

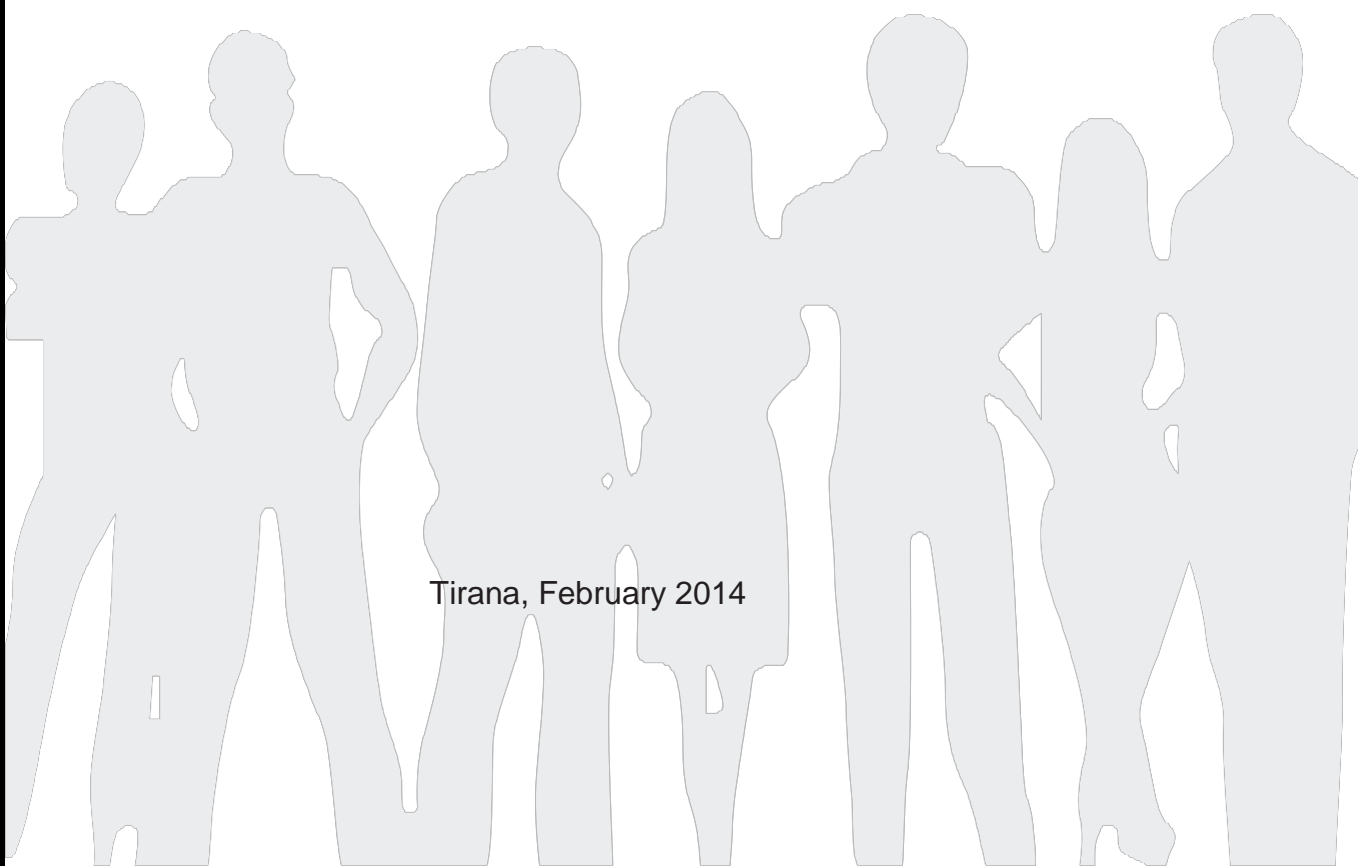


REPUBLIC OF ALBANIA
PEOPLE'S ADVOCATE

ANNUAL REPORT

**On the activity
of the People's Advocate**

1st January – 31st December 2013



Tirana, February 2014



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Honorable Mr. Speaker of the Assembly of the Republic of Albania,
Honorable Members of the Assembly,

Ne mbeshtetje te nenit 63, paragrafi 1 i Kushtetutes se republikes se Shqiperise dhe nenit 26 te Ligjit N0.8454, te Avokatit te Popullit, date 04.02.1999 i ndryshuar me ligjin Nr. 8600, date 10.04.200 dhe Ligjit nr. 9398, date 12.05.2005, Kam nderin qe ne emer te Institucionit te Avokatit te Popullit, tj'u paraqes Raportin per veprimtarine e Avokatit te Popullit gjate vitit 2013.

Pursuant “ to Article 63, paragraph 1 of the Constitution of the Republic of Albania and Article 26 of Law No. 8454, dated 04.02.1999 “On People’s Advocate”, as amended by Law No. 8600, dated 10.04.2000 and Law No. 9398, dated 12.05.2005, I have the honor, on behalf of the People’s Advocate Institution, to submit this report on the activity of People’s Advocate for 2013.

Sincerely,

PEOPLE'S ADVOCATE

Igli TOTOZANI

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Overview of the Annual Report 2013

Formulation of this Annual Report on the People's Advocate activities was based on our performance of 2013. We hope that information on the situation of fundamental freedoms and human rights in Albania would be useful for the members of Assembly and public administration, as well as for national and international organizations operating in the field of human rights, counterpart institutions in the region and beyond, educational institutions, media and public opinion.

Some parts of the report may interest you more than others; therefore we suggest reading this introduction to help you understand in which section you will find exactly the information required. Thus, the report is divided into four chapters, as follows:

In the **first chapter**, we aim to briefly reflect the most important issues presented in 2013 in the work of the Institution through complaints, meetings with citizens, inspections and other related activities, and present our recommendations for measures and improvements of human rights standards in Albania.

A brief presentation is outlined concerning the five special reports produced by the People's Advocate Office in 2013, which aim to bring to the attention of the Assembly and public administration the emergent concerns and topics in the field of national human rights.

The second chapter is a more detailed presentation of issues and work of the People's Advocate Institution in handling and resolving complaints. This section provides specific case studies, approach and relevant solution and also introduces the work of the Institution for restoration of the denied and infringed rights through concrete recommendations to the state institutions.

The third chapter analyzes the People's Advocate activity in 2013, in capacity of the National Preventive Mechanism Against Torture.

The fourth chapter emphasizes the proactive role taken on by the People's Advocate during 2013 not only for the protection but also for promotion of the highest national standards of human rights. This section provides an overview of cooperation with the public and cooperation of the institution with different partners of the civil society, media and international partners. Additionally, this chapter provides an overview of the Strategic Plan of the People's Advocate during 2013-2015, as drafted by the institution in 2013.

The last chapter includes statistical information on the 2013 activity, but also information on the new institutional structure and financial costs.

CHAPTER I

1.Opinions and recommendations on human rights situation in Albania

The People's Advocate is the only national institution under a constitutional status for the protection of human rights and fundamental freedoms in Albania. It was established in 1998 upon the approval of Constitution of the Republic of Albania, adopted by Law No. 8417, dated 21. 10. 1998 and in 1999 the Albanian Parliament approved Law No. 8454, dated 04. 02. 1999 "On People's Advocate". The "Code of Administrative Procedures (No. 8485 dated 12. 5. 1999), Law "On the rights and treatment of prisoners and pre-trial detainees" (No. 9888 dated 10. 3. 2008), Law "On consumer's protection" (No. 9135, dated 11. 9. 2003) and Law "On mental health" (No. 44/2012, dated 19. 4. 2012) constitute the legal basis setting out almost all rights and functional duties of the People's Advocate.

The People's Advocate Office, driven by the principles of impartiality, confidentiality, professionalism and independence, acts for protecting the rights, freedoms and legal interests of the citizens from unlawful or irregular actions or omissions of the public administration bodies and the third parties acting on its behalf. Further, the People's Advocate is committed to a proactive role for promoting the national highest standards of human rights and for establishing and developing a culture of good governance, considering them all as key components for proper functioning of democracy and integration of Albania in the European Union.

With the view of further consolidation of the People's Advocate Office, a package of proposals for amendments to the Law on People's Advocate was drafted in 2013 and was submitted for review to the Ministry of Justice. Upon the request of the People's Advocate, EURALIUS Mission of the European Commission assisted the institution to carry out a legislative analysis and draft proposals for amendments to the Law on People's Advocate, in accordance with Paris Principles. These crucial proposals are oriented:

1) to define the People's Advocate mission not only for the protection but also for promotion of human rights; 2) to further strengthen institution's independence, and 3) to improve the institutional structure. Proposals for the amendment of Law on People's Advocate were submitted to the Ministry of Justice in April 2013 but no replies have been sent yet. We are awaiting the assessment of these proposals and their presentation for review to the Albanian Assembly.

The People's Advocate is an independent and impartial institution. Its duty is to provide a real and transparent overview of the situation and of findings identified during the year. Furthermore, the scope of the People's Advocate Office includes the issuance of recommendations and opinions on improvement of the human rights situation within the country.

This section of the Annual Report reflects central issues addressed during 2013 by the People's Advocate Office, presented through complaints, meetings with citizens, inspections and other related instruments. Our recommendations are submitted with the aim of adopting proper measures and upgrading the level of human rights standards in Albania.

We believe this overview of the respective concerns, challenges, accomplishments and recommendations regarding the national situation of human rights, is applicable both for the members of Albanian Assembly and public administration, and the national and international organizations operating in the field of human rights, counterpart institutions in the region and beyond, educational institutions, media and public opinion.

The current legal framework safeguarding the respect of human rights and fundamental freedoms by public institutions is often inadequate as the concrete fulfillment of these legal obligations guarantees the rule of law and real enjoyment of human rights and fundamental freedoms.

Accordingly, 4346 complaints were submitted to the People's Advocate during 2013. This is a record number of complaints filed with this institution since its establishment. Of the total number of complaints filed in 2013, 2943 (68%) were considered "within the jurisdiction and scope of competence" of the People's Advocate and 1403 (32%) complaints were considered as "advice and guidance" for the citizens.

We are ready to serve the citizens, determined and fully committed to mediate and settle all their complaints on a case by case basis as in this way we restore a denied or infringed right. Accordingly, during 2013 a number of 1164 cases from the public administration were accepted, which have fallen within the jurisdiction and powers of the People's Advocate.

One of the key measures launched in the context of admission and examination of complaints submitted to the People's Advocate Office, is the creation and daily operation of an "ad-hoc" commission composed of experts from three sections and the National Preventive Mechanism Against Torture, which, in capacity of a "consultancy office", subject to the scope of complaints, classifies them as "complaints within the jurisdiction and competence" to be further investigated by the experts according to the right they cover, and "advice and guidance" for the complaints not covered by the legal operational framework of the People's Advocate Office. These modalities for the classification of complaints have reduced the real number of the examined complaints, shortened the period of deliberation of cases out of the jurisdiction and competence of the People's Advocate. Further, replies were sent to citizens within the time limits specified in the Code of Administrative Procedures and Internal Regulation of the institution.

This updated practice of admission and elaboration of complaints shows that for 2013,

out of 2943 complaints held admissible for review, only 292 do not fall within the jurisdiction and competence of the institution.

During 2013, the People's Advocate continued to examine cases upon initiative ex officio, based on issues that citizens have made public in the print and visual media. It follows that during 2013 the number of cases upon initiative, which investigation is initiated by virtue of article 13 of Law No. 8454 dated 04. 02. 1999 "On People's Advocate", amounted to 173.

Additionally, in exercising his duties the People's Advocate continued to carry out inspections at the public institutions and administrative authorities, mainly focused on the places of detention, based on the acts of competent state bodies (pre-trial detention facilities, prisons, mental health hospitals etc) and children's residential centers (orphanages), residential centers for elderly people etc. 171 inspections were conducted in 2013 therein on a broad national scale. Of these inspections, in conformity with the Optional Protocol of the United Nations Convention against Torture and other Inhuman and Degrading Treatment (OPCAT), in 2013 the People's Advocate carried out 108 qualitative and in-depth inspections in support of the National Preventive Mechanism Against Torture.

As regards the complaints submitted during 2013, the People's Advocate addressed cases of infringement of the right to equality before law and prohibition of discrimination, violation of the right to information, infringement of human rights by the police, non-observance of the rights of prisoners, delays of judicial and administrative procedures, violation of the property and labor-related rights, failure to meet the citizens' housing demands, problems for providing social insurance and economic assistance, issues related to the free and effective exercise of the right to education and health care etc.

The People's Advocate does not resolve himself a situation due to the violation of a specific right of a complaining citizen but instead issues recommendations for restoration of the violated right to the public administration body, which, according to the People's Advocate, has caused such a violation. Regarding all cases covered, the People's Advocate has taken all appropriate measures through submission of the relevant recommendations.

A total number of 380 recommendations were addressed to the public administration bodies during 2013, of which 48 were refused, 247 are fully accepted, 27 recommendations are still being implemented. Meanwhile, until 14 February 2013, there were 58 recommendations without the replies of public administration bodies to the People's Advocate Office, although the feedback from those institutions constitutes a legal obligation under article 22 of the Law on People's Advocate No. 8454, dated 4.2.1999, as amended. In these cases, we are obliged, as the case may be, to repeat the recommendation, ask for replies or we have hierarchally referred to the higher level bodies, including the Albanian Assembly and the Council of Ministers.

During 2013, the People's Advocate continued to examine a series of practices, phenomena and disturbing situations for the Albanian society, which have not been in harmony with the national or international standards on human rights, adversely impacting the full enjoyment of individual rights. Accordingly, during this year the People's Advocate produced 5 special reports submitted to the Albanian Assembly. These reports to be further detailed in the following report section, brought to the attention of the Assembly and Executive emergent issues and topics considered by the People's Advocate to be better addressed by the state bodies through the improvement of legal framework or the work of responsible bodies for their consideration and solution.

We kindly highlight that after a long time, since 2012 none of the People's Advocate¹ reports was examined by the Albanian Assembly, the twelve special reports submitted to the Assembly during 2012 and 2013 were disseminated to the Members of Assembly, thus making them public (according to article 28 of the Law on People's Advocate, No. 8454 dated 4. 2. 1999, as amended). Having considered the importance of topics handled in such reports for the upcoming year, the People's Advocate still believes that new reports to be submitted to the Assembly should be examined by the respective Assembly Commissions or during a parliamentary session.

Based on the problems identified from the examined cases and legal analysis developed by the institution, during 2013 thirty recommendations were prepared for approval, amendments or additions of laws by the Albanian Assembly, bylaws of the Council of Ministers or relevant ministries and referred to the Constitutional Court with the view of repealing the bylaws or legal amendments that, in our opinion, infringe human rights and fundamental freedoms. For a full list of recommendations for legal amendments and cases addressed to the Constitutional Court, please refer to Annex 1 in the end of the report.

In 2013, in exercising his constitutional function for the protection of human rights and fundamental freedoms, the People's Advocate continued to pay special attention to the complaints from the vulnerable groups, who are mostly at risk from discrimination. He considers the protection and safeguarding of rights of the local vulnerable communities as one of the working priorities of the institution and as an essential component for the further progress of Albanian integration in the EU. Although these citizens complain about the violation of a certain right, relevant cases basically contain elements of discrimination and equality violation, giving rise to the violation of other rights.

In this context, attention is focused on the respect of the rights of **Roma minority members**, who continue to face a number of issues affecting their human rights and fundamental freedoms. Notwithstanding the applicable legal provisions, the People's Advocate believes there is still much to be done to practically guarantee the respect of rights, integration and social inclusion of this minority.

¹ During 2012 the People's Advocate produced and submitted 7 special reports to the Albanian Assembly.

Roma minority is a vulnerable group at risk, which in most of the cases fails to benefit from our social system, including housing, registration with the registry office, delivery of economic aid or education, employment, health care and every potential benefit that our social system provides to Albanian citizens. In these circumstances, the People's Advocate strongly believes that with the view of protecting the vital interests and rights of this minority, initiatives should be launched for legal amendments, in order to enable a positive discrimination and facilitate legal requirements for delivering current social services to the Roma minority.

In this framework, after a period of broad consultations with the civil society stakeholders and international community, the People's Advocate along with a number of organizations, launched in September 2013 a package of recommendations for legislative amendments to the line Ministries for the long-term solution of issues encountered by the Roma minority in Albania. More specifically:

- Legislative recommendation on amendment of the Decision of Council of Ministers No.787/2005 "On Setting Out the Criteria, Procedures and Amount of the Economic Aid" (as amended) – (addressed to the Minister of Social Welfare and Youth).
- Recommendation for the adoption of measures to include Roma minority members in the civil registers at local government units where they have their current domicile (addressed to the Minister of Interior).
- Legislative recommendation on the amendment of Law 9232/2004 "On social housing programs for urban area residents" (as amended) - (addressed to the Minister of Urban Development and Tourism).

During 2013 three new recommendations were prepared for the protection and promotion of the rights of Roma minority within the country, in the context of and following the ECRI (European Commission against Racism and Intolerance) recommendations addressed to Albania regarding these issues. More specifically, the following recommendations are made:

- Some improvements of Law No. 69 dated 21.06.2012 "On pre-university educational system in the Republic of Albania" to envisage and guarantee the integration of Roma children in education, from kindergarten to other higher educational levels;
- Adoption of concrete measures provided for in the National Strategy for the Improvement of Roma Minority Living Conditions and the National Action Plan 2010-2015, "Roma Inclusion Decade", for better living conditions of Roma minority within the shortest time possible;
- Approval of a law to specify the definition and criteria of "*de jure*" recognition of the minorities, in compliance with provisions of the Framework Convention of

the Council of Europe “On the protection of minorities”.

Likewise, in October 2013 the People’s Advocate drafted a special report on the issues and situation of Roma minority rights within the country, to be submitted to the Albanian Assembly in the first trimester of 2014 (meanwhile, another Special Report for Roma Minority was produced in 2012). For more than two months the experts of our institution visited every Roma settlement or domicile, creating a clear overview of the concerns faced by every community. Based on these findings, it has sent relevant recommendations to the responsible institutions. During these visits a number of about 180 individual complaints were submitted to our experts from the members of Roma communities and these complaints are followed up by the relevant PA experts.

In August 2013 and for the upcoming period, 70 Roma families that had been long settled in one of the most inhabited areas of Tirana, the former-Decoration facility, were evicted due to an urban planning covering that area. In addition to the daily follow-up of on-site situation by experts and continuous reporting to the network of local and international organizations, recommendations launched by the People’s Advocate required an emergent solution of the current situation and its long-term prospective solution. The relevant recommendations were as follows:

1. Recommendation of the Ministry of Labor, Social Affairs and Equal Opportunities for the emergent intervention and verification of the aggravated social situation and resolution of the housing issue regarding Roma grassroots in the camp of former Decoration facility;
2. Recommendation to Tirana Municipality for the resolution of housing issue regarding Roma community members in the camp of former Decoration facility;
3. Recommendation to the Chief of Police Station No. 2 for the investigation of criminal charges regarding the endangerment of life and health of Roma grassroots in the camp of former Decoration facility;
4. Recommendation to the Ministry of Health for adopting measures on continuous health treatment and assistance of Roma community members in the camp of former Decoration facility;
5. Recommendation to Tirana Regional Educational Directorate to make arrangements for the enrollment of Roma children living in the camp of former Decoration facility in Kavaja Street, at nine-grade schools near their current domicile and their free supply with books and educational resources.

We keenly approached the immediate intervention of the Ministry of Social Welfare and Youth chaired by the new Minister, Mr. Erion Veliaj and his staff during September and October 2013, in order to find a temporary solution and settle this community in a safe environment, and deliver a series of health, social, educational and other related services. Notwithstanding this measure, the People’s Advocate shares the opinion that

for the members of this community but also for a number of citizens with housing concerns, there is a need for a mid-term and long-term strategy to provide a more comprehensive solution of the housing of Albanian citizens and members of Roma minority in particular.

Notwithstanding the applicable legislation, **disabled people** remain one of the most marginalized Albanian social categories, with denied access to some of the basic life instrumentalities. They are little hopeful to attend school, find a job, have their own home, raise their own family and children, engage in social activities or vote. Basically, for most of the disabled people, shops, public and transport facilities but also information are barely accessible.

Disabled people and their rights constitute one of the main missions of the People's Advocate Office. They are part of the EU Recommendation No. 11 for Albania. In this context but without limitation hereto, legislative and policy developments on disabled people, and their implementation have been subject to discussions, assessments and recommendations of our institution.

During 2013 some challenges emerged regarding the disabled people, worth mentioning the periodic delays for disability allowance and compensation of electricity and phone bills, urban and inter-urban transport as provided by the legislation in force. For most of those citizens, disability allowance was the only source of living and they cannot meet their vital basic needs due to their limited skills and opportunities.

In our institutional capacity, we adopted a clear position favoring the affected citizens, making the respective recommendations. As regards the present situation, the People's Advocate made a recommendation addressed to the Ministry of Social Welfare and Youth and the Ministry of Finance, requiring the immediate fund disbursement for the late payment of disabled people. These payments started to be delivered in December 2013 and the Government promised there would be no delays for the delivery of economic aid and disability allowances. The entitlement to outstanding payments will continue from January 2014 onwards.

Following an analysis of the repeated delays for the delivery of allowances to the disabled people, the People's Advocate believes that despite the financial difficulties or lack of coordination between the central and local government, state institutions should strongly attempt not to repeat such a situation that seriously infringes the rights of a vulnerable group. Additionally, in any circumstances we should not underestimate the transparency to public opinion and interested stakeholders for addressing such a situation, in spite of its difficulties or challenges.

The disabled people stakeholders proposed a draft law for their democratic representation, which was supported in 2012 by the members of the opposition parliamentary group of that time. In some of its articles, the Convention of United Nations for the Rights of Persons with Disabilities requires these groups be supported,

consulted and involved in the public life through national, regional and local organizations composed of members of the stakeholders. The People's Advocate upholds this initiative of the stakeholders and Members of Parliament.

Another initiative of 2013 was focused on the formulation of a special report by the People's Advocate concerning the extent of implemented provisions of Law No. 7995 "On promotion of employment", for the recruitment of disabled people by public institutions, a report which was submitted for review to the Assembly.

The People's Advocate continued to examine cases related to the rights of **LGBT community**. Lesbian, homosexual, bisexual, and transgender communities encounter difficulties in their daily life and restrictions of their fundamental rights which, in principle, should be enjoyed by everyone, without discrimination.

Based on the EU Commission Recommendation No. 11 and proposals forwarded by LGBT community, the People's Advocate launched a comparative study of the criminal legislation concerning safeguards for the members of this community. The study of criminal legislation of other countries showed they have developed the concept of the so-called "crime of hatred" by qualifying it in the Criminal Code, as an offence or mitigating circumstance. To this end, the People's Advocate sent a recommendation to the Minister of Justice, proposing that letter "j", Article 50 of the Criminal Code should foresee as an aggravating circumstance, when the offence is driven by sexual orientation and/or gender identity related motives.

Also, it was recommended the amendment of articles 119/a and 119/b of the Criminal Code, providing as a criminal offence the distribution of homophobic materials and insult via the computer network due to sexual orientation and/or gender identity motives.

Both recommendations have been taken into due account by the Ministry of Justice. The first one was fully reflected in the draft law proposed by the Law Commission to the Albanian Assembly and approved by the latter. As regards the second recommendation, amendments to the Criminal Code had foreseen the instigation of hatred and fights only due to sexual orientation, as well as the preparation, propagation or preservation of similar items, committed by any means or form, without specifying gender identity as a ground of hatred instigation.

The People's Advocate considers the LGBT community rights as integral part of human rights and in this regard it is clearly stipulated there should not be legal barriers for the LGBT community members to realize the rights enjoyed by the rest of society. In this connection, in joint cooperation with the Council of Europe, in December 2014 the People's Advocate, Commissioner for the Protection from Discrimination and stakeholders prepared and submitted to the respective institutions a package of recommendations on legislative amendments, including amendments to the Family Code, contemplating the legitimacy of the same-gender cohabitation.

Gender-based violence and especially domestic violence against women continues to be a widespread and disturbing issue for our society. Accordingly, it is the responsibility of state, community and individuals to launch the necessary actions for its prevention. The government and responsible institutions must undertake proper initiatives against this practice, in order to respect and accomplish the fundamental rights of women and children within the framework of human rights.

In these circumstances, further consolidation of the referral mechanisms for domestic violence is an emergent concern. In this respect, coordination between the central and local institutions should be improved and non-existing structures should be set up, specifically the public reception center and relevant social services for the victims.

Meanwhile, the number of individuals, mainly women, who refer to the court due to domestic violence, has increased. There has been a growing number of courts that have issued restraining orders for the victims of domestic violence. Increase of the number of decisions for restraining orders issued by the Court shows a higher level of awareness, feedback and trust of the violence victims in the protection system. However, the bailiff units apparently fail to act at the same pace, and they apparently find it difficult to practically enforce such decisions.

Although women represent most of the sexual violence victims, the burden of proof lies with them when such a sexual abuse occurs. Violence is the main component of the criminal offence and when the victim cannot show evidence of the signs of violence, the crime cannot be proven. Furthermore, psychological violence is too hard to be proven and often perpetrators are not punished. In the interim, sexual abuses due to abuse of subordination or office often remain underestimated and not reported.

Likewise, the compensation of a woman subject to torture, sexual violation, or other forms of maltreatment, is practically limited. The civil lawsuit in the criminal process is very rarely applied.

A positive step about women's rights and gender equality was launched in May 2013, upon the approval of amendments to the Criminal Code, qualifying rape and sexual marital violence as a criminal offence.

From the legal perspective, continuous approximation of the legislation to international standards and monitoring of the current legislation enforcement remain real challenges. In this framework and in its capacity as promoter of the highest standards of human rights, the People's Advocate recently recommended supplementing the Law No. 7961 dated 12.07.1995, "Labor Code of the Republic of Albania", (as amended), adding as a legal provision in its article 32/4 the moral harassment at work by the employee through repeated actions intended or causing degrading working conditions to the extent that they may give rise to the infringement of rights and individual dignity, harm their physical or mental health or professional perspective. This recommendation was submitted for review to the Ministry of Justice.

The continuous cooperation of the People's Advocate with non-profit organizations, which during the last two years was translated into joint cooperation agreements, is mainly focused on the treatment (referral) of cases, community awareness about women's rights, common activities and other related events, and formulation of recommendations. The cooperation agreements of the People's Advocate with civil society organizations protecting women's rights has enabled the civil society "to effectively use the People's Advocate to convey important messages on the situation of women's rights requiring legal, administrative and other related measures".

In its article 54, Constitution of the Republic of Albania has qualified **children** as subjects enjoying special protection from the state. Such a stipulation constitutes a pillar for the adoption of appropriate and necessary measures to protect these subjects and their rights at any situation and if appropriate.

The adoption of Law No. 10347 dated 04.11.2010 "On protection of the rights of child" is considered and represents a step forward to the institutionalization of children's rights in Albania as it has foreseen, *inter alia*, institutional mechanisms for the protection of these rights at central and local level. A number of stakeholders at central and local government level include this social category within the scope of their activity. However, their cooperation involves issues of coordination, competences and exchange of information.

Respect and dignity of children in general and especially of orphan children and those exploited to work, constitute a major challenge for the Albanian society. Striking poverty undermines the accomplishment of needs, protecting and promoting the rights of this category of children. The work of children in general and of street children in particular, as forms of children's economic exploitation and compulsory work, represents one of the most serious violations of the children's rights in Albania.

The causes of children's heavy work are attributable to social exclusion, inadequate opportunities of families to earn incomes and poverty. As long as no efforts are made to uproot the causes, children's economic exploitation will constitute one of the most serious violations of children in the country.

Cases of domestic violence against children represent another disturbing practice. Also, children are mostly affected by bloodfeud. In this respect, state institutions are required to launch adequate steps. Greater attention should be paid by all responsible institutions and civil society stakeholders for the identification of home confined children who are out of the educational system and coordination with the relevant services to provide them the rights they are denied, with the view of minimizing this practice.

The People's Advocate activity for monitoring the implementation of children's rights has been oriented to provide optimal living and upbringing conditions of children, based on Law No. 8454 dated 4.02.1999 "On People's Advocate". The People's

Advocate, upon initiative *ex officio*, continued to carry out inspections in a number of public social care residential institutions such as Orphanage of Shkodra for School-Aged Children, Development Center of Shkodra, Orphanage of Saranda for School-Aged Children, Orphanage for 0 -6 year old children of Shkodra, Development Center "Pëllumbat" in Tirana etc. Inspections were mainly focused on the establishment of acceptable daily living standards of children settled at these institutions.

Also, Shkodra People's Advocate Regional Office continued to provide institutional support to the Observatory for Children's Rights at district level. Together with the Observatory for children's rights, we have already succeeded to build the mechanism for data collection on children. This mechanism is applicable not only to introduce the situation of applicability of the children's rights but also to formulate new favorable policies for children addressed to the local government institutions.

During 2013 lobbying was of special importance in creating a special unit for monitoring, protection and promotion of children's rights, also based on the UN Convention on the Rights of the Child. This function is specifically claimed to be realized by a fully independent institution founded on the basis of Paris Principles, as provided by the Constitution and broad investigation-related competences. Therefore, we have recommended this unit should be attached to the People's Advocate Institution as an exponent sharing all these characteristics.

Accordingly, with the 2014 draft budget of the People's Advocate, we claimed to increase personnel with respective experts for protection, examination of complaints regarding the children's rights, and promotion of these rights. We admit with pleasure that Ministry of Finance and then the Albanian Assembly adopted that requirement by approving the necessary budget for employing two experts (assistant commissioners) regarding the rights of children. However, in this regard it is appropriate to make amendments and improvements to the Law "On People's Advocate", proposed by EURALIUS in April 2013, which would build up a special Section for children as part of the People's Advocate Institution.

Creation of a special and specialized section for children's rights at the People's Advocate Institution is an optimal solution to the main issues involving children's rights and fulfillment of the standard required by UN under Paris Principles. This section will be the safeguard for implementing the Convention of the Rights of the Child and will promote their rights at the Parliament, Government and civil society, will act as mediator in inter-institutional relations and will also impact policies by setting up forums voicing the concerns of children, double checking their access to the complaining system and responding to individual complaints.

The People's Advocate notes with concern that even in 2013 **bloodfeud phenomenon** continued to restrict the enjoyment of rights of a large number of citizens and in some cases it resulted in citizens' death. Considering the right to life as a fundamental and the most important human right protected by law and recognizing the risk of bloodfeud

to the enjoyment of that right (crimes of homicide, home confinements and deprivation of human rights and other freedoms), during 2013 the People's Advocate continued and intensified institutional efforts for promoting the awareness of state institutions, civil society and individuals regarding this sensitive social issue.

In addition to the measures taken to date by the responsible institutions, the People's Advocate called for immediate enforcement of the Law "On creation and functioning of the Coordinating Council in fight against bloodfeud" (Law No. 9389, dated 04.05.2005) and further appealed for commitment and cooperation between the central and local government institutions to address this matter. The People's Advocate identifies some positive steps taken by the state bodies in 2013. Except the public acceptance of this phenomenon, the state bodies started to take concrete measures, such as establishment of the inter-institutional working group for preparation and approval by the Council of Ministers of three bylaws pursuant to and for the implementation of Law 9389, dated 04.05.2005 "On creation and functioning of the Coordinating Council in fight against bloodfeud".

The People's Advocate, in its capacity as the **National Preventive Mechanism Against Torture** (NPM), during 2013 carried out continuous inspections at the **places of detention**, assessing the treatment conditions and respect of the inmates and pre-trial detainees' rights and freedoms by the public administration. As regards the complaints filed by inmates of those correctional facilities, a total of 86 individual complaints were submitted regarding the rights of prisoners, of which 56 are resolved and 30 are being examined. Of the resolved cases, 48 were not based on law and 8 were solved in favor of the complainant during the stage of review.

The complaints were submitted by prisoners and their relatives via mail, email and by calling the free phone number of the institution and emergency line. Phone service has become the favorite means for prisoners to file complaints, especially in 2013.

There was a diverse scope of complaints and each eligible complaint reflects an individual situation. Most of complaints are related to the health service quality, failure to reply to the application for benefiting special permission, refusal of the application to benefit compensation permit, non-release for not serving the sentence, unlawful confinement in the isolation cell, failure to reply to the application for transfer to another institution, refusal of the request for transfer to another institution due to health reasons and proximity to the family domicile, unfair disciplinary measure, food quality, lack of heating.

As in the previous year, in 2013 most of the local prisons and pre-trial detention facilities continued to undergo difficulties regarding the wear and tear and their improper conditions, mainly humidity (Prisons 325, 313 in Tirana, Rogozhina, Tepelena, Lezha, Kosova in Lushnja, Burrel, Pre-trial Detention Facilities of Berat, Saranda, 313 and 302 in Tirana), lack of water supply especially in summer (the prisons of Rogozhina, Kruja, Pre-trial Detention Facility of Elbasan), bad conditions of

toilets, shower sets, airing premises, isolation cells, lack of facilities for education, practice of religious rituals, sports activity etc (Prisons of Burrel, Lezha, Tepelena, Kosova in Lushnja and Pre-trial Detention Facilities of Saranda, Berat, 313 and 302 in Tirana). The People's Advocate has recommended and maintains that Burrel prison must be closed down. He has further recommended that mentally ill persons should continue to be transferred from Kruja Prison and other related facilities to a specialized mental health institution, in compliance with the respective standards and parameters. During inspections and re-inspections in 2013, all these institutions identified the urgent need for primarily partial investments to significantly improve the existing conditions.

-The People's Advocate Office believes that special attention should be paid to prison staff training regarding the prisoners' rights during hunger strikes, meetings with relatives, controls of inmates and premises where they live. Additionally, in respect of the prisoners' dignity, the prisoners' contacts with their relatives and minor children should be treated with special priority by arranging some proper premises as in some prisons they do not exist.

Furthermore, NPM inspections identified some other problems deemed as crucial by the People's Advocate as they prejudice human rights and freedoms and refrain the education and re-integration of prisoners in their normal life. Among these concerns, we distinguish the employment of prisoners and housing in the prison hospital of offenders who were ordered to be hospitalized in a mental health hospital due to their mental illness diagnosis.

- Employment in prison is a key contribution to the prisoners' rehabilitation and their preparatory social integration. For most of them the employment income would be used to buy phone cards to speak with their relatives and friends and buy other items such as food, detergents etc. Without these incomes, the prisoners would be easily involved in borrowing or debts, thus inflicting adverse consequences. Work also instills a sense of discipline and purpose while the unemployed prisoners spend their days closed in cells, causing boredom and isolation. The prisoners' work should be paid, however such a right continues not to be applied due to non-issuance of bylaws. A recommendation was sent to the Ministry of Justice regarding the remuneration of prisoners' job, asking for the formulation of a draft DCM on setting out criteria for job remuneration of prisoners and its immediate submission to the Council of Ministers. A reply from the Ministry of Justice is still pending.
- Prisons are not the right place for the mental ill persons. No ultimate solution is found for housing in hospital facilities outside the penitentiary system, of individuals for whom the court has ordered forced medication, although a special unit is operational in Durrës pre-trial detention facility. A recommendation was drafted and submitted to the Ministry of Justice in 2012, claiming the opening of a new medical institution housing mentally ill persons for whom the court has taken

the medical measure of “forced medication”. As shown by the answer of the Ministry of Justice dated 26.07.2012, a new building had to be constructed within the Prison Hospital territory and this project is recommended to be included in IPA 2013 Program.

During the working activity of the People’s Advocate, **while investigating complaints against the Police** for 2013, there were reported some cases of citizens’ maltreatment in the premises of Police Stations, their unlawful escorts and contrary to the escort legal provisions, unlawful intervention of police officers on duty without presenting the police identification badge, non-evaluation of the criminal reports of citizens for different offences or cases of domestic violence offences etc.

During that period several complaints were examined regarding the group of members of the Association of former Political Prisoners. These applications were about unlawful escorts, inappropriate acts in terms of their petitions for the organization of peaceful rallies, including the delayed decision on the time of rallies or failure of organizing rallies in the locations they have required, improper and unethical behaviors towards the rally participants, as well as the unlawful monitoring and surveillance of that group members.

Based on the citizens’ concern after their complaint or in other cases initiated after public press releases, we have recommended to the Police to examine cases and take disciplinary measures against the police officers who are responsible for the violations.

The police has the goodwill to examine, assess the People’s Advocate recommendations and take measures against the police officers who have committed violations but there are still problematic cases to be further addressed.

