

Written information from the People's Advocate on the implementation of CEDAW Convention in Albania

Addressed to the CEDAW Committee

General

1. The People's Advocate (PA) is an independent Constitutional institution¹ for protecting human rights and freedoms, including the rights guaranteed by CEDAW Convention. Gender equality and nondiscrimination are part of the body of fundamental human rights and freedoms. Protection from discrimination constitutes a universal right, and it's not only a right of individuals, but also an obligation of the state administration and all other actors and factors in the country.
2. The institution of the PA expresses its stand on some concerning issues faced by women in Albania like women's participation in politics and decision-making, women's access to the justice system, gender sensitive governance, women's economic empowerment, domestic violence, and women's access to social services. PA's stand is characterized by the conviction that the existence of a legal framework that aims at ensuring respect for the fundamental human rights and freedoms by the public institutions, is often not sufficient, as it is rather the concrete fulfillment of such legal obligations that guarantees the real, equal, and non-discriminatory enjoyment of human rights and freedoms by women.

A. PARTICIPATION OF WOMEN IN POLITICS AND DECISION-MAKING

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

CONCLUSIONS

3. Important amendments have been made to the Electoral Code, which aim at increasing women's participation in decision-making. However, despite the improved legislation and increased women's participation in politics and decision-making, the gender representation of no less than 30% has not yet been achieved. Sanctions by fines envisaged by the Electoral Code have resulted to be weak, and have not reached their objective.
4. In order to achieve equal gender representation in the local government bodies, PA has recommended that 50% of the municipal council members are women, and that the lists of political party candidates are rejected for not complying with the gender quota (50%)². Pursuant to law nr. 31/2015, "On some amendments and additions to Law nr. 10019, dated 29.12.2008 'Election Code of the Republic of Albania', as amended", Article 67 has been added as follows: "In elections for local government bodies, such as municipal councils, every second candidate shall be a woman".
5. Vulnerable women like women with disabilities³, Roma and Egyptian women, and women secluded because of blood feud, etc. have faced legal and factual obstacles in enjoying their right to take part in elections. The failure to adopt voting centers has led to the violation of the right of the people with disabilities to vote. The lack of identification and registration documents has made it difficult for Roma women to participate in elections. Women secluded because of blood feud have also not been able to enjoy their active and passive right to vote.

RECOMANDATIONS. In relation to the legal framework, it is recommended that amendments are made to the Electoral Code in order to ensure a real gender balance of 50% men and 50% women in the Assembly of the Republic of Albania in order for the upcoming elections to result in no less than 70 women members of Parliament. The Electoral Code needs to be reviewed in order to improve the mechanisms that ensure the application of such quote, and provide for the rejection of the lists of candidates of political parties, which fail to meet the gender quota for the parliamentary elections. This recommendation "On an initiative to improve the Electoral Code aiming at equal gender representation and access", (no. 201500100, March 2015) was sent to the heads of the parliamentary groups of the Assembly of Albania.

6. AP recommends the application of sanctions on the electoral subjects that do not comply with the gender quota. Measures for removing actual obstacles to the participation of vulnerable women in elections are necessary.

TEMPORARY SPECIAL MEASURES. ARTICLE 4 OF THE CEDAW CONVENTION

¹ The institution of the PA was established in 1998 by the approval of the Constitution of the RoA (Law No. 8417, dated 21.10.1998). In 1999, the Parliament of the RoA approved Law No. 8454, dated 04.02.1999 "On People's Advocate", which describes the rules for the organization and functioning of the PA. The PA's institution is accredited by the ICC Sub-Committee on Accreditation for the first time in 2004, and was re-accredited in 2008 by status "A" from this Committee. The ICC Sub-Committee on Accreditation re-accredited the PA with "A" status in March 2015, finding AP in compliance with Paris principles.

² With the law no.31/2015, "On amendments in the law no.10019, dated 29.12.2008, "The Electoral Code of RoA", as amended, these are envisaged. PA commends the initiative of the Alliance of Women MPs and Civil Society Coalition for amending the Electoral Code with a view to improving women's representation in politics.

Conclusions

7. PA commends the temporary special measures taken in the field of women's participation in politics and decision-making, employment, vocational training, housing, social services, education, etc., which were also presented in the state report on the implementation of the CEDAW Convention. However, regardless of these measures, there is no yet any regular monitoring or assessment of their impact on women.
8. **Recommendations. Temporary special measures are recommended to be taken in all areas and their impact on women is recommended to be regularly monitored by the relevant authorities like the Central Election Commission, MSWY, MoJ, Ministry of Education and Sports, etc.**

B. WOMEN'S ACCESS TO THE JUSTICE SYSTEM⁴. ARTICLE 2 OF THE CEDAW CONVENTION.

Legal aid. Legal framework and its implementation.

