence. The People's Advocate has examined the case and has actively participated in the meetings of journalists with representatives of the Assembly where changes in the Regulation on accreditation of mass media and a legal evaluation of the new regulation were made, allowing among other the physical presence of journalists in the parliamentary committees, video recordings and use of mobile phones. The Regulation was revised, and at the moment the access of the media to Parliament's works has not been limited.

Role of the NHRI in promoting and safeguarding an enabling environment for media and freedom of expression

During the protests that were organised in some cities for several days in a row, despite COVID-19 restrictions on freedom of assembly in December 2020, the People's Advocate institution launched an administrative investigation for forcefully taking several journalists to police stations while they were reporting and informing the public about current events. After reviewing the case and completing the administrative investigation, the PA has specifically recommended to the police structures to take the necessary measures: to analyse the cases in function of a correct conduct of police officers for the rigorous observance of the legal criteria during the accompaniment of the citizens in the bodies of the State Police; to guarantee the right to practice the profession and report events by media employees present at rallies or other activities of this nature; to continue training of police officers to improve their conduct toward media employees during the exercise of the profession and reporting events and to generalize these cases in the structures of the State Police in order not to repeat in the future the violation of the rights of escorted persons in the police premises; and to establish special rules regarding the treatment of media employees present at rallies or other activities of this nature during the exercise of the profession and reporting events. Following our recommendation, we were informed

about the commitment of the relevant police structures regarding the concrete measures and actions they have taken in implementation of specific recommendations sent by the People's Advocate.

The People's Advocate will also continue to pay attention to the progress of guaranteeing freedom of expression and will oversee the correct implementation of the media law and the subsequent changes in this important area of law. On the other hand, the People's Advocate will pay continuous attention to the language used during the reporting from the media.

To discuss the complex relationship between the media's right to be free in its reporting and the right of women to protect themselves from discrimination and discriminatory portrayals when reporting episodes of gender-based violence in the media, the People's Advocate, through its General Section, organized a roundtable discussion on "Media, Freedom of Expression and Women's Rights" on March 8, 2021, on the occasion of International Women's Day, in cooperation with UN Women in Albania and the Embassy of Sweden in our country.

In an open discussion on the role of the media in addressing hate speech and promoting human rights for all, including the rights of the LGBTI community to be treated with impartiality and respect in the media, messages of solidarity were given to recent victims of violence from the LGBTI community. Participants in the event shared the conclusion that ignorance and lack of information are causes of misunderstandings and discriminatory language, which inspires verbal and physical violence in everyday life. Through public statements, the People's Advocate condemns specific cases of violence against LGBTI activist belonging to the transgender community. The People's Advocate called on law enforcement authorities to handle the incident correctly. Also, in support of LGBTI activists, the People's Advocate urged activists not to be discouraged and not to stop their efforts toward the full realization of the rights of their community.

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NHRI's recommendations to national and regional authorities

The PA recommends the relevant authorities to:

- Support a free and independent press;
- Repeal or amend restrictive legislation that penalise media actors for exercising their right to express opinions or disseminate information;
- Take active steps to prevent violence against media actors, enabling them to work in safety and security, without fear of violence and persecution;
- Be open to criticism.

Corruption

The Law "On signalling and protection of Whistle blowers", considered as one of the most important instruments in the fight against corruption and protection of public funds, entered into force on 1 October 2016 for the public sector and on July 1st, 2017 for the private sector. So far, no concrete result has been identified in the application of this law, as the whistle-blower protection legislation lacks several important elements found in the EU Directive on whistle-blower protection, such as protection for whistle blowers who resort to public disclosure. Albania should provide protection for public disclosure and for people connected with the whistle-blower, remove conditions preventing external reporting to the High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest (HIDAACI), and establish the right to protection in cases of mistaken identity.