During 2013 the People’s Advocate investigated complaints or applications of the individuals, **former political prisoners of the communist regime**, and their successors. Their applications or complaints were related to claims on the failure to benefit compensation installments they are entitled to as former political prisoners, unfair non-payment of compensation under Law No. 9831 dated 12.11.2007 “On compensation of former political prisoners of the communist regime”, as amended; incorrect designation of the amount of compensation by the Ministry of Justice; failure to find the bones of their relatives, former political prisoners who have died during their sentence term; delayed procedures for setting out the amount of compensation; claim for potential lump sum payment of the total amount of compensation and not by specified installments; delay of the compensation process for the group of internees according to legal provisions.

Likewise, the complaints filed by these individuals were attached priority and were carefully handled during 2013 from a much broader perspective than one year ago. Specifically, they were focused on the progress of the former political prisoners’

compensation, the non-existing and at the same time delayed process of the opening of files and operation of the Task-Force for searching, localizing and identifying the persons who were executed during the years of the communist regime.

Firstly, regarding the compensation status of the former political prisoners of communist regime, based on the Law No.9831 dated 12.11.2007 "On compensation of former political prisoners of the communist regime", as amended, we admit that there are still unresolved issues, which require a rapid and concrete intervention.

In this context, a legislative initiative has to be realized for an amendment to DCM No. 419 dated 14.04.2011 "On approval of deadlines and scheme of compensation fund allocation for the former political prisoners of the communist regime", with the view of setting a reasonable time limit for the completion of compensation process for the former political prisoners of the communist regime. As highlighted in our recommendation addressed to the Minister of Justice by letter No.K1/G60-17 dated 12.02.2013, this act is not only issued with a delay of two years from the statutory period but its provisions cite that the deadline for compensation fund allocation has turned from an issue of compulsory deadline set by the rules, into a deadline that fully depends on the due progress, full consent and second installment compensation allocation for all former political prisoners. Indeed, we have a compensation scheme to be allocated in eight equal installments but with a deadline including only one date of the process initiation and not a fixed end date.

The text of Law No. 9831 dated 12. 11. 2007 following the amendments, and bylaws issued for its implementation, especially DCM No. 419 dated 14. 04. 2011, have created confusion in terms of the expected progress of compensation process by the interested parties and effectively led to their perceived finalization of the law non-enforcement, thus prejudicing the principle of legal certainty as a key component of the rule of law. As regards this recommendation, we did not have any feedback; therefore we were obliged to re-send it to the present Minister of Justice in December 2013, pending a final solution.

Further, the internees or the ones expelled in camps by the communist regime should be awarded the respective compensation under Law No. 9831 dated 12.11.2007 "On compensation of former political prisoners of the communist regime", as amended. As we have reported, the interested individuals have presented the complete necessary official documentation to the Ministry of Justice; however their compensation process has still not begun. This process is stalemated due to non-fulfillment of the Ministry of Justice obligation to propose to the Council of Ministers the approval of compensation for that category of former political prisoners, by virtue of the respective DCM. We had no feedback on this recommendation; therefore we were obliged to re-send it to the present Minister of Justice in December 2013, pending a final solution.

Further, the necessary legal framework for financial compensation of internees or

those expelled during the communist regime, should be completed as per letter “c” of article 6 of the Law “On compensation of former political prisoners of the communist regime”, as amended. Notwithstanding the applications of the interested subjects, the Council of Ministers has still not approved the pension scheme under the respective DCM, a scheme from which these categories of former political prisoners will benefit compensation. Thus, in the beginning of 2013 we recommended to the Minister of Labor, Social Affairs and Equal Opportunities and Minister of Justice, to shortly submit to the Council of Ministers, proposals for the approval of pension scheme for the category of interneers or those expelled from the communist regime. We did not have any answers regarding this recommendation, therefore we were obliged to re-send it to the Minister of Social Welfare and Youth and Minister of Justice in December 2013, pending a final solution.

Secondly, under the protection and respect of human rights, and considering the applications filed by former political prisoners, but also in a broader context of institutional commitment to good governance standards, the People’s Advocate has deemed that the Albanian society deserves to know who governs and who protects its interests through a transparent process of opening files.

From this perspective, we consider that one of the delayed and still unresolved issues of our society inherited from a post-communist environment remains the approval of a comprehensive law, based on the existential principles of a democratic society for opening files.

The need for such a law is, inter alia, closely associated with building public confidence to ensure a real process for opening files, transparency of crimes and their consequences from the previous system and to further guarantee people that the present governance and other public officials or civil society representatives will not carry prejudice and anti-democratic spirit of repeating the past.

There are examples and legal experiences in this regard, therefore it would be reasonable and logical to consider that a new law on opening of files should provide an administrative process, which:

- Provides easier individual access to the records collected by former secret services about the interested parties, either be individuals attending this service and who have suffered the consequences of this activity, full-time employees, or informers of secret services, or beneficiaries of the activity in question.
- Ensures transparency for the individuals involved in the repressive state activity up to the level of civil society representatives.
- Provides public and private entities, access to the said information, in harmony with the process objective.

- Ensures public transparency of the repressive activities of former secret services, stipulating that access is personal and bears legal restrictions for publication.
- Protects the concerned data subject from the violation of the right to privacy, which could be caused by the misuse of personal records collected by former secret services.
- Sets up competent bodies and regulates their functioning as responsible bodies for carrying out the process of opening files.

We acknowledge that such a law, after many years of transition, should not become a “repressive” law for some specific individuals but a beneficial opportunity for the society as a whole. A similar law would procedurally and institutionally regulate that process of “purification” for the Albanian society. Having considered the opening of files as a prerequisite through a process of consultation with civil society stakeholders, the People's Advocate prepared a recommendation to be shortly addressed to the Government in order to realize the respective legal initiative.

Thirdly, the People's Advocate has received a number of complaints and applications from the Association of the Former Political Prisoners during the Communist Regime and from the relatives of persons executed during that regime, requiring the intervention of state competent institutions for searching, localizing and identifying persons who were executed during the period of communist regime, whose burial site is still not identified.

In the context of this activity and its coordination, by virtue of Decision No. 133 dated 24.02.2010 "On setting up the Task Force for searching, localizing and identifying persons executed during the communist regime", the Council of Ministers decided to establish the said task force, defining the scope of work, composition and duties of its members.

In these circumstances, in the end of 2013 the People's Advocate Office started a comprehensive review and analysis of problems related to the above mentioned applications, requiring detailed information about the activities and accomplishments of this Task Force, from the moment of its operation to present. The information required must provide information to specify the total number of applications submitted to the Task Force by stakeholders, the number of claims resolved and rejected, as well as those still unanswered or in the process of examination. Additionally, information is required about the number of meetings held by the structure and level of cooperation and coordination between the responsible ministries for the implementation of DCM No. 133 dated 24.02.2010.

As a problem related to the complexity of cases of the former political prisoners, we believe that intervention should be carried out in the framework of the effectiveness of this structure, for which a recommendation will be sent after submitting the required

information for this purpose.

Foreign toponyms in the identity documents of the Albanian citizens, mainly in passports, is another pending issue, regardless of its publicity and awareness of the Albanian institutions by the People's Advocate, civil society and citizens.

This concern which has become particularly sensitive since 2012 is linked with the fact that Albanian citizens born in Greece, were not allowed to enter the territory of the Hellenic Republic as the Greek authorities claimed that Greek toponyms in these documents were not written in accordance with the international rules. Furthermore, it followed that the Albanian citizens' passports, although bearing 10 fields of data in two languages (Albanian and English), had only one (citizenship) completed in both languages while the other fields were only in Albanian.

As a consequence, the Albanian citizens who live and work in Greece were regularly and continuously denied entry in the Greek territory for at least two years, thus causing not only the violation of the right to free movement as a fundamental human right but also damage of property interests and dignity of the Albanian citizens.

By its official letters and also based on the constitutional and legal provisions specifically regulating the functions and activity of the independent constitutional institution for protection of individual human rights and freedoms in Albania, the People's Advocate has repeatedly asked explanations from the Ministry of Foreign Affairs and the Ministry of Interior regarding the measures and procedures currently followed by the Albanian authorities, in order to avoid any potential problems. He asked information about the legal grounds giving rise to such a situation, if concrete steps were already taken for the standardization of the Albanian geographic names in the travel documents of our citizens, also based on the Toponym Guide of UNGEGN (United Nations Group of Experts on Geographical Names). They further asked if national authorities were established for the standardization of the use of our geographic names in the official documents, which were procedures followed for the regular and comprehensive use of all letters of the alphabet of Albanian language in the travel documents of Albanian citizens, issued by the company contracted by the Albanian state, and any other related components aiming to clarify issues raised by the complainants within the shortest time possible and in a well-defined manner.

After some of our requests, the Ministry of Foreign Affairs confirmed that since 21. 06. 2011 it had officially received the Verbal Note of the Republic of Greece regarding the names of its geographic localities, informing the Albanian authorities about the non-recognition of public documents of the third countries, which contained inaccurate geographic names. The Ministry of Foreign Affairs confirmed that efforts are made to shortly resolve this issue but it did not set either an approximate deadline for the definite solution of this issue.

We should emphasize that although we were informed via media that the Albanian

and Greek authorities had agreed on short-term periods during which the citizens were allowed to pass, regardless of the issue mentioned above in the identity documents, it is still not legally resolved and there is no clear and transparent position on the steps to be taken for an ultimate solution.

In his recommendations to the Albanian authorities for addressing and resolving this issue, the People's Advocate considered that the Ministry of Foreign Affairs had to negotiate with the Greek authorities long time ago in order to definitely resolve the problem of Greek toponyms in the travel documents of Albanian citizens. This issue cannot be subject to a temporary agreement for specific periods of time, in cases of celebration days or elections. The Albanian citizens who live and work in Greece should feel free to move and cross the border at any time, free of bureaucratic barriers of political and technical character which should be analyzed, clarified and definitely settled by the Albanian authorities, in cooperation and in line with the Greek procedures and international standards.

As regards the identity papers and travel documents with which the Albanian citizens face obstacles at the border crossing points with Greece, due to wrongful writing of Greek toponyms, the People's Advocate deems that in the course of their negotiations with the Greek state authorities, the Albanian authorities should firstly aim to reach a common consent regarding the validity of the current means of identification until the final solution of the issue of writing Greek toponyms in the Albanian documents.

The problematic identity documents have a financial cost for the Albanian citizens and this cost, in case of the replacement of these documents, in no circumstances should be paid again by the citizens, who are supplied with these means of identification and travel documents by the Albanian authorities on the basis of the civil status records administered by the Ministry of Interior. Instead, these costs should be afforded by the Albanian state.

In this framework, the Ministry of Interior is the state authority to take over its own responsibilities and exercise the statutory functions and powers, with the view of meeting the legal requirements and international standards for supplying the Albanian citizens with travel documents.

Having considered the citizens' **health service** delivery as one of the key components of a social state and as the very core of each individual's right to lead a healthy life, the People's Advocate continued his activity during 2013 in this field of human rights. Focusing on the patient's decent treatment, life protection and safeguards, based on the Constitution of the Republic of Albania and the legislation in force, the People's Advocate had continuously launched inspections at the Mental Health Hospital Centers, Regional Hospitals on a nationwide scale and investigated individual complaints filed to the institution and initiative *ex officio* cases in this area.

The request to the Ministry of Health for medication abroad, lack of medicine at

hospitals, reckless attitude for health care service delivery, working relations and other similar issues were some problems related to the issues and complaints involving the Ministry of Health and its subordinate institutions.

Regarding the inspections conducted in 2013, we may mention the inspection at Tirana Oncological Hospital, Tropoja and Kukës Regional Hospitals, Korça, Përmet, Peshkopi, Bulqiza and Shkodra Regional Hospitals. This process is of paramount importance not only to measure the level of law enforcement reflecting the respect of individual human rights and fundamental freedoms at these institutions but also to assess the operation of institutional structure, professionally adapted to the required legal standards, and the existing infrastructure-related conditions.

Following the examined complaints but also the numerous inspections we have conducted at health care institutions, we have identified the following main concerns:

-mismanagement, misallocation, misuse and abuse of funds; persistent lack of medicaments and other medication hospital resources, failure to carry out medical tests for the ill persons at public institutions due to the absence of kits and reagents, inadequate modern diagnosis and theoretical technology in relation to the current needs and requirements but also the existing opportunities within the country (This occurs not only at regional and suburban hospitals but also at central national hospitals. Even where these devices are possessed, they had remained non operational for a long time because of the absence of repair contracts with the respective companies or their violation); mismanagement of human resources; absence of specialized physicians who leave or are retired in a large number of hospitals on a nationwide scale; there is no prospective study of needs for specialist physicians and establishment of specialized services to regulate and schedule the training of experts in accordance with these needs, as well as the lack of accountability according to hierarchy levels.

As regards the health service issues, the People's Advocate prepared a Special Report on the situation of Hospitals in Albania, which he has delivered for review to the Albanian Assembly.

Another issue addressed by the People's Advocate is the one linked with the **examination of complaints for dismissals at the public administration**, filed by persons who enjoy or not the civil servant status, formulation of recommendations which are not only individual but also of promotional character, to amend/improve the legislation regulating working relations in accordance with the international standards and has played a key role to ensure the stability and protection of human rights from unlawful actions or omissions of the Public Administration.

Strengthening and advancement of democracy in the Albanian society, upgrading of the governance level and full guarantee of human rights, individual fundamental freedoms and lawful interests require the consolidation of civil service on the basis of

the principles of professionalism, sustainability, independence and integrity, political impartiality, transparency and a more qualitative service to the public.

Based on the core principles of the right to labor (...prohibition of discrimination, social protection, observance of discipline at work, comprehensive protection at work, remuneration at work, respect of labor legislation etc....) as contemplated in the above legal acts, the People's Advocate continued to attach priority to his work, the protection of this right, examining about 300 individual complaints for the year 2013, claiming the infringement of working relations by the Public Administration central and local bodies. Of these, 12 cases of dismissals involve police officers, of which 11 were complaints filed by persons discharged by the police units and 1 case was initiated after the media coverage of dismissals of the police officers. Of 12 cases reviewed, 9 were completed and 3 were under a process of deliberation. Following the examination of the completed cases, it has resulted that 4 complaints were unfair, 4 did not fall within the jurisdiction as their cases were being examined by the judicial bodies and 1 complaint was considered as well-grounded.

Regarding the public administration and regulation of working relations, the People's Advocate is preparing a special report which he will submit to the Albanian Assembly in the beginning of 2014.

The Social Insurance System constitutes the main social protection scheme in Albania. The pension scheme plays a crucial role for the social protection and fight against poverty.

During 2013 the People's Advocate continued to examine the complaints regarding the social insurance system. The citizens' claims were linked with violations of rights due to the inaccurate calculation or failure to review the amount of old age pensions due to non-recognition of job seniority, decreased amount of premature pensions for seniority, low amount of pensions, time for the entitlement of old age pension, failure to receive an answer for the investigation of complaints against the decisions of Allowance Branch at the Social Insurance Regional Directorate, old age pension delays, unfair suspension of old age pensions etc.

All problems reported from complaints about the right of benefitting from the social insurance system, derive from the provisions of Law No. 7703 dated 11.05.1993 "On social insurance in the Republic of Albania", as amended. Considering the concerns of different citizens as fair applications, the People's Advocate mediated to the state institutions through respective recommendations for improvements or amendments of this law and bylaws issued for its implementation.

The pension reform affecting broad public interests represents one of the most important components of the full set of reforms within the framework of the approximation of the Albanian legislation to *acquis communautaire*. The reform should be prepared and advanced through a political and social consensual decision making

and implementation process. In this regard, the People's Advocate considers the following steps should be taken:

- Pension calculation formula needs to be changed in accordance with article 32, so that a more direct link between the profits and contributions paid will apply to pensions to be continuously set. To improve the situation of beneficiaries and other stakeholders who will continuously benefit old age pension, we have sent a recommendation to the Minister of Finance for launching a legal initiative on the amendment and improvement of Law No.7703 dated 11.05.1993 "On social insurance in the Republic of Albania", as amended, specifically its article 32, so that the old age pension beneficiaries will enjoy their most favorable amount of old age pension.
- Labor invalids and those entitled to disability allowance do not benefit the sanitary package to be benefited only from the category of paraplegics and tetraplegics. According to the People's Advocate, there are no legal provisions to handle their situation. To support the groups in need and for improving their life quality, we sent a recommendation to the Minister of Finance, the former Minister of Labor, Social Affairs and Equal Opportunities and the Minister of Health, for improvement of article 7 of the Law No. 7889 dated 14.12.1994 "On Status of Disabled People", as amended, and article 11 of the Law No. 9355 dated 10.03.2005 "On Social Services and Assistance", as amended, so that a specific category of the disabled, as per the diagnosis by the Medical Fitness Commissions benefit the sanitary package as an addition to the amount of invalidity pension and disability allowance.
- Pensioners with the status of veterans of the National Liberation Anti-fascist War have not benefitted a bonus to the War Veteran compensation for the period 2008-2012, although the allowance they benefit should change whenever old age pensions increase because the Law No. 7874 dated 17.11.1994 "On NLAW Albanian Veteran Status", as amended, in its article 8 has foreseen that compensation amount changes, subject to the price index and inflation.

An analysis of the relevant legal and sublegal acts has shown that upon the proposal of the Minister of Defense, until 2007 there were issued Decisions of the Council of Ministers "On increase of the compensation amount of NLAW Albanian Veterans". After that year, the category of pensioners who enjoy the war veteran status, was denied the right to benefit compensation bonus as a result of the non-issuance of a bylaw in pursuance of the above cited law for improving the situation of that category due to closing down the activity of the Central Commission of the Status of National-Liberation Antifascist War at the Ministry of Defense.

In this framework, following the correspondence with the Ministry of Finance and Ministry of Defense, we sent a recommendation to the Prime Minister of the Republic of Albania to designate the competent body, which would continuously propose draft

decisions on the increase of the amount of compensation of war veterans; on submission and approval of bylaws within the shortest time possible, pursuant to article 8 of the Law No. 7874 dated 17.11.1994 "On NLAW Albanian Veteran Status", as amended, for increase of the compensation of war veterans for the year 2013.

- Protection of immigrants' rights in the field of social insurance remains a legal obligation. In the framework of the Stabilization Association Agreement with the EU, Albania should concentrate efforts for signing bilateral treaties in the field of social insurance.
- Elderly people remain one of the most vulnerable groups in Albania. The absence of minimum incomes may lead the elderly and their families to poverty. Approval of the Third Age Status is specifically required to guarantee the rights of elderly people.
- Low pensions of the former underground miners still remains one of the pending issues, where they have claimed the approval of the Miner's Status. To this end, we are currently mediating with the Ministry of Industry and Energy.

The People's Advocate underlines that although legal amendments he has proposed, have a financial bill, which may take some time, the reform of social insurance system is a prerequisite.

During 2013 a number of complaints were filed with the People's Advocate to be further processed. In this context, different citizens have raised claims about the failure to entitle benefit **economic aid**. Other claims were related to the suspension of economic aid, delayed allowance delivery or requests for information about the benefits from the legislation on economic aid.

As we have also highlighted in the Annual Report 2012, one of the problems related to the economic aid for people in need is also the non-disclosure of the minimum living standard in Albania. This issue requires solution as the minimum living standard is not only an indicator linked with the human needs to survive in the current conditions but the levels of benefits from the social protection scheme will be specified based thereon.

In his constitutional capacity for the protection of human rights and fundamental freedoms, the People's Advocate has included among the priorities of his work also **the right to housing**, mainly focused on the groups in need such as the vagrants or the homeless, Roma community members etc.

As in 2012, a large number of complaints were submitted in 2013 regarding the consequences to the tenants living in the houses of former owners and the expropriated entities, due to the implementation of the Normative Act of Council of Ministers No.3 dated 01.08.2012, "On the homeless tenants freeing the former owner houses that were previously expropriated".

A preliminary review of the People's Advocate Institution for exploring housing options of tenants to live in the houses of former owners, identified serious concerns which require rapid and coordinated action with all responsible state institutions. The emerging situation represents a potential threat for new social conflicts but it has also significantly increased the number of the homeless in Albania.

As reported by the relevant cases, the normative act envisages the treatment of homeless tenants living in the houses of former owners and expropriated entities at a loan of 0% interest rate or through social housing to be provided by the local government. However, in the current circumstances this measure would be hardly made possible. We have also drawn that conclusion as no official reply is given to our requests for information addressed to Tirana Municipality on the practical examination of the large number of applications of the tenants living in the buildings of former owners to be provided social housing. Further, as indicated by official figures provided by the line ministry, modalities for housing the elderly who are not capable of self-care and without other persons in charge, at the elderly care centers, do not seem to be feasible.

It is further noted that in most of the local Municipalities, there is an obvious shortage of funds allocated for social housing construction.

The situation to be regulated by the Normative Act No.3, dated 01.08.2012, has become emergent for a large number of individuals or tenant families living in the houses of the former expropriated entities.

The People's Advocate remains fully committed to find a speedier and optimal solution for these families and individuals who are practically "deadlocked", notwithstanding the provisions of these normative acts. Such a commitment has been recently brought to the attention of the present Prime Minister of the Republic of Albania through a repeated recommendation.

In addition, as regards all housing concerns, especially for protecting the people in need, we are producing a special report to be shortly submitted to the Albanian Assembly.

During 2013 several complaints addressed to the People's Advocate were about the **judicial bodies**. The issues addressed were basically focused on the unfounded excess delays and violations of judicial proceedings by the courts both for criminal and civil cases from all instances of trial; various legal infringements such as unlawful detention, extinguishment of security measures, provided for in article 261/c of the Criminal Procedure Code and a pre-trial detention term served being longer than the sentence rendered by the court; unfair trials and judicial rulings taken by the court in absentia of the defendant, claiming they were not informed of these trials and that relevant statutory legal notification procedures were not respected; violation of law and corruptive actions of judges, as well as complaints against the judicial

administration for delayed files brought for trial, failure to furnish copies of judicial decisions etc.

The complaints, as the case may be, were investigated and basic interventions were made, aiming to identify causes of these violations and to make proper recommendations for repairing or preventing them from re-occurring in the future.

During his working activity, in examining the complaints of citizens against the **Prosecutor's Office**, the People's Advocate has made his best efforts to preserve independence by strictly complying with the constitutional and legal provisions. The concerns of citizens' complaints against the activity of the Prosecutor's Office during 2013 were oriented to the following cases:

- *Non-implementation of a due legal process* because of unfair actions of the Prosecutor's Office, infringing the citizens' rights during the criminal process, failing to comply with legal procedures. In this regard, the citizens' complaints were related to unjustified delays in the investigation of criminal proceedings, especially when the case was remanded by the court; substitution of prosecutors or judicial police officers, more frequently encountered in the investigation of criminal proceedings carried out by the State Police judicial officers; failure to act under article 287 of the Criminal Procedure Code providing for the registration of notice of offences and Instruction No.241 dated 22.11.2005 of the Attorney General, where although the perpetrator is known, his name is not recorded. Further, the complaints were about unlawful detention and lawsuit, adoption of unjust decisions on the non-initiation of criminal proceedings or dismissal of criminal cases due to non-verification of the crime report within the 30-day time limit envisaged by paragraph 2.3 of the Instruction No.3 dated 19.06.2012 of the Attorney General or the failure to conduct comprehensive investigation, especially for the criminal offences of "forgery of documents" on ownership, "breach of road traffic regulation", non-delivery of information to the litigants about the decisions on extended time limits for the investigation of criminal proceeding etc.
- *Failure to respect the obligation for information*, where in these cases the prosecution body has not informed the citizens about the modalities for settlement of cases instituted on the basis of the charge they had filed; it has not sent a reply or has sent it with delay regarding the "written applications or aide de memoires" submitted by the parties during investigation (beyond the 15-day deadline provided by paragraph 2 of article 110 of the Criminal Procedure Code); has not furnished copies of the required acts, especially for various expertise acts such as auto-technical, forensic, signature technical-graphical ones etc, thus infringing the requirements under article 105 of the Criminal Procedure Code.
- *Non-performance of relevant actions by prosecutors dealing with the enforcement of criminal judgments, thus causing the remand in custody or imprisonment more than the sentence term set out in the court decision.*

- *Failure to comply with the procedural provisions on “exhibit disposal”, as provided for in article 190 of the Criminal Procedure Code. In these cases the citizens referred to the Prosecutor’s Office with regard to the treatment of exhibits seized during investigation, which in some cases were returned with delay to the interested parties or it was left at the court’s discretion to decide on their disposal.*
- *Failure of the proceeding authority to serve notification to the injured party about his right to file a lawsuit and seek damage compensation, according to article 61 of the Criminal Procedure Code. This inaction has obliged the injured party or relatives of the victims or of the injured parties to file a separate bill of indictment to the court regarding the “compensation of damage due to offence”. The People’s Advocate conducted a study and prepared the legislative recommendation with proposed additions and amendments of articles 48 and 58 of the Criminal Procedure Code, in order to assign a defense counsel for the investigation and trial for protecting legitimate interests and rights of the victim.*

There are also cases when the citizens, by a complaint or application to the People’s Advocate Office, claimed that after their criminal report the Prosecutor’s Office unfairly decided to suspend investigation or not institute the criminal proceeding. These concerns were carefully deliberated and the citizens were furnished explanations about the legal procedures they should follow to challenge or appeal the decisions taken by the Prosecutor’s Office, based on article 291/1 and 329/1 of the Criminal Procedure Code.

The Activity of State or Private Judicial Bailiff Service for accomplishing the mission of compulsory enforcement of executive titles during 2013, in the focus of the People’s Advocate Office, is inadequate in terms of the failure to strictly and timely comply with the legal procedures, as stipulated in normative acts. Although special annual reports or information documents have underlined the status of implementation of a large number of executive titles and the statutory authorities are required to reflect upon the enforcement of executive titles, we note that undue positions to meet legal obligations are repeated on a yearly basis. This situation is encountered especially during the enforcement of final court decisions taken against the Public Administration bodies. That situation should be optimally resolved in order to put an end to the state of unlawfulness for a number of cases and to restore the right to a due legal process in carrying out actions for meeting the obligations set under the final court decisions.

The private property right, as a basic legal-economic category under the responsibility of the respective social-political state structure, methods of benefits, expropriation of owners with exceptions of only public interest cases and associated with a fair compensation, as well as the right to be defended from potential violations by means of administrative or public judicial trial are guaranteed by the Constitution of the Republic of Albania.

Within the complex problematic issues of this legal right, one of the most critical issues for solution is the right of restitution or compensation of properties to the expropriated persons of the previous regime. This situation is because of many complex issues pending from the activity of many institutions operating in the field of property rights and the ineffectiveness of respective state structures to provide appropriate long term solutions to this problem, which is being aggravated year after year.

The People's Advocate Institution, in the context of its constitutional obligations, and based on the legal framework, has paid due attention and time to the ownership issues. Further, the issue of property right implementation is recently classified as one of the priority issues by the European Commission to pave the way for acquiring the country EU candidate status.

Our mediations, interventions or recommendations had a clear focus on the prevention and resolution of the conflicts between individuals and administrative bodies, impact in support of good-governance concept, amendments and improvements in legislation, and the increase of citizens' confidence in our institution.

Most complaints and requests for 2013, although being lower in number than the previous year, are filed against Local Immovable Property Registration Offices. The subject matter of the complaints submitted to the People's Advocate Office and claims against these local Offices are related to lack of information for the citizens; lack of initial registration of the agricultural lands, sites and apartments in multi-storey buildings beyond the areas under construction permits; delays of the registration of final judicial decisions because of the failure to supply the subjects with Ownership Certificates; overlapping of properties and delays of update and integration in the system of the Cadastral Zones in many districts of the country.

The People's Advocate has constantly addressed these issues to the respective state structures, associated with related recommendations. In addition to the recommendations for specific cases, the People's Advocate has, among others, recommended: speed up and simplification of the procedures for the legalization of informal buildings and their integration and urban planning; - data processing and termination of the initial registration in the Local Immovable Property Registration Offices for the decisions taken in previous years by the Property Restitution and Compensation Agencies and of Land Acquisition Acts and identification of vacant immovable properties, public information of the in-kind compensation fund of the expropriated entities and their shift under the responsibility of the Property Restitution and Compensation Agency.

It is worth mentioning the fact that, from year to year, despite a number of problems created by the local offices, there is some progress to be accepted, such as the initial registration of immovable properties in some 90% of the total cases; data digitalization, including the amendments and improvements made by Law No. 7829,

dated 01.06.1994 "On Notary Public" and the Regulation "On definition of methods, procedures, and conditions of the use of electronic system "One Stop", the notary system"; or the simplification of procedures for the registration of real estates of citizens with legal documents, but with no specification of the surface area.

Consumers' protection is one of the main areas directly linked with the protection of human rights. This component is streamlined by focusing on three main pillars such as the consumers' health, consumers' safety, and protection of the consumers' economic rights and interests. Law No. 9902, dated 17.04.2008 "On consumers' rights", as amended, is the core legislation on this right, where the People's Advocate plays a special role based on article 56 on the consumers' interests not only for individual complaints, but also in support of broader local communities.

During 2013, the People's Advocate Office, based on its authority to exercise constitutional and legal powers for the protection of consumers' legal rights and interests, has identified as concerning issues, food safety and expired articles circulated in the markets, instead of being disposed of by the commercial companies. In these cases, we have asked from the relevant authorities to conduct continuous monitoring controls and inspections of commercial companies in order to dispose of all items beyond the expiry dates, and impose penalties against those companies.

Drinkable water supply within the sanitary parameters has been another area of concern for the protection of the consumers' legal interests. This public service is considered as one of the primary needs for the individuals and a basic right for all the citizens. In this connection, we have recommended to the Water Supply and Sewage Enterprise sh.a, to accomplish their duty and offer a qualitative public service, and be in harmony with the EU Directive for the consumers' protection, especially measures to be taken in specific areas supporting the consumers' health, such as the drinkable water quality.

Another problematic area in 2013 is related to the lack of both energy and drinkable water supply, mostly reported as a result of the lack of new investments and damage of the existing networks (water supply and sewage networks) due to the lack of funds from the competent authorities. In this regard, we have recommended (mainly to the Directorate General of Water Supply and Sewage Network and the relevant ministry), drafting new projects and promoting new investments in cases of the wear and tear of the existing networks.

Overbilling and miscalculated bills of energy and water supply have been also a recurring problematic issue over years by CEZ Distribution Company and Water Supply and Sewage Enterprise. Having found that some citizens' bills are not calculated in accordance with the applicable legal provisions, in reference to the standard energy and water supply contracts, we recommended to CEZ Distribution Company sh.a and Water Supply and Sewage Enterprise sh.a. to take immediate measures, cancel the wrong bills and make corresponding corrections based on real

consumption of energy and drinkable water.

In order to meet the constitutional obligations for the protection of the individual fundamental freedoms and human interests, the People's Advocate Office carried out **a monitoring control of local government units**, in order to guarantee good governance and upgrade the quality of services for the citizens. The complaints processed in 2013 identified a series of problematic issues regarding the local government activity. As in the previous year, the administration of some local government bodies experiences problems for the formulation of administrative acts, lack of legal references, modalities of administrative proceedings, incompliance of legal time limits, violation of the principle of the administration's cooperation with private entities, conclusion of a proceeding with a decision rendered, right to information, conflict of interest in the decision making, gender or kinship relations between the local government authorities and citizens, bringing about subjectivity of decision making, as well as the execution of administrative acts or concrete plans of the local government units. All these problematic fields reflect a poor quality service to citizens, delays in solving their problems and lack of appropriate standards of the administration in service of the general public.

As in previous years, the lack of cooperation of many local government units with the local commissions for the evaluation of property titles at the district prefect offices, based on Law No. 9948, dated 07.07.2008 "On the examination of legal validity for creation of property titles of the agriculture land", is still one of the main causes for delays of administrative and judicial proceedings.

Another area of serious concern identified during the examination of complaints is also the poor management of the territory under the jurisdiction of local government units, and the unplanned increase of the number of illegal buildings/constructions all over the territory. This practice was reported especially in the period before and after general elections in the Republic of Albania.

During 2013, the People's Advocate Office continued to receive a large number of complaints against Urban Construction Inspectorates of Municipalities/ Communes and the National Urban Building Inspectorate, focused on their inaction for verifying illegal building/constructions, implementing legal measures and sanctions against the offenders, and failing to enforce decisions for the demolition of buildings.

The complaints examined during 2013 have also shown that local administration officials have not respected and implemented the right to information during administrative proceedings, for the individuals, subject to the administrative law, with a direct or legal interest in this proceeding or persons involved in this proceeding, being also affected by the executed administrative acts of the local government of which they were not informed. More specifically, we noted that parties are not informed about the initial or closing stage of the administrative trial, and their summoning as litigants when their own interests are violated. Furthermore, people are

not informed, within legal time limits, about official acts or information they have requested, based on standard procedures of the local government bodies but the latter fail to meet their obligations to citizens.

The Right to Information is one of the fundamental human rights focused on the individual right to receive information from public authorities on the way how they govern the country and manage national resources, based on the good governance function. People's Advocate Office is one of the main stakeholders regarding the respect, promotion and protection of the right to information not only under the general perspective of the constitutional function, but also under the specific legislation conferring that institution the role of caretaker for implementing the right to information.

Some problems related to the right of information in 2013 were about the content of provisions of the Law "On the right to information on official documents", along with their concrete implementation. Lack of implementation or due enforcement of the legal provisions guaranteeing the right to information on official documents of the Public Administration is the main concern in this area, linked with the lack of proper information of the Public Administration on provisions of this Law and legal gaps.

We reiterate that immediate amendments and improvements should be reflected for the Law "On the right to information on official documents". Despite our periodic requests, no substantial progress is made to support the strong recommendations of the People's Advocate special report of 2013 on the right to information to be presented to Albanian Assembly, a report which will be submitted after consultations with the civil society in 2014.

The efforts to improve the legal system regarding the right to information are positive developments favoring the public interest. However, what should be taken into account is that they should preserve and balance some values of the rule of law. In our opinion, such a balance is not maintained in the process of formulation of the two draft-laws, respectively "On the right to information" and "On some additions and amendments to the Law No.9887 dated 10.03.2008 "On personal data protection", presented during 2013 by the Minister of Justice.

The drafting and consultation process of these draft-laws have not included the institution of the People's Advocate as one of the main relevant actors. The People's Advocate institution reacted through the official correspondence with the Ministry of Justice, stating that lack of engagement of the People's Advocate in the drafting process of a number of draft-laws related to the regulation of the legal system of human rights, which is expressly envisaged by the Constitution, is a violation of the principle of constitutional loyalty.

Also, lack of engagement of the People's Advocate in the draft process of the draft-law "On the right to information on official documents" is against the EU

recommendations on the role and missions of the People's Advocate, underestimating the clear order of the Prime Minister related to the engagement of the People's Advocate in the drafting process of legal amendments, especially in the human rights area.

A clear problematic issue with the draft-law "*On the right to information on official documents*" is the downgrading of the protection level afforded to the individuals' right from the level of a highly consolidated institution such as the People's Advocate, expressly provided by the Constitution, to the level of independent institutions established by law.

In these circumstances, in our opinion the drafting and approval process of the new legislation regarding the protection and respect of the right to information should include a large number of key actors voicing this concern, where the People's Advocate has a primary importance. Relevant and expected amendments and improvements of this legislation will further strengthen the role and powers of the People's Advocate in this field.

During 2013, one of the main fields of activity for the People's Advocate institution was also **the right of citizens to live in a healthy environment**. The issues of complaints and applications examined during 2013 are mainly focused on prevention of the environmental pollution from various agents or illegal unlicensed activities, placing of cell phone platforms and related risks to the citizens due to their wave emissions in the living environment, air pollution from burning hazardous substances, lack of regular collection of wastes in public facilities, noise pollution, which on their side harm the quality of life and health of citizens living in these areas.

Compared to 2012, the People's Advocate had a growing number of environmental issues examined in 2013, demonstrating the growing importance for the institution and environmentally sensitive citizens for protection of the surrounding environment. The People's Advocate Institution has exercised his authority to follow, by his own initiative, various issues of environmental impact.

Based on cases already examined, the People's Advocate opinion is that environmental protection in Albania requires special attention and cooperation of all individuals and state structures, in order to reach a higher level of health and life quality.

2. Summary of Special Reports addressed to the Albanian Assembly

During 2013 the People's Advocate Office prepared a total of 5 special reports submitted to the Albanian Assembly. Preparation and submission of Special Reports to the Assembly is based on the Constitution of the Republic of Albania, article 63/2, providing that "People's Advocate presents an annual report before the Assembly if so requested and may ask the Assembly to hear him on matters he deems important", and article 27 of the Law No.8454 dated 04.02.1999 "On People's Advocate", as amended, which reads "In addition to annual reporting, the People's Advocate may report before the Assembly, at his own initiative or upon the written request of the Speaker of Assembly or a group of MPs". Special reports of the People's Advocate attempted to bring to the attention of the Assembly and the Executive emergent concerns and topics, which he considered to be better addressed by the state bodies by improving the legal framework or work of the responsible bodies dealing with their treatment and solution. You will find below a summary of the issues or concerns and recommendations reflected in each of the Special Reports.