9. The Law on Legal Aid (2008), as amended⁵, expands the circle of beneficiaries, giving the right to benefit legal aid to those who: "c) need to protect their rights by filing a lawsuit, but cannot afford the court fees, and fees for court notifications and other court services. In this case, the applicant must prove that he/she: i) is part of a social protection program or meets the criteria to be part of one; or ii) is a victim of DV or victim of human trafficking in relevant court cases⁶.
10. The Constitutional Court (CC) by its Decision no. 7, dated 27.2.2013⁷ concluded that there are no obstacles for a judge to investigate or exempt the plaintiff from paying the court tariff, when he/she finds that the plaintiff cannot afford such tariffs. The Constitutional Court says that this is achieved by the Court through reviewing the presented documentation which proves that the citizen is unable to pay.
11. De facto situation. In 2015, the People's Advocate has received 12 requests for free legal aid. The requests were forwarded to the State Commission on Legal Aid at the Ministry of Justice and the requestors were notified accordingly in writing. The Commission has handled these requests in accordance with Law No.10039 date 22.12.2008 "On the Legal Aid". However, we receive complaints about delays by the State Commission on Legal Aid in reviewing requests for free legal aid by the public.⁸
12. Lack of legal aid effects the enjoying by women of the rights covered from CEDAW. PA raises its concern that although several years have passed since the establishment of the SCLA, the number of beneficiaries of legal aid is small. Regardless of the SCLA declared priorities in relation to benefits from legal aid, the number of Roma women, Egyptian women, women with special needs, women victims of DV, trafficked women, and women who have faced discrimination, who can benefit from the services, remains limited. Thus, in the first half of 2014, only two women victims of DV have received legal aid from the SCLA. This has been recognized also in the Fourth National Periodical Report⁹ on the implementation of the CEDAW Convention, clearly stating the problems faced with the legal aid.
13. Lack of legal information, following complex procedures and collecting the required documents costs money and time, which discourages women, especially women who are part of groups with special needs to apply for legal assistance from the SCLA.
14. The lack of local legal clinics and their services has had an impact on the access that women from different districts have to justice. The regional offices of the PA claim that some of the citizens' complaints are also about lack of free legal aid¹⁰. Only in May 2016 was the legal clinic opened, representing the first state office, funded by the State Commission on Legal Aid.
15. The transparency of the SCLA activities with regard to its decision-making on the applications for benefits, funds allocated by the state budget to legal aid, contracts signed with lawyers and the NPOs that offer the service, is not in

⁴An analysis of this case was also referred to in Article 15 of the CEDAW Convention, and paragraphs 14, 15 and 27 of the CR of the CEDAW Committee.

⁵Law No. 143/2013, "On amendments to Law No.10039, dated 22.12.2008, "On legal aid".

⁶The People's Advocate has given his recommendations to the Parliamentary Law Committee on the amendments made to Law No.10039, dated 22.12.2008, "On legal aid", suggesting the inclusion of the victims of trafficking and DV as entitled to legal aid.

⁷The case was about "Evaluation of the constitutionality of article 11/2, of the Law No. 9975, dated 28.07.2008, "On national taxes", as amended; Abrogation of the Instruction of the Minister of Finance and Minister of Justice No. 991/3, dated 02.03.2010, "On amendments to Instruction No. 13, dated 12.02.2009, "On establishing service tariffs for procedures and services offered by the judicial administration, MJ, Prosecutor's Office, Notaries, and the Immovable Property Registration Office" as non-compliant with the Constitution; the final interpretation of Article 155 of the Constitution in relation to the implementation of Law No. 9975, dated 28.07.2008 "On national taxation", as amended, on the basis of affordability". The case was brought by Pogradec District Court, Tirana District Court, and CLCI.

⁸ PA, Annual Report on the Activity of the People's Advocate, 1 January-31 December 2015.

⁹ The Fourth Periodic Report of the Albanian state on the Convention "On Elimination of all Forms of Discrimination against Women" approved by CMD No. 806, date 26.11.2014. Official Gazette of the RoA No.187/2014, p.10184 (4 cases/ 2013; 2 cases in the first half of the year 2014 – one Albanian citizen and one foreign citizen)

¹⁰People's Advocate, Periodical Publication of the People's Advocate, no.1, November 2014, p. 23.

due level¹¹. There are no data accessible for the citizens in the website of the MoJ to make the activity of the SCLA public.

16. PA signed an agreement of cooperation¹² with the SCLA in June 2012, through which the SCLA committed itself to assess and process cases referred by the PA in line with the law and secondary legislation, aiming at offering primary and secondary legal aid to vulnerable groups, which fulfill the criteria in accordance with the law. In the case of victims of violence in family relations and victims of human trafficking, PA has referred the relevant cases also to NPOs which offer services to these target groups.

