



European Network of
National Human Rights Institutions

Implementing the Council of Europe Recommendation on National Human Rights Institutions: The State of Play

The situation in Albania



Albania Country Report

Overview

Name of NHRI and mandate:

- People's Advocate Institution of the Republic of Albania (PA)
- Multi-mandated NHRI, also: ombuds-institution, equality body, NMM and NPM.

Sources:

- NHRI: [ENNHRI, State of the Rule of Law in Europe in 2022, Albania country report](#)
- Sub-Committee on Accreditation (SCA): [SCA Report December 2020](#)
- CoE Independent bodies: [ECRI country report on Albania \(2020\)](#), [CPT country report on Albania \(2018\)](#)

Good practices and improvements:

- **CM Principle 1:** The Albanian People's Advocate of Albania is an A-Status institution.
- **CM Principle 2: constitutional and broad mandate:** The NHRI's mandate is broad and constitutionally based. Still, in line with Recommendation 3, and as recommended also by the SCA, the mandate could be further expanded to include the ability to address all human rights violations resulting from the acts and omissions of private entities.
- **CM Principle 6: adequate resources:** After years of advocacy of the NHRI, and in line with recommendations of ECRI and the SCA, the NHRI's budget was increased in 2022 to an extent that is deemed adequate by the Institution to carry out its complaint-handling

mandate. Still in line with Recommendation 1, the legal basis of the NHRI could be amended to better ensure the NHRI's sufficient human and financial resources in a sustainable manner, and resources should be enhanced also to also fully enable the NHRI's promotional mandate.

- **CM Principle 13: functional immunity** is guaranteed by both constitutional and organic law and serves as a safeguard for the NHRI's independence. Nonetheless, the NHRI reports that in the case of the Commissioners, no legal provision provides for any special protection or immunity for actions taken in their official capacity. They, as well as the rest of the staff of the institution and other state administration bodies, are responsible for property and non-property damage caused to natural or legal persons.

Key areas where improvement is needed:

- **CM Principle 8: adequate access to information and to policy makers and legislators:** 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. The PA reports, 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, the PA observes a growing tendency for the NHRI to be involved in the legislative process with the line Ministries and the Parliament. 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.
- **CM Principle 9: timely and reasoned response to NHRI recommendations:** While a legal obligation is in place for authorities to provide a timely response to the NHRI recommendations and a follow-up mechanism has been established by the state, the NHRI reports that as of November 2022, only 29% of its recommendations have been fully implemented while 71% remain unimplemented. On a positive note, a twinning project with the Austrian NHRI has started in 2022 to improve the standing and follow-up to NHRI recommendations.
- **CM Principle 12: awareness about and cooperation with the NHRI:** The Albanian NHRI reflects that the relevant state authorities do not have sufficient awareness of the NHRIs' mandate, independence and its role. The level of cooperation between state administration bodies and the NHRI in the context of its inquiries was reported as worryingly inadequate. This has led to delays of the interventions

undertaken by the NHRI and hindered the NHRI 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).

Specific findings per Principle

The tables below include data on the assessment of the implementation of each Principle (i.e. the individual parts) within the Recommendation from three sources: the National Human Rights Institutions, the Sub-Committee on Accreditation of GANHRI and the Council of Europe independent bodies. Overall, the findings are considered in four overall groups: the establishment of NHRIs; the strengthening of NHRIs; a safe and enabling environment for NHRIs; and cooperation with and support for NHRIs.

I. Establishment of NHRIs

Principle 1	<p>Member States should ensure that NHRIs are in place and that they are established, accredited and function in full compliance with the Paris Principles</p>
Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI	<p><i>SCA Report December 2020, p. 15</i></p> <p>"2. REACCREDITATION (Art. 15 of the GANHRI Statute)</p> <p>2.1 Albania: People's Advocate Office (PA) Recommendation:</p> <p>The SCA recommends that the People's Advocate office should be re-accredited with A status. The SCA commends the efforts of the PA to promote and protect human rights in Albania. It encourages the institution to continue these efforts. The SCA highlights that NHRIs that have been accredited A status should take reasonable steps to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review."</p>

<p>Principle 2</p>	<p>Member States should provide a firm legal basis for NHRIs, preferably at the constitutional level, and/or in a law which defines the mandates and functions of such institutions, guarantees their independence and provides them with the means necessary to accomplish their functions effectively, both at national and international levels, bearing in mind existing standards and recommendations on NHRIs, in particular the Paris Principles and their interpretation developed by GANHRI's Sub-Committee on Accreditation.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 82</i></p> <p>The Albanian NHRI continues to function on a constitutional basis.</p> <p><i>[...] pp. 82-3:</i></p> <p>'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' (further below)</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>The People's Advocate has a broad mandate based on international standards as the highest national institution for the promotion and protection of human rights and prevention of violation of these rights, in line with the national and particularly the international law (especially the Paris Principles).</p> <p>Overall, the mandate of the People's Advocate covers functions as the classic Ombudsman, the National Human Rights Institution (NHRI); National Mechanism for the Prevention of Torture, and the Ombudsman for Children. This mandate is reflected in the jurisdiction and powers vested on it by</p>

[the Constitution](#), the Law on the People’s Advocate¹ (as amended) and other duties specified in special laws. With an experience of over 20 years, the People’s Advocate operates in synergy with other independent or equality institutions, thus contributing to the improvement of good governance practices and the safeguards of citizens' rights.