In its specific periodic report on Albania, issued in early December 2020, GRECO (the Council of Europe Group of States Against Corruption) noted that the level of corruption remains high in both the public and private sectors. The assessment was made with reference to legal changes from this year to align them with the recommendations, but the report does not note the impact of these laws in the fight against corruption. The recommendations were divided into 3 main pillars and by the end of last year, Albania had fulfilled 100% of the suggestions to fight the corruption of parliamentarians, from the 60% it had in 2018 when the last monitoring was done. In total, Albania has fulfilled 9 out of 10 recommendations of 'Greco', which operates under the Council of Europe.

Referring to recent international reports on the perception of corruption and its index, Albania has decreased by one point from the previous year, which is clearly reflected in the Transparency International Report, the Freedom House 2021 report on Albania, and the EC

Report of Albania 2021. The EC Report on Albania 2021 emphasizes that Albania has made further efforts to create a solid track record in the fight against corruption, although it remains an objective that requires political will and further structured and consistent actions.

It should be noted that one of the main reasons behind the Justice Reform was the fight of corruption. Five years since the beginning of the reform, the results are being envisaged, yet the fight against corruption needs to be further strengthened.

With regard to the right of good administration, the mandate of the People's Advocate institution is limited, due to the fact that, unlike the Charter of Fundamental Rights of the EU, the right to good administration in Albania is not specifically recognized as a fundamental right by the human rights catalogue adopted in the Constitution of Albania.

The phenomenon of corruption in Albania has been, and remains, among the main concerns of Albanian society since the beginning of systemic change in 1991. In our judgment and assessment, the trust of citizens is at low levels due to ineffective public consultation procedures and public hearings, and the high level of corruption.

With regard to rule of law and legal certainty, it is worth mentioning the fact that Albania has adopted a series of strategic cross-sectoral acts and has set up a network of anticorruption coordinators. While these are to be welcome, at the same time, private public partnerships (PPP) / concessions to private entities have progressively increased in number and were extended to every area of economic and social life. In addition to clear doubts and perceptions of the tendency of favouring entities closely associated with power, these pose a serious risk to public finances: in many cases the lack of public resources not only serves as an excuse to avoid state's obligations in various areas of law (i.e. on housing, health, education or employment), but directly and indirectly affects the fulfilment of the standards of fundamental rights and freedoms of the people in Albania, disregarding obligations Albania assumed through the adherence to international treaties and acts.

Although a number of anti-corruption mechanisms have been set up in Albania as part of the Strategy for 2017-2020, there is much room for improvement. The Specialized Structure for Anti-Corruption and Organized Crime (SPAK), comprising the Special Prosecution Office (SPO) and the National Bureau of Investigation (NBI), are operational. The specialized structures against anti-corruption (SPAK and the anti-corruption and organized crime courts) should significantly strengthen the country's overall capacity to investigate and prosecute corruption. Convictions in cases involving high-level officials still remain limited, fostering a culture of impunity within the higher levels of the State.

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NHRI's role in the fight against corruption

Since 2015, the institution of the People's Advocate is part of the national network of coordinators and contact points for the fight against corruption. The People's Advocate has participated in the meetings of the Thematic Group "On anti-corruption policies", which was created by Order of the Prime Minister No. 129 date 21.09.2015. The People's Advocate representative participates in this group's meetings as an observer.

The People's Advocate Institution does not have a direct mandate on the fight against corruption. However, when corruption cases are identified during administrative investigations, the People's Advocate recommends the initiation of investigations to the Prosecution body. The People's Advocate has continuously and publicly stated the concerns regarding transparency in public procurement procedures. Also, the construction sector and cases of conflict of interest are often public and indisputable.

References

- Law No. 60/2016 "On Whistleblowing and the Protection of Whistle-blowers", as amended.

NHRI's recommendations to national and regional authorities

The PA recommends the relevant authorities to:

- Significantly strengthen the overall capacity of the anti-corruption bodies (SPAK and the Anti-Corruption and Organised Crime Courts) to investigate and prosecute corruption, and ensure adequate resources and cooperation between these new structures and with other prosecution and judicial entities;
- Proactively fight corruption to countering criminal infiltration of the political, legal and economic systems;
- Embrace the OECD Recommendation on Public Integrity and the related standards.