RECOMMENDATIONS

- 17. Increased efficiency of the SCLA for raising the number of cases where primary or secondary legal aid is offered¹³. The establishment and functioning of the local legal clinics would significantly contribute to provide assistance in preparing applications for legal aid and the required documentation¹⁴ and would stand for meeting the standards for available legal aid across the country.**
- 18. SCLA is recommended to strengthen its orientation towards contracting non-profit organizations that offer free legal aid for these target groups, aiming at increasing the number of beneficiaries, and the quality of services by trained lawyers.**
- 19. Increased transparency of the SCLA activities, with regard to the number of applicants, and the number of beneficiaries, identified by gender, relation with any minority, disability, etc. This would also contribute to increasing the level of awareness of the citizens, including women, about the free legal aid available.**

Failure to execute final court decisions

20. **Failure to execute final court decisions related with the regulation of divorce consequences** like the children's custody, parent's rights to see their children, or their obligation to pay alimony has a particular impact on women, because according to NPO reports¹⁵, it is mostly women, who are given by the court the right to raise and educate children after divorce.

RECOMMENDATIONS

- 21. Increased effectiveness on the part of the Bailiff Service, Police and other relevant institutions, which have a role in the execution of final court decisions on these issues.**
- 22. Positive measures to be taken by the state for *guaranteeing children's alimony by the former husband are necessary. "Meanwhile, employment strategies could be developed for these persons in order to secure the payment of alimony, or compensation strategies, where the state can guarantee this payment and the debtor can pay his obligation to the state at a later time"*¹⁶.**
- 23. In cases of failure to execute final court decisions which require state institutions to pay the winning party in cash**, the state institutions justify themselves with the lack of funds and commit to make payments in installments depending on their financial resources and Instruction no. 2, dated 18.08.2011, "Execution of monetary obligations of state budget institutions to the Treasury", issued by the Council of Ministers. PA addressed the Constitutional Court asking for the abrogation of this Instruction as noncompliant with the Constitution. The Constitutional court decided to abrogate its letter (d) of paragraph 7 as noncompliant with the Constitution. The instruction was entirely abrogated by the Council of Ministers.

RECOMMENDATIONS

24. The accounts of debtor state budget institutions are recommended to be seized and fines to be imposed on their leaders in order for citizens, including women, to effectively enjoy their rights.
- 25. Complaints addressed to the PA show that the obligations set by final court decisions on return of women employees, who enjoy the status of civil servants, to their previous job have not been met under the**

¹¹See the report on the "Implementation of measures envisaged in the EU Recommendation 6, 7, 10, 11 and 12 to Albania, which relate to the scope of the PA work and to its activity related to the respective recommendations, during January-June 2012", Tirana, July 2012, pg. 6.

¹²During 2012, the PA received 55 requests for legal service in total from citizens, including women who claimed that they had no possibility to hire private lawyers. 39 requests for free legal aid services were submitted to PA in 2013.

¹³See the report on the "Implementation of measures envisaged in the EU Recommendation 6, 7, 10, 11 and 12 to Albania, which relate to the scope of the PA work and to its activity related to the respective recommendations, during January-June 2012", Tirana, July 2012, pg.6, <http://www.avokatipopullit.gov.al/sites/default/files/ctools/Raport%20i%20vecante%20masat%20e%20BE.pdf>

¹⁴Law No. 143/2013, "On amendments to Law No.10039, dated 22.12.2008, "On legal aid", Article 12/1, p. 2, "Local legal clinics".

¹⁵www.qag-al.org

¹⁶Prof.Dr.Av.Aurela Anastasi, "In margine al Sinodo 2014", "The execution of court decisions with regard to the payment of alimony in favor of the children in cases of divorce. (The case of Albania)", Bari 2014, p.44.

excuse that the vacancy had been filled, or the respective work post cut. Such approach has had a negative impact on women, who have had to face such a situation.

26. **Recommendations.** An action plan is recommended to be developed for ensuring the execution of court decisions on compensation, and on returning employees to their previous jobs¹⁷.

Multiple discrimination. Article 2 of CEDAW Convention; in relation to paragraph 42 of the CR of the CEDAW Committee.

Women from the LGBTI community

27. **The institution of PA has prepared a special report¹⁸**, presented to the Assembly of Albania, raising its concern about discrimination in different fields of this community, including women. In the opinion of the PA, legislation on the rights of the LGBTI community needs to be improved.