1. On bloodfeud

The report is filed with the Assembly on 22.1.2013

Appraising the right to life as a fundamental human and the most important right protected by law, accepting the daily risk threatening this right, the People's Advocate has re-taken the initiative to promote the awareness of state institutions, civil society and individuals to this sensitive case. In this framework, he drafted a special report about the phenomenon of bloodfeud, based on the institutional experience and data submitted to the People's Advocate Office by State Institutions and non-profit organizations. One of the challenges the society and the Albanian state are facing in this decade, is also the practice of bloodfeud and revenge, a tradition inherited from the ancient past, which is not in conformity with the principles of civilized society and rule of law. It brings serious social consequences such as taking people's life, isolation of many families, ruining them economically and keeping them away from the politic and social life, as well as preventing children from going to school. As a matter of fact, some of the fundamental human rights and freedoms are violated in Albania because of the phenomenon of bloodfeud.

Blood feud is a sensitive phenomenon limited to some regions of the country. However, it is a concern to be considered seriously not only from the political but also from a social perspective. Unfortunately, there is not a realistic assessment of the situation from the related state bodies, and no joint platform of cooperation is developed to handle this issue in a comprehensive manner. The fact that there are not

accurate statistics about this phenomenon and its consequences is a clear picture of this reality.

The focus of this special report of People's Advocate is to raise the awareness of the state bodies and civil society, particularly on blood feud and revenge, in order to engage them in the joint fight against these phenomena. Also, Albanian government should further encourage the public administration bodies, at central and local level, to realistically assess this sensitive phenomenon and strengthen the collaboration with non-governmental organizations in order to prevent blood feud and revenge. The State Police bodies should apprehend the offenders and hand them over to the Prosecutor's Office. In this effort, they should strengthen the cooperation with Interpol for the extradition of the murderers hidden in other countries. The Ministry of Education and Science should play a more positive and preventive role to improve the academic programs, in order to educate the new generation with the principle of tolerance, against the phenomenon of self-judgment, revenge and blood feud. This Ministry should also provide specific training for teachers of the regional districts known for blood feud problems, in order to help the isolated students.

The social problems of the isolated families require more committed actions by the state structures, particularly by the Ministry of Labor and Social Affairs, so that they can help the isolated low level income families with economic supporting programs through the regional offices. They should also decrease the poverty and unemployment level. The Prosecutor's Office bodies should better collaborate with the police and conduct faster, full and objective investigations, and bring the cases for fair trial to the court, along with fully related evidence. It is the courts' responsibility to adjudge every offender as soon as possible and to make fair decisions for each of them. Any mild sentences and ill-grounded innocence favors the practices of self-judgment, revenge and personal blood feud.

2. On issues submitted by former political prisoners of the communist regime from 2012 to present

The report was filed with the Assembly on 1.4.2013

During the period September-October 2012, a group of former political prisoners of the communist regime conducted a hunger strike in an improvised facility with tents in the middle of a block of flats, at the entrance of "Medat Shtylla" street in Tirana. Their strike was announced by media together with their problems and concerns. Among other concerns, one of the issues covered by media was also the absence of a health service unit in the facility of the hunger strike during the first days. In these circumstances, the People's Advocate sent a delegation to the area and held a meeting with them. The delegation constantly monitored the management of the strike. The members of delegation visited several times the strikers and the strike coordinators. Also, the People's Advocate himself held several meetings within the

strike facility and hospital. The activity of the People's Advocate's institution regarding the treatment of complaints connected with the fulfillment of the rights of former political prisoners of the communist regime had the following conclusions:

1. Former political prisoners of the communist regime currently represent one of the social layers, which are not given the rights they deserve, despite the positive steps initiated by the state bodies for their treatment. One of the main steps is also the adoption by the Parliament of Albania of the Law No. 9831 dated 12.11.2007, "On compensation of the former political prisoners of the communist regime", as amended. In accordance with this law, several bylaws have been passed, as well as the DCM No. 419 dated 14.04.2011 "On approval of deadlines and the delivery scheme of compensation funds for former political prisoners of the communist regime" or other DCM-s, which generally define the beneficiaries of financial compensation installments.
2. The normative acts in force in Albania do not allow the right for hunger strike and this legal gap should be completed.
3. The police actions against the hunger strikers; their removal from the facility, prevention of access, prohibition of use of liquids (tea), sugar, trisol and coffee in the premises of the strike are illegal and inhuman.
4. The interruption of the strikers' communication with media is a violation of the right of everyone to deliver opinions and to exchange information, provided by article 22/1 of the Constitution of the Republic of Albania. During the hunger strike the rights for press, radio and television communication, provided by article 22/2 of the Constitution, are violated.
5. Despite their commitment, the physicians present at the facility could not carry out their duty to manage the hunger strike, as it is envisaged in some international acts approved by the World Assembly of Medicine and the Committee of Ministers of the Council of Europe.
6. The medical staff and the employees of the State Police need to be informed of the international and regional acts focused on hunger strike, and to be trained about the management and monitoring of hunger strikes.
7. The strike management identified the lack of willingness of the respective state administration bodies for building dialogue with the strikers, so that the parties can find acceptable solutions. This request was not taken into consideration even after the intervention of the People's Advocate for this purpose.
8. The compensation process of the former political prisoners has not progressed in accordance with the planned schedules, due to some reasons connected with the

amendments of Law No. 9831 of 12.1.2007 “On compensation of former political prisoners of the communist regime” in 2009 by Law No. 10111 dated 2.4.2009.

9. The content of the basic Law (Law No. 9831 of 12.11.2007), its related amendments and the following bylaws (this section refers to the DCM No. 419 of 14.04.2011) have created confusion and delayed the expected progress of the compensation process by the interested parties. It has resulted in the anticipated conclusion: lack of practical implementation of the law.
10. Despite the early applications for compensation filed by the interested parties, representatives of the internees and the expelled by the communist regime (letter “b”, of the Law “On compensation of former political prisoners of the communist regime”), the respective state institutions had not undertaken the legislative initiative to propose to the Council of the Ministers the promulgation of respective bylaws which would help with the compensation of this category.
11. Despite the early applications for compensation filed by the interested parties, representatives of the category of internees and the expelled by the communist regime, the corresponding state institutions had not taken the legal initiative to propose to the Council of the Ministers the approval of pension scheme through the respective Decision. These categories of former political prisoners will be compensated under this scheme.
12. The complex process of the compensation of former political prisoners of the communist regime identifies the need of approval by the Albanian Assembly, within the shortest time possible, of the draft law to enable compensation treatment to those former political prisoners who could not have it due to different reasons, in order to complete the documentation and file the request within the deadline stipulated by Law No. 9831 dated 12.11.2007 “On compensation of former political prisoners of the communist regime”, as amended.

3. On the accident occurred in the national road of Vlora –Himara, in the place called Qafa e Vishës, on 21 May 2012 and role of state authorities in handling the tragic aftermaths of this accident. Identified issues and relevant recommendations

The report was filed with the Assembly on 14.01.2013

Information about the event

On 21st May 2012 at the national road Vlorë - Himara, in a place called “Qafa e Vishës”, a bus with number plates EL 22 72 B, Mercedes - Benz, manufactured in 1988, drove off road and fell from an altitude of 60 meters causing serious consequences, concretely the death of 13 persons and injuring 25 others. Two of the injured were hospitalized in Austria for specialized treatment. The People’s Advocate set up a working group on 18.05.2012, made up of various experts of the institution,

to monitor the management of the situation with the only purpose to find ways or create specialized modern structures, to provide an optimal solution to such situations that bring serious consequences. Taking into account the problems encountered from this serious accident, the People's Advocate has prepared some relevant recommendations:

- Establishment of a unique structure which will be exclusively focused on emergencies, separated from other hospital services, composed by physicians, nurses, fire workers, police officers and experts specialized on adequate devices for handling situations resulting from serious accidents. Preparation of protocols on the responsibilities of regional and central level experts;
- Ministry of Health shall be provided with professional helicopters - "Sanitary Helicopters", which on the other hand shall be equipped with all necessary devices for an operating room, in order to enable immediate medical interventions;
- Establishment of a suitable Heliport at Tirana Military Hospital and major regional hospitals for the landing and takeoff large size helicopters, since military helicopters unable to land on the existing Heliport of the Military Hospital of Tirana, have landed to Rinas Airport;
- The report prepared by traffic police structures over the causes of accident, as long as it analyses the responsibility of state/state structures-positive obligations to be assumed by the state for preventing losses of human lives, by independent experts or by a group of experts where the majority of members should be independent experts (despite the fact that they are not employees in the city where the accident has occurred);
- Re-assessment of physical control procedures of vehicles, in order to increase the effectiveness and quality of such controls, especially for those vehicles used for public transport;
- Installation of a reliable signage system and other road safety elements according to the provisions of the Traffic Code; especially *in dark spots (difficult and dangerous turns as the one in question) and blocking the movement of public transport vehicles along the Southern Coast, at Qafë - Kërraba etc.;*
- Preparation of safety standard regulations by the Ministry of Education on student expeditions and extra-curricular activities for pupils;

General recommendations for the prevention of serious accidents

- Formulation of programs (public awareness campaigns, leaflets, training sessions) on the education of population, especially youth, about road safety;

- Involvement of local communities in drafting road safety related Projects;
- Completion of road works should be taken over based on the supervisor's report. The supervisors should not be representatives of the investor, in order to prevent the potential conflict of interest;
- Training and control of the police officers' work for compliance of road traffic regulations by the road users, speeds exceeding the allowed limits, use of alcohol, use of safety belts in vehicles and by passengers, use of protective caps while driving motorcycles etc;
- Reviewing the procedure for driving license qualification of the drivers of vehicles and its potential renewal;
- Elimination of secondary roads leading off the main inter-urban roads. Elimination of unplanned advertisement installation, illegal construction works, construction of railway-intersected passageways, which in many cases have caused tragic accidents.
- A traffic control center should be set up for creation of an information system on the road traffic and blocking in the main roads, aiming to enhance the road safety, improve the traffic management, *inter alia*, through the introduction of traffic management integrated systems;
- Private sector and Non-profit Organizations should be encouraged and supported in order to be involved in road safety issues;
- Promotion of inter-sector cooperation, mainly between central and local institutions;
- Establishment of cooperation and a unique phone number for emergencies: Medical Emergencies-State Police- Fire Department

4. On the rights of orphan children, including the children settled at residential social care institutions and children exploited for work

The report was filed with the Assembly on 23.5.2013

Protection of the children's rights constitutes one of the pillars of social protection policies. They basically reflect the core principles of the Convention of the Rights of the Child, ratified by Albania in 1992, obligations arising from the objectives of the new millennium and other international instruments ratified by the Albanian state, emphasizing that children, due to the characteristics of age, lack of physical and intellectual maturity, need protection and special attention from the family and state institutions.

Causes of children's exploitation for work

Children are urged to work for a number of reasons; however, poverty remains the key factor. Poor families push children to work in order to increase their insufficient income.

Poverty is both a cause and consequence of child labor. Poverty and child labor are key components of the "low economic balance" at family, community and national level. Therefore, child labor is one of the main pillars for interventions in terms of measures taken to reduce poverty and provide social protection.

In addition to poverty, there are many other factors contributing to child labor:

Supporting attitude to child labor –Parents (teachers and society in general) may consider child labor as part of their education, especially when the existing education does not provide financial benefits for young people. Parents can support the work of children as a way to keep kids safe, in some areas where children may be discriminated against, or be subjected to violence at schools

Unfavorable family environment – single-parent families, those with a sick or physically disabled head of family, parental drug or alcohol addiction, parental incapacity and abuse place the child at serious risk to be involved in child labor.

Lack of access to education –direct and indirect education costs are often too high for parents to allow school attendance by their children and /or schools are located in a very long distance from their homes.

Discrimination –some minorities or communities have less access to education and labor market, thus causing these children to perform particular tasks at a young age. Moreover, the gender-based division of labor can force men and women to limit their job prospects to a certain level that requires no education but 'job' practice by young people, including work at home

Spread of informal sector and absence of law enforcement – Lack of employment contracts and the right to creation of collective associations in the informal sector makes it difficult to protect children from abusive working conditions and identify working children.

High level of migration – migration had an impact to reduce child social support.

Non-compliance with the rule of law principle – has allowed the informal economy to flourish and corruption to overwhelm many aspects of people's life. It has a direct impact on a) cases of the worst forms of child labor related to criminal activities (unlawful activities, trafficking and prostitution- when such a practice is criminalized) and b) implementation of child-oriented laws and policies.

Temporary “lack of values” – in which the pressure of western consumption competing with traditional values and extreme personal attraction lead to: a) destruction of family and community basic values; and b) increase of risk to children.

Due to the lack of proper supervision and care, street is the main place for children's socialization.

Conclusions:

Following a thorough analysis of the comprehensive information and preliminary findings introduced in this report, based on the contribution of all respective stakeholders and on respect and protection of children's rights, we can draw several conclusions:

- Orphan children, including the children settled in residential social care institutions and children exploited for work represent social categories of a high concern in the transition period and currently referred to as a vulnerable group.
- Their real situation and pace of overall development of the local society pose the need of multi-dimensional state and society intervention in order to ensure an environment where children start life in their best way possible, where all of them have a number of opportunities to develop their individual skills in a healthy and supporting environment.

To create such environment, general measures should be taken in order to ensure:

- Economic development to boost family income and living standard by supporting the increase and allocation of resources at a general level and by sustaining the efforts of families in need to generate the necessary income. Fight against poverty is the keyword of the consolidated effort for a better development of childhood of orphaned children and minimization of child labor exploitation;
- Qualitative, comprehensive, free and compulsory education to increase human capital. Qualitative education will further enhance opportunities to find a more appropriate employment and larger social and economic mobility to escape the trap of poverty and create a more skilled and qualified labor force that may lead to a more competitive economy;
- Enforcement of laws against child labor, violence against children, laws on compulsory education and laws indirectly aiming to punish child abusers;
- A positive change of the social mentality to children at family, employer and institutional level for the purpose of elimination of child labor;

- Social services, adequate and continuous support to these categories of children and their families, in order to cope with the reality in which the minors are developed.
- Adoption of measures to reduce informal economy and mitigate all adverse consequences deriving thereof, and coordinated efforts against the disturbing phenomenon of corruption, which has currently overwhelmed many aspects of human life. Creation of a labor market respecting the basic rights of children and ensuring their well-being.
- Concrete work to provide a more favorable environment for the well-being of the target group in question, constitutes a useful measure to prevent a series of other negative phenomena of the Albanian society, such as the crime of children's trafficking, involvement of children in criminal gangs or commission of different crimes, prostitution etc.

On orphan children

Children and young people who have lost parental care suffer from discrimination and a number of disadvantages due to the non-delivery of service and lack of attention by the public state authorities. The current legal framework has to improve issues regarding the young people who are out of the care system by addressing their challenges to develop better strategies and other related services. The status of care at residential institutions hampers the future of youngsters who are out of that care system and further heightens their disadvantages and vulnerability. The legal status of 16-18 year olds under care is not regulated.

Albania lacks an adequate legal system to cover the needs of young people under care or out of the care system, especially of those who leave much earlier. Therefore, post-care services should be set up, as well as the placement under care until the completion of high school, establishing day-care reception centers providing services for the (16-18 years old) young people and implementing professional training and employment policies for the categories of young people who are out of the care system.

A key focus of the measures to be taken in this framework is launching of new services for the juveniles (children), information and counseling, community and participatory services and advocacy to support their participation.

There is a need for adequate legal protection of orphans, with the view of real enjoyment of the facilities under the Law "On Orphan's Status" but also the current applicable legislation not only for the period when these individuals are under social care but also after they have turned 18 years of age and their qualification as adults. Housing, employment, respective social care services, exemption from

specific taxes are rights of these individuals, which, on the other hand require a concrete and real commitment of the state for their accomplishment.

There is a need for reviewing the provisions of Law “On Orphan’s Status”, in the circumstances when powers for its implementation have been shifted from the central government to local government bodies and the Albanian society and its general relations have been further developed, thus taking on new dimensions and meanings.

Within a general framework for the target categories of the report, concrete steps have to be taken for:

- Consolidation and improvement of the social care system for children in need.
- Promotion of the process of service decentralization and their delivery to the community. Capacity development and adequate local government financial remedies for setting up new services in accordance with the requirements of children in need, as well as a better coordination between this power, central government bodies and NGOs operating in this field for that specific purpose.
- Provision of qualitative services at child-care public and non-public institutions, complying with and applying the standards of physical facilities and sustainability of the employment relations for the specialized staff members. As regards the standard for protection procedures, each new employee at the institution should be trained beforehand about the protection procedures and each institution should consider this training as a must. The training should include clear definitions of the concept of abuse, forms and manifestations, and consequences on children from the perspective of the child’s rights and development.
- Enhancing quality and access to other services of residential institutions, in order to ensure that children’s needs are met. This is a key aspect if we consider that this group of children has special psycho-social needs. They are distressed or disturbed from time to time or have mental health problems. These specialized services often do not exist but at the same time they may not be familiar.
- Encouraging deinstitutionalization of children at residential centers by transforming them into foster homes, creating day-care and community services within the premises of these centers. Provision of the foster-home oriented service as applied at “Zyber Hallulli” Orphanage, Tirana, at all residential social care public institutions, in cooperation with the local government bodies. Promotion of the supporting services for children and alternative services facilitating the institutionalization of children, foster care

service, adoption and return to the biological families.

- Strengthening capacities for dealing with children at central and regional level; continuous training of social service staff members. Despite the periodic training provided by various organizations and by the Ministry of Labor, Social Affairs and Equal Opportunities, knowledge about the implementation of children's rights in the daily life is still limited.

5. Special report of the People's Advocate activity for the employment of Disabled People (DP) addressed to the central and local government institutions

The Report is filed with the Assembly on 23.5.2015

Like all the other people, the disabled should be considered as individuals of opportunities, as equal people among the equal ones, individuals with inherent dignity and inalienable rights. One of the main priorities of the People's Advocate, as a constitutional institution, is also the obligation to respect the rights of disabled people. In this context, the People's Advocate has started the progressive monitoring to identify the extent to which the local and central authorities respect the legislation for the employment of people with disabilities. The employment process requires the attention and enforcement of the legislation by all public and private institutions. To monitor the implementation of this law, the People's Advocate Office sent to 36 local government institutions, a letter concerning the request for explanations regarding these legal obligations. This initiative dates back to a period of almost two months. 21 institutions have replied, among which 11 replies have come from the local government, and ten other ones from the central government, including also the executive and political institutions involved in politics.

Conclusions:

1. Article 15 of the Law No. 7995 on employment of disabled people is not respected as the ratio of 1 employed DP in every 24 persons is generally not maintained.
2. Kukës and Pogradec municipalities are institutions which have conformed to the ratio and even exceeded it, having a number of 12 employed DP out of a total of 218 employees and 9 DP out of a total of 121 employees respectively.
3. None of the institutions has applied for funds from the respective employment office to properly furnish the workplace of the disabled people.
4. None of the institutions has paid to a special account of the National Employment Service Fund, the amount equaling the minimum monthly salary.

5. Korça Municipality acknowledges that with the support of UNDP, they are enabling the reasonable adaptation of premises for the disabled people.
6. Elbasan and Lezha Municipality representatives declared that inspections were conducted by the National Employment Service and the State Labor Inspectorate for the implementation of provisions on the disabled people, based on the law on promotion of employment. Other institutions did not issue any statements in this regard and some other ones declared that no control was carried out.
7. The Ministries which have replied declared that there were generally no applications from those categories as the officials are recruited in conformity with the law on civil service.
8. We cannot provide other data as almost half of the institutions have not replied, despite the expiry of official deadline.
9. Further, we are still waiting for replies from the State Labor Inspectorate and the National Employment Service regarding their activity under that law.

Recommendations

By the end of the monitoring process and problems reported for the employment of disabled people, based on the provisions of Law No. 7995 “On promotion of employment” during our activity of February-March 2012, we strongly believe that the situation for the respect of human rights and fundamental categories of that group needs to be improved. Following the above cited analysis and assessments, we recommend:

1. Drafting a bylaw pursuant to article 16 of Law No. 7995/1995 “On promotion of employment”, to detail rules, modalities and procedure for the payment of minimum salary to the National Employment Fund. The People’s Advocate finds out this act is delayed as paragraph 4 of article 16 directly provides the issuance of such a law from the Council of Ministers.
2. Reasonable adaption of the working premises for the disabled persons, thus removing barriers and ensuring equal access as the other people.
3. Further, the responsible state authorities, Labor State Inspectorate, should check the compliance of the employers with the existing provisions and the ones to be amended, in order to guarantee the practical law enforcement by public or private employers.

CHAPTER II

People's Advocate activity to resolve specific complaints, according to human rights and fundamental freedoms guaranteed by the Constitution and other bylaws

A. The right to information

Overview

The right to information is one of the fundamental human rights focused on the freedom of an individual to receive information from the public authorities regarding the way how the latter govern and how they manage governmental resources in support of the good governance.

The right to information is a fundamental human right enshrined by article 23 of the Constitution of the Republic of Albania.

By introducing a key component of the implementation of functional democracy, the right to information is acknowledged in a series of international acts, which at the same time establish standards for **its observance**, standards **that are generally reflected in the domestic legislation recognizing and specifically regulating this right**.

To ensure a legal system that is fully compliant with the **best international standards in this field**, for many years the Albanian state **has ratified** most of these acts. Meanwhile, a need has emerged for ratifying new international acts bringing new concepts and a better perception of the right to information as the latest respective developments have introduced a new dimension of the right to information.

Some of the most important international acts in this field providing the definition and building conceptual groundwork for the right to information, are as follows:

- **Universal Declaration of Human Rights**, approved by the General Assembly of the United Nations Organization on 10 December 1948, which affirms the right to information among the fundamental human rights.
- **European Convention of Human Rights**, drafted by member states of the Council of Europe as one of the initial effective efforts to ensure the collective guarantee of some of the rights acknowledged by the Universal Declaration of Human Rights.
- Based on the Universal Declaration of Human Rights, its signatory parties have signed the **International Pact on Civil and Political Rights** (December 1966).

This crucial act also recognizes and safeguards the right to information.

- **Declaration of the Council of Europe on the Freedom of Expression and Information** of 1982 identifies the access to information as one of the priorities for the Council of Europe activity. This declaration sets out the key principles regarding the right to information and the role of that right in the society; “as an imperative for the society development”.
- **Aarhus Convention** “On access to information, public participation in the decision-making and access to justice in environmental matters”, signed in the Conference of the Ministers of Environment held on 25 June 1998 in Aarhus, Denmark from thirty five European states and the European Union. Of special importance is also the commitment and obligation of the signatory parties for the respect of the right to public information in environmental matters.
- **Charter of Fundamental Rights of the European Union**, approved in Nice Summit in December 2000, is the first official text worldwide in the area of human rights which officially affirmed the right to good administration as a fundamental human right. Stipulation in this Charter of the right to good administration (article 41), right of access to official documents (article 42) of the Ombudsman Institution (article 43) represent a new and substantial development of human rights within the European Community.
- **European Code of Good Administrative Behavior** approved by the European Parliament on 6 September 2001, aims to explain in details the Charter of EU Fundamental Rights and more specifically, the right to good administration and what this right practically means. Most of stipulations under the present Code focus on addressing the right to information as a common right with the one of good administration.
- **Recommendation 2002 (2) of the Council of Europe for Access to Official Documents**. This recommendation specifies the right to information, focusing on the right of access to official documents. The general principle set out in this recommendation is that member states should guarantee the right to everyone to have access, upon request, to the official documents administered by the public authorities.
- **Council of Europe Convention “On access to official documents”, Trompso**, adopted in the meeting of the Committee of Ministers of the Council of Europe on 27.11.2008, creates information-oriented obligations for entities such as legislative bodies, judicial authorities or natural or legal persons, as long as they perform public functions or operate with public funds, in accordance with the domestic legislation.

In the framework of national legislation, the legal system of law on information acknowledges two main laws, Law No. 8503, dated 30.06.1999 “On right to

information about official documents” and the Code of Administrative Procedures, adopted by Law No. 8485, dated 12.05.1999, which envisages the right to information as one of the core principles for the functioning of Public Administration.

During 2013 the People’s Advocate Office examined 54 complaints for alleged violations of the right to information. Of total number of complaints, 18 are being reviewed and other 37 have been examined. Of the number of processed complaints 2 are out of the required authority, 19 complaints have been resolved and 15 complaints are unfounded. The examined complaints are related to non-observance and non-provision of the right to information during the activity of public administration bodies, respectively of the central government bodies, public entities and legal entities providing public services.

Analysis of Specific Cases:

In the application registered as **Doc. No.201301736**, the citizen R.C. complained about the breach of the right to be informed of some legal requirements about the delivery of original documentation of job dismissal. She submitted this documentation in order to initiate the judicial settlement of this case. As soon as we started to examine this case, we asked the UCMH with regard to its treatment. After legal analysis of the case, we reached the conclusion that indeed there was a breach of the applicant’s right to be informed; therefore we recommended the adoption of measures to respect and exercise the right to information of the citizen R.C. In reply to our recommendation, the Director of Trauma Hospital (the former University Local Military Hospital) sent authentic copies of the official documentation, resolving this complaint after sending a copy to the applicant.

The citizen L.I. shared her concern in the application **No. 201300623** about the breach of the right to be informed from INSTAT Tirana, for not being granted the right documentation to accomplish the procedures for benefiting the right to pension.

After examining the case, this institution was asked explanations about the way how the applicant was treated and more specifically with regard to the refusal for furnishing the documentation she required.

In its reply to this application, INSTAT explained that based on the applicant’s request, the relevant documentation was signed and made available to her in order to accomplish the pension procedures. Having obtained the consent of applicant about this development, we suspended the examination of this request which was positively solved.

Conclusions

As in 2012, problems during the examination of cases concerning this right, were related to the content of provisions of the law “On the right to information on official documents” and their concrete implementation and recognition.

Lack of enforcement or incorrect enforcement of the legal provisions related to the acknowledgment and guarantee of the right for information of the citizens with official documents by the Public Administration are still problematic issues, which are related both to deficiencies of the public administration regarding the right of the citizens for information, and gaps of the legal framework on this issue.

It is worth stressing the immediate need for improvement of the Law "On the right for information on official documents". Despite our continuous requests, this important process has not started yet, and it is strongly recommended in a special report that the People's Advocate Office prepared for the Albanian Assembly on the right to information in 2013, which will be submitted after discussions and consultations with civil society in 2014. In these circumstances, we draw the attention to the observations and recommendations we have provided for the respective national authorities in the previous years:

"The People's Advocate Institution, in capacity of the protector of the right for information, has come to the conclusion that the regime for public information in the country is still associated with serious problems; this is the reason for some amendments and improvement to the Law "On the right to information on official documents".

The potential amendments of the law have to do with:

- *The extension of the list with subject areas and authorities to provide open information, including natural persons or legal entities, with public or administrative functions (for example, the private companies which have got monopolies or concessions for water and power supply, etc).*
- List of criteria of documents being restricted from the right to information. This criterion is deemed to be particularly necessary in cases of the repeated requests for which a full and definite explanation was given.
- Reconsideration of the time limits to provide the information requested. These time limits should be shorter and more unified in the time period defined either for the negative or positive answer to the request for information.
- The obligation to give the applicant all information required to identify the documents he needs, as the administration has full knowledge of the official documents it can provide; or providing useful information for the applicants regarding competent subjects in possession of the requested information, according to the law.
- The provision about creation of facilitated procedures to provide information when required by disabled people should be considered. Another additional provision is that documents required by the applicants should be given in his/her

favorable formats, including the electronic format, except when it presents considerable technical difficulties.

- The cost of payments for providing information should avoid high and abusive fees which would effectively serve as an obstacle for the implementation of the right to information.
- The concrete definition of sanctions and compensation should be considered. The sanctions for breaches of legal provisions “On the right to information on official documents” are not explicitly defined. Meanwhile, regarding the damage compensation, except for one general provision provided by law, there are no specific regulations which would provide the real compensation in cases when such a thing is proved.

Parallel developments

The efforts to improve the legal system regarding the right to information are positive developments favoring the public interest. However, what should be taken into account is that they should preserve and balance some values of the rule of law. In our opinion, such a balance is not maintained in the process of formulation of the two draft-laws, respectively “On the right to information” and “On some additions and amendments to the Law No.9887 dated 10.03.2008 “On personal data protection”, presented during 2013 by the Minister of Justice.

The drafting and consultation process of these draft-laws have not included the institution of the People’s Advocate as one of the main relevant actors. The People’s Advocate institution reacted through the official correspondence with the Ministry of Justice, stating that lack of engagement of the People’s Advocate in the drafting process of a number of draft-laws related to the regulation of the legal system of human rights, which is expressly envisaged by the Constitution, is a violation of the principle of constitutional loyalty.

Also, the non engagement of the People’s Advocate in the draft process of the draft-law “On the right to information on official documents” is against the EU recommendations on the role and missions of the People’s Advocate, underestimating the clear order of the Prime Minister related to the engagement of the People’s Advocate in the drafting process of legal amendments, especially in the human rights area.

A clear problematic issue with the draft-law “*On the right to information on official documents*” is the downgrading of the protection level afforded to the individuals’ right from the level of a highly consolidated institution such as the People’s Advocate, expressly provided by the Constitution, to the level of independent institutions established by law.

A new body of the public administration is proposed to be established under the draft-laws, which does not have a specific organic law, but a combination of competences

which “conflict” a law with another, without clarifying the method how the body is established and its basic mission activity.

The protection of the right to information is intrinsically linked with the competence of the People’s Advocate for the protection and promotion of human rights in the country, while the drafters of these draft-laws do not understand the fact that daily activity of the People’s Advocate is closely connected with the vital implementation of the right to information.

The proposal of draft-laws is focused on the removal of several competences of the People’s Advocate, which has a direct impact on the weakening of this Constitutional institution. Also, the removal of competences breaks the constitutional balances and distorts the aim of an institution established by Constitution. It especially harms the role of the People’s Advocate as a legal body for the protection of basic rights and fundamental freedoms. As a constitutional organization, it is legitimate to address this fact to the Constitutional Court in accordance with Article 134 of the Constitution. Shifting competences to another institution established by law will create serious problems for the People’s Advocate to refer to the Constitutional Court. Therefore, it will damage the accomplishment of mission by this institution for the protection of basic human rights and fundamental freedoms, being manifestly in breach of the Constitution.

The attempt to decrease competences of the People’s Advocate and shift them to the “hurriedly” created institutions, is degrading for the professional and highly evaluated work and activity of the People’s Advocate. Furthermore, this trend is opposite to the European one, which aim is to restore and give to a single institution the same competences of different institutions.

In these circumstances, we believe that drafting and adoption of the new legislation on protection and respect of the right to information should firstly involve as many key stakeholders and factors as possible, making this right meaningful, where the People’s Advocate is obviously of primary importance. The expected and necessary amendments and improvements of this legislation should further strengthen competences and natural role played by the People’s Advocate Office in this field.

B. Restrictions of liberty

State Police Activity

Overview

In the framework of its mission to examine citizens’ applications against police bodies, the People’s Advocate Office has carefully upheld the institution’s independence by respecting constitutional and legal provisions. Also, citizens’ applications are considered by taking into account the working difficulty of the police officer who is exposed to the criminal activity from the very initial stage. On the other hand, while treating applications the rule of law is sought to be equally applied both for citizens

and police officers. These applications have been processed by the Specific Sector at the People's Advocate Office.

In 2013, the People's Advocate Office examined 212 applications/requests of citizens for illegal actions or omissions of the State Police. Of these, 165 applications have been examined and 47 applications are under deliberation. Of applications examined, 71 applications were not based on law, 9 applications were out of jurisdiction, 29 applications were out of the scope of competences, 5 applications were withdrawn from the complainant, and 51 applications were settled in favor of the complainant. 25 cases were instituted *ex - officio* for which it was ordered the commencement of an independent administrative investigation, and 7 inspections were conducted at Police Stations.

22 recommendations were submitted during this year. Of these, 10 recommendations were focused on the initiation of disciplinary proceedings against police officers who have committed violations. It is worth highlighting this fact because there can be no attempts to hide or excuse unlawful exercise of coercive powers by a police officer. Police Ethics and compliance with professional standards should ensure that the delivery of police service is of the highest quality.

Analysis of Specific Cases

Problems about the cases examined in 2013:

Firstly: ***Maltreatment and commission of violent acts against citizens or while escorting them to the police stations.***

Application registered as Doc. No. 201302676, initiated *ex-officio* by the People's Advocate Office, focuses on the event following the media coverage of the abuse of some young people by two employees of Tirana Police Station No. 2. Administrative investigation showed that police officers B.L and A.D. had exerted physical violence against citizens D.S., A.B and D.K. Therefore, we addressed to Tirana District Prosecutor the recommendation to *"initiate investigation for the criminal offence of "arbitrary act" against police officers."* The recommendation was accepted and the Prosecutor's Office initiated a criminal investigation process.

Application registered as Doc. No. 201301400, filed by the citizen E.V., from Korça who complained that after he had been escorted to the Police Station, he was subjected to violence by E.S., a police officer of the District Police Directorate. Based on the application of that citizen, an onsite independent administrative investigation was ordered to be conducted, and in the end of this investigation we addressed to the Police the recommendation to *"examine this case for unlawful actions and to initiate a disciplinary proceeding against the police officer, E.S"*. The recommendation was accepted and a disciplinary measure was taken against the police officer.

Application registered as Doc. No.201301455, filed by the citizen P.B. from Tirana, who complained that officers of Tirana Police Station No. 2 had handcuffed him while

they were taking him to the police van. They directed insulting words against him and punched him on his face and in different parts of the body. This case was followed by an independent administrative investigation and in the end we addressed to the Police the recommendation to *"take measures for the implementation of legal provisions for escorting citizens and taking disciplinary measures against police officers who have committed unlawful acts"*. The recommendation was accepted and disciplinary measures were taken against the police officers who had committed violations.

Application registered as Doc. No. 201300598, filed by the citizen R.N. from Tirana, who complained that in 2013 he was illegally escorted a number of times by officers of the Police Station No. 4 for any kind of troubles occurring in the neighborhood, because he was considered a convict although he had already served the sentence. Based on this concern, we addressed to the Police the recommendation to *"strictly implement legal criteria for escorting citizens to police facilities."* We have not received any answer to this recommendation.

Application registered as Doc. No. 201300979, covered by media, is related to the self-hanging of the citizen N.G., within the facilities of Tirana Police Station No. 3. After having conducted the independent administrative investigation, we addressed to the Police the recommendation to *"analyze the event, take immediate measures for building escort rooms and organizing inspections in local police authorities by the Police Directorate General"*. This recommendation was considered and accepted.

Secondly: *Failure to implement legal provisions on escorting of citizens*

Application registered as Doc. No. 201300226 was filed by the citizen Gj.P., from Shkodra, who complained that he had been held in custody at the Police Station for two hours because the police considered him suspect of having caused disturbance at the door of the building of a religious mission, although the police stated that, *"verifications have shown that the person has not committed any criminal offense."*

Application registered as Doc. No.201301625 was filed by the citizen A.Q., from Tirana, who complained that some police officers of the Police Station No.2 had illegally held him in custody for 5 hours within the facilities of the said Police Station, although they had taken from him the statement regarding the theft of a "Fast Food" café, whose owner was his cousin.

Application registered as Doc. No. 201301547 was filed by the citizen F.H., from Paskuqan, Tirana, who complained that some police officers of the Police Station No. 5 had illegally held him in custody for 7 hours, for an ownership conflict that her husband M.H. had with his brother XH.H. By the reply addressed to the People's Advocate Office we have been informed that the complainant was questioned in the quality of "a person who has knowledge of investigation circumstances ", because the criminal proceeding had started for the criminal offence of "Threat" and "Self-justice".

Application registered as Doc. No.201301253 was filed by the citizen Xh.S., from

Kruja, who complained that some police officers of Kruja Police Station had illegally held him in custody for 10 hours because during the hearing of the criminal proceeding against him, charged with the offence of "violation of traffic regulations", after the conflict he had with the prosecution witnesses family members, the juror in chief ordered to take him out of the courtroom. Police action is contrary to Article 341 of the Criminal Procedure Code, which means that the police must have enforced the order of the juror in chief, thus taking the person out the room and not escorting him to the Police facilities.

Analysis of the above-mentioned cases has shown that there are people escorted to the police facilities contrary to the requirements stipulated in Articles 11/6, 101/1 / "a" and "b" and 106 of Law No. 9749, dated 04.06.2007 "On State Police". Citizens who have committed or suspected of having committed criminal offences, due to conflicts between them, unrest, beating etc. are still treated as escorted persons although they had been identified.