The People’s Advocate is currently putting a formalised effort is in further aligning the national legislation and specifically the Law No. 8454, dated 04.02.1999 “On the People’s Advocate” as amended, with Union acquis in the field of human rights, as well as further developing administrative capacity of the Albanian institutions to enforce the relevant Union acquis. The concrete recommendations for revising the organic Law according to international standards and best European practice will be finalised within June 2023, and will be presented to the Albanian Parliament. Some of the improvements needed are on the procedures for the selection of the People’s Advocate and Commissioners in order to ensure impartiality, integrity, transparency and fairness.

Based on Article 6 of the law “On People's Advocate”, the People’s Advocate enjoys the immunity of a High Court judge.

¹ Government of Albania. (1998). Law no. 8458, dated 4.2.1999, on People's Advocate. Retrieved from [Avokati i popullit \(avokatipopullit.gov.al\)](http://avokatipopullit.gov.al).

II. Strengthening of NHRIs

<p>Principle 3.1</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - monitor and analyse the human rights situation in the country, publish reports on these findings and address recommendations to public authorities at national, regional and local levels and, when applicable, to private entities, and present an annual report to the relevant authorities, including before parliament, for its consideration.
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The People’s Advocate is certified by competent international institutions for the high standards it meets (received A-Status re-accreditation in December 2020). These standards involve to the right to submit - to the Government, the Assembly and any other competent body at the request of the relevant authorities or ex officio - opinions, recommendations, proposals on any matter related to the promotion and protection of human rights. The re-accreditation decision came with a set of recommendations which will be one of the most important challenges in the future for the People’s Advocate. These recommendations focus on: the need to undertake legal initiatives for a broader mandate that entails the ability the address all human rights violations from actions and omissions of private entities; the possibility for the People’s Advocate to have a clearer mandate in encouraging the ratification or adherence to regional and international human rights instruments; the need for sufficient financial resources to fully exercise the mandate, including fulltime employment of the representatives at the PA regional offices.</p>

	<p>The People's Advocate Institution in Albania ensures its mandate given to protect and promote human rights as broad as possible and in full compliance with the Paris Principles, but in some cases there is a need for an increased capacity and this is realized by hiring external experts.</p> <p>The Annual reports of the institution are published, translated and submitted to the Assembly.</p>
<p>Principle 3.2</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - freely address public opinion, raise public awareness on human rights and carry out education and training programmes;
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The People's Advocate is the promoter of the highest standards of human rights and freedoms in the country. It freely addresses public opinion, and continuously promotes and informs the citizens about human rights, as well as the role of the institution in this regard, through a proactive approach in the media and the development of promotional campaigns aimed at increasing and strengthening citizens' trust in the People's Advocate.</p> <p>Regarding the education and training programmes, the PA it is limited due to its human and financial capacities. Whenever possible, the education and training programs are conducted in collaboration and with external support.</p>

<p>Principle 3.3</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <p>- fully address all alleged human rights violations by all administrative authorities, other relevant State entities and, when applicable, private entities</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 86</i></p> <p>The PA recommends the relevant authorities to:</p> <p>[...]</p> <p>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.</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>The People’s Advocate Institution has the capacity to fully address the human rights violations by all administrative authorities and other relevant State entities.</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report December 2020, p. 15</i></p> <p>The SCA emphasizes that the mandate of an NHRI should extend to the acts and omissions of both the public and private sectors. While recognizing that the PA does interpret its mandate broadly as</p>

	<p>noted above, the SCA encourages the PA 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.'</p>
<p>Principle 3.4</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - have unfettered access to all relevant premises, including places of deprivation of liberty, and to all relevant individuals, in order to be able to carry out a credible examination of all issues covered by their mandate and to all relevant information, subject to possible restrictions stemming from the protection of other rights and legitimate interests and with due respect for the confidentiality of information obtained;
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 112</i></p> <p>"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."</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>The People's Advocate enjoys full access to all relevant premises without notice. During inspections or complaint handling visits conducted by the PA staff, there have been no cases of restrictions to premises or documentation.</p>