PA commends the fact that its recommendation submitted on 13.4.2012¹⁹ on introduction of sexual orientation and gender identity as additional causes of discrimination was accepted and reflected on the draft law amending Law no. 147961, dated 12.7.1995, “Labor Code of RoA”, as amended, approved by the Council of Ministers on 8.4.2015. By Decision of the Council of Ministers dated 25.05.2016 was adopted “An addition to DCM no. 87 dt.3.02.2016 “Adopting the policy document on social inclusion 2016-2020 along with the National Action Plan for LGBTI people in the Republic of Albanian for 2016-2020”.

RECOMMENDATIONS

28. ***In relation to the legal framework.*** Legal amendments are recommended to be made to the Criminal Code introducing a more complete definition of the crime of hatred, and amendments to Articles 119/a and 119/b of the Criminal Code, qualifying distribution of homophobic materials and insults made through the computerized network based on sexual orientation and/or gender identity as criminal offences, and amendments made to the Family Code in relation with the cohabitation of people of the same sex and recognition of gender identity by the Law “On civil status”.

ELDERLY WOMEN

29. Although the lack of data about the elderly women was one of the concerns of the CEDAW Committee for Albania in 2010, CR, p.38, “There is not yet any analysis or statistics about the elderly women and their de facto situation as per the areas of the Convention”²⁰.

30. The PA has raised its concern about the lack of a law that would improve the quality of life of the third age, and continues to work with the relevant institutions for approving such a law.

31. **RECOMMENDATIONS. Legal framework.** PA recommends the approval of the Third Age Status. Approving a draft law on the third age, accompanied by its financial cost needs to be considered in the context of the pension, decentralization, and territorial reform. The effects of this draft law on elderly women need to be evaluated.

32. **In relation to the de facto situation.** Conduct of a thorough analysis and collection of data about elderly people, disaggregated by gender, de facto situation of elderly women in the areas covered by the Convention. These data would serve to take the necessary anti-discrimination measures, and strengthen the social and economic mechanisms by the relevant actors like the MSWY, local government, etc.

Roma women

33. Roma women face direct and indirect discrimination in all the areas covered by the Convention.

34. **RECOMMENDATIONS.** The legal amendments need to ensure a facilitation of the legal criteria for increasing their access to social services, housing, education, participation in the public life in the country, as well as to vocational training and employment programs.

Women with Disabilities

¹⁷ Comments and opinions of the People’s Advocate on the Council of Europe’s 2014 Progress Report for Albania, Tirana 2014, pg.2. Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the People’s Advocate on the 2014 Progress Report. p. 3.

¹⁸This report was examined by the Sub-Committee for Human Rights and the Subcommittee for Juvenile Affairs, Gender Equality and DV in December 2014

¹⁹ Recommendation no. 116, dated 13.4.2012, addressed to Mr. Spiro Ksera, former Minister for Social Affairs and Equal Opportunities.

²⁰The Fourth Periodic Report of the Albanian state on the Convention “On Elimination of all Forms of Discrimination against Women” approved by CMD No. 806, date 26.11.2014. Official Gazette of the RoA No.187/2014, p. 10178.

35. Recommendations. In relation to women with disabilities, the PA recommends continuous harmonization of the national legislation with the CRPD. Approval of legal amendments consisting of additional specific provisions to the Code of Criminal Procedures and Code of Administrative Procedures to guarantee access of people with disabilities to the civil court process, criminal court process, and participation in administrative procedures would have its effects on the use of the legal means by women with disabilities, who face double discrimination. There is also a need to introduce specific provisions in the Law on Notaries to guarantee the full and free expression of the will by people with disabilities in drafting a notary act.

Women in penitentiary institutions

36. Law No. 40/2014 “On amendments to Law No. 8328, dated 16.4.1998, ‘On the rights and treatment of prisoners and pre-trial detainees’, as amended” has provided the obligation to treat women pre-trial detainees and prisoners by respecting their fundamental rights and freedoms, and without discrimination.

37. The PA institution has found during the inspections that some of the problems that women facing in the penitentiary institutions until 2014 such as over-population, poor infrastructure of the buildings, lack of appropriate rooms for meetings with their children, etc., were resolved by adopting on December 2014 the penitentiary institution “Ali Demi” in Tirana strictly for woman pre-detainees and detainees. At the inspection to this institution on 2015 was concluded that woman at this penitentiary institution face with the need for a more qualitative legal service, problems in meetings with the children hosted on social care institutions, lack of treatment with personal hygiene products, etc. Furthermore the women who are entitled by a court decision, to mandatory health medication in a hospital environment, due to the lack of the Forensic Institution are kept in the special sector created at this Penitentiary Institution as well as at the Prisons Health Institution in Tirana, in contradiction with the law and the international standards for the Mental Health.