Impact of measures taken in response to COVID-19 on the national rule of law environment

Albania faced the COVID-19 pandemic with a relatively limited fiscal space. At the end of 2020, public and publicly guaranteed debt rose to 77.4% of GDP, the second highest in the Balkans, and less ability to create more space for higher and better targeted expenditures on infrastructure, health, education, etc. The brunt of the impact was felt in the second quarter of 2020 when domestic and external demand were hit hard by COVID-related restrictions on movement, disruptions in value chains etc.

As stated in the Albania's Economic Reform Programme 2021-2023, COVID-19 has affected each sector of the Albanian economy, particularly Tourism. Covid-19 forced almost half of the Albanian economy to shut down, except Agriculture. Independent of size or sector, most companies expect more than 20 percent reduction in annual turnover. Regardless of the sector or size, businesses estimate that the impact of COVID-19 on the economy will last up to a year. The main challenges are related to the unpreparedness of human resource management – layoffs, regular leave, work from home, importers are considering finding new sources for raw materials in the country, companies without risk and emergency management approved plans. COVID-19 made companies aware about the effectiveness of using online services, also changed investment plans towards new technologies, strengthening sales channels, risk management.

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Emergency regimes and related measures

Albania adopted some of the strictest lockdown measures in Europe, when the first COVID-19 case was detected. Then, restrictive measures oscillated depending on the number of cases, season, testing capacity, vaccination capacity, etc. On the 11th of November 2020, new restrictive measures were introduced by the Government for an initial duration of three weeks and later extended until further notice. The measures included a curfew from 22:00 – 06:00 throughout the country, except for necessary travel for work, health emergencies, or urgent needs. Businesses such as bars and restaurants were required to operate only through delivery services when past the curfew time. Remote working became mandatory for public administration (adapted to the specifics of

each sector), excluding the service delivery structures, which may continue their activity while implementing security protocols. On the 17th of November 2020, the government announced further restriction measures including the prohibition of gatherings of more than 10 people outdoors and indoors, exclusion of political meetings and rallies, and interdiction of conferences, holiday ceremonies, wedding ceremonies, and events other than funeral ceremonies with family members only, until further notice.

During the 2021 emergency regime, several cases of fast-track and accelerated law-making procedures were noticed. We believe that there is a major need to strengthen transparency of the drafting process at executive level by publishing annual legislative plans well in advance and provide information on the progress of legal initiatives prepared by the government, including the plans of line ministries. The Parliament must establish clear standards for ex-ante and ex-post impact assessment of legislation and remove the right of MPs and the government to propose amendments 24 hours before the plenary session without these amendments being reviewed by and voted on by respective parliamentary committees (Article 75 of the Parliamentary Rule of Procedure).

During the 2021 emergency regime, the PA also noticed limitations on public consultations and democratic participation, restrictions to freedom of movement and assembly, restrictions on the right to family life, tracing, and attempts at surveillance by authorities and other measures affecting privacy.

Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law and human rights protection

The medium- to long-term economic and social impact of the pandemic will largely depend on pre-existing socio-economic vulnerabilities and policy resilience. Building resilience will depend on the strength and capacity of institutions to timely design and implement policy measures, as well as on the citizens' trust in the public decision-making process and the efficiency of the public administration. Considerable fiscal, monetary and other policy responses will be required to mitigate the impact of the pandemic and put Albania on a long-term growth trajectory. This will require the careful design and selection of policies and targeting that take into account the domestic context, institutional set-up and government capacities, and first and foremost a collaborative attitude among the political forces.

Independent oversight institutions and the Parliament must work in tandem to improve oversight and accountability mechanisms, and work toward improving its capacity and the integrity of political representation, which are instrumental in ensuring effective parliamentary oversight of government policies.

The laws adopted by the government with accelerated procedures during the state of emergency were not amended by the Parliament during 2020 or the beginning of 2021.