	<p>In cases of promotional activities, for organizational purposes the People’s Advocate does notify the relevant public authorities about their visit (in order to not disrupt the normal daily activities of the public institution i.e. school’s schedule).</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>CPT Report on Albania 2018, p. 59 (para. 139)</i></p> <p><i>In relation to 'Involuntary hospitalisation of a civil nature':</i></p> <p>‘Patients could lodge complaints with various outside bodies, including the Ministry of Health, the Health Inspectorate and the People’s Advocate, all of which also carried out inspections on a regular basis’.</p>
<p>Principle 3.5</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - monitor existing and draft policies and legislation with human rights implications before, during and after their adoption in order to advise the State about the impact of such policies and legislation on human rights and on the activities of human rights defenders, including by making relevant and concrete recommendations.
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The recommendations of People’s Advocate Institution addressed to state authorities are taken into consideration.</p>

	<p>The PA concern on this regard is that as a common practice the requests for inputs are sent last minute, without letting enough time to analyse and prepare in depth suggestions.</p> <p>In other cases, PA is involved fully in the process. A positive example is the positive stance taken by the Ministry of Justice, which has sent to PA for review the draft decision of the new General Regulation of Prisons and its related documents. MJ collaborated with PA and organized joint meetings to improve the draft to ensure the rights of prisoners and pre-trial detainees are guaranteed."</p>
<p>Principle 3.6</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - contribute to an effective justice system for all, through awareness-raising measures and facilitating access to rights and remedies and, as applicable, by providing legal assistance, being a party before the courts or, when applicable, receiving individual complaints;
<p>Assessment of implementation by the NHRI</p>	<p><i>'ENNHRI, State of the Rule of Law in Europe in 2022, p. 82</i></p> <p>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.'</p>

<p>Principle 3.7</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <p>- encourage the signature, ratification of and accession to international human rights treaties and contribute to the effective implementation of such treaties, as well as related judgments, decisions and recommendations as well as to monitor States' compliance with them.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 85</i></p> <p>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."</p> <p><i>Information Provided by the NHRI in 2023</i></p> <ul style="list-style-type: none"> • Ratification of the European Charter of Regional or Minority Languages <p>The PA has recommended to the Parliament of the Republic of Albania and the Prime Minister of the Republic of Albania the realization of the process of ratification of the European Charter of Regional or Minority Languages, sent with letter No. K1/I74-2 dated 10.09.2020. Nevertheless, no official reply was sent to the PA for two years, considering therefore this recommendation as refused.</p> <ul style="list-style-type: none"> • Ratification of the Optional Protocol of the UN Convention "On the Rights of Persons with Disabilities"

	<p>The Steering Committee for the implementation of the UN Convention "On the rights of persons with disabilities", in the resolution dated 25.09.2019, point 10, has recommended for the Albanian State to ratify the Optional Protocol of the Convention without further delay.</p> <p>Nevertheless, the Albanian state has not yet ratified the Optional Protocol of the UN Convention "On the Rights of Persons with Disabilities". Therefore, the PA, within the framework of the protection of the rights of persons with disabilities, has undertaken on its own initiative an administrative procedure to request information on the steps taken for this process.</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report December 2020, p. 16</i></p> <p>"The law does not explicitly mandate the PA to encourage ratification or accession to international human rights instruments.</p> <p>[...]</p> <p>The SCA encourages the PA to continue interpreting its mandate in a broad manner and to advocate for the appropriate amendments to its enabling law to provide it with an explicit mandate to encourage ratification or accession to regional and international human rights instruments."</p>

<p>Principle 4</p>	<p>The process of selection and appointment of the leadership of a NHRI should be competence based, transparent and participatory, in order to guarantee the independence and pluralist representation of these institutions. It should also be based on clear, predetermined, objective and publicly accessible criteria.</p> <p>The duration of the appointment should be clearly set out in the founding legislation, so that the leadership posts of the NHRI do not stay vacant for any significant period of time.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>According to article 61, paragraph 1 of the Constitution, the People's Advocate, is elected by three-fifths of all members of the Parliament for a five-year period, with the right of re-election. This majority is also stated by article 4, paragraph 1 of the law "On the People's Advocate". It is important to underline that in order for the Ombudsman to be elected, political consensus is needed for the minimum of 84 votes required to support a candidacy, as none of the political parties enjoys these numbers.</p> <p>According to Article 33/1 of law "On People's Advocate", the Commissioners are proposed to the Parliament by the People's Advocate. According to article 111 of the Regulation of the Albanian Parliament, Commissioners are elected by the majority of the members of the Parliament. The Commissioners are elected by Parliament for a four-year term, which may be renewed only once.</p> <p>All the above candidacies must be reviewed by the respective Parliamentary Committee on whether the candidates meet the constitutional, legal and merit criteria, in particular the criteria of independence. Throughout the steps dealt with above, the members from the civil society are free to participate actively. It is worth mentioning, the obligation stipulated by the law "On People's Advocate" for the selection of commissioners. Article 33/1 of the aforementioned law clearly provides</p>