During its inspection of the Prison Health Institution, the PA found that patients were not separated into special sectors for pre-detainees pending the court decision, and detainees, as required by the relevant standards; there was no proper place for the patients to meet with their adult and minor family members; the internal regime rooms were not equipped with an electronic bell for communication in cases of emergency; the patients’ rooms were not equipped properly with furniture, sheets, mattresses, chairs and tables; there was no heating system in place, and here were no common spaces to enable religious, cultural, and sports activities by the psychological-social care sector; and there was no reserve funds allocated to patients suffering from tumour diseases, which require expensive medication, etc.

38. **Recommendations.** It is recommended that the standards provided for by Law No. 40/2014, “On amendments to Law No. 8328, dated 16.4.1998, ‘On the rights and treatment of prisoners and pre-trial detainees’, as amended” serve as indicators in monitoring the performance of the General Directorate of Prisons and IECs in relation to the respect for the rights of women sentenced to prison, or pending the court decision as pre-trial detainees.

39. **Respect for the international standards is to be ensured by the GDP and the IECs in relation with the treatment of persons, who are entitled to mandatory health medication based on a court decision, in special mental health institutions, outside the prison system. Some recommendations for the Institution of Prison Special Health Service of Tirana²¹ are :**

Urgent measures for the complete reconstruction of the Institution of Special Health Service of Tirana as an institution that offers mainly health servile, which requires treatment conditions that comply with the standards set by the national legislation and the European Human Rights Convention; Measures for getting additional middle-level medical staff members, taking into account the special category of persons treated by this institution; Measures for getting a dentist as an additional staff member in order to provide patients with adequate dental service; Measures for creating a reserve fund for patients suffering from tumour diseases, whose treatment requires expensive medication; Measures for ensuring additional Police staff for accompanying patients to other hospital centres within the University Hospital Centre without infringing the security conditions.

²¹ Recommendations for the Institution of Special Health Service of Prisons were sent by Letter No. K4/I6-2, dated 22.01.2015.

40. **Some recommendations** for the Institution for Execution of Criminal Decisions (IECD) Ali Demi²² are: Measures for equipping the institution with a register for documenting cases of violence; Measures for ensuring frequent contacts of the women pre-detainees and detainees with their lawyer in order for them to be able to become informed about the procedures for benefitting rewarding and special leave, probation service, etc.

41. **Respect for the international standards is to be ensured by the GDP and the IECDs in relation with the treatment of women, who, based on a court decision, are entitled to mandatory health medication in special mental health institutions, outside the prison system. Establishment of special rooms for women in every Police Commissariat is recommended.**

Secluded women/girls

42. The People's Advocate has constantly raised concerns about the enjoyment by secluded individuals, including women, of the right to employment, education, and health care²³, and the need for guaranteeing such rights through effective measures.

Women emigrants

43. "The 2010- 2015 strategy on the reintegration of repatriated Albanian citizens and the action plan" provides for establishment of support mechanisms for women emigrants.

44. Returned women emigrants with economic problems benefit from Decision no. 48, dated 16.01.2008, as amended, "On the size and criteria for benefitting from the program for promoting the employment of unemployed jobseekers in difficulties", and decision no. 27, dated 11.01.2012, "On programs of promoting employment of women from special groups", as amended. **Recommendations**

45. **It is recommended that the implementation of the "2010- 2015 strategy on the reintegration of repatriated Albanian citizens and its action plan" be regularly monitored also from the gender perspective.**

C. ECONOMIC EMPOWERMENT.

Article 11 of the CEDAW Convention, paragraphs 32, 33 of the Concluding Remarks of the CEDAW Committee in relation to guaranteeing equal and nondiscriminatory rights to work relations.

Provision of the women's right to effective protection from every discriminatory action

46. Women continue to face legal and practical obstacles in claiming compensation for sex and gender based discrimination, including sexual harassment at the work place. Thus, Article 36 of the Law on Protection from Discrimination²⁴ (2010), "Procedures before court", requires the claimant to bring evidence to support his/her claim for the court to conclude that there has been discriminatory behavior involved in their case. Only after the claimant presents his/her evidence, is the defendant obliged to prove that the facts constitute no discrimination.

