

HUMAN RIGHTS IN ALBANIA

(From People's Advocate Institution, Albania)

1. Detention/ prohibition of torture:

- **Issues:** Overcrowding, infrastructure and abnormal conditions, - Violence in prisons; Insufficient number of doctors in prisons and pre-trial detention facilities (including dentist physician); - Lack of continuous training of staff; - Non-payment of prison officers for overtime hours; - Non-payment of the work of the convicts.
- **Recommendations:** Forecasting the necessary financial resources; Special prison for mental illnesses; Closure of 4 prisons as the material degrading conditions make it impossible to guarantee the rights of pre-detainees and convicts; Reintegration for convicted persons (to draft action plan by Ministry Justice + Ministry of Social Affairs, such as during imprisonment, and especially after leaving);

Pursuant to the Juvenile Code (entered into force on 01.01.2018), special facilities for juveniles should be created.

Violence in prisons and mistreatment exercised by State Police and Prison Police, against detained

- **Issues:** Although reduced, there are still cases of physical / psychological violence, or excessive force by State Police employees (not only in police commissariats but also in public facilities) and Prison Police;
- **Recommendations:** 12 recommendations from which 8 addressed to Prosecution Bodies for the Prosecution of Perpetrators of Violence, and 4 directed to the State Police and Prison Directorate for taking disciplinary measures;

2. Disabilities:

- **Recommendations:** - Issuance of all sub-legal acts pursuant to Law No. 93/2014 "On inclusion and accessibility of persons with disabilities", according to the legal deadlines set; - Access to infrastructure, information, urban public transport, for persons with disabilities; - Implementation of the legal obligation for employment of persons with disabilities.

Children with disabilities:

- Pre-university system should meet European standards to accommodate the needs of children with physical and mental disabilities (including physical infrastructure).
- In accordance with the Law on Education, in all compulsory public education schools, the number of specialized support teachers should be increased, within the classroom of a disability student.
- The Ministry of Education should support the Faculty of Social Sciences and Education Sciences for Specialized Pedagogy programs, in order to prepare specialized teachers.
- Regional Education Departments should collect and make public accurate statistics on the number of children with disabilities targeting public, private and private education to enable more effective policies to meet the needs and services of these children at all levels.

3. Rights of the child

- **Issues:** Reforming legislation on the administration of juvenile justice; the adoption of the Juvenile Justice Code of Juvenile Justice and its Action Plan, 2018-2020 (entered into force on 1 January 2018).
This code provided that, within 6 months of its entry into force, 13 sub-legal acts were issued, i.e. in August 2018, this process should have been completed.
- **New needs:** - Assessing the impact on public policies of real budgeting for children, with a view to implementing an integrated defense system.
 - Establish an efficient system for assessing the needs for social services for each municipality, ensuring co-operation and co-ordination of work in drafting budgeted social plans for each municipality.
 - Out of the total number of 13 sub-legal acts, 6 instructions were issued by the Ministry of Justice and a Decision of the Council of Ministers, so there is still no necessary institutional infrastructure for law enforcement in practice (e.g. establishment of centers rehabilitation or special detention facilities and detention facilities for juveniles in conflict with the law, as well as the establishment of the Juvenile and Juvenile Crime Prevention Center).
- **Recommendations:** Social Protection Strategy 2015-2020 (approved by DCM no. 1071 dated 23.12.2015) requires developing a de-institutionalization plan which is still pending (it is expected to reduce stay time for children in residential institutions).

4. Sexual orientation & gender identity

- **New development:** After the People Advocates special report on LGBTI situation: Resolution adopted by Assembly (on 7.5.2015) “On Protection of the Rights and Freedoms of Persons belonging to LGBT community”; - National Action Plan for LGBTI persons in the Republic of Albania 2016-2020 adopted by Council of Ministers.
- **Recommendations:** - Amendments to Civil Registry legislation still pending; - Amendments to the Family Code on cohabitation of same-sex partners recommended by PA to competent ministries; - Activities planned in the Action Plan for LGBTI persons in Albania must be costed and earmarked in the budget of institutions.