	<p>for: People’s Advocate examines and verifies the fulfilment of the conditions and legal requirements of each candidacy through an open and public process and in cooperation with civil society organizations operating in the field of protection of human rights, organizes the process for reviewing and evaluating candidates.”</p>
<p>Principle 5</p>	<p>To ensure independence, the enabling legislation of a NHRI should contain an objective dismissal process for the NHRI leadership, with clearly defined terms in a constitutional or legislative text. The dismissal process should be fair and ensure objectivity and impartiality and should be confined to only those actions which impact adversely on the capacity of the leaders of NHRIs to fulfil their mandate.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>According to article 62 of the Constitution, “The People’s Advocate may be discharged only on the reasoned request of not less than one-third of the deputies. In this case, the Parliament makes a decision with three-fifths of all its members”.</p> <p>According to article 7 of the law “On People’s Advocate”, “The mandate of the People’s Advocate terminates if:</p> <ul style="list-style-type: none"> a. He resigns; b. His 5-year term in office elapses; c. He dies; d. He is removed from office.

The Article 8 of aforementioned law stipulates that: The People’s Advocate shall be removed from office only in case he/she:

- a. Is convicted by means of a final court decision;
- b. Becomes mentally or physically incapacitated to perform his duties;
- c. Conducts activities that violate the provisions of Article 10 of this Statute;
- d. Is absent from duty for more than three months.

The motion for the removal of the People’s Advocate shall be presented by at least one-third of the members of the Parliament. The decision of the removal from office of the People’s Advocate shall be taken with the votes of three-fifths of the members of the Parliament.

According to article 34 of the law “On People's Advocate” as amended, “he provisions of this law in cases of the mandate termination and dismissal of the People’s Advocate apply to commissioners too. The Commissioner may be removed by the Parliament motivated request of at least 1/3 of the members of the Parliament or of the People’s Advocate”.

Likewise, Commissioners can be removed from office with the request of the People’s Advocate before the end of the three-year term for abusing of their duties or acts and behaviour that seriously discredit their position and reputation (article 34, paragraph 3 of the law “On People's Advocate” as amended).

The People’s Advocate appoints one of the commissioners in duty to replace the Commissioner whose term has terminated in other cases as stipulated in this law, until the election of a new commissioner.

	<p>Thus, the cases are specific and well-defined.</p> <p>It is worth noticing that till the present, there has not been any dismissal process for the head of the NHRI or Commissioners.</p>
<p>Principle 6</p>	<p>Member States should provide NHRIs with adequate, sufficient and sustainable resources to allow them to carry out their mandate, including to engage with all relevant stakeholders in a fully independent manner and freely determine their priorities and activities.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 86</i></p> <p>“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.”</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>In recent years, the structure and organization of the institution have undergone sporadic changes aimed at increasing efficiency and adapting to the rules and procedures provided by the legal framework in the field of civil service. These changes have also aimed to reflect the adoption of a sustainable and relatively homogeneous structure with the structures and categorizations of employees of other state institutions, as well as fulfilling standards towards the formation of the structure units.</p> <p>As part of presenting budget requests for 2023 sent to the Ministry of Finance and Economy, but also during discussions in the Law, Public Administration, and Human Rights Commission in the</p>

	<p>Parliament of Albania, the Office of the Ombudsman requested the approval of some additional human resources by presenting the relevant arguments.</p> <p>With the approval of Law No. 84/2021, "On the Budget for 2023", it was noted that the overall approved number of employees of the institution for 2023 is 59 (fifty-nine) from 57 (fifty-seven) it was. These additions relate to:</p> <ul style="list-style-type: none"> • Adding a specialist in the field of information technology (category III-b), among others due to the need to maintain the institution's technology infrastructure, generate and process statistics, as well as the need for protection against cyber-attacks; • Adding a deputy ombudsman who will focus primarily on issues related to promoting, informing, or sensitizing human rights and the role of the institution in this regard, based particularly on international human rights standards. <p>At the same time, the NHRI reports that yet resources could be enhanced to fully enable its promotional mandate.</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report December 2020, p. 15</i></p> <p>"The SCA acknowledges that the PA's staff and budget have increased since 2014. However, the PA reports that the level of funding is insufficient to meet its human resources needs, including retaining full-time staff in its regional offices.</p> <p>[...]</p> <p>The SCA encourages the PA to continue to advocate for adequate funding, including to ensure fulltime staff in its regional offices."</p>

<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Albania 2020, p. 9 (Para.3)</i></p> <p>“The budget of the People’s Advocate increased slightly, but does still not adequately reflect the extension of its mandate in 2014, inter alia to include promotion and outreach activities for which, however, in spite of several requests, no budget increase was granted.”</p> <p><i>ECRI Report on Albania 2020, p. 29 (recommendation 1):</i></p> <p>“ensuring that the Office of the People’s Advocate receives the necessary financial and staffing resources to fully and sustainably cover all aspects of its mandate”</p>
<p>Principle 7</p>	<p>NHRIs should have the authority to determine their staffing profile and recruit their own staff, as well as sufficient resources available, in order to fulfil their mandate, so as to permit the employment and retention of staff and to ensure that they receive adequate training.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 86</i></p> <p>‘The PA recommends the relevant authorities to:</p> <p>[...]</p> <p>Ensure NHRI’s sufficient human and financial resources.’</p> <p><i>Information Provided by the NHRI in 2023</i></p>