PA considers the burden of proof for women in cases of sexual harassment in the work place as an obstacle to effectively using the means available, and recommends that the Labor Code is amended so that the burden of proof for alleged discrimination at work falls on the employer²⁵. This recommendation was accepted. Law nr.136/2015, "On some additions and amendments to Law nr. 7961, dated 12.7.1995, 'Labor Code of the Republic of Albania' as amended, Article 9 states that should the complainant or plaintiff present evidence pointing to grounds for discrimination in the exercise of his/her right to employment and his right to using his/her profession, the person under charges or the defendant has the burden to prove that the right to equal treatment has not been breached. Article 32 of the Labor Code of the republic of Albania also states that following the presentation of evidence pointing to harassment, it is the defendant or the person under charge who has the burden to prove that his/her action were not meant to harass, as well as to produce the relevant facts substantiating the fact that his/her actions were not intended as harassment. PA's recommendation on introducing prohibition of moral harassment of employees by employers in the Labor Code addressed to the MJ and MSWY was also accepted. Law nr.136/2015, "On some additions and amendments to Law nr. 7961, date 12.7.1995, 'Labor Code of the republic of Albania' as amended, in Article 15 stipulates the obligation of the employer to take every necessary measure to prevent harassment in the work place, by

²² Recommendations for the Institution of Execution of Criminal Decisions Ali Demi were sent by Letter No. K4/I35-2, dated 02.09.2015.

²³Special Report of the People's Advocate "Blood food ", pg.7. (no.28/4, dated 22.04.2013)
www.parlament.al/web/pub/2013_raporti_per_gjakmarrjen_15419_1.pdf

²⁴ Law no. 10221, dated 4.2.2010.

²⁵People's Advocate, "Road Map" on the implementation of the reforms related to the fulfillment of the five key criteria for Albania's EU integration, pg. 10.

him/herself and/or the other employees, as well as his obligation to post in a visible place the legal provisions on moral harassment and the corresponding sanctions. **Including whistleblowers in the Labor Code would serve to identify cases of moral harassment at the work place and address them with the respective structures**²⁶.

47. Recommendations. Improvement is recommended to be made to the Law on Protection from Discrimination, introducing nationality, a declared intention to discriminate, and help and encouragement of discrimination as additional causes of discrimination. Amendments are also recommended to be made to the Criminal Code on protection from sexual harassment committed by the employer, supervisor, or whoever with whom the victim has a certain status of dependence, as well as protection from moral harassment at the work place.

48. Continuous training is recommended to be organized with the justice professionals on the EU standards on the burden of proof in cases of discrimination in the work relations, including sexual harassment at work. Awareness about the standards emerging from the CEDAW Convention on equality in the work relations is recommended.

GE at work

49. Women face differences in salaries, and they do more hours of unpaid work compared with men.

50. **Recommendations.** The increase of participation of women in vocational education would help reduce gender differences in salaries, orienting women towards better paid professions. Policies promoting inclusion of women in science, technology, etc. as well as the promotion of qualified women at work, promoting the development of women's business, and monitoring the gender effects of policies and legislation on gender equality and nondiscrimination are recommended.

In relation to social insurance

51. The Law²⁷ "On amendments to Law No. 7703, dated 11.05.1993, "On social insurance in the RoA", as amended (2014), gives every citizen, who, regardless of his gender, has reached the age of 70, has been living in Albania for at least the five last years, does not meet the criteria for any pension from the obligatory social insurance scheme, and has no incomes, or whose incomes from any other source are lower than the incomes from social pension, the right to benefit social pension. *Women, who do not have the number of years of contribution required to benefit pension according to the social insurance law, shall remain without any incomes until they reach the age of 70, i.e. the age when they benefit social pension.*

52. The PA has raised the concern that, "Failure to set a minimum living standard in Albania hinders the establishment of social policies for groups of people in need"²⁸.

53. **Recommendations.** It is recommended that social pensions are benefited upon being granted the right of inclusion in the pension scheme rather than upon reaching the age of 70. The implementation of this recommendation would be beneficial for elderly women, who have not paid the mandatory pension contributions or any volunteer pension contributions.

54. There is a need to declare a minimum living standard, which would serve as the basis for calculating the monthly pension is calculated.

E. Domestic Violence

(Articles 1 and 2, and 5 of the Convention on the Elimination of all forms of Discrimination against Women, CEDAW) General Recommendation No. 19 of the Committee on the Elimination of Discrimination against Women, CEDAW)

The national population-based survey²⁹ 2013, on "DV in Albania" shows that 59.4 % of women (more than 1 out of 2 women) reported that they had experienced DV in their marriage/intimate relationship "in their life", and 53.0 % of women (1 out of 2 women) were "currently" experiencing DV (within the 12 months prior to the interview).

²⁶ These suggestions were sent to the Parliamentary Committee for Legal Affairs, Public Administration, and Human Rights during 2015.

²⁷ Law no. 104/2014, dated 31.07.2014.

²⁸ Comments and opinions of the People's Advocate on the Council of Europe's 2014 Progress Report for Albania, Tirana 2014, pg.4. Minutes of the meeting of 12.11.2014 of the Committee on Legal Affairs, Public Administration and Human Rights, Hearing session with the People's Advocate on the 2014 Progress Report.

²⁹ INSTAT, "DV in Albania", National population-based survey 2013. The report is prepared by Dr. Robin N, Haarr, UNDP International Consultant.