The access of the Roma and Egyptian Community to healthcare during the pandemic was very limited, and the cause for this is not clear. The Ministry of Health and Social Protection failed to provide information about the number of patients with Covid-19 belonging to Roma and Egyptian minorities.

References

- https://images.transparencycdn.org/images/2021_Report_DeconstructingStateCaptureAlbania_English.pdf

Actions taken by the NHRI to promote and protect rule of law and human rights in the crisis context

In May 2021, the People's Advocate recommended to the Health Care Operator and Institute of Public Health to take prompt action aimed at the necessary improvements in access to health care services and healthcare education activities for the Roma and Egyptian communities, and also keep data related to ethnicity to have official data about healthcare access.

In 2021, the Alliance Against Hate Speech, initiated and chaired by the People's Advocate and other organizations, continued actions targeting hate speech through public statements and other activities. The most important activity was the adoption of a Code of Conduct of Political Parties by all political parties participating in the general election held on 25 April 2021. The Code was proposed by the Alliance and aims to regulate electoral campaigns to promote human dignity, tolerance, anti-discrimination, and to combat hate speech. The monitoring body of the Code of Conduct will be the Central Electoral Commission and Alliance.

Following the recommendations of the People's Advocate towards the state police to take measures to protect the rights of children in institutions of execution of criminal sentences during the Covid-19 pandemic, the General Directory of the State Police adopted several documents directed to the state police concerning the protection of children from violence including "Drawing Attention to the control, treatment, and investigation of cases of unaccompanied children" and "Drawing Attention to taking measures for prevention, detection, and documentation of sexual crimes against minors", no 3790, dated 25.05.2021. In this regard, based on the memoranda of understanding with UNICEF (no.338 dated 28.09.2020), the Section for the Protection and Promotion of Children Rights at Albania's People's Advocate conducted several monitoring visits at Police Stations throughout Albania. The object of the monitoring/ inspection visits was the evaluation of the

implementation of the People's Advocate's recommendations and Council of Ministers legal acts regarding the protection of procedural rights of minors in conflict with the law and the protection of the rights of minors in conflict with the law, whether convicted or detained during the Covid-19 pandemic.

Through its role as National Preventive Mechanism (NPM), the People's Advocate conducted 68 inspection visits and drafted 76 inspection reports/ recommendations. During the inspections, the National Mechanism paid special attention to the measures taken by the authorities to prevent the spread of the Covid-19 virus. At the entrance of each institution, body temperature measurement was performed via digital thermometer, and a disinfection bridge was put in place. The staff of the institution correctly applied the protective measures, i.e. by wearing masks, maintaining physical and social distance, etc. Additional orders, instructions and protocols of the Ministry of Health were posted at the entrance of the institution, administration offices and at the entrance of the internal regime. Gatherings of staff in queues before security checks, meetings and contacts with convicts were avoided or minimized, and at the same time convicts and detainees were instructed not to gather during joint action schedules. Family visits were avoided, and contacts were maintained through Skype video calls regulated by the institutions. An epidemiological investigation has been carried out by the General Directorate of Prisons in cooperation with the Public Health structures for each case ascertained or suspected of covid-19 and resulting on the conviction that the chain of infection has been interrupted. Despite all these measures, six cases of loss of life were reported due to Covid, from which 1 inmate and 5 staff employees. More specifically, 2 employees of the basic role of Penitentiary institution of Lezha and Rrogozhina, 2 nurses in Burrel and Reç-Shkoder and 1 civil administration employee in Prisons Hospital. The vaccination process of inmates and staff has started in May 2021. Until September 21, 3099 employees have been vaccinated out of 4109, and 2921 inmates were vaccinated out of 5300.

The Institution of the People's Advocate, through the Section for the Protection and Promotion of Children's Rights, also conducted 8 monitoring visits to the Police Stations of Tropoja, Shkodra, Korca, Durres, Elbasan, Saranda, Përmet and the Juvenile Institute Kavaja. From the interviews conducted by the People's Advocate with the minors, it was stated that the pandemic had negatively affected their emotional state and development, causing stress and suffering because of the lack of meetings with family members. In response to the recommendation of the People's Advocate institution, the Minister of Justice made possible the visits with family members for juveniles deprived of liberty 4 times a month while respecting the protocols of Covid-19 through order 7 no. 372, dated 11.6.2021.