	<p>The People’s Advocate of Albania is an A-Status institution. The People’s Advocate takes part in the process of the Commissioners’ election. But, in the end it is the Assembly which decides for the election of the Commissioners.</p> <p>Unlike many other independent constitutional institutions and independent institutions created by law, the structure and organization of the institution are determined by the Ombudsman, which creates the necessary flexibility to adapt and respond appropriately to the functions and duties of the institution. The manner of approving the structure and organization of the institution is explicitly provided for in Article 35, paragraph 3 of Law No. 8454, dated February 4, 1999, "On the Ombudsman", as amended. The number of People’s Advocate staff is determined by the Ministry of Finance, meanwhile the division is a competence of NHRI.</p> <p>The NHRI has limited capacities to provide continuous individual training, while it explores widely trainings at the regional level, Albanian School of Public Administration trainings, as well as trainings organized in cooperation with international networks, organizations and agencies such as ENNHRI, GANHRI, IOI, AOM, AOMF, UNDP, OHCR, etc. The Costs of these training are covered by organisers and when possible supported by the institution budget.</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report December 2020, p. 15</i></p> <p>‘The SCA acknowledges that the PA’s staff and budget have increased since 2014. However, the PA reports that the level of funding is insufficient to meet its human resources needs, including retaining full-time staff in its regional offices. [...] The SCA encourages the PA to continue to advocate for adequate funding, including to ensure fulltime staff in its regional offices.’</p>

<p>Principle 8</p>	<p>Member States should ensure that NHRIs enjoy adequate access to information and to policy makers and legislators, including timely consultations on the human rights implications of draft legislation and policy strategies.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 83</i></p> <p>“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.”</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>In general, the cooperation of PA institution and state authorities has been positive.</p> <p>In 2022, the People's Advocate has carried out inspection visits to monitor how children rights were guaranteed by local state authorities, during the civil emergency situation caused by the 2019 earthquake in Albania, in the most affected areas of the country. The fact findings that resulted from these inspections were used to draft the recommendations for improving the actions of the public administration bodies, at the central and local level, in the best interest of the children. During this process, the People’s Advocate acknowledges the good collaboration it had with the Municipality of Tirana. They appointed a contact person, as coordinator, gave full access to information and</p>

	<p>provided all the required data, through interviews and in written form, in a reliable and timely manner.</p> <p>Nonetheless there have been several instances where the collaboration in providing due information has been problematic. The Ombudsman Institution has found in the process of reviewing complaints that local-level public administration bodies have a low level of cooperation and interaction and do not fulfil their legal obligation to provide explanations and information to the Ombudsman within the prescribed legal deadline, a situation that is repeated year after year. For example, the issue of respecting property rights and the principle of a proper legal process has been and remains the subject of examination by the Office of the Ombudsman in cases of administrative activities carried out by public bodies in the implementation of various public projects. In the city of Tirana, for the projects of new development areas, in the Municipality of Tirana, administrative units no. 4, 6, and 8 of the Kombinat area, the "5 Maj" area, administrative investigation has not been concluded due to the the lack of accurate and complete explanations from public bodies such as the Municipality of Tirana, the Ministry of Infrastructure and Energy. This lack of cooperation has hindered the work of the institution in issuing the final report on the situation regarding the respect for property rights or the principle of a proper legal process for the issues that concern the complaining individuals, as well as concluding the administrative procedure within a reasonable time frame.</p> <p>Another important issue is the situation regarding the enforcement process of decisions by the ECtHR against the Albanian State. The Ombudsman institution is in the process of developing a special report, which would have been completed if the responsible Ministry for finances had provided regular information, as requested, on the stage of the enforcement process for each decision issued by the ECtHR against the Albanian State. Similarly, for this issue, the State Attorney has not provided sufficient and comprehensive information on the situation regarding the enforcement process for each decision issued by the ECtHR against the Albanian State.</p>
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	<p>Failure to respond to request for information and recommendations sent by the constitutional institution of the Ombudsman hinders the constitutional and legal mission of the Ombudsman to protect the rights, freedoms, and legitimate interests of citizens. The lack of responses, or the incomplete replies to the requests for information sent by our institution is also in contradiction with the provisions of the Code of Administrative Procedures, due to non-compliance and violation of the principles of respect for institutional hierarchy and inter-institutional cooperation. Failure to provide the requested information and explanations within the prescribed legal deadline not only conceals the reasons for the mishandling of complainants' cases within the legal deadlines (which creates moral or even material damages for these citizens), but also shows a lack of correctness towards our institution.</p>
<p>Principle 9</p>	<p>Member States should implement the recommendations of NHRIs and are encouraged:</p> <ul style="list-style-type: none"> - to make it a legal obligation for all addressees of NHRI recommendations to provide a reasoned reply within an appropriate time frame, - to develop processes to facilitate effective follow-up of NHRI recommendations, in a timely fashion and - include information thereon in their relevant documents and reports.
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, pp. 82-83</i></p> <p>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</p>

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."