In cases when the Police summons people who, for the purpose of obtaining information, are required to be questioned by the Judicial Police, or required or need to meet the body management for other related issues, they must be treated as people summoned and this must be reflected in a separate register to reflect the entry and exit of persons from the Police Station. In such cases, the police officers must apply the legal right of "notice to appear before the police", as provided for in Article 100 of the Law "On State Police" and not to escort them to the police station.

The above-mentioned persons may be summoned by the police officer by virtue of an order or writ of summons, as per the requirements of Article 312 of the Criminal Procedure Code, and warned for compulsory escort in case of default, without any lawful impediment.

Persons escorted are subject to physical search and personal belongings are taken, such as mobile phones etc. This action is contrary to Article 106, paragraph 3 of Law 9749, dated 04.06.2007 "On State Police", which provides that: *"The police officer shall conduct the physical search and examination of persons, in order to take protective measures against mentally ill, drunk or drug-addicted persons or those who carry contagious diseases."*

Thirdly: *Failure to seriously consider or receive criminal charges filed by citizens*

Application registered as Doc. No. 201301552 was filed by the Roma citizen M.O., from Levan, Fier, who complained that the criminal charge against the citizen A.Ç., (son of the head of a commune in Fier district) for threat against his son I.O., resulting from a car accident occurred a few days ago, had not been received. He sent an application to the People's Advocate employees, while they were receiving applications from the Roma Community of Levan. The case was immediately addressed to the Director of Fier District Police; therefore the situation was assessed.

The citizen filed a criminal charge and the procedural investigative documentation was sent to Fier District Prosecutor's Office.

Application registered as Doc. No. 201204045 was filed by the citizen, E.TH., Mayor of Liqenas Commune of Korça district, who complained that representatives of "Red and Black" Alliance in Tirana had damaged the road signs and the board of the Health Centre, under the excuse that informative boards were only in Macedonian, and had threatened the Macedonian community residents. After notifying the Police, the latter did not take the criminal charge into consideration. Based on this concern there were carried out the required verifications in the Commune and the Police Station. By the end of the investigation, on 03.12.2013 we addressed to the Police the recommendation *"to take measures for assessing the charges filed by citizens, or notices for offenses, in order to document and ensure the implementation of procedural actions by the judicial police officers of the State Police."* The recommendation was taken into consideration but it was not accepted.

In other cases, such as the application registered as Doc. No.201302248 filed by the citizen H.K. from Patos, application registered as Doc. No. 201301809 filed by the citizen B.P. from Berat, application registered as Doc. No. 201301011 filed by the citizen R.H. from Tirana against his sister in law V.H., citizens appeared to Police Stations to bring criminal charges, especially for property disputes or criminal cases such as, "insulting", "beating" but they were not received. After examining the cases, we have informed the citizens about the provisions of Articles 59 *et seq* of the Criminal Procedure Code, on their right to refer to the court, in quality of "aggrieved accuser".

Police officers have received charges from citizens, for the above-mentioned offences, which, under Article 59 of the Criminal Procedure Code "Aggrieved accuser", have the right to refer to the court and attend the trial as a party to prove the charge and claim the damage compensation. After receiving the charges for these offenses, the procedural materials were forwarded to the Prosecutor's Office and the latter decided not to initiate the criminal proceeding. Subsequently, the citizens who were neither clarified by the police, nor informed by the Prosecutor's Office, addressed their application to the People's Advocate Office, for failure to have their case examined or failure to have been able to know how to resolve their charges. Regarding these applications we have informed citizens about the legal procedures they should follow.

Fourth: Committing other illegal actions against citizens, relating to police ethics in community or police facilities, failure to show the police identification document in the field operations etc.

Application registered as Doc. No. 201204045 is a case instituted ex officio by the People's Advocate. It concerns the application of Roma citizen B.A., inhabitant in "Driza" neighborhood in Fier, against police officers because the latter, based on an operational plan for apprehending a wanted person, had gone to his house without

wearing the police uniform and balaclavas and did not show their identity document. Further, they displayed incorrect behavior towards him and other members of his family.

An independent administrative investigation on the application registered as Doc. No. 201301400 filed by the citizen E.V., from Korça, found that while a conflict was occurring the general police patrol went to the place and the police officer E.S. intervened without wearing the police uniform and without presenting the police identity document.

The above- mentioned actions of police officers are contrary to Article 6 of the Decision of Council of Ministers No.786 of 04.06.2008 "On approval of rules of discipline of the State Police," which is about the obligations and standards of conduct in the course of duty / service. Specifically, its fourth paragraph reads: *"Identification must be established in each case of performance of service / duty when requested by showing a police identity document, except when otherwise provided, in performing special services / tasks "*.

Application registered as Doc. No.201301541 was instituted *ex-officio* by the People's Advocate. After an administrative investigation, we addressed to the Police the recommendation to *"take administrative and organizational measures and initiate disciplinary procedures against police officers of the District Police Directorate of Kukës, F.H., and A.D."* because during the process of taking the statement from the citizen A.Ç., in one of the offices in the third - floor of that directorate, there were not provided normal conditions. Consequently, the citizen jumped out of the office window and damaged her health. The recommendation was accepted and the responsible persons were given disciplinary measures.

The People's Advocate has examined *ex-officio* the case registered as Doc. No. 201301398, related to the event occurred during the opening ceremony of Kërraba tunnel, when police officers of the Republican Guard exercised psychological violence against the citizen E.Ç., the cameraman of Top Channel TV Program "Fiks Fare". By the end of the investigation, we addressed to the Republican Guard the recommendation to *"analyze the case, start disciplinary procedures and take measures against police officers of the Guard, who had committed violations"*. The recommendation was taken under consideration and the case was examined but the responsible persons are not given any disciplinary measure yet.

The People's Advocate has examined the application registered as Doc. No.201302608, filed by the citizen E.B. from Tirana, who complained against police officers of Vlora Police Station because they had not allowed the residents to enter into the flat of the residential complex "Jon Resort" near Uji i Ftohtë in Vlora, and had put warning stripes with the words "crime scene, you are not allowed to cross." By the end of the administrative investigation we addressed to the Police the recommendation to *"take measures in order to stop unlawful acts violating the rights of citizens of the flat"*. Police has not replied to this recommendation.

Application registered as Doc No. 201301862 filed by the citizen M.K., from Tirana, who complained against police officers of the Police Station No.6 in Tirana, because the latter had controlled the house without the presence of family members. According to information provided by the police, the latter had searched for the husband of the complainant, the citizen A.K., against whom the Prosecutor's Office had started criminal proceedings for the offence of "threat" against the citizen S.B.

Fifth: Failure to take measures for preventing domestic violence offences or failure to consider criminal charges for these cases.

The People's Advocate has considered domestic violence as a troubling phenomenon mostly spread recently, which represents a concern for the whole society, whereas the Police has the mission and duty to take effective measures for its prevention, through the work of police officers in the community and in cooperation with other stakeholders, civil society etc.

As such, we may mention the applications registered as Doc. No. 201301580 and 201301582, instituted *ex-officio* by the People's Advocate, following the media coverage with regard to the murder of citizens A.C. and V.Ç. For these cases and for other similar cases occurred in 2013, after the records sent by the State Police Directorate General and the General Prosecutor's Office, we prepared the material in the form of recommendations to be addressed to some law enforcement institutions.

The case registered as Doc No. 201302146 was instituted *ex-officio* by the People's Advocate. Based on the print media coverage, after conducting an independent administrative investigation and going to the scene of crime in Allkaj Commune of Lushnja, it was found that the citizen M.D., a disabled person, had been abused and her hands and legs had been bound with wire by her father K.D. and her brother E.D. After the incident, the injured party filed a criminal charge to Lushnja Police Station but the police officer did not assess the charge and did not prepare the request to issue the protection order to be brought to the Court. Also, the police officer L.P. did not prepare the decision to carry out forensic expertise of the victim. He went to Delisufaj village and took the persons accused and had a verbal confrontation with the injured party in the Police Station. Further, he took from her a statement saying that *"she did not have any pressure from the family and no violence was used against her"*. Due to unserious position and acts by the police officers, we addressed to the Police the recommendation to *"take immediate measures to implement the procedures for assessing the charge of the citizen P.M., and to prepare the application for issuing the "Protection Order" and start disciplinary procedures against police officers"*. The recommendation was taken into consideration and the Police met the suggestions of the People's Advocate and the responsible person was given a disciplinary measure.

For the same concern started *ex-officio*, it is examined the application registered as Doc. No. 201301596 regarding the violence used by the husband A.H. against the citizen E.H., resident in Durrës city, although the injured party refused to give

statements to the Assistant Commissioner of the People's Advocate.

Review of other applications of citizens, such as the application registered as Doc. No. 201301208 filed by the citizen B.C. from Tirana, who complained that his "motorcycle" was unjustly blocked by the Police Station No. 1 of Tirana, after an accident with a car without consequences. Having examined the case and received information from the Police, the citizen filled in the necessary documentation and received "Vespa" motorcycle he had in possession.

Application registered as Doc No. 201302042 was filed by the citizen S.K., from Libofsha, Fier, who complained against Fier Police Station because the latter had blocked and seized two firearms, which he possessed with the permission of the competent bodies. After returning from Greece where he had stayed for several years, this citizen asked to take his hunting firearms which he was promised that he would take but this action was not accomplished. In the reply addressed to the People's Advocate Office, Fier Police Station informs, *inter alia*, that the hunting firearms of the citizen S.K. were blocked because his son P. K. was sentenced by life imprisonment for the crime of murder. As a result, by virtue of the decision of the Commission, the hunting firearm's permit of complainant S. K. was removed.

The application of the citizen XH.K. from Tirana bears the same concern. He complained against the Police Station No. 3 of Tirana that his hunting firearm which he possessed with permission was blocked. Having examined the case, the Police Station No. 3 informed that the hunting firearm had been blocked because his son A.K., had stabbed a person from Dibra and consequently by virtue of the decision of the Commission the permit issued for the hunting firearm was removed as his son posed a threat to the society.

It should be highlighted the fact that during 2013 the People's Advocate Office has processed *ex-officio* or on the basis of the application the case of the Association of Former Political Prisoners from the Communist Regime, or the Association of Serbs of Albania, in the following directions:

- a. *Failure to comply with legal and procedural provisions related to escort cases to the Police facilities.*

Applications registered as Doc No.201300989, No. 201300754, No. 201301182 filed by the citizen S.T., applications registered as Doc No. 201300912 filed by the citizen P.L., No.201301012 filed by the citizen F.M., applications registered as Doc No.201300350 and 201300989 filed by the citizen F.LL. and other related applications were focused on the unjust escort of the chairman and some members of the Association of Former Political Prisoners from the Communist Regime to the facilities of the Police Station No. 1 and Tirana District Police Directorate.

Based on these concerns, we addressed to the Police the recommendation to "*take measures for strictly complying with legal requirements for escorting citizens and*

immediate termination of the unlawful escort of a group of persons, former political prisoners of the communist regime and take disciplinary measures against police officers who have escorted them to the Police Station".

b) *Failure to comply with provisions of Law "On public rallies".*

In applications registered as Doc No.201300675, 201300834 and 201300989, the chairman of the Association of Former Political Prisoners from the Communist Regime, S.T., complained against the police as the decision for organizing a peaceful gathering was taken with delay and after the expiry of the public rally, or in other cases the police officers had impeded the normal development of the peaceful gathering, and their behavior had not been ethical and left much to be desired.

Based on the request of the Association, employees of the People's Advocate Office monitored the development of peaceful gathering of 13th May 2013 near the monument of Spaç prison, which was the purpose and symbolism of the demonstration. Yet, the Police allowed organizing the gathering at the sidewalk in front of the monument, an action which we deemed as inappropriate because it impeded the free movement of people.

Based on this concern and other cases related to public rallies organized by the Association, we addressed to the Police the recommendation on *"adoption of measures to strictly comply and abide by provisions of Law No.8773, dated 23.04.2001" "On public rallies", and to take disciplinary measures against police officers who impeded the Association to organize the peaceful gathering."*

The People's Advocate has assessed and examined the application registered as Doc. No. 201301191 filed by the Association of Serbs of Albania "Jedinsvo", with head office in Fier city because via the social network Facebook it had appealed for organizing an illegal protest in Fier on 05/25/2013, which would end up with unlawful actions. Based on this concern, the People's Advocate Office employees went to Fier and contacted the management of the Association and the District Police Directorate. It was found that the Police had taken all necessary measures to prevent any undesired situation, as a result of which the protest was not organized.

c) Keeping in custody and for a continuous period of time some members of the Association of Former Political Prisoners, affecting the free movement of people, under article 38/1 of the Constitution of the Republic of Albania.

Applications registered as Doc. No. 201300567 etc. filed by the citizen S.T., who complained that together with the citizens F.L.L., P.L. and B.V., formerly political prisoners of the communist regime and participants in the hunger strike of September - October 2012, they were kept in 24-hour custody by police officers of Tirana District Police Directorate. This fact was confirmed in three cases by the staff of the People's Advocate Office, at the time when the complainant with his two friends filed an application regarding this concern.

With regard to this case we addressed to the Police the recommendation to *"immediately terminate unlawful actions of police officers of Tirana District Police Directorate against the citizen S.T. etc., former political prisoners of the communist regime.* The District Police Directorate of Tirana has not sent any positive reply on the implementation of the recommendation and by virtue of the response sent to the People's Advocate Office we were informed that *"applicants are not kept in custody by Tirana District Police Directorate structures."*

Therefore, although the People's Advocate recommendations on applications of the Association of Former Political Prisoners have been considered and examined by the Police, the latter has not taken any measures to stop unlawful actions and no disciplinary actions were adopted against the persons who caused the violations.

Conclusions

State Police continues to face problems regarding the violation of citizens' rights and freedoms, i.e., violation of physical integrity, physical and psychological maltreatment in the course of police and procedural actions and deprivation of personal freedom resulting from unlawful escort to the police stations.

Reportedly, during the second half of 2013 a more correct attitude was adopted for a careful assessment of the analysis of the People's Advocate recommendations and implementation of his recommendations for taking disciplinary measures against police officers who have committed violations.

In handling the applications / requests filed by citizens against the Police, the People's Advocate has been independent and objective, thus aiming to increase public confidence in law enforcement agencies, whereas police services should approach to principles of democracy, accountability, enhancing the performance and respect of human rights.

People's Advocate Activity related to the Armed Forces

Overview

Based on article 4/2 of the Law No. 9171, dated 22.01.2004 *"On Military Ranks and Career in the Armed Forces of the Republic of Albania"*, military members of the Armed Forces are active permanent military members (career officers), temporary military members, obligatory active service members, and reserve military members.

Based on their specific character of duty and service, members of the Armed Forces (active and reserve members) together with their family members, may have disadvantages compared to other citizens. The Law No. 9210, dated 23.3.2004 *"On the Status of the Military Personnel of Armed Forces of the Republic of Albania"* has given them some benefits in order to reduce these disadvantages.

The People's Advocate, as a constitutional independent institution, plays a key role to

guarantee the accomplishment of these benefits. During 2013, some 17 complaints were handled related to active military service or retired military members, of which 10 cases are already concluded and 7 others are still under examination. Of the cases already concluded, 4 are unfounded, 2 are out of the People's Advocate competences, and 4 others are based on law, for which recommendations are made to restore the right of the related individuals.

The subject of complaints submitted to the People's Advocate is related to the following cases:

- Lack of full documentation for the years of service in the Armed Forces;
- Early retirement of military personnel to reserve service without legal basis;
- Lack of information of military personnel with early retirement orders from active to reserve service;
- Lack of information of military personnel with documents of personal files;
- Lack of covering expenses related to health service of military personnel;
- Violation of the right of military personnel to advance to next military rank;
- Lack of payment of the financial obligation for the uncompleted annual leave of military personnel, for the death of family members, and for the period of training and education events out of the country.

Analysis of Specific Cases

One of the unsolved problems of military members of the Armed Forces is the wrongful calculation of their pensions. Several military members have submitted complaints to the People's Advocate Institution, claiming that the social insurance office had made the wrong re-calculation of their pensions, which is also associated with negative effects being contrary to the criteria of the Constitutional Court Decision No.33 dated 24.06.2010. This issue has occurred because of the entry in force of the Law No.10142 dated 15.05.2009 *"On supplementary social insurance of the military members of Armed Forces, Personnel of State Police, National Republican Guard, State Information Service, Penitentiary Police, Fire and Rescue Police, and Personnel of the Internal Audit Service of the Republic of Albania"*.

Based on article 29/2 of this law, a re-calculation of the level of military pensions was made, bringing about a substantial decrease of military pensions. Considering this decrease of the level of pensions as a violation of legal rights previously enjoyed, in January 2012 we recommended to the Ministry of Finance the legal amendment of article 29 of the Law No.10142, dated 15.05.2009. Given that no positive confirmation was given about this recommendation, the People's Advocate is determined to repeat the request until a final resolution.

In the complaints examined by the People's Advocate Office for 2013, respectively the complaint files No. 201301426, No. 201301842 and No. 201302108, the military AAF members P.K., E.A. and N.N., claimed that their rights to advance in their career and qualify for attending the Senior Officer Course are violated due to illegitimacy of the Order No.621, dated 03.04.2013 *"Regulation on functioning, tasks and responsibilities of the Higher Career Commission and Common Career Commissions in AAF."*, and procedural violations of the evaluation process. By the end of the investigation it was concluded that the above mentioned Order was relatively invalid and that procedural violations were committed against the three complaining military members. As a result, we recommended to the Ministry of Defense *"to change the Regulation and re-evaluate the advancement in rank and qualification for the military members submitting these complaints"*.

Another complaint file No. 201300759 of the military member M.K, against the Support Regiment Command, was filed for non-enforcement of the Order of the Minister of Defense to cover financial expenses for a surgical heart operation he suffered for being sick during the mission. During the investigation of this case, it resulted that due to the lack of funds; only a part of the re-imbursment was paid one year after the surgery. The People's Advocate Office recommended to the Ministry of Defense *"to raise as soon as possible the respective funds for full re-imbursment of financial expenses to the military member of AAF named M.K"*.

Conclusions

The effective performance of the People's Advocate work regarding the rapid solution of complaints of the military personnel depends also on cooperation with the Ministry of Defense, the General Staff and their subordinate structures. Based on the correspondence we had with these institutions during 2013, we may confirm that cooperation is at a good level. However, in some cases we are not given the right information for all the requests we have asked for. As a consequence, the requests are repeated several times, thus delaying the examination of complaints. The real execution of recommendations we have made has to be considered because they are made by the end of 2013, and we are currently awaiting their due examination and confirmation of our recommendations. In our opinion, the rejection and lack of execution of some recommendations made by the People's Advocate in the past, is also an explanation of the lower number of complaints submitted by the military members of AAF. For the future, the People's Advocate Office will attach specific priority to the direct contacts with officers, non-commissioned officers and professional soldiers at their military units and installations and direct submission of their claims/complaints.

C. Justice Administration issues

Right to a due legal process

The protection afforded to the individuals based on the provisions of a due legal process is not only limited to the rights provided by the Constitution; it is also protected by the provisions acknowledged by law. The provisions of the Constitution enable a broad extension of the due process for all legal violations. They guarantee a due legal process against arbitrary actions of the state authorities to the freedom, property and other legal and constitutional rights of the individuals. Also, they guarantee regular and fair legal procedures. Article 42 of the Constitution of the Republic of Albania states that the constitutional protection shall be present and necessary in all actions and cases when 2 basic conditions are met in relation to the violation of rights: **firstly**, it is required that freedom, property, and constitutional rights are violated, and **secondly**, it is necessary that the violation of rights is committed without offering an appropriate due legal process.

According to constitutional provisions no one shall be deprived from the right to freedom, except in specific cases and based on the procedures foreseen by article 27 of the Constitution of the Republic of Albania. Also, expropriations are limitations of the exercise of the rights of property only for public interests, while article 41 of the Constitution accepts the deprivation of freedom or property based on regular fair legal process. Almost all the rights and freedoms acknowledged by the Constitution and the law can be limited for legitimate and justifiable grounds, while the right to a due legal process cannot be limited for any reason.

The right to a due legal process is also expressed in article 131, letter "f" of the Constitution but in this case it is stated as a competence of the Constitutional Court, when this court examines the complaints of individuals. Article 131 letter "f" provides a limited but conditional competence for this court, in cases when this court is given the right to examine the complaints of individuals on the violation of their constitutional rights related to a due legal process, after all legal remedies for the protection of these rights are exhausted. The right to a due legal process is not a right covering all other constitutional rights of the individuals. Issues related to the protection of human rights and fundamental freedoms, which are one of the main directions of the Constitutional Court jurisdiction, are limited only to the rights of a due legal process.

Article 6 of the European Convention for Human Rights (ECHR), which deals with "the right to a due legal process", provides a broader formulation than the Constitution of the Republic of Albania. These provisions of the ECHR, together with the right to a due legal public process by an independent court, impartial and established by law, and within a reasonable time limit, are also some other standards reflected in some provisions of the Albanian Constitution.

Accordingly, the right to be heard before a legal process, the right to be presumed innocent until proven guilty, the right of a defendant for information within a short period of time in the individual mother's language about his/her charge, the right to be protected, the right to ask questions and summon witnesses, the right to a free of charge interpreter when the language used is not understood etc, which based on article 6 of ECHR, are at the centre of the procedural rights of a due legal process, are not part of article 42 of the Constitution. There are some other Constitutional provisions, such as articles 28, 29, 30, 31, 32, 33, 34, 43 and 44 of the Constitution, which taken in relation to article 42 are approximated to article 6 of ECHR Convention. All these constitutional provisions give a comprehensive picture of a fair regular legal process.

When the individuals have used the right to refer to the Constitutional Court, based on article 131, letter "f" of the Constitution, his/her claim is focused on the irregularity of the ordinary legal process. The Constitutional jurisdiction defines the due legal process as an essential constitutional principle by comparing it with the concepts of a due process, which does not necessarily mean the legal process. Of course, a due legal process has mostly checked the regular legal procedures but there are also other procedures to be included in this constitutional principle. The Constitutional Court is not limited to analyze the due legal process only by means of legal procedures but it has concluded that there are other areas of implementation of legal procedures up to parliamentary procedures.

The due legal process is analyzed from the Constitutional Court jurisprudence in almost all of its components. The rule of law cannot be conceived without recognizing the individuals' right and opportunity to refer to the court. The right of access to the court as one of the components of a due legal process, in the meaning of article 42 of the Constitution and article 6 of the European Convention of Human Rights, is detailed in the case law of the Constitutional Court. This right or otherwise known as the right of access to trial implies not only the right of the individual to refer to the court but also the state obligation to provide them such an option. If such a right is denied, the process will be considered irregular because the access to court is first of all an imperative to ensure the protection of other rights. This individual right constitutes a safeguard for the good administration of justice.

The right to fair trial is also stipulated through a number of rights such as the right to a public judicial hearing, the right to be protected from charges, the right to be declared innocent, the right of trial without excess delay, the right to prepare defense, the right to self-defense or through a defense lawyer, the right to summon witnesses etc.

People's Advocate Office and Judicial Bodies

Overview

During 2013, 352 cases were treated by the People's Advocate Institution. 260 are concluded and the rest of them are pending from 2012. In 68 cases the citizens' applications are solved in their favor. 13 recommendations have been accomplished, 12 of were accepted and 1 recommendation is subject to examination. Also, a legislative recommendation, which is still under review, has been made.

From an analysis of cases submitted during this year, it follows that 93 cases have been submitted against the First Instance Courts, 24 cases against the Appeal Courts and 17 cases against the Supreme Court; 2 cases have been filed against the First Instance Court for Serious Crimes.

The matters of concern under the treated cases are grouped as follows:

Firstly: Requests for free legal aid from the state or claiming the intervention of the People's Advocate's Institution with the State Commission of Legal Aid at the Ministry of Justice, for providing that assistance in 39 cases, based on provisions of the Law no. 10039, on 22.12.2008, "On Judicial Assistance", as amended. The individuals have claimed they lack employment and economic or financial incomes to choose and hire a lawyer to provide a judicial settlement of the case.

Secondly: Delays without legal grounds and breaches of judicial proceedings by the courts for both criminal cases and civil cases by all the judicial instances, which are applications handled in accordance with the provisions of article 25 of the Law No. 8454, dated 04.02.1999, "On the People's Advocate" with the respective amendments.

Thirdly: Applications addressed to the Ministry of Justice for not paying the scheduled installments of the financial compensation, based on Law No. 9831, dated 12.11.2007, "On the compensation of former political prisoners of the communist regime". The main cause why they were not paid has been the lack of sufficient scheduled budget funds.

Fourthly: Various legal violations such as unlawful detention, cancellation of security measures provided by article 261/c of the Criminal Procedure Code, and longer detention term than the court sentence.

Fifthly: Unfair trials and judicial verdicts rendered by the court in absence of the defendant, claiming that they were not informed about these trials and their legal notification procedures based on law were not respected.

Sixthly: Some family members and relatives of the crime victims alleged a violation of law and corruptive actions committed by the judges, for some criminal acts, particularly the one of "violation of traffic regulations" causing death.

Seventhly: As regards the Appeal Court decisions, when the security measures were changed to “indefinite detention”, and an application was submitted against the security measures by the Prosecutor’s Office.

Eighthly: Arbitrary and unjust actions of the justice bodies of foreign countries.

Ninthly: Delays of the judicial administration for submitting trial files, for not furnishing copies of judicial rulings etc.

Analysis of specific cases

In the application No. 201201522, the citizen A.P. from Shkodra, complained against a trial and judicial decision of Shkodra District Court, which, on 12.03.2012 had unfairly sentenced by imprisonment 53 people for the criminal offence of cultivating narcotic plants in the region of Shkreli, Shkodra, alleging that the court had conducted an unfair legal process against them. According to the investigations made, it followed that an application was submitted to Shkodra Appeal Court against this decision and that judgment was followed up at Shkodra Appeal Court. The Appeal Court of Shkodra, which had verified the defendants’ claims, decided to cancel the decision and terminate the judgment of the case because in the relevant case there was a lack of subjective aspect of the criminal act.

It also resulted that court had adjudged and convicted 22 other individuals for the criminal act of cultivating narcotic plants, based on article 283 of the Criminal Code. This case was also followed up at Shkodra Appeal Court. The court decided to cancel the decision of the First Instance Court and terminate the judicial case, arguing that the elements of the criminal act were missing and the defendants had planted industrial hemp and not narcotics.

We sent a recommendation to the Minister of Justice and the High Council of Justice to analyze the judicial activity and take disciplinary measures against the judges of Shkodra First Instance Court for their breaches.

Furthermore, we are examining the respective judicial provisions to make the necessary legal amendments and improvements in the future.

In the application No. 201300325, the citizen A.N. from Sweden and her lawyer, complained that Tirana District Court had delayed the trial without legal grounds and had violated the judicial proceedings, while adjudging a civil case whose scope was the recognition as the first line heir of the testator V.V. and the devolution of inheritance based on the provisions of article 348 of the Civil Code. According to the investigation operations, this judicial case was delayed for more than two years by Tirana District Court; it was adjudged by some different judges who delayed it for 6 months and then waived trial.

Based on the provisions of article 131/f of the Albanian Constitution, the lawyer addressed to the Constitutional Court a request for judgment, alleging an unfair legal process, for lack of judgment within a reasonable time limit. By its decision No.35 of 17.07.2013, the Constitutional Court decided to accept the request and stated that there was a violation of the constitutional right to a due legal process, as a consequence of the failure to adjudge the case within its reasonable time limit.

In the application No. 201301508, the citizen A.M. from Tirana complained against Tirana District Court, which did not rule to release him from prison even though he was subject to conditions provided by article 261/c of the Criminal Procedure Code as the defendant had completed his imprisonment term sentence rendered by the court. According to our investigation, by decision No. 1113 of 10.07.2013 Tirana District Court of Tirana had held the incompetency of trial and had remanded the acts for examination to the Appeal Court Tirana. In its decision of 12.07.2013, Tirana Appeal Court had decided to cancel the security measure and the immediate release of the defendant A.M. as the term of detention he had served was longer than the sentence rendered by the court.

We have sent a recommendation about this concern for the improvement of article 262 of the Criminal Procedure Code, where the following should be provided: the Prosecutor should cancel the detention measure in cases when the verdict is not final and before the case is examined by the Appeal Court.

In the Application No. 201300341, the citizen Z.K. from Librazhd complained that on 13.02.2005, a road accident had occurred causing the death of his wife Xh. K. The court had excessively delayed the trial without any legal grounds. It had also breached the trial procedures against the vehicle's driver, who was guilty for that tragic road accident. According to the examinations, the defendant B.G. was found innocent under the judicial decision No. 56 dated 09.06.2005, of Librazhd District Court.

The Prosecutor's Office and the Appeal Court of Durrës appealed against this decision. The Appeal Court of Durrës decided to cancel the decision of the First Instance Court Librazhd and remand the case for trial with another panel of judges. Meanwhile, the District Court of Librazhd was merged and its judicial activity was taken over by the District Court of Elbasan. In the decision No.40 dated 30.01.2008, Elbasan District Court decided to remand this criminal case to the District Prosecutor's Office of Elbasan for new investigative operations.

With the judicial decision No.101 of 07.03.2013, Elbasan District Court decided to declare the Macedonian citizen S.M. guilty for the criminal offence of "Violation of road traffic regulations", and based on article 290/1 of the Criminal Code, his punishment in absentia by a term of 5 years of imprisonment, as well as the prohibition of the defendant S.M. from driving a vehicle for a period of two years. The cause of delay of this trial is linked with the fact that the defendant was a Macedonian citizen and the

legal procedures of the notification and reply to the letter rogatory sent by the Justice Authorities of the Republic of Albania to the Ministry of Justice of the Republic of Macedonia were delayed.

In the application No.201300376, the citizen V.A. from Korça complained about delayed judgment process without legal grounds and about the breach of judicial procedures by Tirana Supreme Court with regard to the judgment of the criminal case against the defendant O.M., accused of the criminal offence of "Murder" against the victim I.P., which occurred on 18.04.2003 during the military service. According to the investigations, it resulted that the Supreme Court of Tirana, had judged and annulled this case three other times before, and at the end the case was remanded for retrial by the Appeal Court for different procedural violations. Having examined the judicial decisions we recommended to the court to speed up the trial that was also accepted by the Supreme Court of Tirana. In the end, the decision of the Appeal Court, Korça was upheld.

In the application form No. 201302348, the citizen D.S. from Lezha, a member of the Egyptian Community, complained against the First Instance Court, declaring that an incorrect legal process was conducted against him, followed by a decision to destroy his residence building and to hand over the land. The citizen had already applied for legalization of his building, which was adopted by the competent bodies based on the law. The applicant requested the monitoring of his trial by the Institution of the People's Advocate before the Appeal Court of Shkodra. During the trial implemented by the Appeal Court of Shkodra, it was decided the resumption of the judicial investigation and after the submission of new evidence in paper by the applicant D.S. and his lawyer, the Appeal Court of Shkodra decided to cancel Lezha District Court decision No.266 of 02.04.2013 and reject the petition raised by H.M. Accordingly, the request of the citizen D.S. was accepted as fair and legal by the Appeal Court Shkodra.

By the application No. 201302275, the 13 year old citizen K.K. from Elbasan, complained against a judicial decision through which his father was sentenced by a term of one month of imprisonment by Elbasan District Court because of his failure to meet his obligation to provide alimony for his other children. Therefore, he was alone as his mother was divorced and had remarried another man. Based on the investigations, it resulted that the parents of the minor K.K. were divorced by the Court and his mother, who had married another man, had to grow him up. The applicant complained that he was maltreated by them. Therefore, he left and decided to stay with his father in the district of Gramsh. As his father did not have a job, he could not pay the alimony fee for his children. His mother complained to the Court, which firstly punished him by a fine and in the second case he was sentenced by a term of one month of imprisonment. This decision was final and was immediately enforced. At that time, his father was suffering the sentence in the penitentiary institution of Peqin. We have recommended to the Unit for the Protection of Children's Right in the Commune and to the Council of Elbasan District to provide a caretaker for the minor K.K. The recommendations were accepted and the minor was appointed a caretaker to look

after him during the time his father was Peqin Penitentiary Institution serving his imprisonment term.

By the application No. 201302263, the citizen I.S. from Tirana, complained about delay of the trial without legal grounds and the breach of judicial procedures by the Supreme Court of Tirana during the examination of a civil case whose object was the annulment of the order for termination of the pension from 31.03.2010, by the R.D.S.I. Tirana. The applicant claimed that his request was accepted by the District Court of Tirana but the accused party complained against this decision. R.D.S.I. of Tirana and the Appeal Court of Tirana had decided to cancel the decision of Tirana First Instance Court and to reject the petition. The defendant had applied recourse to the Supreme Court against this decision, claiming the annulment of the decision of Tirana Appeal Court, upholding the first instance court decision. Analyzing the causes of the application and the fact that the applicant I.S. was 77 years old, in bad health conditions, we recommended to the Supreme Court to speed up the trial. The recommendation is still under examination.

In his application No. 201302074, the citizen I.D. from Tirana, complained against the decision No. 860 dated 28.06.2013. of Tirana District Court, which was taken in absentia. He was punished unjustly by virtue of this decision because he claims that he was not informed about the preliminary investigations and the trial carried out by the bodies of the Prosecutor's Office and Tirana District Court.

According to the requirements of article 147/2 of the Criminal Procedure Code, which provides for that the defendant might complain against the decision rendered in absentia when he has taken the representation act issued by the defendant in the forms provided by law, necessary clarifications were made to solve this problem during a counselling session with a lawyer. The applicant was also clarified that he might address via a request to the State Commission for Legal Assistance at the Ministry of Justice, in compliance with the Law No. 10039 dated 22.12.2008, "On Legal Aid".

In the application No. 201301723, the citizen A.R. from Durrës complained against Tirana Supreme Court for trial delay without legal grounds and the violation of judicial procedures in the hearing of the criminal case against his son L.R., accused of the criminal offence of property theft, provided by article 134/1 of the Criminal Procedure. The applicant A.R. claimed that his son had benefited from the amnesty granted on the occasion of the 100th anniversary of Albanian independence, with the Law No. 107/2012 "On granting of amnesty" which had come into force on 28.11.2012. Based on the investigations, it resulted that the file of the applicant's son was registered for trial at the Supreme Court, with Act No. 00973/13. At that time, it was in the phase of examination and it was pending to pass to the counseling room, where it would be judged applying the abbreviated procedures by the Supreme Court.

In the application No. 201301505, the citizen K.D. from Durrës complained about trial delay without legal grounds and the breach of judicial procedures during a civil case by the District Court of Lezha. According to the investigations, it resulted that the case was

subject to trial. The case was registered for trial before the court on 23.04.2012 but the judges that were ascertained for its judgment waived after some judicial proceedings based on the request of the applicant. HCJ (High Council of Justice) was informed about the breaches with regard to trial delays and the applicant was explained, based on article 131/f of the Constitution, that he had the right to address to the Constitutional Court for unfair legal process within a reasonable time limit, taking into consideration the position of the Constitutional Court with the decision No. 35/2013.

In the application No. 201302610, the citizen N.H. from Kavaja complained judicially against the wrong and illegal actions of a private lawyer, for resolving a pension-related case with the District Court of Elbasan. The citizen was furnished the necessary legal explanations and in case of a difficult economic and financial situation, based on the legal provisions of Law No. 10039 dated 22.12.2008 "On Legal Aid", she might address to the State Commission for Judicial Assistance at the Ministry of Justice with a request to receive free legal aid from the state.

Prosecutor's Office's Activity

Overview

The Prosecutor's Office is attached to the judiciary and as a centralized body it exercises criminal prosecution and represents the prosecution in the trial on behalf of the state. As far as their competences are concerned, the prosecutors act in conformity with the Constitution and Laws, respecting the fair, equal and due legal process principles and the protection of rights and legal interests of the individuals in criminal proceedings.

During its activity in the treatment of citizens' complaints against the Prosecutor's Office, the People's Advocate Institution has been careful to protect the independence, strictly complying with the constitutional and legal provisions. The treatment of complaints/applications of the citizens against the Prosecutor's Office, by the People's Advocate Institution, was considered from the legal and institutional perspective but even in respect to the Prosecutor's challenging duty, which involves a lot of responsibilities, and in some other cases even in respect to the heavy workload or the objective reasons for neglecting some investigatory procedural actions.

During 2013, the People's Advocate Office examined 212 applications addressed to the Prosecutor's Office. 165 applications are concluded and 47 ones will be examined. Among the completed applications, 71 applications were unfounded, 29 applications were out of the competences, 9 applications were out of the jurisdiction, 51 applications were solved in favor and 5 of them were withdrawn by the applicants.

During 2013, 5 cases were instituted upon the initiative of the People's Advocate, mainly for those covered by media and 16 cases involved site investigations.