The People's Advocate (Section for Protection and Promotion of Children's Rights) has continued to organize information sessions in 9-year and high schools nationwide, in order to improve the knowledge of students and teachers about their basic rights and the work of the PA for the protection of these rights. Specifically, during this reporting period, 19 promotional activities "Open Days" were realized with the participation of students, teachers and parents nationwide, in Përrenjas, Librazhd, Gramsh, Cërrik, Gjirokastër, Përmet, Lezhë, Tirana, Pogradec (Tushemisht and Verdovë), Lushnjë, Elbasan, Krujë, Rrogozhinë, Peqin, Kurbin, Puka, Dropull, Korçë and Durrës with a focus on the second level municipalities.

Monitoring visits to closed and opened centres for asylum seekers and irregular migrants were also carried out throughout the year. Special attention was put on the monitoring of all the protests that occurred on site.

References

- Written submission by the People's Advocate General Section in regard to recommendations issued during 2021 related to minority rights-case of Durres Municipality- access of Roma community to healthcare, page 3
- People's Advocate (221) 'Recommendation to the Health Care Operator and Institute of Public Health', 4 May 2021.

Efforts by state authorities to mitigate challenges

In 2020, State authorities acted quickly to contain the spread of the virus. They also took policy measures to mitigate the negative effects of restrictions on the economy which included 3 financial plans and additional support measures such as welfare benefits and other support to individuals, including sick pay, cash transfers, housing relief; protection for vulnerable people in households at risk of abuse; home education support; postponement of rent payment (for students, individuals with rental contracts, low-income natural/legal persons on notarial lease contract), as well as voluntary salary reduction of high officials and creation of a financial anti-COVID-19 fund.

The total budget for Covid-19-related expenditures in 2021 was 1.0 per cent of the GDP (1.8 % less than in 2020). The government issued a Eurobond worth €650 million with a 10-year term, to finance its fiscal needs for 2021-22, and targeted increased spending on healthcare, wages for healthcare workers, social assistance and unemployment benefits. The existing social assistance programme was doubled (from an average of ALL 5,225 to ALL 10,450 [€42 to €84]) for the period April-June 2020. This measure was reintroduced for the first six months of 2021.

The COVID-19 pandemic accelerated digitalization, the use of online payment methods, and further advancement in shopping and electronic commerce (e-commerce). Building on its solid and stable policy framework and having in place a set of key (digital) enablers, Albania has managed to further shift toward online service delivery and digital transformation. About 95% of administrative services are available online. Improving accessibility to administrative services has been a major policy objective of the Government in recent years. This has been accomplished through the network of 22 front offices of the Agency for the Delivery of Integrated Services in Albania (ADISA) in 21 municipalities and a mobile office. During the COVID-19 pandemic, the digitalisation and provision of services through the e-Albania portal was increased. The e-Albania portal provides a full overview of and access to the digital services offered and includes information about non-digital services.

A good example of mitigating the challenges created by the pandemic on education was introduced by the Ministry of Education, Sport and Youth (MoESY) in collaboration with government agencies and non-governmental organisations. Several measures were taken to support children from low-income families, Roma and Egyptian children, and children living in poverty, such as:

- Providing free textbooks for the school year 2021-2022 for children in low-income households and vulnerable groups;
- Offering an after -School Program for children from vulnerable groups;
- Equipping children in low-income households with free tablets and laptops to secure their access to online education. Different donors, especially “Vodafone Albania” offered free tablets for 15.931 children from this category, from which about 1250 were Roma and Egyptian children;
- Providing the delivery of one essential food portion for children in low-income households;
- Broadcasting dedicated free online learning lessons to the Albanian Public Radio “school channel”.