ENNHRI, State of the Rule of Law in Europe in 2022, p. 85

"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."

Information Provided by the NHRI in 2023

The level of implementation of recommendations from public administration institutions has been and remains a continuous concern for the Ombudsman's institution. Despite the positive steps and initiatives observed over the years, there is still much to be done in this direction, not only by the central and local public administration bodies (especially regarding the implementation of

recommendations), but also by the Parliament of Albania, as the legislative body where reports prepared by the Ombudsman's Institution are presented and discussed. The platform comes in the spirit of increasing parliamentary control by the Albanian Parliament, promoting a transparent system and a more efficient assessment of the implementation progress of recommendations from independent institutions from the executive and dependent agencies. The online platform is periodically updated.

The PA institution has sent a detailed information (November 16, 2022) to the Parliament of Albania regarding the institutions that do not respond to the addressed recommendations. Out of 249 recommendations addressed during the year 2022, a total of 1256 sub-recommendations were addressed. Of these, only 29% have been fully implemented, while 71% remain unimplemented. Among the unimplemented sub-recommendations, 16% of them have not received a response from the institution, 4.5% have been refused, while 50.5% are in the implementation process. These data are included in the reported data for the level of implementation of the 267 institution's recommendations, considering recommendations with two or more sub-recommendations, for which there has been a response or implementation only for a part of them, as accepted and partially implemented recommendations.

The Ombudsman's institution continuously monitors the level of implementation of recommendations addressed to public administration bodies through the preparation of updated information, which is included in periodic or annual reports. On the official website of the institution, [a section](#) has been created where unimplemented recommendations, responsible institutions, and institutions that have not responded to recommendations addressed by the Ombudsman are included, providing accessibility and visibility to any citizen or interested party, respecting the rules of transparency and protection of personal data. Additionally, the Ombudsman's institution will include this updated information in the annual or periodic report.

<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Albania 2020, p. 10 (Para. 4)</i></p> <p>“In 2019, the UN Committee on the Elimination of Racial Discrimination (CERD) expressed its concern about the limited follow-up of recommendations and decisions taken by the equality bodies. ECRI notes that the Albanian parliament adopted an Action Plan “on the implementation of the recommendations of the European Commission report for Albania” (2018) that contains a series of measures aimed at strengthening the parliamentary monitoring system for the implementation of the recommendations by the equality bodies. Such a step is welcome and seems necessary, given that still a large number of recommendations made by the equality bodies are not followed up with relevant actions.”</p> <p><i>ECRI Report on Albania 2020, p. 29 (recommendation 1)</i></p> <p>“strengthening the follow-up given to the recommendations of the People’s Advocate and the Commissioner for the Protection from Discrimination with a view to enhancing their effectiveness”.</p>
<p>Principle 10</p>	<p>When member States grant NHRIs additional competences to perform functions foreseen by international conventions in the field of human rights, such as the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Convention on the Rights of Persons with Disabilities, the NHRI should have access to sufficient resources to develop the capacity to effectively discharge its functions, including having appropriately qualified and trained staff.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Please refer to answer no 6.</i></p>

III. Safe and Enabling Environment

<p>Principle 11</p>	<p>Member States should ensure that NHRIs can operate independently, in an environment which is conducive to them carrying out their mandate in an effective manner and in a climate of impartiality, integrity, transparency and fairness.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided in 2023 by the NHRI</i></p> <p>According to article 60, paragraph 2 of Constitution "People's Advocate is independent in the exercise of its duties". People's Advocate does not receive instruction from government. He/she decide autonomously and it is at its discretion to participate in the different working groups established by the government or to be part of process of preparing or amending a law/bylaw.</p> <p>According to article 61, paragraph 4 of the Constitution "People's Advocate may not take part in any political party, carry on any other political, state or professional activity, or take part in the management organs of social, economic and commercial organizations".</p> <p>Moreover, according to article 10 of the law "On People's Advocate", "The People's Advocate shall be prohibited from participating in political parties or organizations, carrying out any other political, state or professional activities, or participating in the steering bodies of social, economic or commercial organizations. He may exercise the right to teach or be an author".</p> <p>The article 8 of the aforementioned law provides for that one of the motives for the removal from office of the People's Advocate is when he "Conducts activities that violate the provisions of Article 10 of this Law". As previously mentioned, article 62 of the Constitution envisages that the removal from office of the People's Advocate, is made by decision of the Parliament with three- fifths of all its members (article 62, paragraph 2 of the Constitution). In addition, to the abovementioned legal</p>