The matters of concern under cases treated during this period consist of:

Firstly: Non-observance of a due legal process because of the Prosecutor's Office's unjust actions infringing the rights of citizens in criminal proceeding, as it does not respect the legal procedures. The due legal process is treated as a constitutional safeguard provided by article 42 of the Constitution of the Republic of Albania and article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The citizens' applications consisted of unjustified delays in the investigation of criminal proceedings, specifically when the case was quashed by the court; when the prosecutors or judicial police officers were replaced, mostly during the investigation of criminal proceedings conducted by the judicial police officers of the State Police; in case of incompliance with article 287 of the Criminal Procedure Code which focuses on the registration of the criminal acts notice and of the Instruction No. 241 of 22.11.2005, of the Attorney General, which explains that even though the alleged offender is known, his name is not registered; unfair apprehension and charge, adoption of an unfair decision not to institute the criminal proceeding, or the annulment of criminal cases because of failure to examine the lawsuit within the 30-day term, provided by paragraph 2.3 of the Instruction No. 3 of 19.06.2012 of the Attorney General or failure to conduct general investigations, particularly the ones for criminal acts such as "forgery of documents" regarding ownership, "violation of road traffic regulations"; failure to inform the litigants about the decisions for extending the term of criminal proceeding investigation etc.

Secondly: Incompliance with the obligation of information, which is regarded as one of the fundamental personal human rights. In these cases, the Prosecutor's Office did not inform the citizens about the way how cases were solved. The cases were initiated based on the criminal charge filed by the citizens. The Prosecutor's Office's did not reply, or replied with delay in the cases of "written requests or memos", which were submitted by the parties beyond the investigation term (15-day term provided by paragraph 2 of article 110 of the Criminal Procedure Code), did not furnish copies of the required acts, particularly for different expertise acts, such as the auto-technical ones, forensic, technical-graphical expertise of signatures etc, thus breaching the provisions under article 105 of the Criminal Procedure Code.

In the application No.201302873, the citizen L.SH. from Gramsh complained against Elbasan Prosecutor's Office for not submitting some necessary acts of the criminal proceeding No. 791, in 2011, which was dismissed. Acts such as "arrest *in flagrante delicto*", the request of the Prosecutor and decision of the Court for "imposing the security measure" and other related acts were necessary for the citizen to submit the petition on "damage compensation" for unjust imprisonment term. The case was immediately reviewed and the Prosecutor's Office's gave to the citizen L.SH. all the required acts.

In the application No.201302873, the citizen A.B. from Elbasan complained against Elbasan District Prosecutor's Office for not being given the original land ownership documents submitted with a minutes in the presence of a judicial police officer.

However, he was furnished copies of that act confirmed by the secretary office of that body according to the rules. The citizen A.B. presented this concern to the Court, challenging the decision for annulment taken by the Prosecutor's Office.

Thirdly: **Prosecutors in charge of the enforcement of criminal judgments fail to carry out the necessary actions. Consequently, the convict remains in custody or imprisonment beyond the punishment term defined in the court decision.** Such is the case of application No. 201300384 of the citizen F.SH. from Durrës, who complained against Vlora District Prosecutor's Office for wrongful calculation of a 9-month term with regard to his placement in custody. The Prosecutor's Office was asked information about this matter. It explained that after the mistake in the calculation of custody period, the calculation was repeated making a just decision in favor of F.SH., who was extradited to Italy as he was sentenced by the Italian judicial authorities for another criminal act.

In some cases, the citizens complained that some of their relatives were unfairly kept in the premises of the Prison Hospital, although they had to be transferred to a Specialized Mental Health Institution outside the penitentiary system.

The case of application No. 201302319 is similar to the above mentioned issue. The application was made by the citizen K.B., the lawyer of the client V.R., who was subject to the medical measure of "forced medication in a medical institution" by Vlora District Court of Vlora in 2002. However, he was kept in Kruja Penitentiary Institution.

Meanwhile, as the court had examined the previous decision, by virtue of the final decision No. 99 of 11.04.2013, it had decided to uphold the *medical measure of "forced treatment in a Medical Institution" and medication of the citizen V.R. at the Mental Health Hospital of Vlora*.

During the examination of this case we found out that the decision of the Prosecutor's Office was in full contravention to some normative acts and more specifically, to article 142/3 of the Albanian Constitution; articles 24/1, 462, 463 and 464 of the Criminal Procedure Code; articles 2,9,22, etc. of the Law No. 8331 of 21.04.1998 "On enforcement of criminal judgments"; article 28/1 of the law No.44/2012 "On mental health"; paragraph 100.1 of the document "European Prison Rules", approved by the Council of Europe and delegated in compliance with the recommendation No. 87/3 of the Council of Ministers of the member countries; article 14 of the European Convention for Human Rights. In view of the above, we recommended to Vlora Prosecutor's Office *"Termination of the violation of rights of the citizen V.R. and immediate enforcement of the final decision No.99, on 11.04.2013 of Vlora District Court, for his treatment under the medical measure of "forced medical treatment" at Vlora Mental Health Hospital"*. The recommendation is still being examined by the Prosecutor's Office.

After inspections conducted by our teams, we found out that the Hospital of Tirana Prison and Kruja Penitentiary Institution, in other words, there are 112 people within the penitentiary system, whose court decision defines "a forced medical treatment at a

Medical Institution". With regard to this complaint, we addressed a recommendation to the respective Ministries and informed the senior governmental officials.

In the application No. 201301508, the citizen A.M. complained against the District Prosecutor's Office of Tirana as he was unlawfully detained in the Penitentiary Institution 302, Tirana, even though he had completed the term of his imprisonment sentence rendered by the court on 07.07. 2013. The examinations found out that the District Court of Tirana, by decision No.284 of 15.03.2013, had sentenced the defendant A.M. by a term of 16 months of imprisonment for the criminal offence of "illegal possession of military weapons and ammunition". The applicant had submitted an application to the Appeal Court of Tirana but his application was not examined. As his sentence would be completed on 07.07.2013, the defendant addressed to Tirana District Court, with the request to cancel the security detention measure. In the trial process, the Prosecutor of the case suggested to accept the request of the defendant while the Court pronounced the lack of competence and brought the acts to Tirana Appeal Court. On 12.07.2013, the Appeal Court of Tirana decided to cancel the decision of the First Instance Court, as well as the security measure against the convict A.M., and based on the Prosecutor's request, ordered the immediate release of the convict A.M. from the detention facility.

In these circumstances, we recommended to the Attorney General "*The initiation of disciplinary proceedings against the Prosecutor Gj.K., for acting in violation of article 32/d of the Law No. 8337 of 12.02.2001 "On organization and functioning of the Prosecutor's Office of the Republic of Albania"*". The recommendation is already examined but it is not accepted.

Fourthly: **Failure to comply with the procedural provisions on the "Disposal of exhibits", provided by article 190 of the Criminal Procedure Code.** In these cases the citizens have addressed to the Prosecutor's Office in connection with the examination of the exhibits seized during the investigation, which in some cases, are given back too late to the interested individuals, or are left at the discretion of courts. The case No. 201301242 is the same. The citizen I.M. from Durrës complained against Durrës Prosecutor's Office, as the vehicle B.M.W.730-D with Albanian number plates was firstly blocked and then seized as evidence, even though the vehicle had legal documents and travelled before inside and outside the territory of Albania. The applicant I.M. has followed the legal procedures, asking from the court to cancel the decision about the confiscation of the vehicle. The case is currently under investigation at the Appeal Court of Durrës.

In the application No. 201301015, the citizen K.B. from Tropoja complained against the District Prosecutor's Office of Tirana, which delayed the necessary investigatory actions about the "Mercedes Benz" vehicle with Albanian number plates he had bought from the citizen Sh.B. under correct documentation. After investigations made on the request, it was found that the vehicle with the driver the citizen SH.B, in March 2013 had left the scene of a road accident occurred in Tirana. The reply given to the People's Advocate by the District Prosecutor's Office of Tirana, *inter alia*, provides the following

information: *“with regard to the vehicle with number plates AA-204-AA, which proves to be under the ownership of the citizen K.B., we would like to inform you that this vehicle is confiscated as evidence”*. We mentioned this case because the second paragraph of article 190 of the Criminal Procedure Code “Disposal of exhibits”, provides that: *“exhibits can be given back to the people they belong to,... even before the end of the proceedings, when the settlement of the case is not affected”*. Hence, it is the responsibility of the Prosecutor's Office to carry out as soon as possible all the necessary investigatory actions, such as the auto-technical expertise of the vehicle, and then to meet the obligation stated in the above mentioned article: to give back the vehicle to the owner even during the investigation period.

Fifthly: Violent actions of the police officers against citizens are associated with health consequences. During this year, the People's Advocate had in his focus the application No. 201302676 about the maltreatment of some young people by two staff officers of Police Station No. 2 of Tirana. The administrative investigations concluded that the police officers B.L. and A.D. had exercised physical violence against three citizens D.S., A.B. and F.K. Consequently, we recommended to the District Prosecutor's Office of Tirana *“Commencement of arbitrary actions” against the police officers B.L. and A.D.* After the examination, the Prosecutor's Office accepted this recommendation and ordered the initiation of the investigation of criminal proceeding No. 7106, in 2013 for the criminal offence of “committing arbitrary actions” in complicity.

Sixthly: Lack of cooperation for the formulation and completion of the criminal report sheet. In the application No. 201301014, the citizen A.G. from Tirana submitted a “denouncement” letter to the People's Advocate Office related to threats he had received from unidentified people. He submitted the letter to the District Prosecutor's Office of Tirana. The citizen was thoroughly explained about the way how to fill in the criminal report which should be addressed to the Prosecutor's Office for the criminal offence of *“malicious use of phone calls”*, provided by article 275 of the Criminal Code and the fact that the Prosecutor's Office carried out the examinations within a period of 30 days. The citizen was also clarified about the right to file a criminal report to the Judicial Police and the Prosecutor's Office, according to article 283 of the Criminal Procedure Code.

Seventhly: Failure to meet the obligation of the proceeding body to inform the injured party of the criminal act, with the legitimate right to follow the trial process and ask for compensation according to article 61 of the Criminal Code. This failure to act made the injured party or the relatives of the victims or the injured from the criminal act, to submit a separate application to the court with the subject matter of *“compensation required related to a criminal act”*.

The People's Advocate staff conducted a specific study and prepared the legislative recommendations for amendments and improvements of articles 48 and 58 of the Code of Criminal Procedure, in order to include the lawyer in the investigation and to adjudge the criminal proceeding for the protection of legal rights and interests of the victim.

There are other cases when citizens have submitted complaints to the People's Advocate Office, claiming that after submission of criminal report to the Police Station or the Prosecutor's Office for serious injuries to their health. They claim that the Prosecutor's Office has decided not to initiate the criminal proceeding. Examination of these cases by forensic expertise acts concluded that the injuries were "other intentionally caused injuries" provided by article 90 of the Criminal Code, a criminal act provided by article 59 of the Criminal Procedure Code "Filing of charges by injured party".

The citizens are informed that they have the right to submit a request to the court and participate in the trial as litigants, to verify the charge and ask for compensation. On the other hand, the citizens are provided information about the modalities how to draft the request, submission of the request to the secretary office of the court, and other related procedures. Some of these cases are the application form No. 201302351 of the citizen A.P. from Saranda about the criminal offence of "other intentionally caused injuries"; the application No. 201302194 of the citizen L.B. from Tirana for the criminal offence of "Breach of house inviolability" etc.

There are also cases when the citizens address to the People's Advocate Office with a request or an application, claiming that although their criminal reports are submitted in conformity with the given information, the Prosecutor's Office had decided to annul the investigation unjustly or not even initiate the criminal proceedings. These concerns of the citizens have been carefully examined and they are clarified about the legal solutions they could follow to decline the decisions of the Prosecutor's Office, based on articles 291/ 1 and 329/1 of the Criminal Procedure Code.

Such is the case initiated *ex officio*, with the number 201302122, regarding the road accident occurred on 31.08.2013 in the Boulevard "Gjergj Fishta" Tirana, near the building known as "Arrowed Apt. Building", where the driver V.B. caused a slight accident to a minor L.N., a member of the Roma community. Having examined the case, it resulted that on 19.11.2013, the Prosecutor's Office had decided not to initiate the criminal proceedings. For this reason, the father of the injured party, the citizen J.N. was fully informed about his right either to decline the decision made by the Prosecutor's Office to the court, if he deems necessary, or his right to submit an application for compensation of the injury caused to his child.

In the application No.20132345, the citizen A.S., lawyer of the client Ç.H, from Pogradec, raised the concern that the Prosecutor's Office and the Court rejected his presence in the hearing against the defendant XH.L, accused of murdering the citizen E.I., in order to protect the rights of the victim's relatives. The citizen A.S. was clarified about the position of the People's Advocate Office for the preparation of the legal recommendation about this issue.

Another group of complaints is linked with the lack of response or long delay of response to the letters of complaints addressed to the General Prosecutor's Office. This is reflected in the case of the application No. 201302013 of the citizen J.Z. from

Vlora, who complained against the General Prosecutor's Office because it gave no reply to the application submitted on 07.03.2013, related to unfair charges against his son N.Z., accused of the criminal act of "challenging and attacking the judge". The People's Advocate Office had a reply that the criminal case was remanded for trial to the District Court of Fier and that the citizen J.Z. was informed in writing about the current stage of the case, without mentioning the date and number of the letter.

Meanwhile, under the application No. 201302681, the citizen A.K. from Korça, on 29 March 2013 submitted by fax a memo request to the General Prosecutor's Office, in connection with the claims about the criminal proceeding No. 458, in 2012, about the criminal offence of "false expertise" based on her lawsuit, but the District Prosecutor's Office of Pogradec decided to suspend the investigations. After the examination of the complaint, it was found that the General Prosecutor's Office had sent the memo of the citizen to the Prosecutor's Office of Pogradec, after taking the annulment decision.

In the application No. 201300925, the citizen B.B. from Tirana complained against the General Prosecutor's Office because it did not reply to his letter sent on 04.02.2013. In the reply given to the People's Advocate Office by the General Prosecutor's Office, we were provided with the required information. According to the information, the citizen had submitted correct documents without an application or request of a particular subject. Under these circumstances, we informed and clarified the citizen B.B. about the mistake, and provided advice in order that his application/request is more concrete and with a specified subject.

Analysis of Specific Cases

In the applications examined by the People's Advocate Office in 2013, more specifically those with No. 201302061, No. 201302367, No. 201302013, No. 201301478 etc, the citizens complained about unjustified delays in the investigation of criminal proceedings. Such is the case of the application No. 201302367 of the citizen E.C. from Tirana, for unjustified delays in the criminal proceeding investigation No. 3774, introduced on 13.07.2013 by the District Prosecutor's Office of Tirana for the criminal act of "unlawful detention" committed in complicity. The Prosecutor's Office asked an unjustified extension of the investigation, namely, until 13.01.2014.

In the application No. 201302061, the citizen P.P. from Fushë Arrëz claimed that Prosecutor's Office sued him unjustly and delayed unfairly the criminal proceeding investigation No. 69 in 2013, which relates to criminal acts such as "damage of property", "violent objection the public order employee" committed in complicity etc. The criminal proceeding started on 15.04.2013 and the case was brought for trial on 07.11.2013.

Based on the concern of the citizen P.P, we conducted an independent administrative investigation and concluded with the following recommendation to the Prosecutor's Office: *"careful application of the legal procedures and constitutional provisions should be followed in order to conduct a due legal process"*. In the reply of the District Prosecutor's Office of Puka addressed to the People's Advocate Office about the delay

of investigation, he justified the delay with the complex investigations of the issue because some criminal proceedings were complicated, while the General Prosecutor's Office states that: *"no delays resulted to have occurred during the investigation..."*.

In the application No. 201302398, the citizen F.L. from Vlora complained against the District Prosecutor's Office for delayed investigations of the criminal proceedings No. 91 in 2011, for the criminal act of "abuse of office" against the citizen F.Ç. After the annulment of the case on 23.12.2012, some parts of the acts were decided to be divided and the criminal proceedings No.104 of 2012 was registered. In the reply of 04.12.2013, the District Prosecutor's Office of Vlora informed that the criminal proceedings were in the investigation phase. In the reply No. 201302354, the citizen M.P. from Tirana, complained for unjustified delays in the investigation of criminal proceedings No. 41, initiated on 09.01.2013 by the District Prosecutor's Office of Tirana for the criminal acts of "fraud" and "forgery of documents" against the citizen I.A.

Despite considerable investigatory acts for more than one year, they had not finished yet the investigations.

In the application No. 201300378, the citizen F.M. from Kolonja district complained against Saranda Prosecutor's Office for delayed investigations of criminal proceedings No. 20.12.2012 for the criminal offence of "theft". After 8 months of unjustifiable delays, it decided to suspend the investigation operations.

In the examination process of the applications of citizens during this period, the investigations of criminal proceedings with unknown authors were unjustly delayed, no general investigations were further conducted, and finally the investigations were cancelled. Also, no common analysis between the Prosecutor's Office and the Criminal Police was conducted to make further progress in the investigation of criminal offences, in order to localize the perpetrators of criminal acts and bring them before justice. Such cases of complaints are those related to the application No. 201300868 of the citizen J.M. from Tirana, accused of stealing a considerable amount of money of 1 million ALL for which the Prosecutor's Office had started the investigation of criminal proceeding No. 2014 in 2011; the application No. 201301260 of the citizens V.D. from Tirana for stealing in a house a considerable amount in ALL and other currencies; the application No. 201300751 of the citizen H.P. from Kurbin regarding the murder of his son M.P. This case occurred on 13.01.2013. The application No. 201302468 of the citizen A.SH. from Tirana was about "kidnapping" his father XH.SH.; the event occurred on 06.06.1997 in Kurbin; the application No.201301726 of the citizen F.H. from Lushnja about the serious damage caused by car accident, which was under the investigation of the Prosecutor's Office on the criminal acts of "violation of road traffic regulations" and "escape from the scene of crime", and on 30.04.2013 he decided to cancel the investigation because the perpetrator was unknown.

In some complaints, it has resulted that the body of the Prosecutor's Office has unjustly decided for non-initiation or non-cancellation of the criminal proceedings, particularly in the criminal act of "forgery of documents", "violation of the road traffic regulations"

causing death of persons. In a large number of cases, we have found that the examination of the criminal reports of citizens is formal or beyond the time limits specified in the order of the Attorney General.

The application No. 201203269 of 19.02.2013, the District Prosecutor's Office of Pogradec was recommended *"to repeal the decision of dismissing the criminal case No. 228 in 2011, about the criminal act of "violation of rules", where the citizen L.D. was seriously injured*. The recommendation was examined and accepted, followed by the investigation of criminal proceedings.

In the application No. 201300321, we recommended to the District Prosecutor's Office of Tirana *"to initiate investigation for the criminal act of "women's trafficking" against the citizen E.B. etc, analysis of this case, and providing relevant administrative measures"*. After the examination of the case, the recommendation was not accepted.

In the application No. 201300954, we recommended to the District Prosecutor's Office of Tirana *"to initiate investigation for the criminal act of "forgery of documents" against the employees of RERO Tirana, "abuse of office" against the National Entity of Buildings, as well as "arbitrary actions", against the judicial bailiff B.N"*. This recommendation was accepted, and investigations of the criminal proceedings initiated.

The examined application No. 2013012236, No. 2013011237, No. 2013011238, No. 201301240, No.201301250, No.201301251, No.201301254, No.201301257 reported that the interested party was not informed about the conduct of the investigation of criminal proceeding No. 1494, instituted on 12.03.2013 for the criminal act of "counterfeiting", carried out by the private company "Flash Company" against the assets of a group of cardboard packing workers from Tirana.

In other applications the citizens have submitted complaints to the People's Advocate Office because the Prosecutor's Office had not issued different acts, copies of the decision to cancel the criminal case, the act of technical-graphical expertise of the signature etc. such as the application No. 201301230 of the citizen S.D. from Lezha, complaining against the Prosecutor's Office of that district for failure to provide him the acts of criminal proceeding No. 516 of 2012, and more specifically, the graphical expertise act of handwriting and signature No. 3297 in 2013. This obligation to the citizen was fulfilled after he sent a letter to the People's Advocate Office. In a meeting with Deputy Commissioner, the citizen confirmed that he was given the act he required.

In the application No. 201301207, the citizen M.XH, from Tepelena, complained against Gjirokastrë District Prosecutor's Office because he was not informed about the decision to cancel the criminal proceeding No. 68 taken on 11.07.2012 for the criminal offences of "theft" and "abuse of office". After the applicant M.XH sent the letter and communicated with the prosecutor of the case, he received the copy of the decision to cancel the case brought to the court.

The People's Advocate has also under examination the application No. 201300651, of the citizen J.O. from Ghana, Africa, a criminal proceeding conducted by Durrës

Prosecutor's Office about the criminal act of "forgery of documents". The application was treated immediately through verification of all claims of the foreign citizen J.O. to the Institution for Enforcement of Criminal Judgments (IECJ) of Durrës, especially those related to lack of understanding the criminal act he was accused of, and the sentence term envisaged for that criminal act etc.

In 2013, various citizens submitted their cases against the Prosecutor's Office about failure of carrying out of objective investigations on the criminal offences of "violation of road traffic regulations" and "negligent medical treatment", causing the death of their relatives or health problems. These applications are also considered by the People's Advocate as a concern related to the serious consequences they have caused.

In the application No. 201301715, the citizen B.M. from Tirana complained against Kavaja Prosecutor's Office for wrongful procedural investigative actions, such as examination of the scene of crime and the delay of criminal proceeding No. 141, which started on 07.04.2013 for the criminal act of "violation of road traffic rules" with serious consequences to the health of his father F.M. etc. Three different auto-technical expertise acts were carried out in the framework of this criminal proceeding and investigations were not completed even though 9 months had passed.

In the applications No. 201300313, No.20130213 etc, the citizens complained against the Prosecutor's Office for criminal acts carried out recklessly, threatening human life or health. Such is the case of application of the citizen B.B. from Elbasan, who had asked the intervention of the People's Advocate Office for negligent medical treatment, causing the death of his brother T.B. on 17.12.2011. After receiving the information from the Hospital Centre "Xh. Kongoli" Elbasan, UHCT "Mother Teresa", Tirana and the decision taken by the National Council of the Order of Physicians, Albania, the applicant was provided guidance about his right to file a criminal charge to Elbasan Prosecutor's Office. This right was provided by article 283 of the Criminal Procedure Code.

In the application No. 201301199 of the citizen H.B. from Përmet, the People's Advocate Office was asked to intervene, in order to carry out objective investigations in the criminal proceeding No. 66 of 2012 for the criminal act of "administration of negligent medical treatment" which caused the death of his daughter E.B. Based on the examinations, we were informed that appropriate actions were carried out by that Prosecutor's Office, based also on the objective conclusions of the forensic expertise No. 868 carried out by experts of I.M.L. Tirana. Furthermore, the Attorney General had appointed an acting prosecutor of the Prosecutor's Office of another Judicial District for objectivity in the investigation.

In the application No. 201302505, the citizen N.J. from Lezha complained about the unjust suspension of the criminal proceeding No. 1258, which started on 13.03.2012, and caused the death of his wife D.J., taken on 10.10.2013 by Tirana District Prosecutor's Office.

As regards the above mentioned applications, we have noted that the District Prosecutor's Offices carry out auto-technical or forensic expertise acts with hasty conclusions, which are not objective, particularly after the criminal act. The victims' relatives or the injured parties are not informed about the stage of investigation, the respective decisions for carrying out the expertise or conclusions of the expertise acts. In other cases, their requests or excuses to carry out the expertise with the assistance of a group of experts, were not taken into account. According to them, the initial investigation was not accurate, investigations were biased and favored the offenders, such as the driver of the vehicle or the physician and other medical staff.

Conclusions

There are manifestly unjustified delays for the investigation of criminal proceedings by the Prosecutor's Office. They were caused not only due to the failure to follow up the implementation of ongoing investigative operations by the judicial police officers, failure by the prosecutor to lead investigation but also due to the failure of the senior officials of the Prosecutor's Office to control them.

Lack of professional competence during procedural investigation actions by the Judicial Police and especially the State Police, is mostly observed during trial proceedings, started based upon criminal offences. In these cases, lack of presence of the prosecutors is identified in several criminal offence cases with high social risk and serious consequences.

A stronger sense of responsibility, professionalism, and objectivity are required by the prosecutors regarding the "verdicts of guilty" of the suspects of criminal offence cases, after conduct of expertise acts, with the view of prevention or minimization of some expertise acts.

The litigants should be informed about important acts of the investigation files, such as decisions on the conduct of expertise, expertise acts or the final decision, such as non- initiation of the criminal proceeding, dismissal of the case or suspension of investigations. The suspension is not made aware to the interested litigants, denying their right to file complaints to the court.

More attention has to be paid to the implementation of article 287 of the Criminal Procedure Code, which is related to the Registration of the Notice of Criminal Offence, in order to register the name of the person charged with the criminal offence.

The relations with the Prosecutor's Office have been generally correct and cooperative. They are developed through various meetings and exchange of communications of the Assistant Commissioner and reflected in a considerable part of the on-site examination of complaints, with prosecutors of cases and heads of the Prosecutor's Offices. These relations are characterized by a good-understanding and productive spirit.

We have also identified a good-understanding approach in the replies to the requests

for information or feedback of the People's Advocate exchanged with the Prosecutor's Office. We have been provided with answers but not always in due time, based on article 19 letter "ç" paragraph 1 of the Law "On the People's Advocate". For this purpose, we recommend the Prosecutor's Office to examine more carefully and professionally the recommendations of the People's Advocate because they will also serve the improvement and increase the working quality of the Prosecutor's Office.

Activity of the State Judicial Bailiff Offices

Overview

In accomplishing the mission for compulsory enforcement of executive titles, during 2013 the activity of the State or Private Judicial Bailiff Service, in the focus of the People's Advocate Office, is inadequate in terms of the failure of strict and timely compliance of legal procedures as provided for in normative acts. Further, the Public Administration bodies, in capacity of debtors or third parties for the implementation of a number of executive titles, have not carried out actions for undue enforcement, have not met the required deadlines or have done the opposite of what they are obliged to do by virtue of the court decision. Although annual special reports or information identified the status for the enforcement of a large number of executive titles and further deliberation is required from the statutory authorities for enforcement of executive titles, we have found recurrent incorrect positions for meeting legal obligations on a year by year basis. This situation especially applies to the enforcement of final judicial rulings rendered against the Public Administration bodies.

Legal framework on applicability of final judicial rulings and other executive titles

The right to a fair trial, as a fundamental individual right, is guaranteed by Article 42, paragraph 1 of the Constitution of the Republic of Albania, and is also provided by Article 6 of the European Convention on Human Rights whereas Article 1 of Protocol No. 1 to the Convention provides that: *"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one can be deprived of his possessions except in the public interest and in the conditions provided by law and by the general principles of international law"*.

The right to a fair trial, in essence, cannot and should not be conceived as a right extended only to the activity of judicial bodies, as it originates from and cannot be excluded from the administrative activity of public administration bodies, with reference to the observance of the obligation enshrined by Article 142, paragraph 3, of the Albanian Constitution, providing that *"The state bodies are obliged to enforce judicial decisions."*

Based on the provisions of the Constitution and European Convention on Human Rights, a number of laws and regulations have been approved, providing for the rights and obligations of the authority assigned by law, debtor, and every third party in the enforcement process.

Law No. 8116, dated 03.29.1996, Civil Procedure Code, as amended, some parts thereof, Law No.9331, dated 21.04.1998 "*On enforcement of criminal judgments*", as amended, Law No. 7850, dated 29.07.1994, Civil Code, as amended, the fourth part provide for procedural actions and modalities to resolve issues for the State and Private Bailiff Service during the implementation of executive titles. Rules on organization and operation of the Bailiff Service are provided for in Law No. 8730, dated 18.01.2011, "*On organization and functioning of the Bailiff Service*", No.10031, dated 11.12.2008 "*Private Bailiff Service*".

During the implementation of compulsory executive titles, the public administration bodies are obliged to cooperate with the Bailiff Service, as provided for in section 523 of the Civil Procedure Code and bylaws issued in view of this provision, such as the joint instruction of the Ministry of Justice and Ministry of Interior, No. 3880/3, dated 03.06.2011 "*On procedures of cooperation between state judicial bailiffs service and the State Police*". In view of Article 589 of the Civil Procedure Code, the Council of Ministers issued Instruction No. 2 dated 18.08.2011, "*On Modalities for the Execution of Liabilities by Budget Institutions to the Treasury Account*".

Problems identified while reviewing applications administered in 2013 regarding the respect of the right to implementation of a due legal process, as a result of the non-enforcement of final court judgments within a reasonable time limit, are generally reported in previous years. 125 cases were accepted for review in 2013, of which 35 were against State and Private Bailiff Office, while 90 cases were directed against the Public Administration bodies. In these applications, different natural persons and legal entities have introduced their concerns, focusing on violation of the principle for the implementation of due process by the bodies in charge of law enforcement, as a result of failing to enforce a final court judgment within a reasonable time limit. Failure to meet the obligation in cash or perform an action determined by the Public Administration bodies is problematic, although judicial decisions that are accepted for execution have become final in a period of 10 years before 2013.

Non-enjoyment of the right granted judicially, within a reasonable time limit, by court winning parties, although the authorities established by law have been informed for many years or have committed enforcement procedures, has obliged a number of court winning parties to address to the Constitutional Court for finding the violation of principle for the implementation of a due legal process as a result of failure to enforce the final court judgment within a reasonable time by the relevant statutory authorities. In the decisions made the Constitutional Court has considered that enforcement of final court judgments constitutes an essential component of the rule of law and the concept of a fair trial. No state body can put into question the fairness of final court judgments. Every state body is obliged to take appropriate measures for their implementation. Only after completion of this phase it can be considered that the individual has fully restored his right.

Restoration of a violated right involves not only court decision but also concrete actions of the responsible bodies charged with the enforcement of final court

judgments. State authorities have declared that lack of funds is an excuse to not enforce a financial obligation arising from a final court decision but this is not legally supported and cannot serve as a ground for debtor bodies to fulfil their obligation. The European Court of Human Rights had the same consideration as after examining the first Albanian application filed by the creditor, the construction company "Qufaj" Ltd for the non - enforcement of a final court judgment by Tirana Municipality, highlights in the decision of 18.11.2004 that: " *Nothing, not even the lack of funds from the authorities, shall justify the execution of a judicial decision.*"

In the opinion of the People's Advocate Office, execution of cash obligations to budgetary institutions under Instruction No. 2, dated 18.08.2011, "*On Modalities for the Execution of Liabilities by Budget Institutions to the Treasury Account*" by the Council of Ministers, is performed in breach of the right to implementation of a fair legal process.

The People's Advocate Office has found that stipulations under Instruction of the Council of Ministers No. 2 dated 18.08.2011 "*On Execution of Financial Liabilities by Budget Institutions to the Treasury Account*", are in violation of some of the constitutional principles and legal provisions of the Civil Code and Civil Procedure Code, and in 2013 has required from the Constitutional Court to cancel the aforementioned Instruction, as incompatible with the Constitution of the Republic of Albania. The request was examined on 17.09. 2013 and the decision will be transcribed and pronounced.

Failure of the Public Administration bodies to meet the obligation for returning the court winning party to his/her former post, in almost all cases admissible for review by the People's Advocate, claiming that the organizational structure is completed or reduced, is ungrounded. The Constitutional Court, in its jurisprudence, stated that the debtor (Public Administration body) has the responsibility to find an appropriate alternative for the cases, to restore the right of the creditor (court winning party).

From 2013 to date a number of cases have been and are still being elaborated, involving the above-mentioned issues. Although the State and Private Bailiff Service have been carrying out enforcement acts, regardless of measures of the People's Advocate Office for restoring the violated rights of applicants in respect of case by case applications, the implementation of the right granted by court to individuals was mostly impossible.

Failure by the Public Administration bodies to pay court winning parties has prejudiced the above principle, and incurred additional financial costs to the state's budget. Referring to the cases held admissible for review by the People's Advocate Office, it is found that most of them have not been enforced for many years. Therefore, the financial liability arisen after final court decision increases every day, reaching exceptionally high figures. Executive debtor bodies should realize that the execution of financial obligation, as the court has ruled, besides being a constitutional obligation, favors the debtor body to pay the liability without the need from the court

winning party to ask enforcement of the executable title by the Bailiff Service. This occurs as the implementation of executive title by the Bailiff Service, causes the amount increase because of the liability of the debtor party to pay the enforcement costs. The People's Advocate Office has deemed that compliance with the obligation enshrined by Article 142/3 of the Albanian Constitution that "*State bodies shall comply with judicial decisions*", leaves much to be desired.

Applications addressed to the People's Advocate Office have identified few cases where public administration debtor bodies have performed procedures for requesting the default employee to restitute the compensation he has paid, as in the case of contractual and non-contractual, material and non-material damage. This situation requires an immediate response by all the Public Administration management bodies to develop procedures for charging and collecting the amount from the default employee, as stipulated by Law No. 8510, dated 15.07.1999 "On non-contractual responsibility of the state administration bodies", Labor Code, Administrative Procedure Code, Civil Code, etc, in order to protect the interests of all taxpayers.

As regards the applications regarding the violation of the right to a due legal process, in 2013 the People's Advocate submitted 54 recommendations to the statutory authorities for their execution, 35 of which have received no answer, 8 recommendations were received and applications were resolved and in 11 cases the recommendation was partly accepted without restoring the violated citizens' rights. The position of the public administration management bodies to which we have addressed recommendations, has been different. As for the cases involving an obligation to make cash payment, a general justification has been that funds are not available and the settlement will be carried out in installments, in reference to the financial means and provisions of the Instruction of Council of Ministers No. 2, dated 18.08.2011, "*On Modalities for Execution of Financial Liabilities by Budget Institutions to the Treasury Account*".

In this context, we emphasize that international commitments of Albania are becoming more concrete, especially in the field of human rights and implementation of international and European integration legal acts. We deem that for matters relating to the violation of the right to a due legal process as a result of failure to enforce a court final judgment brought to the Strasbourg Court against the Albanian State, it is violated the authority of the state to a right of this nature. In adopting the resolution for Albania of 08.07.2010, the European Parliament reminded the Albanian authorities that judicial reform is one of the conditions for EU integration, including the enforcement of judgments

During the process of enforcement of final court decisions, the State and Private Bailiff Service have been reluctant to carry out enforcement actions as provided for in the Civil Procedure Code. Actions for the execution of amounts to budgetary institutions mean the imposition of seizure on account of the debtor party, or sanctions against the debtor or other persons, are not performed as provided for in articles 527, 589, 581, 531, 606 of the Civil Procedure Code. The intervention of the People's

Advocate Office with the State or Private Bailiff Service has consisted of termination of violation of the right to a due legal process, recommending courses of action as provided for in the above provisions. However, the Bailiff Service authorities have not complied with the recommendations submitted because the bailiffs justify their position with respect to provisions made in Instruction of the Council of Ministers No. 2, dated 18.08.2011.

Contrary to the provisions of laws and those issued for their implementation, in the process of enforcement of executive titles when the debtor party does not voluntarily make the payment, the State or Private Bailiff Service does not actively perform enforcement acts that may lead to their compulsory execution, without playing a decisive role in the enforcement process. Most of the applications submitted to the People's Advocate Office have easily reported that the state has not taken over on a continuous case by case basis, the obligation to provide the parties participating in the enforcement process that they will have a real opportunity to enforce executive titles. As a result, the right of complainants to access to court has become an illusion because of the inapplicability of executive titles for a very long time. In 2013 the Constitutional Court has adjudicated and held admissible nine requests of different entities, with the same subject: *"Finding of violation of the principle of a fair trial as a result of the non-enforcement of final court decisions by the statutory authorities within a reasonable time limit, in the meaning of Article 42 of the Constitution and Article 6/1 of the European Convention on Human Rights"*.

In 125 cases admitted for review in 2013, it is concluded that citizens complained about the non-enforcement of court decisions in 35 cases against State and Private Bailiff Service, and in 90 cases against the Public Administration bodies. The position of Public Administration bodies, to which a certain obligation is judicially determined, is not compliant with the constitutional obligation as provided for in Section 142/2 of the Constitution of the Republic of Albania. What those hundreds of court winning parties and their families may feel is disappointment and loss of confidence in the rule of law. In these circumstances, as far as the People's Advocate Office is informed, various citizens have addressed to the European Court of Human Rights in Strasbourg, seeking the establishment of violation of the right to a fair trial, as a result of the failure to enforce final court judgments in a reasonable time limit, as guaranteed by Article 6/1 of the European Convention for the Protection of Human Rights, adopted by Law No. 8137, dated 31.07.1996 by the Albanian Parliament.