However, a considerable number of children were faced with lack access to the Internet and to equipment (phones, tablets), especially children of families with limited financial resources to provide for digital infrastructure (internet and supplies), in particular, Roma and Egyptian children, some of which have not attended online learning at all during the lockdown.

References

- <https://www.sigmaweb.org/publications/Monitoring-Report-2021-Albania.pdf>
- https://ec.europa.eu/neighbourhood-enlargement/albania-report-2021_en

Most important challenges due to COVID-19 for the NHRI's functioning

Restrictive measures that have been enforced in 2020-2021, have significantly impacted the effectiveness of a number of state institutions, including the People's Advocate. While the independence of the institution has not been compromised, the PA has adapted to the new normality and strengthened its effectiveness by further increasing its proactive role in handling "ex-officio" cases, conducting frequent virtual monitoring when on-site presence was restricted and resuming on-site visits as soon as it was made possible, and by engaging in correcting laws, processes and practices with impact on democratic space. This was recognized by the Balkan Public Barometer Report 2021.

The inspections of the People's Advocate in institutions of deprivation of liberty were conducted online and in-person until June 2021. Since June 2021, these inspections are conducted in-person only. On the other hand, continuous inspections and visits in Police stations were conducted in-person only.

NHRI's recommendations to national and regional authorities

To mitigate the impact of COVID-19 and of measures taken to address it on rule of law and human rights protection, and to ensure an inclusive recovery, the PA recommends the relevant authorities to:

- replace COVID-19 related measures that prohibit activities relevant to the enjoyment of rights with less restrictive measures that allow such activities to be conducted while keeping in considerations necessary public health requirements.

The PA also recommends the relevant authorities to:

- Ensure availability of stimulus packages and income security and targeted social assistance for the most marginalized or vulnerable;
- Guarantee meaningful participation of all sectors of society and diverse civil society actors in decision-making processes on COVID-19 response;
- Refocus action on ending poverty and inequalities and addressing the underlying human rights concerns with a view to building a more inclusive and sustainable world.

Other relevant developments or issues having an impact on the national rule of law environment

The right to valuable, acceptable and quality public services

The People's Advocate is concerned about human rights violations in the provision of public and economic services. Hence, it has often recommended to the competent bodies to fulfil their legal obligations by taking the necessary steps to guarantee the provision of services that have an impact on safety and protection of life. Among the complaints addressed to the Institution are those related to transport infrastructure, standards of roads and their maintenance, common facilities within norms, etc. The Institution, considers the right to a safe environment and adequate infrastructure, to be of main importance as not only it affects the overall development of the country's economy, but also has a considerable impact on the social and cultural rights of the citizens.

The right to housing

The Institution of the People's Advocate has continued to handle a considerable number of cases referring to the right to housing in 2021. Most of these cases are consequences of the earthquake of 26.11.2019, with other cases relating to people in need of social housing. The right to housing continues to be one of the most delicate rights in Albania, as it is found that this right is constantly violated by the responsible institutions, by not giving it due importance. This situation becomes even more worrying in the conditions of the pandemic for a large number of families which, after the tragic earthquake of 26.11.2019, continue to be sheltered in tents, containers or other alternative shelters which do not meet even the minimum conditions for a shelter. A matter of concern regarding the enjoyment of this right is also the housing solution for homeless people who live in poverty and cannot afford living expenses in the absence of local government subsidies, soft loans etc.

Also, due to the very long and costly banking procedures, the poor are unable to benefit from the program for low-cost housing. The social rental housing program focuses on low-income families, but people living near or below the poverty threshold cannot afford it. The most used program is that of housing subsidies. These programs are seen as a temporary solution to housing problems. Social housing programs need to be further expanded to meet the needs of vulnerable groups and need to be reoriented to disadvantaged groups to meet the criteria for selection from the poorest. Problems continue to be evident related to the forced eviction of landowners from apartments in the process of legalization in areas where projects are being implemented or areas classified as "New Developing Areas". Regarding these issues, the People's Advocate has addressed

recommendations to the responsible institutions, but as it was reported, their standpoints are not in favour of individuals affected by these violations.