55. The legal framework. The legal framework addressing DV in Albania has improved during 2010-2014. The law on "Measures against DV"³⁰ (2006), as amended, has been subject to changes in order to provide faster and more effective prevention and protection from DV. CMD No. 334, dated 17.02.2011, "The coordination mechanism for the referral of cases of DV and its operation procedures" envisaged the establishment of a Coordination Mechanism for referring cases of DV. Special laws are in place aiming at extending the range of beneficiaries of legal and financial aid, etc., including victims of DV. The amendments made to the Criminal Code by Law No. 23/2012 and Law No. 144/2013, envisage DV as a criminal offence, addressing different forms of DV with legal remedies, they stipulate harsher punishment for perpetrators and perpetrators are punished even in case the victim withdraws from the proceedings.
56. **Recommendations.** The ratification by the Albanian Government of the Council of Europe Convention "On Preventing and Combating Violence against Women and DV" requires harmonization of the national legislation with the standards stipulated in the convention on the range of subjects who enjoy legal protection against DV, compensation of victims of DV, benefiting of services regardless of victims' report, etc, information of the victim when the perpetrator escapes or is temporarily or permanently released, etc. The PA has recommended that a provision on "*Moral harassment at home*" is introduced in the Criminal Code, which has not yet been approved by the Assembly of Albania.
Establishment and strengthening of the coordination and referral mechanism for cases of DV.
57. The establishment and operation of the Coordination and Referral Mechanism (NRM) for cases of DV has improved the management of such cases at the local level. However, even though there is a NRM in 27 municipalities³¹, coordination of the work among the relevant actors, and the members of the NRM in some of them leave to be desired. The lack of NRMs in all municipalities of the country makes women victims of DV face a high level of risk in the absence of a multi-disciplinary approach.
58. There is lack of services like accommodation or 24/7 hotlines, etc. at the local level for the victims of DV, making the fulfillment of obligations by the members of the NRMs more difficult. By Decision of the Council of Ministers, dated 8.06.2016 the Albanian Government has adopted "Standards of the National Counselling Line for victims of domestic violence". "There is no detailed legal framework to directly support the contracting, delegation, or procurement of NGOs by the local government units for social services."³²
59. **Recommendations.** It is recommended that the existing NRMs are strengthened and new ones established in all local government units in order to effectively prevent DV, and ensure protection from it.³³
60. Measures envisaged in the National policies on Gender Equality and Reduction of Gender Based Violence and DV that require the setting of procedures and possibilities to subcontract NPOs for the provision of services³⁴ are recommended to be implemented.
61. Gender issues must be part of the local policies and action plans, and allocated proper budgets. Services for victims and rehabilitation programs for perpetrators must be made available.
Implementation of the criminal legislation on protection from DV.
62. Murders in the name of honor represent a concern of the institution of the PA, presented also in the Fourth National Periodical Report on the implementation of CEDAW Convention, which reports 17 cases of murders of women in family relations in 2013³⁵.
63. The PA raises the concern about the criminal proceedings against DV perpetrators, who have exercised psychological and sexual violence against women, which are difficult to prove. In practice, there is hesitation

³⁰ Law no. 9669, dated 18.12.2006, "On measures against DV".

³¹The 4th National Periodic Report on the implementation of the Convention on the "Elimination of all forms of Discrimination against Women", approved by CMD No.806, dated 26.11.2014. The Official Journal of the RoA no.187/2014, p.10183.

³²http://www.qag-al.org/WEB/publikime/kontraktimi_ojf.pdf

³³The PA Special Report No.208 dated 24.07.2012, "Violence against Women and the Activity of the PA", July 2012, pg. 36.

³⁴The PA Special Report No.208 dated 24.07.2012, "Violence against Women and the Activity of the PA", July 2012, pg. 37.

³⁵Fourth National Periodical Report on the implementation of the CEDAW Convention, approved by CMD No.806, dated 26.11.2014. Official Gazette of RoA no.187/2014, p. 10186

to report sexual violence between spouses. There has been one case of violent sexual relations between spouses reported and registered (2013)³⁶".

64. The violation of IPOs/Pos reflects clearly the problems with the coordination of work among the actors responsible for ensuring their enforcement. Referring to the Forth National Report on the implementation of CEDAW Convention, the number of violations of POs has increased in 2011, 2012, and 2013. There have been registered 86 violations of POs for 2011, 119 for 2012, and 138 for 2013³⁷".