Regarding the number of applications for review during 2013 against the actions or inactions of the State Bailiff Service, it appears that most of the applications are directed against Tirana Bailiff's Office, totaling 8 applications. Also, it turns out that five applications were against Fier Bailiff's Office, four applications against the Bailiff's Office of Durrës and Elbasan, 3 applications against the Bailiff's Office of Shkodra and Gjirokastra, 2 applications against the Bailiff's Office of Korça and 1 application against the Bailiff's Office of Kruja, Kurbin, Tropoja, Puka and Lushnja.

Analysis of specific cases

Compliance of the obligation to furnish the explanation or information requested by the People's Advocate Office for a number of cases under review is not achieved within the time prescribed by law, a situation which has caused failure to treat cases in a reasonable time and has affected the possibility of settlement at this time. In this context, we may mention the applications registered as Doc. No. 201204209, 201302402, 201200869, 201200431, no.201301045, 201301252, 201301865, 201302271, 201302325, 201301045 etc.

The same situation applies also to the position of Public Administration bodies about the recommendations issued by the People's Advocate Office. Although it is made known the legal time limit for providing answers to the recommendations given, the bodies to which the recommendation was addressed, without any justified grounds do not meet in time the obligation to deliver a response. In this context, we may mention the cases of applications registered as Doc. No. 201200026, 201200706, 201200059, no.201200160, 201200244, 201201628, 201202304, 201300640, 201300804, 201301866 etc.

Among the cases which bear the problems of non-enforcement of final court decisions, it is worth emphasizing:

Application registered as Doculive No. 201200489, filed by the citizen H.Ç. from Tirana, who complained about the non-enforcement of the final court decision No. 5658, dated 18.06.2008, issued by the District Court of Tirana, upheld by Tirana Appeal Court by virtue of Decision No. 1678, dated 09.12.2009, and for which it is issued the writ of execution by virtue of Decision with Act No. 177, dated 25.01.2010, of the District Court of Tirana concerning: *"The obligation of the defendant, the Urban Planning Inspectorate at Tirana Municipality, to indemnify the plaintiff the value of the building destroyed, a floor, registered at IPRO with No.1053, dated 15.02.1995, at the value amounting to 93 thousand Euro"*. Based on this concern, we addressed to the Mayor of Tirana the recommendation: *"to take measures to deliver the financial liability in favor of the citizen H.Ç., as ruled by Tirana Judicial District Court, by virtue of Court Decision No.5658, dated 18.06.2008"*. No answer is provided to this recommendation.

Application registered as Doculive No. 201302254, filed by the citizen E.L. from Tirana, who complained about the non-enforcement of Decision No. 5, dated 13.01.2012, issued by the Civil Service Commission, upheld by Tirana Appeal Court by virtue of Decision No. 51, dated 08.05.2012, and for which the District Court of Tirana has issued the writ of execution by virtue of the Decision with Act No. 9751, dated 10/09/2012 concerning: *"Repeal of the administrative act No.1567, dated 31.10.2011, of the Mayor of Tirana. Return of the applicant to the former post as the Specialist in the Youth Sector at the Directorate of Youth and Sports attached to*

Tirana Municipality and the payment of salaries from the moment of termination of financial relations till the enforcement of decision. "To this end, we addressed to the Mayor of Tirana the recommendation: "To take immediate measures for accomplishing the obligations imposed by the Decision No. 5, dated 13.01.2012, of the Civil Service Commission, upheld by Tirana Appeal Court by virtue of the Decision No.51, dated 08.05.2012, in favor of the court winning party, E.L". Although a response was requested, by letter No. K2/E21-3, dated 13.12.2013, no answer was provided to this recommendation.

Application with Doculive No. 201301648, filed by the citizen A.XH. from Tirana, who complained about the non-enforcement of the final court decision No. 5394, dated 09.07.2007, issued by Tirana District Court, upheld by Tirana Appeal Court by virtue of Decision No.1676, dated 23.10.2008 concerning: *"The obligation of the defendant, Assembly of the Republic of Albania, to compensate the plaintiff A.Xh., with the salary of one year, for unjustified termination of the employment contract, based on monthly salary amounting to 39,244 ALL". The respondent's obligation, Assembly of the Republic of Albania, to compensate the plaintiff A.Xh., with two-month salaries for non-enforcement of the procedure of termination of labor relations. The respondent's obligation, Assembly of the Republic of Albania, to compensate the plaintiff A.Xh., with three-month salaries as a bonus for job seniority "*. Upon the recommendation, the Secretary General of the Assembly stated that the reason causing the non-execution of liability was insolvency and establishment of the recourse against the judgment of Tirana Judicial District Court and the Court of Appeal. Referring to the reasoning of the ECHR Decision dated 18.11.2004, in examining the Albanian application filed by the creditor, the construction company " Qufaj " L.t.d, for non-enforcement of a final court decision by the Municipality of Tirana, as well as the ambit of Article 451 of the Civil Procedure Code, it is understood that financial difficulty or the establishment of the recourse cannot serve as grounds for withholding pecuniary obligation to the court winning party, the complainant.

Application registered as Doculive No. 201302780 filed by the citizen A.M. from Tirana, who complained about the non-enforcement of the final court decision No. 4460, dated 28.07.2011, issued by Tirana District Court, where the same Court had issued a writ of execution by Decision with Act No. 4855, dated 04.10.2013 concerning *"Cancellation of the decision No.55 dated 19.11.2010 issued by the Civil Service Commission. Cancellation of the decision No.5, dated 25.05.2011 of the Secretary General of the Ministry of Agriculture, Food and Consumer's Protection, through which it is ruled the dismissal of plaintiff A.M. Obligation of the defendant, the Ministry of Agriculture, Food and Consumer's Protection, to return the plaintiff A.M. to the former post. Obligation of the defendant, the Ministry of Agriculture, Food and Consumer's Protection, to give the plaintiff A.M. the salary from the date of removal from office till the return to his former post". The Secretary General of the Ministry of Agriculture, Rural Development and Water Administration was recommended to "take legal action for enforcement of the obligations imposed under the executive title, Final Court Decision No. 4460, dated 04.15.2012, of Tirana District Court, granted in favor*

of the citizen A.M.". There is no answer to this recommendation.

Application registered as Doculive No. 201302877, filed by the citizen E.A. who complained for non-enforcement of the Decision No. 106, dated 29.03.2011, issued by the Civil Service Commission, upheld by Tirana Appeal Court by virtue of the Decision No. 91, dated 13.10.2011, concerning: **"Cancellation of competitive procedures for the position of Specialist in the Sector of Finance, Directorate of Planning and Development attached to the Directorate General of Supporting Services and Integration at the Ministry of Justice. Obligation of the Public Administration Department to issue the letter of appointment of the complainant to the position of Specialist in the Finance Sector, Directorate of Planning and Development attached to the Directorate General of Supporting Services and Integration at the Ministry of Justice"**. During this process, it is noted that the Public Administration Department, by virtue of letter No. 1266 /2, dated 09.10.2013, had allowed the execution of the obligation imposed but it turned out that the Ministry of Justice has not made it possible to allow the exercise of duty by the complainant V.M. Therefore, we addressed to the Secretary General of the Ministry of Justice the recommendation to *"take measures for the execution of obligation set under an executive title, Decision No. 106, dated 29.03.2011, issued by the Civil Service Commission, upheld by the Appeal Court by virtue of Decision No.91 Tirana, dated 13.10.2011, in favor of the citizen V.M."*. There is no answer to this recommendation.

Application registered as Doculive No. 201301860 filed by the citizen A.M, who complained for non-enforcement of the Decision No. 212, dated 26.11.2007, issued by the Civil Service Commission, upheld by Tirana Appeal Court by virtue of Decision No. 101, dated 09.09.2008 concerning: **"Repeal of the administrative act No.510, dated 11.06.2006, of the Directorate General of Taxation. Repeal of the administrative act No.196, dated 16.04.2007, related to the appointment of Mr. LI.Ç, return of the applicant A.M., to his former post at Gramsh Department of Taxation and restoration of all the rights provided by law."** As regards the failure to meet obligations imposed, we have addressed to the Director General of Taxation the recommendation to *"take immediate measures for the execution of obligations imposed by the final court decision No.101, dated 09.09.2008, issued by Tirana Appeal Court in favor of the citizen A.M.,"*. In reply to the recommendation, the Directorate General of Taxation answered only about the partial settlement of liability in cash, while regarding the obligation of returning the complainant A.M. to the former post, it did not present any reasons about the non-performance of this obligation.

Application registered as Doculive No. 201301421, filed by the citizen H.K., who complained about the non-enforcement of Decision No. 2106, dated 07.03.2008, issued by Tirana District Court, upheld by the Court of Appeals in Tirana by virtue of Decision No. 1949, dated 04.12.09.2008, concerning: **"Repeal of the administrative act No. 810, dated 21.08.2007, of the defendant, the Directorate General of Taxation, for the dismissal of the plaintiff H.K. Obligation of the defendant, the Directorate General of Taxation, to indemnify the plaintiff H.K. the job salary of one year "**. With regard to this case, we addressed to the Director General of Taxation the

recommendation to *"take immediate measures for the execution of obligations imposed by the final court decision No.2106, dated 07.03.2008, issued by Tirana District Court in favor of the citizen H.K"*. In response to the recommendation given, the Directorate General of Taxation stated there was no bailiff follow-up procedure as provided for in Instruction of the Council of Ministers No. 2, dated 18.08.2011. In this position adopted it is violated the right to develop a process of law, and it is improperly favored the increase of financial obligation because the performance of procedures for execution with the Bailiff Service brings liability for payment of bailiff expenses.

Another concern during the examination of complaints is the positive answer of the Bailiff Service to the request of the Prosecutors' Office for the enforcement of the *writ of execution issued by this body for the enforcement of final criminal judgments by which a fine punishment is imposed against the subject. This position is contrary to provisions 510, 511 of the Civil Procedure Code. This situation would be prevented by potential related amendments of the law. With reference to these cases already examined, the People's Advocate Office has formulated the respective recommendation to the Ministry of Justice to remedy this legal situation.*

Conclusions:

Under the problematic situation for the enforcement of executive titles, we recommend concrete and immediate implementing measures in order to enable a due process for the implementation of executive titles.

In our opinion, it is prerequisite to set up a working group as soon as possible, for the identification of obligations of the Public Administration bodies stemming from the final judicial decisions.

In the circumstances when the Bailiff Service does not regularly execute bailiff actions for the compulsory execution of titles, as contemplated by articles 527, 531, 581, 583, 589, 606 of the Civil Procedure Code, the Directorate General of the State Judicial Bailiff Service or the Ministry of Justice are required to take appropriate actions for the Private Judicial Bailiff Service, through exercise of powers provided by articles 31, and 35/dh, of Law No. 8730, dated 18.01.2001 "On organization and functioning of the Judicial Bailiff Service" or Law No. 10031, dated 11.12.2008, "On Private Judicial Bailiff Service".

The improvement of cooperation between the Judicial Bailiff Service and other bodies such as the State Police, Urban and National Construction Inspectorate, and other local government bodies, which will bring the execution of bailiff procedures within reasonable time limits, is of primary importance.

Best efforts should be made to improve this situation of the enforcement of executive titles, in order to stop unlawful cases and restore the rule of law and due legal processes associated with related actions of execution of the compulsory decisions stemming from final judicial decisions.

Free Legal Aid

This is a problem better solved with the approval of Law No. 10039 dated 22.12.2008, "On Legal Aid", as amended by Law No. 143/2013 "On some amendments of Law No.10039 dated.22.12.2008, "On Legal Aid", which is published in the Official Journal No.83 dated 20 May 2013.

Article 1 of this Law defines the conditions, type, modalities and procedures for providing state free legal aid, for the protection of fundamental freedoms and individual human rights and other legitimate rights of the citizens.

Based on these provisions the right for benefiting state free legal aid belongs to all individuals claiming assistance by a defense lawyers during the criminal proceedings in all stages of trial because of the lack of financial means.

The right for support of the state free legal aid is granted to all individuals who have a criminal, civil or administrative case to be followed by the court, and who lack the necessary economic and financial means to pay a private defense lawyer. This right, as a rule, is granted to all individuals included in the social protection programs.

The state free legal aid belongs also to children whose protection is compulsory and guaranteed by law. This legal aid is provided before or during the investigation process and during all stages of the judicial process.

Some citizens complain about the suspension of the procedure on the request for delivery of free legal aid and this aid is refused because of lack of complete documentation in accordance with the requirements of Law No.10039 dated 22.12.2008, "On Legal Aid", as amended by the Decision of State Commission on Legal Aid No.3 dated 25.06.2011, "On approval of the application form for free legal aid and documents to be attached to the standard application form, as amended, and the Order of Minister of Justice No.7301/3, dated 19.01.2012, "On approval of internal regulation of the organization and functioning of the State Commission for Legal Aid".

Regarding the review of Law No. 10039, dated 22.12.2008, "On Legal Aid", the State Commission for Legal Aid has completed the formulation of draft-law "On an amendment to Law No.10039 dated 22.12.2008, "On Legal Aid", which aim is to exempt the category of persons benefiting legal aid from taxes on acts and tariffs for the activities and services of judicial administration and Ministry of Justice.

On 2 May 2013, the Assembly of the Republic of Albania amended the Law No. 143/2013, "On some amendments to Law No.10039, dated 22.12.2008, "On Legal Aid". This law enables a better access to court for the protection of fundamental freedoms and individual human rights. This is also a constitutional obligation stemming from the constitution and a direct implementation of Article 6 of the European Convention on Human Rights. This law provides for the establishment of local legal offices to provide basic legal aid by 01.04.2014.

In the framework of the Memorandum of Cooperation between the State Commission for Legal Aid and the People's Advocate signed on 08.06.2012, some 39 requests for free legal aid by the state were presented during 2013, while 1 case is presented to the Commissioner for the Protection from Discrimination for state free legal aid.

D. Property Right

Overview

The right to private property, as a basic economic-legal category subordinate to the related social state political structure, benefitting modalities, expropriations only for public interests and based on a fair compensation, as well as the right of protection from the violation of properties through a public administrative or legal process, are guaranteed by the Constitution of the Republic of Albania.

This is the obligation source of guaranteeing the holder of the actual right to a freedom of space in the ownership area by protecting and safeguarding the right to property and use, disposal and independent organization of all individuals' life.

The right to property is in support of protection from unjustified actions of state bodies, of the private ownership benefits and all advantages stemming from free legal businesses of the individuals.

The spirit of the Constitution regarding the harmonization and arrangements of the privacy of ownership life and re-establishment of the private property violated in the past, is in support of the respect for equality of all individuals before the law, the free enterprise of the legitimate owners, and the rule of law.

Considering the complexity of this issue, *restitution or compensation of the properties of expropriated entities of the previous system is the most sensitive part of the issue.*

The property right regime during the long transitional period has undergone unstable situations. Hence, the process of property restitution or especially compensation is still based on a declarative framework.

Amendments and supplements of the related legislation since 1991 have brought about the approval of a number of legal and sub-legal acts. Related institutions and tools are established for the implementation of these acts, *which functional task was also the restitution or compensation of properties to the legal owners and settlement of administrative conflicts* within the area of jurisdiction of their competences.

Under the conditions that the right to property is one of the main priorities for EU integration, a new strategy is being formulated by the government which is thought to definitively solve the property issue by 2020.

Analysis of Specific Cases

In exercising its constitutional duties within its legal powers, the People's Advocate Office has attached adequate priority to the treatment of property issues. Moreover, the issue of implementation of the right to property has been recently classified by the European Commission as one of the priorities to pave the way for the status of the candidate country.

Mediation, interventions or our recommendations aim at resolving and preventing conflicts between individual-administrative bodies, strengthening the concept of good governance, changes and improvements in the legislation and boosting the public confidence in this institution.

In 2013 there were registered 204 applications, requests or notices regarding the right to property. Of these, 66 applications have been settled in favor of the people concerned, corresponding to 34% of the total.

Thirty three applications were reported as unfounded, 30 applications were out of the jurisdiction and competences, and in 11 cases the administrative proceeding was completed due to withdrawal of the applicant. We are still deliberating the other 64 cases.

Most of applications and requests for 2013, though in a lower number than last year, are filed against Local Immovable Property Registration Offices.

Firstly, we should stress the fact that over years, despite the number of problems created at local offices, there are several achievements to be highlighted such as the initial registration of immovable properties in about 90% of cases, creation of electronic database and computerization process as provided by additions and amendments made to Law No.7829, dated 01.06.1994 "On Notary System" and the Regulation "On the definition of methodology, procedures and conditions for the use of electronic system "One Stop Shop", the notary system"; or simplification of the procedures for the *registration of immovable property and for which there are available legal documents but which do not specify the surface area*.

With the legal amendments made in recent years, the property registration system is a tangible reality contributing to major processes and transformations of the national economy.

The subject matters of applications filed with our institution and claims against these offices, consist of failure to provide information, failure to provide initial registration of agricultural lands, sites and apartments in multi-storey buildings constructed in violation of the records given in building permits, delays to register final court decisions for failure to provide subjects the Ownership Certificate, property overlapping and delays to update and enter into the system, Cadastral Zones of many

districts.

LIPRO has required an overview on the progress of the *initial registration process of immovable property in recent years*, the number of cadastral zones left out of the scheme and the reasons thereof, PRCA decisions recorded, reasons for delay of legal proceedings and initiatives *planned to be taken for completing the registration and updating, particularly of problematic areas*.

Specifically, application registered as Doc. No. 201204189, involved a delay of several years for issuing the Ownership Certificate. After our intervention with the respective LIPRO, the Registration Officer expressed readiness *to complete* the process in the presence of the person concerned.

Another application registered as Doc No. 201300398 regarding the delivery of full written and cartographic information of an immovable property and transactions over years, was also settled positively.

About 40% of the practices processed, mainly for overlapping of properties, were found out of the jurisdiction and individuals were recommended to bring the case to court.

The largest numbers of applications in 2013 were related to IPROs of Tirana and Shkodra districts.

Delayed entry of the initial registration of some cadastral zones into the system for different reasons is still an issue of concern.

Our official information has found that in Kukës district there are 7 Cadastral Zones (CZs) not entered into the system. One CZ remains for treatment in Pogradec; in Bulqiza 10 CZs have not entered into the system; in Elbasan 9 CZs processed by contractors "FINMAPP" and "NIRASMAPPING" are not treated; in Dibër 14 cadastral zones out of 141 are not entered into the system because of the failure to present at LIPRO the product of the second phase or it was not done the scanning or updating by the contractor CSI-Piemonte; in Mirdita 4 cadastral zones are left out of the system, representing 40% of the agricultural land; in LIPRO of Bulqiza the initial registration is not completed at 10 CZs out of 65 it has under its administration. In Durrës all the cadastral zones are entered into the system.

Many LIPROs do not have accurate figures about the registration of PRCA decisions and acts of acquisition of land under ownership, and the percentage of ownership or use by private and state entities.

The issue of property restitution and compensation remains one of the most problematic and sensitive issues for the future. This is due to the complexity of problems inherited from the activity of many institutions operating in the field of property rights and the failure of relevant state structures to ensure and provide a suitable and long-term solution, which are being accumulated over years.

With regard to the applications we examined, we have positively settled issues of the right to information for handling files for property recognition, restitution and compensation, as it is the file registered as Doc. No. 201300447 of the citizen F.C., from Shkodra, the file registered as Doc. No. 201301158 of the citizen A.E., from Tirana and other files as well.

To treat the file of the applicant LL.B., we asked information from the Director General of Tirana PRCA about the real physical fund available to the *expropriated entities from the District of Shkodra for their in kind compensation. The answer sent suggested that this kind of compensation had not started, implying that there was no information about any vacant land.*

Regarding the application registered as Doc. No. 201301241, the Mayor of a coastal city informed us about the worrying information that some residents claiming to be expropriated, have sent to the Restitution and Compensation Agency Property relevant files with false facts and acts of ownership for land, village pasture, forest swamp and new land opened by the existing system, former properties which are not related to the territory of the city, for which it was required the mediation of the People's Advocate regarding the indifferent attitude of the PRCA's by not cooperating with the above-mentioned Municipality.

We deemed the problem as fully right and as an issue that posed clear public interest, in reference to Article 28/4 of Law No. 9235, dated 29.07.2004, as amended, "*Property restitution and compensation* ", and we addressed to the Minister of Justice a recommendation for cooperation and coordination of the Directorate of Coordination at this Ministry with Tirana PRCA and with the Municipality of the coastal town in the administrative reviewing process of recognition, restitution or compensation of property to the expropriated entities. This recommendation was accepted by the Ministry of Justice.

Application registered as Doc. No. 20131175 was filed by the citizen A.GJ., who required from PRCA a list of beneficiaries for financial compensation from the fund of 2012. Following our request for clarifications, the complainant received adequate information about the names of 33 beneficiaries.

Some of the complaints filed by citizens were proven unfounded, as there was not any file available at PRCA or the file was incomplete with appropriate acts, as it was not submitted to the appropriate zoning commission.

The records obtained by the PRCA in processing applications of different subjects have shown that from the entry into force of Law No. 9235, dated 29.07.2004 "*On property restitution and compensation* " to date, 54,927 files have been processed and decisions were made. In its offices there are still about 7,300 files pending treatment and decision-making, a number that cannot be reduced as there are added the files reinstated in time limit by court decision during the last two years.

Centralization of the process of property recognition, restitution and compensation in

the relevant agencies in Tirana following the reduction of regional agencies, has slowed down of the process.

Regarding the financial compensation, during 2013 there were financially compensated 50 expropriated persons or their heirs.

About 700 subjects have benefited since 2005, when the subjects were financially compensated till the end of the year.

According to the estimates of the Association "Pronesi me Drejtesi" ("Ownership with Justice") this bill goes up to 20 billion Euro.

PRCA currently owns a physical fund under the DCM No. 868, dated 18.06.2008 "On the Establishment of a Physical Compensation Fund from the Agricultural Land Fund", as amended, with an area of 18597 hectares.

Other 71,699 hectares have been identified as unoccupied under the DCM No.1077, dated 18.06.2008 "On the Establishment of a Physical Compensation Fund from the Forest and Pasture Fund". PRCA has another fund available to physically compensate state buildings, which will be evaluated according to strict criteria that will be applied for privatization or transformation for sales procedures.

The International Court of Human Rights decisions for non - financial compensation to expropriated owners *over the years have so far penalized the Albanian state with an amount of about 3 million Euro. There are some other dozens of files pending trial*, which along with the aforementioned financial burden constitute a serious problem for the Albanian state and the commitment to provide final resolution of the property issue.

From the verification of official correspondence we have had with the bodies involved in the process of property restitution and compensation, *it results that there are missing records, such as the number of PRCA decisions and acts of acquisition of land under ownership registered in the system, the number of acts under administrative trial in the Local Property Titles Verification Committees or in court*, the land needed for physical compensation, when according to the former owners association approximately 50,000 hectares are needed.

Priority should be given as soon as possible to identify vacant public immovable properties and which should be used for physical compensation of expropriated owners with much lower price than the financial cost.

Applications regarding failure to acquire the agricultural land under ownership have dramatically decreased compared to previous years. This is because the process of allotment and re-allotment of agricultural land, as well as activities and functions of land committees in surrounding villages, communes and municipalities ended with the entry into force of Law No. 9948, dated 07.07.2008 " On the examination of legal validity of executive titles on the agricultural land".

Law No. 56/2012, dated 17.05.2012 "On an amendment to Law No. 8053, dated 21.12.1995, "On the assignment without compensation of the agricultural land", as amended", Law No. 57/2012, dated 17.05.2012 "*On the Completion of Ownership Assignment Process for Agricultural Land of former agricultural enterprises*" and DCM No. 222, dated 06.03.2013 "*On setting out procedures for performing the assignment process for agricultural land of former agricultural enterprises to the ownership of beneficiaries*" have changed the calculation of surfaces of land for compensation, leaving broad powers to heads of villages, communes, municipalities and their councils and local government councils for dealing with agricultural land in ownership and their registration for entities which for various reasons have not been processed.

Further, Law No. 58/2012, dated 17.05.2012 and Law No. 176/2013 dated 16.12.2013 "On some amendments to Law No. 9948, dated 07.07.2008 "On the Examination of Legal Validity of Property Titles on the Agricultural Land", as amended" added the eligible subjects, set the criteria for legal validity of property titles, created the structure of the Technical Secretariat at the Government Land Commission, and decided that the process of verification of ownership titles will end by 30 June 2016.

Delays beyond any legal time limit to examine the legality of the acts of land ownership acquisition by local commissions at the district Prefecture and lack of cooperation with local authorities, local property registration offices and the Property Restitution and Compensation Agency is a common concern of the few applications. It is worth mentioning the case registered as Doc No. 201300474, which involved claims of the applicant for delay of administrative examination by the relevant Local Commission of Evaluation of Property Titles (LCEPT) of the validity of the acts of land ownership acquisition by his three co-villagers.

In order to examine and assess specific problems that affected real property of the complainant, to avoid further disputes that may arise with other citizens who may have disputes with him because of the conflict of property titles, and to protect national interests for properties distributed illegally, we asked through the recommendation to have institutional commitment of the Prefect to complete in a short period of time the proceeding *initiated for verification of property titles*.

The number of issues related to the value of compensation for expropriation of private property for public interests remains constant, giving the message that the issue of expropriation, as state interference with the property individual rights, must be justified and its limitations cannot go beyond the defense purpose for which this intervention serves. The fact that the Constitution clearly distinguishes regulatory clauses on property expropriation, implies that when these limits are exceeded, disregarded or when expropriation is done not at the real market price for public interest, the process is illegal.

Protection and security of private property and its expropriation for public interest, are provided for in paragraphs 3, 4 and 5 of Article 41 of the Constitution, stipulating that law may provide for expropriations or limitations on the exercise of the right to

property only for public interest, that expropriation or limitations are permitted only against fair compensation and that disputes over the amount of compensation may be appealed to court.

Pursuant to this constitutional standard, the Parliament has adopted Law No. 8561, dated 22.12.1999 "*On Expropriations and Temporary Possession of Private Property for a Public Interest*".

Appeals are filed about the amount of compensation or its delivery with several years delay, as well as cases of expropriation of private lands in the center of some towns in Elbasan, Fier, Tirana and Korça.

In conditions when Article 24 of the law provides "as to the amount of compensation for expropriation, if an appeal in court is not administered within the 30-day time limit under this Law, the Decision of Council of Ministers for the expropriation becomes an executive title", we have suggested citizens to file applications to the competent court.

It is worth emphasizing that the performance of public works in favor of the community, particularly of such amounts that raise the national economic level, enhancing the quality of life of citizens, however, are to be valued and supported, but they should go in parallel with implementation of the law on protection of rights, freedoms and lawful interests of individuals.

In such circumstances, the People's Advocate has appealed to public administration bodies for more attention and professionalism in the relations with individuals and the rights they enjoy.

Therefore, after considering as legally based the case of a group of expropriated persons registered as Doc. No. 201300516 and the relevant administrative practice is a violation of the rights and lawful interests of citizens, based on Article 63, paragraph 3 of the Constitution, we addressed to the Ministry of Public Works and Transport the recommendation to provide immediate legal assistance to applicants, whose property is used for public interest because of the non-completion of procedures *for expropriation of private property affected by the project for the construction of wastewater treatment plant*. We have not received any answer yet.

Regarding the examination of the application registered as Doc No. 201300472 filed by the citizen G.R., we have addressed to the respective Mayor the recommendation to immediately stop illegal interventions and administrative actions to private property and its alienation, abusive administrative actions that violate Article 1 of the Additional Protocol No. 1 of the European Convention on Human Rights. We have also not received any answers to this case, but it was found termination of unlawfulness.

In such practices, we observe actions prejudicing the dignity of the state and certain persons in exercising public functions that affect the community confidence in them that there are repeated violations of principles such as protection of the interests of respective owners, dominance of public interest versus private interests of their

owners ensuring transparency, equality of citizens, compensation value *against a fair compensation and preliminary procedural elements* until the Decision of the Council of Ministers, on the request of the applicant in favor of whom expropriation is made, as provided for in Law No. 8561, dated 22.12.1999" On "Expropriations and Temporary Possession of Private Property for a Public Interest".

We consider that the correct reference and strict application of legal provisions enhance efficiency at work, avoid potential delays and establish credibility of public administration bodies in the eyes of ordinary people, who expect respect for their legitimate freedoms and rights.

Local governments should provide governance, effective exercise of functions and powers, services and other public facilities to a level closer to citizens and to the benefit of the community.

We recall that Article 14 of the Administrative Procedure Code provides the principle of accountability of authorities and public administration civil servants for damages caused to private individuals through illegal decisions, as it is the case in question.

These unjustified violations of selective character oblige us to institutionally intervene with the protection of rights, freedoms and lawful interests of individuals or groups of individuals from unlawful or incorrect actions or omissions of public administration bodies, with all the power of constitutional standards, Articles 60 - 63 of the Constitution and Law No. 8454, dated 04.02.1999 "On the People's Advocate", as amended. There are rules defined in bylaws about the procedure of pricing as per cadastral zones and districts, but in many cases they are not complied with, thus becoming a needless concern for expropriated entities.

Opinions and Recommendations for the next year

- Recommendation for speeding up and simplifying procedures for the *legalization of informal constructions and their urban planning and integration*.
- Recommendation for processing data and completing initial registration at the Immovable Property Local Registration Office in respect of decisions taken over years by the Property Restitution and Compensation Agencies and Land Acquisition Ownership Acts.
- Recommendation for the identification of vacant immovable properties, making publicly available the fund of in kind compensation *of the expropriated entities and their shifting to the administration of the Property Restitution and Compensation Agency*.

E. The Right to Social Protection of Work

Overview

Economic, social and cultural rights and freedoms are enshrined by the Constitution of the Republic of Albania, starting with “the Right to Employment”. This right is especially agreed by provisions of the Labor Code which is based on Constitution. According to article 49 of the Constitution: *“Everyone has the right to decide on his/her way of life through legal businesses chosen or accepted by himself/herself”*.

Social and economic safety is a crucial aspect of human life safety. In this connection, the rights to employment and labor rights play an active role for supporting human safety. Labor rights are provided by the law and international conventions ratified by Albania² which guarantee normal working conditions, protection against discrimination and labor exploitation. Labor shall not guarantee only financial income but it shall also ensure the active participation in the society. Therefore, the promotion and advancement of better working standards, free of exploitation, is a precondition for the improvement of human safety.

The Universal Declaration of Human Rights includes a number of interlinked principles with the social labor rights: *“Everyone has the right for a job, to freely choose his profession, to have favorable working conditions, and be protected by unemployment”*. *“Everyone, with no discrimination, has the right to have the same pay for the same job. Every working citizen has the right to get a fair and favorable salary in order to make sure that he and his family enjoy a dignified human life, and if necessary, this salary to get compensated with other additional social security means.”*³

Also, the European Social Charter is signed in order to achieve the conditions for the implementation of the rights in the most effective and efficient way.⁴

Labor is closely linked with human dignity; however, it is also a means for the implementation and contribution to the personality development.

Considering the basic principles of the right to employment (...protection from discrimination, social protection, respect of working discipline, broad-based protection of work, job pay, observance of labor legislation etc....), sanctioned in the above mentioned legal acts, the People's Advocate Office has pursued the priority of the protection of this right by processing some 300 individual complaints for 2013, focused on violations of the working relationships by the central and local Public Administration bodies.

² There are 47 conventions ratified by the Council of Ministers and ILO (International Labor Organization)

³ Article 23-24-25 of the Universal Declaration of Human Rights.

The results of these cases are as follows: 215 closed applications, 77 of which are ungrounded complaints of working relations. Some other 8 complaints have proven to be out of jurisdiction of the institution, 120 other cases are solved in favor of the complainants, and other 4 cases have resulted in the conclusion of the administrative investigation process because of the withdrawal of complaints by the respective individuals (withdrawal from the proceedings, based on article 102 of the Administrative Procedure Code).

Also, regarding the violation of rights of employment by the employers, we have formulated specific recommendations for 6 complaints and some other 85 cases are subject to examination for 2014.

The scope of the People's Advocate work, through recommendations given during 2013, is to establish standards on the implementation of principles of legal administration, the principle of proportionality, legal certainty, non-discrimination, the right to be heard during decision-making administrative procedures etc. In our opinion, these rule of law principles, from Constitution to the legal and sub-legal acts, establish standards and train the behavior of civil servants.

In treating specific cases, we have also identified several problematic issues of legal character, which require special attention and respective solutions. These issues will be included in a Special Report "*On working relations and problems of the Public Administration*", which is being drafted by the People's Advocate Office.

Analysis of Specific Cases

1. The elaboration of many complaints and continuous monitoring events conducted in various bodies of public administration, have identified violations of legitimate interests by the employers related to the social right of work. These violations are also associated with the exercise of psychological violence and continuous pressures by the employer. These actions have led to direct consequences and disadvantaged the exercise of professional activity. Together with the damage caused to the social economic legal interests of the individuals (such as decrease of pay or release from work), other damages are also caused, such as those related to health or violation of psychological dignity, actions leading to the decrease of working quality, followed by damages of physical and mental health of individuals.

Therefore, in the circumstances when the right to employment/work is closely connected with human rights and their violation by the employers with unjust actions, it could lead to personal insecurity, risks and unhealthy conditions. Accordingly, we have considered and proposed some necessary amendments to the related provisions of the Labor Code. Currently, article 32 of the Labor Code defines the general obligations of the employers for the protection of the employees' dignity.

This article is divided in the following sub-articles:

1. "*The employer respects and protects the dignity of employees in his working relations.*"

⁴ Social Charter Section Directorate of Human Rights, Council of Europe, December 1999.

2. *The employer shall prevent any position leading to the violation of the employees' dignity.*
3. *The employer is prohibited to carry out any actions constituting sexual harassment to the employees and does not allow such actions to be applied by other employers. Sexual harassment means any harassment obviously harming the psychological situation of the employees linked with gender orientation”.*

Hence, the obligation of employers to protect the dignity of employees in their working relations is foreseen by law. It means the physical and psychological integrity, including professional and personal honor, private life and intimacy, freedom of expression etc.

This practice is considered from the French Criminal Code (article 222-33-2⁵), where the sexual harassment is classified as criminal offence. We have deemed necessary and innovative this practice for Albania, to add an amendment to the Labor Code of the Republic of Albania, where along with the sexual harassment it shall also include moral harassment of the employees by the employers.

To this end, we recommended to the Ministry of Social Welfare and Youth/ Ministry of Justice the amendment of article 32 of *Law No. 7961 dated 12.07.1995, “Labor Code of the Republic of Albania”, (as amended)* with the following text:

“The employer shall be prohibited to bother the employees with repeated actions aiming at or leading to degrading work conditions to a certain level leading to the violation of human rights and dignity of the individual, damaging his physical or mental health or his professional future”.

2. In the opinion of the People's Advocate Office, it is crucial that the basic principles of the activity of public administration bodies are fully respected and guaranteed, such as:

Principle of lawfulness⁶

The Public Administration bodies will carry out their activity in accordance with the Constitution of the Republic of Albania, international treaties to which the Republic of Albania accedes, laws of the Republic of Albania within the limits of powers conferred thereupon and according to the scope for which they are given.

Principle of the protection of public interest and of the rights of private persons⁷

In exercising its functions the public administration will protect, in each case, the public interest, constitutional and legal rights and interests of the private entities.

⁵ Code Penal Français, Section 3, bis. Du hamelement moral, article 222-33-2, article 222-33-2-1

⁶ Article 9 of the Administrative Procedure Code

⁷ Article 10 of the Administrative Procedure Code

Principle of proportionality⁸

Actions of the public administration, which due to the protection of public interest or the rights of others, restrict fundamental human rights recognized by the Constitution, international treaties, laws and bylaws should, however, respect the principle of proportionality and not prejudice the essence of human rights and freedoms. This means that actions of the public administration should be such as:

- to seek the realization of lawful public interests;
- to use all available means and proportional to the targets set. In each case, the public administration bodies shall be obliged to assess, if possible, that the required objective is realized at the least repressive measures possible, without compromising their effectiveness.

In view of the above, the observation of these principles has been part of our recommendations to the former Prime Minister of the Republic of Albania and all local Municipalities for the pre-election period, with the view of taking measures to issue an order *for prohibition and non-participation of the Public Administration officials in electoral campaigns of the political parties during official working hours*.

By our recommendations we have aimed not only to respect the existing legal framework but also to sensitize all Public Administration bodies of all levels, in order to not disregard the functional duties and their statutory law.

3. For the year 2013, in addition to the right for established protection of employment relations, we were focused on another aspect related to the safety and working conditions of the employees.