	<p>basis, there is also special legislation regulating this field. The basic law is Law no.9367, dated 7.04.2005</p> <p>"On the Prevention of Conflicts of Interest in Exercising Public Functions"; The High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest is the Central Authority responsible for the implementation of this law. provisions that regulate this area, are also defined in Law No. 9131, dated 08/09/2003, "On the Ethics Rules in Public Administration". Inter alia, Albania has also adopted international acts, which provide for obligations in the field of conflict of interest prevention such as the United Nations Convention against Corruption (UNCAC).</p>
<p>Principle 12</p>	<p>Member States should foster awareness and the co-operation of all relevant public authorities in relation to the mandate, independence and role of NHRIs, including through training and awareness-raising activities.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 83</i></p> <p>"The Albanian NHRI reflects that the relevant state authorities still do not have sufficient awareness of the NHRIs' mandate, independence and its role. Despite more than 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."</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 84</i></p> <p>"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</p>

	<p>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.</p>
<p>Principle 13</p>	<p>Member States should take all measures necessary to protect and support NHRIs against threats and harassment and any other forms of intimidation, including through ensuring functional immunity. Any cases of alleged reprisals or intimidation against NHRIs, their membership and staff, or against those who co-operate or seek to co-operate with them, should be promptly and thoroughly investigated and the perpetrators brought to justice.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 85</i></p> <p>"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."</p> <p><i>Information Provided by the NHRI in 2023</i></p>

	<p>According to article 61, , paragraph 3 of Constitution “The People's Advocate enjoys the immunity of a judge of the High Court”. Moreover, the Article 6 of law “On People’s Advocate” stipulates that “ The People’s Advocate shall enjoy the immunity of a High Court judge... ”</p> <p>With the latest amendments to the Constitution (made by law no. 76/2016, dated 22.07.2016), article 137 of the Constitution provides for the immunity of the judges of the High Court: A judge (including the judge of the High Court) enjoys immunity for opinions expressed and decisions taken in the exercise of his functions. This immunity is limited to cases of defamation or the commission of criminal offenses. However, in the case of the Commissioners, no legal provision provides for any special protection or immunity for actions taken in their official capacity. They, as well as the rest of the staff of the institution and other state administration bodies, are responsible for property and non-property damage caused to natural or legal persons.</p> <p><i>Please refer further to answer for question 11.</i></p>
<p>Principle 14</p>	<p>Member States should ensure that confidential information collected by NHRIs in the context of their mandate is privileged and is not unduly made public.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided in 2023 by the NHRI</i></p> <p>According to article 12, para 2 of the law “On People's Advocate”, as amended, “The People’s Advocate shall maintain confidentiality if he/she deems it reasonable as well as when the person submitting the complaint, request or notification requests so”. Moreover, Article 19/1 “The People’s Advocate or any persons authorized by him/her have the right any time, without restriction or preliminary authorization, however having informed in advance the head of the institution, to enter any public administration institutions like prisons, places where the police and prosecution office keep the accompanied, detained or arrested people (the detainees), in state units or institutions,</p>

	<p>mental hospitals, nursery homes, orphanages and other places he is informed or deems that it is possible for human rights and freedoms to be violated. The access to all above-mentioned premises intends either the investigation of a complaint, request or a certain notification or an initiative taken by the People's Advocate to conduct an inspection or study. In such a case, the People's Advocate can meet or talk in confidentiality, without the presence of any official people, with any person being present or kept in these facilities. Any correspondence between these persons and the People's Advocate shall not be obstructed or checked".</p>
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IV. Co-operation and Support

<p>Principle 15</p>	<p>Member States should take effective measures to enable NHRIs to communicate and co-operate with, in addition to the various levels of administration in the member States, in particular:</p> <ul style="list-style-type: none"> a. counterpart institutions, where appropriate through networking and exchange of information and practices, as well as through regular meetings such as those taking place within the framework of ENNHRI and GANHRI; b. civil society stakeholders, in particular non-governmental organisations and human rights defenders, who should enjoy easy and safe access to NHRIs as part of an enabling environment; c. other human rights structures, including regional, local and/or specialised institutions, notably Ombudsman institutions and equality bodies and their respective networks, where appropriate through jointly organised activities; d. international and regional organisations working in related or similar fields.
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>During the year 2022, the institution of the Ombudsman, as one of the key actors in the national system for the protection of human rights, has fully valued the process of European integration by collaborating with all state structures responsible for monitoring and implementing obligations, through providing meaningful contributions that play an important role in respecting human rights and strengthening the rule of law. On this regard, from October 25th to 28th, 2022, a Peer Review</p>

Mission by the European Commission was conducted in Tirana to monitor the independent institutions and their effective functioning, as part of the evaluation by the services of the European Commission for the continuation of fundamental reforms that are of great importance in the accession process according to the revised methodology for enlargement in 2020.

During the year 2022, the Ombudsman's institution has participated and contributed also in the framework of joint meetings held with the EU, where the meetings held within Chapter 23 "Judiciary and Fundamental Rights" should be mentioned.