Recommendations

65. **It is recommended that cases of DV, not only those of physical, but other forms of violence as well like psychological and sexual, are effectively prosecuted.**
66. **The victims' right to compensation needs to be effectively realized not only based on the civil and administrative law, but also as part of a sanction provided by the criminal law.**
67. **The Code of Criminal Procedures needs to be amended so that it defines the status of the victims of violent crimes and their rights like the right to information, representation in court by a lawyer, etc, and the role of the relevant authorities with regard to guaranteeing victims' rights in the spirit of the international standards embraced by the Albanian state. The recommendation on amendments to the Code of Criminal Procedures has already been sent to the MJ, and they are expected to be approved.**
68. **An analysis of the causes of violation of the IPOs/Pos is necessary for identifying the responsibility of the Bailiff Office, Police, and municipal social service offices.**
69. **Capacity building. Continuous training is recommended to be delivered by the School of Magistrates to the legal professionals on the special forms of DV like psychological, sexual, and other forms of violence, ensuring an approach towards the victims of the criminal offences.**
70. **Punish ability. It is recommended that the relevant actors, who do not meet their legal obligations in addressing cases of DV, are made accountable.**

ACCESS TO ECONOMIC BENEFITS AND SOCIAL SERVICES³⁸ (Article 13 of the CEDAW Convention, paragraph no.36 & 37 of the CR).

71. The legislation on social aid and services improved during the reporting period, offering *de jure* more opportunities for increasing women's access to such benefits and services. However, women heads of families have been excluded from the economic aid scheme in a number of cases. In 2014, PA received 72 complaints from women about rejection or interruption of economic aid. PA has contributed to solving such complaints through its recommendations for the local government units and for the State Social Service. PA has recommended a review of the weighted formula used for assessing the eligibility of applicants for economic aid, and the size of aid they benefit.
72. Complaints addressed to the PA show that there have been months of delay with payments made by the local government to people with disabilities, including women. All the complaints were solved by enabling the allocation of the respective funds.
73. PA notes that the size of the economic aid benefitted from women heads of families, victims of DV, and the victims of human trafficking is not sufficient to address their rehabilitation needs.
74. Although the law envisages access of citizens, including women, to social services, the actual situation leaves to be desired when it comes to the geographic distribution of the social services, and the actual access that vulnerable women enjoy.

Recommendations

75. **Aid to victims of DV and human trafficking needs to be sufficient to serve their rehabilitation needs.**
76. **The local government needs to make the payment of the economic aid, disability, and payments to other people in need, including women, in a timely manner.**

³⁶Fourth National Periodical Report on the implementation of the CEDAW Convention, approved by CMD No.806, dated 26.11.2014. Official Gazette of RoA no.187/2014, p. 10186.

³⁷Fourth National Periodical Report on the implementation of the CEDAW Convention, approved by CMD No.806, dated 26.11.2014. Official Gazette of RoA no.187/2014, p. 10184.

³⁸This part addresses issues related with Article 4 of CEDAW Convention, and paragraph 37 of the CR of CEDAW Committee on Albania in 2010, too.

Improvement of the distribution, types of social services, and their standards and diversity in compliance with the needs of the vulnerable groups, including women. Special importance should be paid to increasing the awareness of the local government units on the need to budget for gender priorities, thus making gender issues part of the policies and action plans at the local level. The municipal authorities are encouraged to use own funds, but also to apply for funding designed to support the establishment and running of social service facilities for victims of domestic violence, special shelters, social-psychological and legal services for victims, rehabilitation programs for assaulters and the meeting of other obligations determined by law.

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

77. Effective special measures need to be taken for increasing women's access to bank loans as a mean of ensuring their economic independence through starting their own business and empowering themselves economically.

GENDER BUDGETING. Steps taken in terms of legislation and its implementation. ARTICLE 3

78. Not all the line ministries and local government units have appointed full time gender equality employees. According to the Fourth National Periodical Report on the implementation of CEDAW Convention, "By September 2013 only three out of 15 central ministries had a dedicated gender officer in their structures, while the rest only had GE focal points"³⁹.

79. According to the Fourth National Periodical Report on the implementation of CEDAW Convention, at the local level, out of 65 municipalities in total, 18 have a special GE office with a full-time dedicated gender employee, while 47 municipalities have GE focal points⁴⁰.

80. ***It is recommended that gender equality mechanisms are established and strengthened both at the central and local level, and full time gender employees are appointed both at the ministries, and at the local level.***

81. Measures are recommended to secure the sustainability of gender employees and strengthening of their capacities in both levels.

³⁹Fourth National Periodical Report on the implementation of the CEDAW Convention, approved by CMD No.806, dated 26.11.2014. Official Gazette of RoA no.187/2014, p. 10179.

⁴⁰Fourth National Periodical Report on the implementation of the CEDAW Convention, approved by CMD No.806, dated 26.11.2014. Official Gazette of RoA no.187/2014, p. 10180.