Based on articles published in print media, as regards some cases occurred where some workers were dead due to the lack of proper working conditions and safety at work, based on the Convention “*On health protection and safety at work*”, ratified by Albania in 2004, Labor Code, Law No. 10237 dated 18.02.2010, “*On safety and health at work*”, we have requested information from the State Labor Inspectorate and Social Insurance regarding the:

1. Number of cases reported for the employees who have suffered accidents at work.
2. Number of cases of employees who have proven to be unregistered, whose social insurance payments have not been made.
3. Measures undertaken for the identified cases when the accident has occurred due to serious fault of the employer.
4. Number of reported cases when the employer had no proper administrative authorization by the labor inspectorate prior to the activity exercised.

⁸ Article 11 of the Administrative Procedure Code

The State Inspectorate of Labor and Social Services identified the following data:

For the period January-September 2-13, as for all types of activities there were registered 64 cases of injured employees, of which 12 ended up with the death of employees.

Type of activity	Number of injured	Causing death
Agriculture, Forests, Fishing	-	-
Mines/Carriers	20	2
Manufacturing enterprises	11	1
Energy, Gas, Water	3	1
Commerce, BRH	3	0
Construction	8	5
Telecommunication	1	0
Finance, Services	16	2
Other activities	2	1

The highest number of accidents is reported within the subjects with mines and carriers' activities. In this sector, the main causes of accidents are the slide of materials, gas explosions etc.

The main causes of accidents in the area of **production** are damages caused by various technology machines, death from high voltage, different falls etc.

In the **construction** area, main causes of the accidents are attributed to the fall from heights and crash or hitting from different tough items.

In the field of **services**, most of the accidents are related to the lack of implementation of technical safety.

The subjects of these accidents responsible for the violation of labor legislation are fined by the labor inspectors. Also, concrete tasks are given to be implemented within specified deadlines for a healthier and higher safety of working conditions.

As mentioned above, we have recommended a set of measures to be taken focused on law enforcement for the problematic subjects regarding the work safety and health, in accordance with relevant legal provisions.

4. Another problematic issue identified during the examination of complaints by our staff, is the amount of remuneration benefitted by the employees, such as the obligation of compensation for the job seniority by the administrative bodies, based on articles 145/152 of the Labor Code. The main reason for this problem is identified the lack of funds or without giving any further explanations.

This problematic issue has been part of our recommendations for some 100 persons, employees of the Urban Passenger Transport Facility, who complained for an unjust and illegal discharge from work.

The subject of complaints has identified a lack of verbal communication and of monthly payments since January 2013, a problematic issue for which we have recommended to the Municipality of Tirana the following points:

1. *Delivery of funds to the Directorate of the Urban Transport Facility of Tirana regarding the payments of monthly salaries for the workers released from work.*

2. *Payment of interests for delays of monthly payments.*

3. *Payment of financial effects for the compensation for job seniority because of the reduction of job positions of the released persons from the Urban Transport Facility of Tirana.*

5. Another issue of the last several years involves the illegal working relationships and lack of enforcement of final court decisions, associated with considerable financial burdens. As a result, the responsibility for illegal decision-making and the associated financial bill will not be charged to the entire administration body. Instead, it will mainly be a responsibility of individual authorities of the organization, as the persons responsible for decision making and for the legal obligation for rule of law.

In this regard, we have recommended to responsible authorities the implementation of article 142/3 of the Constitution of the Republic of Albania, specifying that: “*State bodies are responsible for the enforcement of judicial decisions*”, to further proceed with article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which Albania is a member.

6. Due to different interpretations of the provisions of Labor Code regarding the claims of citizens to be returned to their former post, refusal to terminate the employment contract without reasonable causes, unilateral termination of the contract without any justified causes, the People’s Advocate Office has considered that these claims are better solved by the courts and as such, no further examinations are made.

Conclusions

One of the priorities for the integration of Albania in the European Union is certainly linked with the substantial steps to be made in the area of the Law “On Civil Servants” and consolidation of the Public Administration Department. The central aim is to increase professionalism and political impartiality of the public administration and to adopt a fair approach of recruitment and promotion of the public administration through transparent standards based on meritocracy⁹.

⁹ Recommendation 6 on priorities of CoE for Albania

Therefore, the aim of the work ahead of the People's Advocate is to fairly treat the complaints connected with the "*The right to social protection at work*", with a main focus on:

- Recommendations on the implementation of the Constitution, which acknowledges that everyone has the right to decide on his/her own life with legal remedies chosen or accepted by himself/herself. Everyone is free to choose the profession, job and professional education system. The employees have their right to social protection of their work.¹⁰
- Recommendations on the implementation of articles 144-152 of the Labor Code¹¹.
- Recommendations on the implementation of standards and principles established by the existing legal framework, which guarantee the working relationships by the central and local public administration.
- Identification of the responsibilities of competent authorities of the institutions (non-contractual damage), which with their irregular or ungrounded actions, increase the financial bill of the state bodies' obligations to the winning parties of judicial processes.
- Increase of capacities of the public administration staffs, which are responsible to follow the procedures for release from work, in order to understand and duly implement the legal procedures and guarantee the employees their legitimate rights.
- Continuous monitoring of the Public Administration on the respect for rule of law and fair implementation of the Law "On the Status of Civil Servant".

¹⁰ Constitution of the Republic of Albania, Article 49 'Economic, social and cultural rights and freedoms' p. 22, Labor Code, Article 144 "Procedure for the termination of the employment contract by the employer" Article 145

¹¹ Compensation for the job seniority, Article 146 "Unjustified termination of the employment contract", Article 147 "Termination of the employment contract in inappropriate time", Article 148 "Collective job dismissal", Article 149 "Termination of definite-term employment contract", Article 150 "Probationary period", Article 151 "Long term contract", Article 152 "Compensation for the job seniority", pp. 78-84

F. The right to benefit from social insurance system

Overview

Social insurance system constitutes the main social protection scheme in Albania. The pension scheme plays a main role for social protection and the fight against poverty.

Social insurances are related to and conditioned by our national legislation. In the social insurance schemes the amount of benefits, conditions and duration of the deposits are stipulated by the national legislation. Generally, the benefiting social insurance includes social insurance and social assistance. Social insurance is the basis of the social protection system. It includes the provision of pensions and health care. All citizens in Albania to profit from the current scheme are required to pay social and health insurance contributions, while the government guarantees the fulfillment of their basic needs for themselves and for family members.

The People's Advocate Office received and processed 116 applications in this area for 2013. Of this total, 97 were finalized and we found that 54 were unfounded, 29 were settled in favor of the applicants and 15 accepted recommendations. Eighteen applications are under examination.

Various citizens have claimed infringement of their rights as a result of the wrongful calculation or failure to review the old age retirement pensions, failure to recognize job seniority. Further, they have complained for the low amount of their early retirement pensions, the time of establishment of the right to benefit retirement pension, failure to receive replies to the processing of applications against the decisions of beneficial units at the Regional Social Insurance Offices etc., delayed provision of old-age pension, unjust termination of old age pensions etc.

All Albanian citizens who are currently contributing and those that are beneficiaries or even those who have just entered this scheme, should receive the benefits they contribute. A number of applications have been submitted to the People's Advocate Office, focused on the low amount of pension they are entitled to under the category of work, regarding the calculation of the amount of old age pension as per the category of pensioners who have been retired during the period 01.01.1994-14.06.2005 but also after this date.

With the implementation of the new Law "On social insurances", in addition to many changes in the social insurance system, problems have arisen and require improvements of the system. Applications examined have found that the calculations made pursuant to Law No. 7703 dated 11.05.1993 "On Social Insurance in the Republic of Albania", as amended, Article 32, paragraph 3, have determined that the total amount of pension shall be subject to a maximum of twice the basic amount or 75% of net average wages of three successive years in the 10 last years of employment; whichever is lower, the applicants did not benefit the pension that was more favorable for them. Of the three ways of calculating

retirement pension, after comparing them the pensioner receives the smallest amount.

We believe the right time has come to reform the social insurance system, in order to provide that the pensions to be determined on an ongoing basis shall have a direct connection of benefits with the contributions paid.

To improve the situation of these beneficiaries but also of others who will continuously benefit the retirement pension, we addressed to the Minister of Finance the recommendation to take legal initiative for amending the Law No. 7703 dated 11.05.1993 "On Social Securities in the Republic of Albania", as amended, specifically its Article 32, so that old age pension beneficiaries could enjoy the most favorable retirement pension.

Following the reply sent by this ministry, we were informed that amendment of Law regarding the granting of the most favorable pension is followed by significant financial effects. Our recommendation and other issues of social insurance scheme are part of discussions relating to the social insurance reform, which by the time it will be taken, will also resolve the issues as recommended in our letter. Therefore, it remains to be reconsidered at a later stage.

Labor invalids and persons who receive disability allowances do not benefit the sanitary package granted only to the category of paraplegic and quadriplegic individuals. The People's Advocate has concluded that there is no regulatory law in that regard.

Ratification by the Albanian government of the UN Convention "On the Rights of Disabled People" should extend the rights and benefits for the people with disabilities and provide them the enjoyment of all rights to a normal life free of barriers. Granting the right to acquire the sanitary package will somehow affect poverty reduction for these people, who do not enjoy the status of paraplegics and quadriplegics.

In support of vulnerable groups and to improve their life quality, we addressed to the Minister of Finance, former Ministry of Labor, Social Affairs and Equal Opportunities and former Minister of Health, the recommendation to improve Article 7 of Law No. 7889 dated 14.12.1994 "On the Status of Disabled People", as amended, and Article 11 of Law No. 9355 dated 10.03.2005 "On Social Assistance and Services", as amended, so that a certain category of the people with disabilities, as per the diagnosis determined by the Medical Fitness Commission, would benefit the sanitary package, in addition to the disability pension and disability allowances.

The Ministry of Finance sent an answer stating that it assessed the initiative of the People's Advocate to improve the above-cited acts but taking into account the current budgetary situation, it is of the opinion that the above recommendation will be considered at a later stage.

-Retirees who enjoy the veteran status of the national liberation anti-fascist war have not benefited bonuses to the remuneration of the war veteran for the period 2008 - 2012, although the amount of compensation they receive should change whenever old age pensions are increased because Law No.7874 dated 17.11.1994 "On Veteran Status of the Albanian National Liberation Anti-Fascist War", as amended, Article 8 thereof has provided that *the amount of compensation varies, depending on the price index and inflation*.

By analyzing the legal provisions of the relevant laws, we have concluded that upon the proposal of the Minister of Defense, the Council of Ministers has issued decisions to "increase the remuneration of the Veterans of the Albanian National Liberation Anti-fascist War" until 2007. After this year, the category of pensioners who enjoy the status of war veterans was denied the benefit of additional compensation as a result of failure to issue any legal acts in pursuance of the above-mentioned law addressing the situation of this category due to the termination of the activity of Central Committee of the Veteran Status of the National Liberation Anti-fascist War at the Ministry of Defense. This occurs because the ministry has not proposed the draft for relevant decisions, for discussion and approval by the Council of Ministers, although even after 2002 it continued to propose draft decisions "On increasing the remuneration for veterans of the Albanian National Liberation Anti-fascist War". Following the recommendation addressed to the Ministry of Finance to issue laws pursuant to Article 8 of Law No.7874 dated 11.17.1994 "On Veteran Status of the Albanian National Liberation Anti-fascist War", as amended, and correspondence with the Ministry of Defense, we received a negative answer for resolving this issue because they consider it is not in their competence to propose bylaws for increasing the amount of monthly compensation for people with the war veteran status. In these circumstances, based on Article 102, paragraph 2 of the Constitution, which expressly states: "*The Prime Minister resolves disputes between ministers*", we sent the recommendation to the Prime Minister of the Republic of Albania to "designate the competent authority which shall propose, on an ongoing basis, the draft decisions to increase the amount of compensation to war veterans, to submit and approve as soon as possible bylaws, pursuant to Article 8 of Law No.7874 dated 11.17.1994 "On Veteran Status of the Albanian National Liberation Anti-fascist War ", as amended, to increase the compensation of war veterans for 2013.

We are still pending an answer.

- A group of former ambassadors of the Republic of Albania has complained for failure to foresee the fund of social insurance contributions for spouses of the Albanian diplomatic officials within the budget of the Ministry of Foreign Affairs. Article 46, paragraph 1 of Law No. 9095 dated 03.07.2003 "On the Foreign Service in the Republic of Albania" provides: "The diplomatic personnel shall be recognized the time spent abroad for purposes of job seniority and the payment of social and health insurance contributions for the spouse accompanying a diplomatic officer".

Given that the spouses of our diplomatic missions officers have not benefited from the provision made to the above-cited law, although there might be many of them who do not benefit the pension they deserve, we addressed to the Minister of Foreign Affairs the recommendation to seep up the solution of the problem, in order to provide insurance to the husband or wife that accompanies the Albanian diplomatic officers.

Following the stance held in this respect, we were informed that a draft decision is prepared, which determines the extent of the contribution by two levels, one for the spouses of diplomats and another one for spouses of technical and administrative staff, covering the contribution by the state budget. This draft decision has been submitted for opinion to the Ministry of Finance, Ministry of Justice and Social Insurance Institute. Upon receipt of these opinions, the draft decision will be submitted for approval to the Council of Ministers.

-Regarding the rights of immigrants in the field of social insurance and based on the applications of Albanians who live or have lived as immigrants in the neighboring countries, Italy and Greece, concerning the non-recognition of job seniority, the People's Advocate Office instituted the cases *ex-officio*, in accordance with the first paragraph of Article 13 of Law No. 8454 dated 04.02.1999 "On the People's Advocate", as amended. From the communication with the Ministry of Social Welfare and Youth concerning the agreements in the field of social insurance, we have been informed that after continuous interest and insistence of the Albanian Government for signing bilateral social insurance agreements, which would solve the problems of the benefiting pension by Albanian emigrants, diplomacies of both countries have responded negatively due to the economic crisis that has overwhelmed these countries. The said ministry will continue its efforts to conclude a bilateral agreement in the field of social insurance between the Republic of Albania and Greece and Italy, which would eventually solve the problem of benefits of the immigrants who have contributed both in Albania and in Italy or Greece.

Regarding the rights of immigrants, our institution is preparing a special report, to include the issue of their rights in the field of social insurance.

The old people remain one of the most vulnerable groups in Albania. Lack of minimum income can lead the elderly and their families to poverty. In many cases, elders who are close to retirement are released from work without being in full retirement age and without insurance. Losing their previous job, this age group can barely find a new employment etc. Therefore, it is necessary to approve the Status of the Third Age to guarantee the rights of the old people.

In this connection, our Office addressed to the former Ministry of Labor, Social Affairs and Equal Opportunities in 2012, and we were informed that the draft - law was due for approval to the Council of Ministers by the end of 2012. In February 2013 we again addressed to this Ministry to inform us about the procedures they had followed, and we were informed that the MLSAEO, in cooperation with the line

ministries and groups of interest, was preparing the draft-law "On care for the elderly", which was planned to be adopted by 2013.

Following this case, we addressed to the Ministry of Social Welfare and Youth, and the latter informed us that the general analytical draft for 2013 had provided the adoption of the draft-law on the elderly "*Improving life quality and meeting the needs of the elderly*", and the inter-ministerial working group for preparing this draft-law was set up by virtue of an order of the Minister.

The draft and the respective report have been already prepared. The financial cost is high and it was reviewed again with the Council of Ministers and the Ministry of Finance to approve this draft-law next year.

One of the still outstanding issues involves the low pensions of former underground miners, while they require adoption of the Status of Miner. Regarding this matter we are currently mediating with the Ministry of Industry and Energy and the Ministry of Social Welfare and Youth.

We have raised a number of issues in the annual report of 2012, to which no solution has been given.

- We bring to attention that one of the issues addressed by our institution in 2012 has been that of the citizens who are entitled to the supplementary pension and to the early retirement pension due to the completion of job seniority. The complainants filed applications on the alleged discrimination in the recalculation of pension amount, specifying that with the coming into force of Law No. 10142, dated 15.05.2009 "On Supplementary Social Insurance of the Members of Armed Forces, State Police, Republican Guard, State Intelligence Service, Penitentiary Police, Fire and Rescue Police and the Internal Audit Service of the Republic of Albania", under Article 29(2), it is recalculated the amount of these pensions and this has not only dramatically reduced the amount of such pensions but has also declared these individuals as debtors to the Social Insurance Regional Offices. After considering the change of the amount of pensions as an infringement of these legally acquired rights, we addressed to the Ministry of Finance the recommendation *to implement Article 29 of the Law No. 10142, dated 15.05.2009 "On Supplementary Social Insurance of the Members of Armed Forces, State Police, Republican Guard, State Intelligence Service, Penitentiary Police, Fire and Rescue Police and the Internal Audit Service of the Republic of Albania"*. During the year we filed continuous requests for official opinion on the recommendation but did not receive any answer. In January 2013, the Ministry of Finance sent a reply whereby it reported that following the examination of the matter with the respective institutions, the draft decision results to incur significant financial costs that are impossible to be afforded by the state budget. As a result, the issue was postponed for reconsideration at a later stage.

Another recurrent issue presented in the Annual Report of 2010, 2011, 2012 has

been that of the low number of pensioners who benefitted from early retirement during 1993, 1994, 1995, and 1996. The People's Advocate addressed to the Minister of Finance a recommendation in 2009. We were informed in June 2012 that our request had been delegated to the Social Insurance Institute, being the authority in charge of proposing and drafting legal and sub-legal acts in the field of social insurance, and that the latter had set up a working group and prepared a draft Decision of the Council of Ministers "On Reducing Differences in the Amount of Pensions of Budget-funded Employees Established in 1993-1994". After reviewing this draft decision, the Ministry of Finance informed us that following the examination of the matter with the respective institutions, the draft decision results to incur significant financial costs that are impossible to be afforded by the state budget. Therefore, the issue was postponed for reconsideration at a later stage.

Analysis of Specific Cases

Application with **Doculive No. 201300771**, filed by a citizen from Lushnja. After examining the application, we found that this citizen had completed and submitted the documentation required to recalculate the amount of his pension under Law No. 10142, dated 15.05.2009 "On Supplementary Social Insurance of the Members of Armed Forces, State Police, Republican Guard, State Intelligence Service, Penitentiary Police, Fire and Rescue Police and the Internal Audit Service of the Republic of Albania", and a 6-month delay for recalculating the pension had occurred. In these conditions, we addressed to the Director of Fier Regional Social Insurance Directorate the recommendation to recalculate the amount of old age pension. This recommendation was accepted and the application was recalculated the pension amount from 11,562 ALL to 18,414 ALL per month, being recalculated the respective differences amounting to 32,630 ALL.

Application with **Doculive No. 201300882** filed by a citizen from Vora, who complained that Vlora Social Insurance Local Agency had unjustly terminated his pension. The applicant explained that he had benefitted the old age pension for 23 years and in March 2013 he was informed by the Post Office Clerk of Vlora that he had to file a request regarding compensation, amounting to 140 ALL per month, benefitted from him, as his wife had reached retirement age and procedures to benefit this pension had started. After this citizen submitted the request, his pension was terminated for March and April. He claimed to benefit the old age pension amount, attributable in conformity with the applicable legislation, without any appropriate compensation but he encountered indifference and negligence to resolve his case. Therefore, the appellant had no other family income because he was unjustly terminated the old age pension and the pension of his wife was not delivered yet. This situation brought financial difficulties for their living and for paying their liabilities within the time limits, namely, electricity, phone and water bills. We considered this issue as a violation of his legal rights and we addressed to the Director of Tirana Social Insurance Regional Directorate the recommendation to urgently take measures for providing old age pension for the period from March 2013 to present. Our recommendation was accepted and the applicant was

restored the right to retirement pension from the date of termination of the pension.

Application with **Doculive No. 201301584**, filed by a citizen from Tirana, who complained that she had encountered delays for the provision of her old-age pension. After examining the application, we found that she had submitted documentation and applied for benefit from this right in March 2013, as she had reached the age for old age pension. Although long time had passed since the submission of documentation, even after the complainant continuously asked information from the Social Insurance Regional Directorate, her old-age pension has not been delivered yet. In the analysis of legal and normative acts regulating relations in the field of social security, respectively the Regulation No.1 dated 21.10.2008 "On the determination, management and payment of pensions", we found that all deadlines to verify job seniority of this citizen had expired and we addressed to the Social Insurance Regional Director the recommendation to adopt measures for providing her old-age pension.

Our recommendation was held admissible and the complainant was given partial old-age pension from the date of the right, namely, 15/03/2013.

Application with **Doculive No. 201302240** filed by a citizen from Shkodra, who complained that she was given a low amount of old age pension. She had reached full retirement age in 2009 and was initially given the pension amounting to 5,000 ALL per month. After bringing the case to court for recognition of some years of job seniority, she applied for recalculation of retirement pension amount but her case was not resolved.

After analyzing the court decisions and considering the claims of the citizen grounded, we addressed to the Director of Shkodra Social Insurance Regional Directorate the recommendation to recalculate the amount of retirement pension, under the decision of **Shkodra District Court** and the recommendation was accepted. The pension of the applicant was reviewed and she was given partial old-age pension for farming/village labor amounting to 9795 ALL per month.

Application with **Doculive No. 201302523** involved claims on the failure to provide official documents required from Saranda Social Insurance Regional Department. A citizen who lives in Saranda was terminated the amount of old-age pension and he brought the case to court to have his right restored. As he needed to present evidence at the hearings, this citizen, through his defense lawyer, asked this Branch several times to furnish him documents regarding the withholdings of the amount of his pension and the reasons for this termination.

After analyzing the documents attached to the application, we found that on 01.08.2013 a request was sent to have the document on the reason and the withholding amount of old age pension, copies of the decision on recalculation of the termination and records of establishing surplus payments signed by this citizen but he received no answer.

After analyzing the application, given that we had to do with the violation of the right to information about all relevant official documents requested by the complainant, we addressed to Vlora Social Insurance Regional Directorate the recommendation to provide full copies of the documentation required, on the basis of the request submitted to the Social Insurance Branch of Saranda on 01.08.2013.

The recommendation was accepted, and the file with all relevant documentation about the pension of this citizen was made available on 25/11/2013.

Conclusions

All problems identified from the examination of complaints regarding the right to benefits by the social insurance system are stemming from the provisions of Law No.7703 dated 11.05.1993 "On Social Securities in the Republic of Albania", as amended. The People's Advocate Office has considered the concerns of various citizens and offered mediation of the citizens with the state institutions through respective recommendations for the improvement or amendments of this law and other bylaws following its implementation.

The pension reform, which is relevant to broad-based public interests, is one of the key components of the reforms for the approximation of the Albanian legal framework to the *acquis communautaire*. The reform shall be drafted and implemented through a broad social and political decision making process based on consensus.

-It is necessary to change the formula of the calculation of pensions based on article 32. The calculation system of pensions shall be changed from calculations based on pay and frequently with discriminatory limitations, to a calculation system based on contributions.

- In our opinion, the existing system is not fair for the individuals who for the last years before the pension deadline, because of their physical limitations, have low salaries leading to minimum pensions because of lower salaries they have received during that period of time. The same applies to the self employed, who unjustly receive a minimum pension although they may have worked during their career with maximum salaries. In order to improve this situation, we recommend the amendment of article 10 of the Law No.7703 dated 11.05.1993 "On social securities in the Republic of Albania", as amended because this article specifies that "*The minimum contribution for the employee, the employer, and the self employed is equal, while the maximum contribution is 5 times the minimum one. The amount of the minimum contribution shall be determined by the Council of Ministers*". This is a discriminatory article because the difference between the levels of what a person pays and what he obtains when he is retired, is very large. Hence, a person paying a contribution amount of 5 persons who benefit a minimum pension, benefits only a level of pension for 2 persons, so the pay is not in accordance with the contribution given.

- The right for a pension is linked with two conditions: age of the individual and the years of legal contribution. According to article 62 of the above mentioned law, when the application is not made within a one-year deadline but beyond this limit, then the right to the pension payment will start from the date of submission of application. It is not fair to accept this argument. In legal terminology, a legal right is defined in all circumstances as an inherent legal right and cannot be rejected.
- The protection of the migrant's rights in the field of social insurances is a binding legal right. This is also supported by the EU Stabilization and Association Agreement. Albania should speed up the efforts for signing bilateral agreements in the social insurances as well.

As a conclusion, although the proposed amendments by the People's Advocate Office have a financial bill which shall take some time, the reform of social insurance system is a prerequisite.

G. The Right to Education

Overview

Education of the society is certainly a constant requirement for a well-developed democracy and an imperative of a nation for progress. It is clear that education is a process guaranteeing a better present and prepares the ground for the future of the country. As such, education should take into account two basic principles: Firstly, as a process of dignity development and secondly as a process of the individual intellectual development. It is essential for our educational system to take these two components into consideration.

Many efforts are made to upgrade the quality level of the education system but referring to special aspects and specific areas of education, there is a decrease of quality in education. There is so much to be done by the government in particular and the society in general, in order that the teachers in Albania are properly respected.

Comprehensive education is the foundation of a both tolerant and prosperous society. We should make our utmost efforts to build a comprehensive successful State for the national economy, where all individuals take their responsibilities for the general well-being of the country. Education has a primary importance to achieve this goal.

In its work, the People's Advocate Institution is based on the Constitution of the Republic of Albania, specifically article 57/1, which reads: *"Everyone has the right to education"*. Also "The right to education" is expressed in article 28 of the UN Convention "On the rights of the child", where among others, *"States Parties accept the right of children for education..."*

Difficulties for the education of children are connected with many factors. Some of them are those linked with the household economic level, issues of mentality or infrastructure, long distances of children from the living areas to their schools in

several districts of Albanian, the work of children who should attend school etc.

In concrete terms, for 2013 there is a total of some 80 complaints, 10 cases based on the initiative *ex officio* or 13 inspections in the field of education. Some 61 complaints are solved, 19 are being examined, 30 are unfounded, 1 falls out of the scope of competences, and 20 are solved in favor of the individuals, 2 are withdrawn, 7 recommendations accepted, and 1 recommendation rejected.

Analysis of Specific Cases:

1. Application registered as Doc. No. 201300638 addressed to the High School of Topojan, Kukës.

A group of young women attending the general high school in the commune of Topojan, Kukës, have submitted an application to the People's Advocate Office. They stated that their school had turned into a café deviating from its mission, and they do not feel safe within the school facilities. Specifically, in the school courtyard there is the coffee bar of the commune, visited by drunken people who had threatened the girls several times with guns. Students asked the help of our Office to remove this building and restore the dignity of the educational institution, which according to them was violated by senior officials like the mayor and the school principal. After conducting the on-site verification, it was found that the position of the commercial establishment is such that facilities have visual contact with the school yard because the separation of the respective parts of the two buildings in question was done by an iron fence and not by wall. Also, the entrance to Topojan commune (simultaneously to the commercial establishment) and to the school of Topojan consists of a common pathway for the two buildings. To enter school premises students need to walk through the same door which is adapted as such in the iron fence (as cited above), which separates the building (subject of complaint) with the school. In this context, it is worthy emphasizing that the entry of students through this door could have been avoided because in parallel with the door in question there is a larger door with iron bars, which is connected only with the school yard. Instead, it was kept closed as it served the entry-exit of vehicles. After finding this situation, we addressed to the Ministry of Interior and the Ministry of Education and Science the following recommendation:

- Measures should be taken to provide safety in the facilities of the general high school of Topojan, Kukës, to be detached from the coffee bar, which can be accomplished through the construction of a wall and entry of students through the big door of the school.

Ministry of Education and Science reported that all necessary measures were taken to resolve this problem. Likewise, the Ministry of Interior reported that in cooperation with the Prefect of Kukës they solved the issue in agreement with the Commune of Topojan (currently, the exit door of the coffee bar from the courtyard of the school is closed).

2. *Ex-officio* case initiative registered as Doc. No. 201300429 regarding the vocational boarding school of Lezha.

"Ora News TV" broadcasted in the show "Alarm" a story concerning the bad situation at the vocational boarding school in Lezha. Specifically, the chronicle was about miserable conditions in many rooms of the last floor of the girls' dormitory, which suffered humidity on the walls and ceilings. In some rooms the plaster cracked from the ceiling because of humidity, and occasionally fell on the floor and beds. After watching the place and interviewing the persons, we found this humidity had long existed because the building was overused and old.

The director of the boarding school Mr. M. K. reported that he had informed the Municipality of Lezha, and after setting up the working group, the latter would prepare an evaluation report of the case and submit it to the City Council to be realized in 2013 budget. In the interview of the Educational Director of the Municipality taken by the reporter, the Director stated that the situation would be resolved with the allocation of funds. However, this would happen when the weather became hotter, as roof insulation and reconstruction require specific atmospheric conditions. After finding this situation, we addressed to Lezha Municipality the following recommendation:

- Immediate measures should be taken for the reconstruction of the vocational boarding school of Lezha, in order to provide a normal and safe life for the girls housed in this building.

Municipality of Lezha specified in its reply that "a project is prepared for works on the terrace of the building to get rid of humidity and estimates are prepared for the materials needed and for all other expenses. Intervention for improvement will be made as soon as the necessary funds are provided and the weather conditions are optimal.

3. *Ex-officio* case initiative registered as Doc. No. 201300326 regarding the conditions at the 9-year Secondary School of Babrru.

After a chronicle broadcasted by TV channel "News 24", which showed unusual conditions in front of the facilities of the 9-year secondary school "Babrru 3", we collected film materials and started to investigate the case *ex-officio*. The chronicle in question showed miserable conditions in front of this school, because a stream crossed the entry of the school and on rainy days parents had to hold their children on their shoulders to cross the stream, risking their own life and their children's life, because the stream often became a river. This school is attended by around 300 children from preschool age until the ninth grade.

The interviewed parents and children stated that for many months they had addressed to Paskuqan Municipality the request to solve the situation but even though promises were given, nothing concrete has been done. The situation was problematic because the chronicle showed children unaccompanied by parents and wet up to their knees, and they had to attend school full time in these conditions.

Another concern was also the lack of electricity at school, which prevented the normal development of learning and impacted the quality of teaching because the laboratories would not operate without electricity. Heating with firewood was made possible only in the last month because until that moment the municipality failed to regularly supply the school during winter. The paradox of the story was the arrival of teachers by a van to the school entrance whereas parents and students daily suffer to enter and get out of the building. After examining this situation, we addressed to the Mayor of Paskuqan the following recommendation:

- Immediate (provisional) measures should be taken for the normal and safe crossing of the stream in front of the 9- year secondary school "Babrru 3".
- We suggested that if they encountered any problems with financial funds for remedying the situation, they could ask the assistance of the Ministry of Defense, so that military forces would build a temporary bridge.
- Building a solid permanent bridge in subsequent months, in conformity with legal procedures.
- Continuous firewood supply of this 9 - year secondary school.

Municipality of Paskuqan reported in its reply that based on engineering studies, measures have been taken and works have started to accommodate and rehabilitate the stream. These works are expected to be completed in a few days and this problem will be solved.

4. Ex officio case initiative registered as Doc. No. 201301507 for the enrollment of Roma children evicted from the Former Decoration Facility

Contacts with this community showed that many of the children of this community did not attend school. From the interviews conducted it came out that around 90 children were to be enrolled to follow classes of the 9-year education system. Education and schooling is a key area of the implementation of children's right. The education of members of this minority should be considered not only as a constitutional obligation but also as an efficient way of their full social integration. The low level of education is a serious problem impeding the social integration of this community. Most of Roma children are illiterate because of the linguistic difficulties they have in the first grade, the difficult economic situation of their families, long distances of school from their living areas, and the wrong mentality of their parents on education.

The life qualities of Roma families have a substantial impact on their children. Without a proper education, they find it hard to be integrated in the labor market; their possibilities are very limited compared to the rest of population, leading to an economic hardship to meet their basic living needs, associated also with other social problems. After a number of observations, recommendations are made to the Ministry of Education and Science and the Educational Directorate of Tirana.

- *Implementation of measures to make possible the enrollment of Roma children settled next to the Former Decoration Facility of Kavaja Street, Tirana, in the 9-years schools of their current living areas.*

In response to our concern, the Regional Educational Directorate of Tirana shared its commitment for the enrollment of Roma children situated in their living area. The school Directorate where the Roma children are enrolled will continuously check their presence and progress in the education program.

5. *Ex-officio* case initiative registered as Doc. No. 201302461 regarding the written language in textbooks

Researchers and linguists pronounce themselves in print and visual media about the serious impairment of the Albanian language and its degradation over years. Textbooks have many problems and unfortunately these problems are not faced only by students but also by their teachers. Texts are overloaded. There is no quality in translations. History is distorted. These are some of the main problems encountered in school tests for undergraduate education. Professor Gj.Sh., member of the Academy of Sciences and a renowned linguist has stated: "Unfortunately, there are more than twenty years that the quality of care of the state and state institutions for the publication of official proclamation has inexcusably declined. There has been a lack of language discipline by the government, and this has caused almost massive neglect for the written and spoken language in the office, publications, newspapers, radio and television. It is written and spoken carelessly, with serious errors and mistakes in orthographic rules, with poor vocabulary and often with big and inappropriate words for either state or private official bureaucracy. Unnecessary foreign words and incorrect terminology up to dirty words and rougher discourses have been often used, making Albanians to despise politics and official state functions." Following the findings, the Ministry of Education and Sports was recommended:

- *Establishment of an Advisory Board with well known linguists and academics for the revision of Albanian language in the textbooks as a current requirement.*

The Ministry of Education and Sports clarifies that in pursuance of the governmental program, the latter will carry out a radical reform of the national curricula and of Altertext. The reform will prepare the ground for improving the native language learning standards.

6. Application registered as Doc. No. 201301435 addressed to the National Agency for Correction of Examinations/ Tests,.

The citizens K.H, B.S, E.Xh have given their examination test for obtaining the license of a professional job. They claimed that two of the questions were wrongfully formulated. Based on the regulation and within the legal deadlines, they claimed that two questions of the test were not clear and fully argued and they could not furnish

appropriate answers. Their claim was not considered by the staff and they have further informed the Ministry of Education and Science. These citizens had no official answer even beyond the legal deadlines prescribed by law. In analyzing the documentation and the Regulation *"On organization of state examinations/ tests and regulated professions in the Republic of Albania"*, article 16 provides:

1. "The candidate has the right to verify the answers given by him and submit a complaint if he has reasons to disagree with the results. 2. The candidate submits his written request to the NAA (National Examination/Test Correction Agency) within 5 days from the announcement of the results". "NAA examines the complaint and gives a reasonable answer within 30 days. In cases when NAA recommends the re-evaluation of results, a decision of the Examination State Commission is required". After these observations, we recommended to NAA:

- *"the implementation of article 16 of the Regulation "On organization of state examinations/tests and regulated professions in the Republic of Albania", to re-evaluate the examinations/tests of the citizens K.H, B.S, E.Xh".*

This recommendation was not accepted by the NAA reply, arguing that the citizens have their right to re-enter the examination test to perform their obligations.

7. Application registered as Doc. No. 201300663 involved claims about the UHC Board regarding the selection of the Head of Service

The citizen A.B. has filed an application regarding the development and legal issues she encountered during a competition procedure at the Faculty of Medicine, Tirana University of Medicine for the selection of the Head of Service of Biochemistry – Microbiological Clinical Laboratory. In her letter she explained that she has been working as a full-time professor of Internal Service - Clinical Biochemistry Laboratory, Faculty of Medicine, Medical University of Tirana, since 1986 and as a physician - specialist in the Clinical - Biochemistry Laboratory at the University Hospital Center. She stated in her letter that she was officially informed about the assessment and inclusive criteria in this process. The complainant stated that the official letter gave clear criteria and scoring methodology during the assessment on the scientific research and academic activities of candidates, and the information and criteria that in order to be enrolled in this process it is necessary to have "at least 15-year work experience as a full time lecturer". The *"ad hoc"* Committee violated the inclusive criterion of academic experience and has accepted and selected a candidate who has only two years of teaching experience as a full time lecturer. According to the complainant, this letter does not give any information on the assessment, rating scale and competitive ranking of candidates, while there is no transparency about the way how candidates are selected and then forwarded to the board. Due to irregularities found, the complainant submitted a written application to the Chairman of the Board of the University Hospital Center - Minister of Health, with reference No.13 - 9, dated 02/14/2013, and filed an application to the Rector of Tirana University of Medicine on 18/02/2013. After the findings and examining the case, we addressed to the

University Hospital Center the recommendation:

- To initiate administrative proceedings to establish the nullity of the decision made by the Board of the University Hospital Center for selecting the winning candidacy for the position of Head of Biochemistry - Microbiology Clinical Laboratory and to consider this decision as null and void.

The UHC's board has not replied to this recommendation.

8. Ex-officio case initiative registered as Doc. No. 201302282 regarding the education of home confined children

Although it is spread in some areas, bloodfeud in the Albanian society has become a disturbing phenomenon because it violates the most important human right, i.e life, and because of this phenomenon, some other adverse consequences have resulted. It is worth mentioning the confinement of family members regardless of gender and age, by denying them several fundamental constitutional rights (e.g. freedom of movement, education, employment, health care, voting, freedom of association, freedom of conscience and its expression, etc.