5. National Human Rights Institutions

- **New development:** In November 2014, the Law on the People’s Advocate was amended.
- **Issue:** - The AP’s work domaine and the competences to define the institution's agenda were narrowed; - The competences and guarantees of financial independence have been reduced; - Special Reports from People’s Advocate, in most cases, are not examined by the Parliament; - Recommendations are not implemented by State institutions adequately and properly¹;

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Year	Nr. Of Recommendation	Un-based Recommendation	%
2015	280	137	48.9%
2016	319	221	69.2%
2017	197	92	46.7%
2018	171	78	45.6%

- Authorities with overlapping (similar) powers were established (e.g. Co-Governance Office under the Prime Minister);
- The increasing of competences (with various laws, such as the law package for justice reform in 2016) was not accompanied by increasing the number of staff;
- The end of the Danish project in 2017 (which supported People's Advocate for around 10 years) was not compensated by the state budget with funding to support activities (especially within the promotional role).

6. Property rights

- **Issue 1:** New development: Adoption of the law no.133/2015 "*On the Treatment of Property and the Completion of the Compensation Process of Property*".
Recommendation: The People's Advocate requested the Constitutional Court to repeal the law no.133/2015, as it found: Incompatibility with the Constitution of the Republic of Albania and with the European Convention on Human Rights (the law did not provide effective remedies instead of rights denied and did not properly address the issues of return in kind, or property compensation). The Constitutional Court partially accepted the Referral, whereas due to the lack of necessary number of the members of the Panel of judges, it is still unable to review another part of the suit.²
- **Issue 2:** In many cases the legislation on expropriations from state institutions, does not apply.
- **Issue 3:** There are many cases of non-execution of court decisions in cases where debtors are state institutions; inappropriate implementation of ECtHR Judicial Decisions; Conduct irregular procedures for the mandatory execution of criminal judgments of a fine imposed by the Bailiff's Service.
- **Issue 4:** Restriction of the right of ownership in accordance with Article 17 of the Constitution of the Republic of Albania.
 - *Criteria for restriction of the right of ownership:* 1. only by law (for the public interest or for the protection of the rights of others); 2. Compared with the state it has created; 3. Without infringing on the essence of the right and without exceeding the limits set forth in the ECHR.
 - *Contested normative acts:* 1. DCM no.138 dated 23.02.2018 "On the temporary suspension of the procedures for the transfer of ownership of agricultural land beneficiaries of former agricultural enterprises and the registration of land acquisition acts in the area of importance to the Fund of Strategic Investment Support "; 2. DCM no.708 dated 21.11.2018 "On the registration and transfer to the administration responsibility of the ministry responsible for the tourism of some state real estate properties, on the coastal line Vlora-Saranda.
 - *Issue:* Restrictions on the right of ownership of private entities that are or are owned on the basis of the act of acquiring the land or are restricted to the full disposal of their property due to the suspension of the registration of this property in the ZVRPP relevant. This restraint is in violation of Article 17 of the Constitution, since it is carried out by a legal act and not by the DCM and does not meet the other conditions set forth in the Constitution.

² Decision No. 01, dated 16.01.2017 of Constitutional court, annulled Article 6, points 3 and 5 of Law No.133 / 2015 and rejected the request for the abrogation of Article 6, point 1, letter "b", and Article 7, point 2, letter "a"; and "B" of the above law.

7. **Gender Based Violence & domestic violence**

New development: Adopted law No.47/2018 "On Amendments and Amendments to Law No.9669, dated 18.12.2006" On Measures against Domestic Violence ", as amended (entered into force on 22.08.2018).

Issues: - Increase local government units' awareness on budgeting of gender priorities; -The lack of local legal clinics ranging from the county level and beyond, and the provision of services from them brings about the effects of women's access to justice in different circles. - Lack of social services of different typologies with preventative, promotional, emergency and integrative features for victims of domestic violence at the local level and fair budgeting for their support is a key element in the disruption of the households of the Albanian family; - Insufficiency of rehabilitation programs for abusers results in the recurrence of the phenomenon of domestic violence

8. **People affected by Blood- feud**

- **Recommendations:** - Full and accurate identification of blood feud killings, of families and of persons confined; - Response of the Prosecutor's Office of the Shkodra Judicial District to the identification and administration of criminal reports of isolated families in the cities Shkodër and Malësi e Madhe.
- **Issues:** - The Council of Ministers' disapproval of the three sub-legal acts provided for in articles 4, 5, 6 and 7 of Law no. 9389, dated 04.05.2005 "On the establishment and functioning of the Coordination Council in the fight against blood feud"; - Lack of accurate data and statistics on the blood feud phenomenon.