The right to a healthy environment.

The Institution of the People's Advocate has prioritised the monitoring of the environmental situation in the Republic of Albania, and the implementation of the respective legislation. Its 2021 Annual Conference was themed on: "The Rights of Future Generations and Climate Change."

During 2021, the Institution of the People's Advocate has treated a total of 41 cases against public administration bodies in charge for the environmental protection, and promotion of a cleaner and healthier environment. Important to mention in this context is the issue of pollution created by the incinerators in Elbasan, Fier, and Durrës, etc., where the responsible state bodies have failed to act against the companies that have caused environmental pollution. The People's Advocate has urged the state authorities to respect and guarantee the right to a healthy environment for individuals even during the reconstruction process, which is already being implemented in certain areas affected by the tragic earthquake. Reconstruction plans and projects must be in harmony with the environment and guarantee individuals a healthier and more sustainable environment, in line with the 2030 Agenda for Sustainable Development.

The rights of LGBTI people

A new draft of the new National Action Plan for LGBTI Persons for 2021-2027, prepared by the Ministry of Health and Social Protection, focuses on delivering the adopted measures for the most vulnerable groups, including those who reside in remote areas. The Action Plan draft was prepared with a view to delivering on the protection of rights and the provision of quality services, and to address the importance of awareness-raising measures towards reducing intolerance in society against LGBTI persons in Albania. Despite the promising situation regarding the policy framework the Government actions for the LGBTI community, the appropriate funding of the new Action Plan will remain a real challenge, as the financial gap of action plans funding is a systemic problem in Albania. The Action Plan has not been supported with a relevant budget; therefore, the plan remains ineffective while most of the actions remain donor oriented.

The rights of the Roma and Egyptian Community

The formal registration of the Roma and Egyptian Community is still a problem in Albania and as a result, they also cannot access the National Health Card which results de facto in limited access to healthcare services and medicines. Although the Government of Albania has issued an order (2016) "On visits to family doctors of people without health insurance"

regulating to the free-of-charge visits to the family doctor, this order has had no effect on the Roma Community's access to this service. The access of the Roma and Egyptian Communities to healthcare during the pandemic was very limited. The Ministry of Health and Social Protection failed to provide information about the number of patients with Covid-19 belonging to Roma and Egyptian minorities. In May 2021, the People's Advocate recommended to the Health Care Operator and Institute of Public Health to take prompt action aimed at the necessary improvements in access to health care services and healthcare education activities for the Roma and Egyptian communities, and also keep data related to ethnicity to have official data about healthcare access. Also, even this year, the implementation of the low-cost housing program for Roma and Egyptian families continues to be a concern and requires more commitment and responsibility from the responsible institutions.

Rights of Persons with Disabilities

In May 2021, the National Action Plan for Persons with Disabilities 2021-2025 was adopted and designed to cover areas such as rights and equity, accessibility, education, employment and qualification, social protection and social care, housing, health, and culture. The process of consultation included meetings with NGO-s and professionals and an open online consultation with the wide public. However, the legislation is not completed yet regarding the services facilitating an independent life and supported decision-making for persons with disabilities. The legislation is not completed with by-laws for the implementation of the Law "On the inclusion and accessibility of persons with disabilities", a law that has been approved since 2014. These delays have created serious problems in the implementation of this law according to the People's Advocate report for 2020. Ministry of Health and Social Protection informed that aims to complete the legislation regarding inclusion and accessibility within 2021.

NHRI's recommendations to national and regional authorities

The PA recommends the relevant authorities to:

- protect against human rights abuse by taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication. Parliaments should make parliamentary policy responses more inclusive and address structural underlying obstacles to the full enjoyment of human rights by everyone;
- strengthen the human rights protection framework in the light of their impact on the national rule of law environment;

- adopt systematic measures that would confirm the protection of the right to judicial and other legal protection and the enforceability of human rights;
- adopt systematic measures to prevent and eliminate obstacles to real equality of rights for all groups of population;
- adopt systematic and comprehensive measures against any form of intolerance.