Additionally, the Ombudsman's institution has contributed to the process of drafting the National Plan for European Integration for the period 2023-2025 (NPEI 2023-2025), as well as in the preparation of the Albanian Government's Contribution II for the European Commission's Report on Albania for 2022.

The Ombudsman has continued to actively participate in meetings and reporting within the Council of National Coordination for European Integration the highest national advisory structure for European integration that operates within the Parliament, with the aim of promoting and ensuring comprehensive cooperation among political forces, public institutions, and civil society, as well as increasing transparency in decision-making on integration issues.

a. The Office of the People's Advocate places special emphasis on strengthening national and international relationships with similar institutions, organizations, and networks for human rights in order to strengthen its role in implementing the global human rights agenda and ensuring the implementation of international standards, not only in Albania but also beyond. In this sense, the People's Advocate has invested significantly in regional and international cooperation at bilateral and multilateral levels in the field of promoting and protecting human rights.

In 2022, the evaluation of the activity of the People's Advocate of the Republic of Albania was reaffirmed with the unanimous re-election of Ms. Erinda Ballanca as the second Vice President of the

Mediterranean Ombudsman Association (MOA). This reaffirmation is in addition to her duties as a Member of the Administrative Council of the Ombudsman and Mediator Francophone Association (AOMF), and membership in the governing boards of two important international human rights organizations, the European Network of National Human Rights Institutions (ENNHRI) and the Global Alliance of National Human Rights Institutions (GANHRI).

Active participation at such high levels of representation has enabled, among other things, the exchange of good practices in strengthening National Human Rights Institutions (NHRIs) as strong, effective, and independent institutions, essential for guaranteeing the promotion and protection of these rights.

The Office of the Ombudsman has continued its close cooperation with the Council of Europe and other human rights organizations, with a focus on vulnerable groups, the European Commission against Racism and Intolerance (ECRI), the European Union Agency for Fundamental Rights (FRA), and other organizations. Fruitful cooperation has continued with the Office of the United Nations High Commissioner for Human Rights (OHCHR). Examples of these collaborations include active participation in global consultations with NHRIs to improve the implementation of the Global Compact for Migration, organized by GANHRI and OHCHR; the intersessional meeting of the Human Rights Council for dialogue and cooperation on human rights and the 2030 Agenda for Sustainable Development, organized by the Office of the United Nations High Commissioner for Human Rights; training conducted by the Department of the European Social Charter, ENNHRI, and the European Network of Equality Bodies (EQUINET), on "How NHRIs and equality bodies can engage with the European Committee of Social Rights as part of the monitoring procedures of the European Social Charter"; a panel discussion at the conference on the future of Europe and European integration in the field of protection. This panel was organized by the European Organisation of Military Associations and Trade Unions, etc.

The Institution of the People's Advocate has had continuous contacts with the EU Delegation in Tirana as well as representatives of international organizations and institutions operating in Albania, such as the OSCE Presence in Albania, the Council of Europe Office in Tirana, the UN Resident Coordinator's Office and UN agencies such as UNHCR, UNICEF, UN Women, and UNFPA. Thanks to these collaborations, also in the form of joint contributions, activities, and projects, the People's Advocate has been able to increase institutional capacities, expand its presence in the field and carry out a series of awareness-raising activities.

The People's Advocate further consolidated the cooperation with Civil Society Organizations that operate through active participation in several activities.

As part of regional cooperation and strengthening of inter-institutional relations, in addition to exchanges at various forums, it is worth mentioning the official visit of a delegation from the Ombudsman of Kosovo. The meeting focused on the current achievements of the two institutions as well as ways to strengthen cooperation and collaboration between them in the future.

The Ombudsman of Albania, held a meeting with a delegation from the Agency for Information and Privacy of the Republic of Kosovo (AIP). During the discussion, the Ombudsman presented an exposition of the mission and work of the Ombudsman Institution in Albania and the efforts of the Albanian side to help Kosovo's accession to international institutions for the protection of human rights.

Similarly, a delegation composed of representatives from various departments of the Ombudsman of North Macedonia, visited the Ombudsman Institution of Albania. For three consecutive days, they held meetings and observations at various sections and offices of the Albanian Ombudsman with the aim of exchanging experience, sharing best practices of both parties and strengthening relations between the two institutions.

Assessment of implementation by CoE independent bodies	<p><i>ECRI Country Report on Albania, p. 9 (Para. 1)</i></p> <p>“[...] a very effective and collegial relationship between the two institutions (MZ: CPD and PA) has been established in which both build on each other’s mandate, capacities and expertise. This positive trend was formalised in a Memorandum of Cooperation signed by the heads of both independent institutions on 28 May 2018. It is also symbolised by the fact that 10 local/regional offices have been opened (seven by the People’s Advocate and three by the CPD), which can all be used to lodge complaints with either institution so as to promote better access to both independent authorities.”</p>
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