Meanwhile, some EU countries perceive this threat, especially in recent years, due to the growing number of the Albanian asylum seekers, including abusive cases of persons alleging that their life is endangered in Albania due to this phenomenon. Bloodfeud is not taken seriously by state authorities, which unfortunately have not wanted to accept it. This position is also shown by the fact that there are no accurate police records on the number of persons killed for revenge, families and people confined, and these statistics are even not administered by INSTAT. This situation is caused also by the process dynamics. This phenomenon is medieval, criminal and not purely customary. Children confined due to life circumstances, are brought up with a feeling of hatred and suffer lack of education. There are no investments by the State and Justice bodies to take these persons out of confinement. In this context, the Ministry of Education and Sports should play a constructive role to improve educational programs, and to ensure good education of the new generation with a spirit of tolerance, non-violence, acceptance of diversity, against self - judgment, revenge and bloodfeud. It is important to train teachers working in the areas where bloodfeud is prevalent. The project "Second Opportunity" should continue for some time through which all the confined children will benefit, and not only the children in Shkodra district region but also in other regions of the country.

Following these findings, we recommended to the Ministry of Education and Sports:

- *Adoption of concrete measures for the identification of families with home-confined children due to bloodfeud across the national territory and opportunity for their education with utmost priority by the regional educational structures.*

In its reply, the Ministry of Education and Sports clarified that it is committed to

the education of home-confined children, who should benefit from the right to education as all other pupils.

Conclusions

The complaints filed but also the cases we have initiated upon initiative *ex officio* have identified relevant fields and specifically those related to textbooks and curricula. They have manifest errors; there are problems with alternative texts and the way of their selection by the boards. Further, there are problems for the recruitment of teachers and their dismissal, and various transfers for political purposes. Another matter of concern is also the education of home confined children, children from Roma community or the disabled ones. Further, the Albanian language in school books and textbooks should be reviewed.

H. Meeting housing demands

Overview

Fundamental rights and freedoms are enshrined by the Constitution and guaranteed by international acts. Social objectives¹² set out the goals and objectives of the State in fulfillment of human rights and social needs of the categories in need. The government aims at achieving these objectives through the execution of constitutional powers, the means at its disposal and accomplishment of legal missions and responsibilities.

They constitute a proper validation of the models offered by the Social European Charter¹³ under which the parties assume to adopt measures aimed at promoting access to housing of an adequate standard, prevention and reduction of homelessness, with a view to its progressive elimination and setting attainable pricing to those without adequate resources.

Social objectives differ from fundamental rights and freedoms because they are not required as rights and may not be claimed at court. They are a liability, which remains the real possibility of the state, regardless of the standards envisaged by the Constitution and other laws or bylaws¹⁴.

In exercising its constitutional mission for the protection of human rights and fundamental freedoms, the People's Advocate Office deemed as its priority the right to housing by mainly focusing on vulnerable groups, including vagrants or homeless, members of the Roma community etc.

During 2013 the People's Advocate Office processed 183 cases initiated *ex officio*

¹² Social Objectives, Chapter V of the Constitution of the Republic of Albania

¹³ European Social Charter, ratified by Albania in 2002, Article 31, which provides the right to housing.

¹⁴ Law No. 9232 dated 18.05.2004 "On social housing programs of urban areas", as amended; DCM No.814 dated 03.12.2004 "On establishing housing rates"; DCM No. 53 dated 28.01.2005 "On identification of the necessary housing documents"; DCM No. 574 dated 29.08.2012 "On documents that a family must submit to housing, under one of the social housing programs"; Instruction No. 6257 dated 02.09.2008 "On setting out the amount of subsidy for families who receive state- supported loans"; and Instruction No. 2348 dated 17.04.2008 "On some amendments to Instruction No. 6257 dated 02.09.2008".

and individual applications but also cases initiated *ex officio*, of which 92 applications were examined and 91 other cases are still under examination. Among the applications processed, 54 or about 59 % are resolved in favor of complainants (13 of these applications were concluded with accepted recommendations). In the meantime, 21 applications of the complainants have proven unfounded and 12 applications fell out of competences and jurisdiction of the People's Advocate Office. Additionally, for two applications the recommendations and suggestions were not accepted and implemented by the local government units.

Analysis of Specific Cases

1. With the establishment of democracy in Albania, the treatment of minorities has taken on a new dimension, as clearly articulated in the commitments undertaken for this purpose. Practical implementation of the provisions of basic acts but also the implementation of international laws and especially provisions of the Framework Convention of the Council of Europe, "*On the protection of minorities*" directly affect the improvement of minority rights. In this regard, the role of People's Advocate has been of special importance, following the recommendations in 2013 for Roma community, addressed to the central and local Public Administration bodies.

Inspections and visits conducted in some centers and applications submitted have found that the living conditions at these centers were difficult because there was actually encountered a lack to connect the zonal distribution system of electricity, lack of drinkable water supply, sewerage and internal system of roads.

In our opinion, the lack of minimum living conditions in these settlements, without excluding other settlements of this community, is a serious concern. Strategic documents formulated for this purpose, such as the National Action Plan 2010 - 2015 "*Decade of Roma Inclusion*", provide recommendations and measures in line with the fulfillment of political criteria set by the European Union for Albania, as a requirement for the EU integration process.

As above, in order to ensure a better life quality for Roma community within the country, specifically in areas where the centers of settlements are located, we have recommended to the Minister of Public Works and Transport to "*take concrete measures envisaged by the strategy for improving living conditions of the Roma community and the National Action Plan 2010-2015 in general, and in concrete settlements, i.e., the former military building in Sharra, Tirana*".

Furthermore, along with the recommendations issued to central and local public administration bodies regarding Roma community, we requested:

- a) Amendment of the existing legislation in view of meeting the criteria for housing benefits under the central and local government units.
- b) Simplifying application procedures at the respective offices for a wider access and

easier procedures for completing documentation, regarding the housing issue.¹⁵

2. As in 2012, a large number of applications were filed in 2013, focusing on the consequences to tenant families living in the houses of former owners of expropriated entities, following the implementation of the Normative Act No. 3 of the Council of Ministers dated 01.08. 2012 "Emptying of houses of legal owners by homeless citizens, residents in the former properties of expropriated entities".¹⁶

The above-cited normative act sets forth the following modalities through which housing of these subjects will be accomplished:

- a) 30-year loans from the National Commercial Bank at a 0% interest rate.¹⁷
- b) Treatment under social housing programs from the municipal councils and consideration with priority in the social houses leasing programs.¹⁸
- c) As regards the old age individuals who are not able to take care of themselves, have no other dependents and do not wish to benefit from house leasing programs, through a written statement or in the case where, upon verification, they are unable to take care of themselves, they will be housed in the elderly care facilities.¹⁹

After a preliminary assessment of the People's Advocate Office to better clarify the options to carry out these methods for housing tenants in the apartments of former owners, serious problems are identified which require immediate action and proper coordination with all state responsible institutions.

The applications at least identified the fact that although the normative act foresees the treatment of homeless citizens living in former property of expropriated entities, with 0 % interest loans or social housing to be provided by local government, in the existing conditions this step seems impossible.

This conclusion is based on the fact that our requests for information addressed to Tirana Municipality on the real possibility to address the multiple social housing applications filed by tenants who live in the apartments of former owners, were not given official replies. Additionally, when it is found that the elderly cannot take care of themselves and have no other dependents, cannot be re-settled in the elderly care centers according to official figures provided for this purpose by the line ministry.

Urgent situations that Normative Act No. 3, dated 01.08.2012 aimed to solve have become matters of emergency for a large number of individuals or tenant families, residents in apartments owned by former expropriated owners.

¹⁵ As regards all problems of the Roma community, we have drafted in 2013 the second special report, under provisions of Law No. 8454 dated 04.02.1999 "On the People's Advocate", as amended

¹⁶ This issue was also addressed in the annual report on the 2012 activity of the People's Advocate Office.

¹⁷ Article 1, paragraph 1, Article 4 of the Normative Act No. 3 of the Council of Ministers, dated 01.08.2012.

¹⁸ Ibid, paragraph 2, Article 4.

¹⁹ Ibid, paragraph 3, Article 4

The People's Advocate has been and remains fully committed to find an optimal solution as soon as possible for these families and individuals, who are practically in a situation of "no choice", regardless of the provisions of this normative act, a commitment which has been recently highlighted in a repeated recommendation addressed to the present Prime Minister of the Republic of Albania.

3. Adverse weather conditions, low temperatures in winter have posed an urgent need for a recommendation to all local government units, to adopt possible organizational measures to prepare provisional sheltering or housing for these groups in need, namely for vagrants or homeless persons and members of the Roma community and anyone else in need to prevent situations that could endanger their lives or health, especially children.

After recording the responses of local government units, it was established that:

- a) Providing shelters in a large number of local municipalities is a long-standing problem because there is a lack of funds and it is impossible to bring into operation the existing temporary shelters.
- b) In another part it is found that there are no environments to be adapted as provisional settlements and it is impossible to create them due to their financial conditions.
- c) There are no plans and projects needed to address urgent housing issues.

4. Also, to create a clearer picture on housing situation in Albania, we have requested information from all local government units concerning:

- a) The social housing criteria to be met by applicants;
- b) The total number of applicants who have the status of "the homeless";
- c) The number of persons who were provided low-cost housing and social housing rent;
- d) Funds allocated for housing and the percentage of budget allocated that is used for the construction of rented houses.

Pursuant to Law No. 9232 dated 13.05.2004 "On Social Housing Programs for Residents of Urban Areas", as amended, some criteria for applicants are listed as below:

- They do not have houses (rented or safe-keeping)
- Families living below housing rates
- Single parent families

- Retired old people
- New couples with a total age of 60 years
- Disabled people
- Family income

After identifying most of the cases, it is found that the number of applicants with the status of *"the homeless"* is increasing, a situation faced even after the enactment of the normative act of Council of Ministers, No. 3, dated 01.08.2012, *"On emptying the buildings to the legal owners living in the buildings, former property of the expropriated entities"*, but most of the applicants do not benefit from the said standards due to failure to meet the relevant criteria.

Additionally, it is noted that most of the local municipalities suffer from lack of funds allocated for social housing construction.

Further, on all housing issues, particularly for the protection of vulnerable groups, we are drafting a separate report under Article 27 of Law No. 8454, dated 04.02.1999, *"On People's Advocate"*, which will be soon forwarded to Parliamentary Commissions and central and local public administration bodies.

Conclusions

The right to housing continues to be one of the most affected social objectives, especially in terms of its delivery to the vulnerable social categories.

In view of the above, the People's Advocate will further aim to examine the complaints on *"Meeting housing demands"*, mainly focused on:

- Formulation of recommendations with the view of encouraging the central and local Public Administration Bodies to draft a strategy for the social objective of housing at standards set for the families in need, disabled people, Roma community and other stakeholders, who do not receive social assistance.
- Follow-up of Roma community issues for the amendment of the current legislation as regards the fulfillment of criteria to employ the opportunities provided by the central and local government for the housing issue and simplification of application procedures at the respective offices for a wider access and facilitation for the completion of documentation as regards the housing issue.
- Formulation of recommendations for a faster allocation of adequate funds from the state budget, local government bodies for social housing construction to treat with priority the individuals or homeless tenant families living in the former properties of the expropriated entities upon the specific requests of municipalities.
- Formulation of recommendations for potential legal amendments regarding the

criteria established for the homeless families, with the view of treatment under social housing programs and potential opportunities to benefit therefrom.

I. Economic Aid

Overview

Economic aid program aims to protect vulnerable persons, who are not able to provide an adequate standard of living for themselves and their families.

Law No. 9355 dated 10.03.2005, "On Social Aid and Social Services", as amended, sets out the system of social welfare assistance and economic aid provided to the families of Albanian citizens, who completely lack or have inadequate incomes and livelihoods. In cases when it is necessary and possible state care public services are provided instead or as an addition to economic aid. Poor families or families in need, are considered those families that do not have any financial or material income and also other families with insufficient incomes from economic activity, other social protection programs and capital.

Applications filed on this issue have consisted of unjust termination of economic aid, denial of the right to receive economic aid, failure to timely provide payment of aid, or even demands for clarification regarding the benefits provided for in the economic aid legislation. During this year the People's Advocate Office received 49 applications. The process has been completed for 44 applications, of which 25 resulted unfounded, 2 fell out of the scope of authority, one was out of the jurisdiction, 12 were resolved in favor of the complainant, 2 recommendations were accepted and 2 rejected. Five other applications are still under examination.

Failure for several months to give the economic aid and the disability allowance at municipalities and communes across the country has been in the focus of working activity of the People's Advocate.

These payments started to be delivered in December 2013 and the government promised there would be no delay in providing economic and disability allowances. Delayed payments will be taken starting from January 2014 onwards.

The present system of economic aid can provide the necessary income for the poor, but it does not help them escape poverty. Many Albanian families support their living only with economic aid, without other family income.

While processing the relevant applications, we found that many citizens are not given economic assistance because the social administrator has observed their socio-economic conditions and concluded that they live in good economic conditions. Their claim is based on the fact that if the conditions for economic aid are met, despite having a well-furnished and adapted apartment at the time of application for financial assistance, the family does not receive any income or low income, they are not granted the economic aid.

As we stated in the Annual Report of 2012, one of the issues related to the economic aid is also failure to declare the minimum living standard in Albania. This matter has to be addressed, given that the minimum living standard is not only an indicator of the individual needs to survive under the current conditions but it also serves as a basis on which the levels of benefits from the social protection schemes are determined.

Analysis of Specific Cases:

Application registered as **Doculive No. 201301198** involved the claims of a citizen from Tirana city, head of family, unemployed, with three young dependent children and without any economic income. She was not given economic aid because her family is not registered with the registry office of the current residence. For this reason even her daughter was not enrolled in any of the 9 - year secondary schools, while the little 6 - month old child was not registered with the registry office.

Ten years ago, this citizen together with her deceased husband had come from Lushnja to live in Tirana. She was registered with the registry office of Kavaja municipality one year ago, to be later transferred to Tirana. Lack of documentation in the registry office of Tirana municipal unit No.11 caused this family composed of four members and without any living incomes, to be not included in social protection programs and therefore could not benefit from the economic aid system, nor registered as unemployed jobseeker or could not benefit housing.

Although the Law 10129 dated 11.05.2009 "On Civil Status", as amended, Chapter III, Article 15, has set deadlines for declaring, registering and changing the residence of nationals, where paragraph 3 of this Article states: *"In case of change of residence, or when a flat is no longer used for personal or family use, this change shall be declared in the registry office. Initial registration of residence or change of residence is done no later than 30 days from arrival to the residence. The same term also applies for the declaration of apartments that do not have resident status"*, lack of information and lack of financial means to pursue legal proceedings, has caused this family not be listed in the registry of Tirana Municipal Unit No. 11. To assist this family, under Article 15 of the Constitution of the Republic of Albania, which describes the rights and fundamental freedoms as "indivisible, inalienable, and inviolable rights, standing at the very foundation of the entire legal order", sanctioning equality without discrimination to all citizens residing in the territory of the Republic of Albania and based on the principle of the UN Convention "On the Rights of the Child" that highest interest for the child shall be a primary consideration of the work of state administration, we recommended to the Head of the Municipal Unit No.11 to take measures for registering this family with the registry office of the municipal unit No.11 of Tirana, in order to make possible for this family to benefit from social protection schemes and economic aid for her family.

After our institutional mediation, this municipal unit expressed its readiness to take appropriate measures to resolve the issue.

Application registered as **Doculive No. 201301486**, filed by a citizen from Tirana, involved claims on the termination of her economic aid. After the intervention of our Office with the Major of Tirana Municipal Unit No. 1, we found that she was not a resident of that unit. The fifth paragraph of DCM No. 787 dated 14.12.2005 "On setting out the criteria, procedures and amount of economic aid" expressly provides: *"When applicant families change residence, they shall submit to the registry office of the new residence, within 30 days, a document proving they have benefited economic aid in the previous residence "*.

In order to help this citizen benefit economic aid, we informed her that in order to register with the Municipal Unit No. 1, she needed at least one year lease agreement within the administrative territory to submit it to registry offices. Then, within 30 days she had to appear before the economic aid office of the Municipal Unit No.1 to submit the document to prove that she benefited economic aid from the Municipal Unit No. 4

- Considering the story broadcasted on "News 24" TV, titled *"Family Peçi in misery, appeal for help in News 24"*, the People's Advocate Office, in accordance with the first paragraph of Article 13 of Law No. 8454 dated 04.02.1999 "On People's Advocate", as amended, started to investigate this case *ex - officio*. That family lived in very difficult economic conditions. One of the boys was mentally ill and needed medical treatment. The family did not receive any economic aid and in these conditions they appealed for help because they could not afford even the most immediate needs for their everyday living.

As the head of Peçi family had never gone to the office of economic assistance to apply for the economic scheme, we advised him to go to the social administrator of the Office of Economic Assistance of Kajan Commune to file an application for social assistance benefits, under the legal provisions.

- We were informed on 19.04.2013, through the print media and respectively the newspaper "Gazeta Shqiptare", in its article titled: "Elderly of Shkodra nursing home in protest, it is 7-months they have not received pensions" that 40 elders, residents of the House of Elders of Shkodra, had not taken the amount of 6000 ALL for 7 months, which they use for personal expenses.

The said center housed 73 elders, of these 31 had never been employed and received a monthly benefit as personal assistance amounting to 6,000 ALL per month. This amount was given to the elders by the fund provided in item "602", which included expenses for food, electricity, water, repairs etc. At the beginning of each year funds are allocated by the Ministry of Labor, Social Affairs and Equal Opportunities but additional funds are provided over years, in order to support potential newcomers at the center and expenses are added. The elderly benefit this amount under the Decision of Council of Ministers No. 114 dated 31.01.2007 "On setting out contributions of persons placed in public residential care institutions," as amended by Decision of Council of Ministers No.898 dated 10.11.2010, paragraph 3, letter "d" , which expressly provides:

"... The elderly who have no income and are placed in public residential centers shall be given an amount of 6,000 ALL (six thousand) per month."

In order for the elderly to benefit their legal right, we addressed to the Minister of Finance and former Minister of Labor, Social Affairs and Equal Opportunities the recommendation to take measures for delivering supplementary funds for the House of Elders in Shkodra. In response to our recommendation, the Ministry of Finance expressed its readiness to support the solution proposed by our institution, within the approved 2013 budget for the MLSAEO. Meanwhile, MLSAEO confirmed the fact that on 08.05.2013 there were allocated funds amounting to 850 thousand ALL.

Conclusions

Regardless of the initiation of project implementation for the modernization of economic aid by building an electronic register of beneficiaries for financial aid and creating a scoring evaluation system of needs, where data will be verified online, further improvement is required in terms of:

-Level of financial aid delivery.

- Identification of the needs of families included in the economic aid scheme. Due to monthly limitation (ceiling) of 8000 ALL per household, according to the current mechanism, the multi-member families benefit on average a lower financial amount per capita than the other poor families with a smaller number of members. The maximum ceiling of the amount of financial aid per household should be increased.

-Economic aid should be delivered in due time and not be subject to delay as it is the only source of daily living for the beneficiaries. Therefore, necessary measures should be taken by the state authorities for the timely delivery of this payment.

We bring once more to your attention that since the level of benefits from the social protection schemes is linked with the minimum living standard, the requirement for its specification remains a legal duty and vital need for specific categories of the Albanian society.

J. Consumer's Protection

Overview

Consumer's protection is introduced as one of the key areas directly linked with the protection of human rights. Regulation of this area is based on three pillars such as the consumer's health, consumer's security and protection of consumer's rights and economic interests.

Article 4 of the Law No. 9902 dated 17.04.2008, "On consumer's protection", as amended, has briefed the basic principles to be practically applied in the adequate legislation such as:

1. The right to protection of health, environment and life safety;
2. The right to protection of economic interests;
3. The right to complaint;
4. The right to compensation;
5. The right to education;
6. The right to receipt of information;
7. The right to use public services;
8. The right to legal defense;
9. The right to assembly in organizations or unions for the protection of consumer's interests and their right of decision-making representation.

Law No. 9902 dated 17.04.2008, "*On consumer's protection*", as amended, constitutes the core legislation on this right, where the People's Advocate is recognized a special role under article 56, for the protection of consumer's interests not only for individual complaints but also for a broader nation-wide community.

For the year 2013 we have processed 313 individual complaints of citizens and cases investigated upon initiative *ex officio*, of which we examined 249 and 64 other cases are still under examination. Of the completed cases, 208 complaints or some 83% were solved in favor of the complainants (of these 23 were settled with accepted recommendations). As regards 34 complaints, the allegations of complainants have proven to be ill-grounded and 4 cases fell out of the competence and jurisdiction of the People's Advocate Office. Further, in respect of three complaints, the process of administrative investigation was finalized due to the withdrawal (abandonment of the proceeding under article 102 of the Administrative Procedure Code) by the complainant.

Analysis of Specific Cases

1. In support of the exercise of its constitutional and legal powers for the protection of consumer's lawful rights and interests, the People's Advocate Office identified the concern of food safety and expired goods circulating in the market and not disposed of by the commercial entities. In this case we have requested from the respective authorities continuous monitoring and audits of the commercial companies, disposal of products in cases when they are reportedly expired and adoption of corrective measures against commercial companies.

Further, we identified a case covered by media on the content of a large amount of aflatoxine in milk that has circulated not only in the Albanian market, for which we recommended setting up standards on the quality of food products, in respect of the Constitution of the Republic of Albania, when the person's life is protected by law²⁰, with the view of preventing cases when the consumer's life is at risk, as well as the implementation of the Crosscutting Strategy for Consumer's Protection and Market Surveillance (2007-2013), approved by DCM No. 797 dated 14.11.2007.

2. Drinkable water supply within all hygienic-sanitary parameters has been another area of activity for the protection of lawful interests of consumers, considering the delivery of this public service as a basic need for the individuals and a fundamental right to freely enjoy it and in accordance with the relevant standards.

To this end, through recommendations we have brought to the attention of the national Companies of Water Supply-Sanitation sh.a not only the exercise of functional duties in terms of the delivery of a qualitative public service, but also the observance of EU directives for consumers' protection and especially those which are related to measures in specific areas, with a direct impact and key importance for the consumer's health, such as the drinkable water quality²¹.

3. Another issue of concern is related to the absence of energy and drinkable water supply, also reported in most of the cases due to the non-execution of new investments and wear and tear of the existing networks (water supply and sanitation networks) due to the lack of funds by the competent bodies.

In our recommendations about this issue, we have aimed (mainly to the Directorate General of Water Supply-Sanitation and line ministries), to encourage the drafting of new projects and make relevant investments in cases of wear and tear of the existing networks, such as the cases of Patos Municipality, Zinxhira Quarter in Gjirokastrë, "11 Janari" Quarter in Vlorë, Bërdica Commune in Shkodra etc.

4. Overbilling or misbilling has also been a persisting concern over years both for the

²⁰ Constitution of the Republic of Albania, Article 21, " Individual Rights and Freedoms", p. 14

²¹ Drinkable Water Directive (98/83/CoE) dated 03.11.1998, a set of standards focused on human health protection by established criteria of health and clean environment.

Company CEZ Distribution and the Water Supply-Sanitation Company.

Having noted that billing against the citizens has been contrary to legal provisions in force, referring to the standard contracts of energy and drinkable water supply, we have recommended the adoption of immediate measures by the Company CEZ Distribution sh.a. and Companies of Water Supply-Sanitation sh.a, cancellation of billing, respective arrangements and correction on the basis of real consumption of the amount of energy and drinkable water.

5. Another case initiated *ex-officio* is related to the implementation of measures by Kukës municipality for the payment of drinkable water bills under the economic aid, where a withholding of 18% is applied to all economic aid beneficiaries, for the drinkable water bill payments and the Municipality applied the same scheme for the collection of local taxes in the beginning of each year.

The People's Advocate Office, within the scope of constitutional activity and accomplishment of its functional and constitutional duties, has reported that the actions of Municipality for the collection of drinkable water bill fees by making withholdings from the economic aid are manifestly at variance with law.

Without doubt, our institution is not against the delivery of public services, in the concrete case, the drinkable water supply and its non-payment by the consumer but the current legislation has provided for other penalties for the persons who prove to be debtors in relation to the payments of public services.

In reference to article 52 of the Constitution of the Republic of Albania, its paragraph "2"²² stipulates: "Everyone, who remains without work for reasons independent of their volition, and has no other means of support, has the right to assistance under the conditions provided by law". In the meaning of this article, the benefiting character of economic aid for the individuals who have no employment opportunities is a manifestation of social protection realized through the fulfillment of social objectives and as such, their implementation is closely linked with the state obligation to ensure the guaranteeing and provision of appropriate means for life needs.

Further, according to Law No. 9355 dated 10.03.2005, "*On social assistance and social services*", as amended, its article 1 provides the "Scope", citing that:

This law aims:

To identify the social assistance and social services for individuals and groups in need, who cannot meet their basic life needs, development of skills and personal capabilities and preservation of integrity due to restricted economic, physical, psychological and social skills and opportunities.

²² Constitution of the Republic of Albania, Chapter IV, Freedoms and Economic, Social and Cultural Rights

Mitigating poverty and social exclusion for individuals and families and to create opportunities for their integration through the delivery of a system of interventions and services to improve their living.

According to the above legal provisions, economic aid is nothing more than a support both in cash and in kind for individuals with special status and the families in need.

Additionally, the legal provisions in force and particularly article 10 of the Water Supply Contract entered into between the consumer and the supplying company, provide for the consumer's right to the payment of drinkable water bill.

This article reads:

1. The consumer shall pay the fee by the twenty eighth day of the following month to the designated help desks of the operator via bank accounts or in other ways agreed thereupon by the parties.
2. If the payment is not made within the required time limit, the consumer shall pay the default rate according to the legislation in force.
3. If the payment is not made within 30 days after the expiry of time limit set out in the first paragraph of this article, the operator shall be entitled to terminate the water supply. The Operator may terminate water supply only if he has sent to the consumer a 5-day prior written notice. The written notice shall also include the fee for the applicable re-connection in that case.

Therefore, the legislation foresees other penalties for consumers who do not make payments of drinkable water bills and no deductions will be made from the sources of living means and furthermore from the financial aid of the needy persons.

As above, following our recommendation for the adoption of immediate measures on cancelation of the collection of drinkable water bill fees to the persons who benefit financial aid from Kukës Municipality, the illegal collection of this fee has been terminated.

6. The People's Advocate activity for the protection of consumer's rights and especially for those groups in need such as the disabled people, was focused on recommendations to the Public Administration bodies such as the Ministry of Social Welfare and Youth/Ministry of Finance for the disbursement of funds regarding the subsidy payments of energy bills.

Specifically, during 2012 the Law 26/2012 of 05.04.2012 "On some amendments to Law No. 8098 of 28.03.1996, *"On the status of the Blind"* and Law No. 27/2012 "On some amendments to Law No. 8626 of 22.06.2000, *"On the status of paraplegic and tetraplegic invalids"*, their article 12 was amended as follows: *"Paraplegic and tetraplegic invalids and the blind who have acquired that status, shall benefit compensation of the energy and phone bills. The amount, criteria and procedures to*

benefit this financial compensation shall be specified by a Decision of the Council of Ministers”.

With the amendments made to the above mentioned law, the company “CEZ Distribution” sh.a. proceeded with the subsidy of energy bills until the end of April 2012. After this date, the full payment of energy bills continued for all the consumers holding the status of the paraplegic invalids as well as the blind, according to the provisions of DCM No. 404 of 20.06.2012, *“On classification of the level of criteria of financial compensation benefitting procedures for the people with the blind and paraplegic invalid status for energy bills and fixed line phone bills”*.

The above mentioned DCM stipulates:

1. *The beneficiary individuals of the status under Law No. 8626 of 22.06.2000, “Paraplegic and quadriplegic invalid status”, as amended, who need a caretaker, are given compensation for the energy bill up to a monthly amount of 2000 ALL.*
2. *The beneficiary individuals of the status under Law 8098 of 28.03.1996, “On the status of the Blind”, as amended, who do not need a caretaker, are given compensation for the energy bill up to a monthly amount of 2000 ALL.*
3. *The beneficiary individuals of the status under Law No. 8626 of 22.06.2000, “Paraplegic and quadriplegic invalid status”, as amended, and the beneficiary individuals of the status under Law No. 8098 of 28.03.1996, “On the status of the blind”, as amended, who do not need a caretaker, are given compensation for the energy bill up to a monthly amount of 1400 ALL.*
4. *The compensation amount shall be calculated and withdrawn at the local government units, where the blind, paraplegic and quadriplegic invalids have their place of residence...*
5. *The local government units shall deliver the payments for the compensation of energy bills and of the fixed line phone bills from the bank services or “Albanian Post Office” sh.a.*
6. *The financial effects deriving from the enforcement of this decision in 2012 were covered by the approved funds for the former Ministry of Labor, Social Affairs and Equal Opportunities.*

On the basis of the foregoing, according to the applicable legal provisions by the Municipalities, the subsidies of energy bills had to be paid on a monthly basis for the disabled people but that right has been denied for many months due to lack of funds.

As above, in reference to article 59/f of the Constitution of the Republic of Albania: *“The state, within the constitutional powers and remedies available and fulfilling the initiative and private responsibility, aims at: f) health recovery, specialized education and social integration of the disabled, and continuous improvement of their living conditions”*.

According to Law No.108/2012, dated 03.12.2012, *“On ratification of UN Convention on the rights of disabled people”*, article 4/2 provides for the general obligations of states: *“Regarding the economic, social and cultural rights, each Contracting State*

undertakes to adopt all proper measures to the fullest extent of the existing sources and if necessary, within the framework of international cooperation, in order to progressively achieve the full implementation of these rights without prejudice to those obligations set out in this Convention, which according to the international law, are immediately applicable”.

By analyzing the above legal provisions, the People's Advocate Office aimed not only to set in motion the competent bodies but also to raise their awareness about the importance of issues as subsidy and payment to the disabled for the delivered public services such as the energy bill.

In view of the above, we have required the adoption of concrete actions regarding the disbursement of respective funds for the implementation of this process (subsidy of energy bills) within the shortest time possible, with the view of protection and enjoyment of all the rights of disabled people for a normal living, free of barriers and real socio-economic integration.

7. The activity of the People's Advocate Office was also focused on the case covered by media on application of the Urban Transport Association for the increase of urban transport ticket price.

Specifically, the Passengers Transport Association filed an application to Tirana Municipality for the increase of ticket price from 30 to 70 ALL, starting from January 2014.

In the letter sent to Tirana Municipality, we claimed that during the processing of the application of Urban Transport Association, due account should be taken of two criteria related to the current standards provided by the urban transport and the national minimum living standard of citizens.

In the reply sent from Tirana Municipality, the two above referenced criteria were taken into account and it was deemed that the offered service cost did not have to be covered only by the public transport operators but also the local government had to directly subsidize that service through unconditional grants for the local government, providing the social subsidy for the category, which according to law, benefit free public transport and by launching other mitigating initiatives such as the reduction of VAT for public transport or removal of fuel excise.

Conclusions

To improve the lawful interests of consumers under the conditions of accession to the European Union, according to article 76 of the Stabilization Association Agreement, the People's Advocate Office will continue to attach priority to the areas of key importance such as food, delivery of public services for water, energy etc.

Regarding these cases we will aim at:

- Recommendations for the approximation of consumer's protection legislation to the present *acquis communautaire*.
- Recommendations for the promotion of respective bodies for designing a new crosscutting strategy on consumer's protection and supervision set out from 2014 onwards.
- Recommendations on the quality of food products, in accordance with the Constitution of the Republic of Albania.
- Recommendations for the compliance with Instructions of the United Nations and EU Directives for consumers' protection and especially those regarding measures in specific areas, which directly influence and are especially important for the consumer's health.

K. The right to health care

Overview

Our health system should reflect state, professional and social values, and the need for quality health services should embody values in terms of professional establishment and development of all health care workers at each level.

General considerations of the public opinion consider the health system as corrupt, inefficient and of low-quality. If the money spent abroad or in local private clinics and hospitals were invested in the public health service and used to improve the health system, it would be much more useful. Albania is still far from providing a standard health service within the parameters of our neighbors, and even way below the EU standards. If there is a sufficient commitment of funds, wages, investments, maintenance and other related components, and effective management of available resources, the figures will continue to rank Albania as one of the countries that does not invest enough in the quality of life of its citizens.

The People's Advocate believes that humanism of state institutions and their responsibility to respect the individual rights and freedoms are the cornerstones for a successful public health service. Ideas for filling many gaps in this service have remained simply and only in the stage of designing appropriate programs and strategies. The People's Advocate Office has exercised its activity in this field of human rights, for the purpose of treating patients with dignity, to provide life protection and guarantee, based on the Constitution of the Republic of Albania and the legislation in force, focusing on streamlining inspections in regional hospitals in Albania, as well as in *ex-officio* relevant cases. Problems and issues related to the Ministry of Health and its affiliates have been reflected in the requests addressed to this Ministry to treat patients abroad, lack of medicine in hospitals, negligence in providing health care, labor relations etc.

Specifically, a total of 75 applications were filed in 2013, 10 cases initiated *ex-officio*,

or 7 inspections in the field of health. Of these, 61 applications were concluded, 14 are in the process of examination, 28 are unfounded, 3 fell out of scope of authority, 17 were settled in favor of the complainant, 5 resulted in the withdrawal of the party. Further we had 4 accepted recommendations and 3 were rejected by public administration bodies.

Analysis of specific cases:

▪ **Inspection in the Digestive Surgery Unit at the University Hospital Center of Tirana, registered as Doculive No. 201200222**

Specifically, the inspections in question have found, *inter alia*, issues which unfortunately remain the same over years. There is too much humidity in patient rooms and in the nurse room, whereas in almost all toilets of the ward (in patients' rooms) there are broken plumbing equipment. As a result, the situation could be well considered outrageous and in non- hospital conditions. Continuous supply with medicine was problematic, while inpatients are obliged to buy in private entities almost every drug they need for their medical treatment. Another problem was related to the quality of medicines administered, which due to policies applied in reference to the current legislation on public procurement, under which the lowest price offered by the participants in the tender procedure is decisive, they are the cheapest (lower quality) in the market. Despite the staff work, hygiene in the internal ward leaves much to be desired because of unhealthy environments, and the lack of implementing restoration works for a long time. Also, lack of supply or low quality were also observed in washing detergents while the bad quality of soaps, due to their lower buying price, makes the latter unusable.

Supply of the ward with sanitary and bedding equipment was well resolved by contracting a private company, which timely supplied sheets, towels and blankets. The supply of food was acceptably resolved through tendering and service delivery by a private firm. The ward staff with whom we communicated reported that their problems were about the improvement of work conditions, and the furnishing of rooms of physicians and nurses, as the furniture of these facilities are too damaged. Additionally, the staff of this ward stated they had required from the management to be transferred to the new hospital which has been recently built (specifically planned to be transferred to the last two floors of the new hospital) but there is still no solution. Regarding the medical treatment, there were no applications, where despite the difficult working conditions, **they displayed highest commitment to their patients**. This was confirmed by many family members present during the inspection in question.

After re-findings that we made, we recommended:

- *Adoption of measures to provide funds for the transfer of surgical service ward to the new hospital building, where there is also the emergency unit for this service.*

In its reply the Ministry of Health reported, *inter alia*, that it is committed to provide a soft loan for physical infrastructure and modern medical technology for this service as a priority of the Ministry of Health.

▪ **Inspection in the Oncological Hospital of Tirana, registered as Doculive No. 201300953**

After we conducted the inspection in 2013, we regretfully found that situation at the Oncological Hospital of Tirana was problematic as in 2011. This is a very important hospital in the national hospital service. Specifically, Mr. Agim Sallaku, Head of Oncological Hospital Service, reported that the budget for "cytostatic" drug is reduced over years. In 2009 the budget amounted to 5.6 million dollars and then it was dramatically reduced in the recent period up to 2.7 million dollars. This budget does not meet the needs, as the number of patients in the last 20 years has increased over twice. Accordingly, the demand for treatment with cytostatic is growing. Also, it is worth stressing that 20-30 % of patients who come for medical examinations and check-ups at this hospital are from Kosovo. The current situation was also caused as a result of failure to carry out tendering procedures for 2013, by the Ministry of Health. The emergency of solving this problem becomes even more immediate, *inter alia*, because the price of cytostatic drug is high and not all patients are able to buy it in private pharmacies. After concluding on this situation, we recommended:

- *Measures should be taken to satisfy the demands for supply with "Cytostatic" drugs in the oncological hospital at the UHC, Tirana.*

The Ministry of Health reported, *inter alia*, that for 2014 measures are taken to provide the cytostatic drug at a price amounting to 750 million ALL compared to 340 million ALL that was in 2013.

▪ **Inspection in the Regional Hospital of Tropoja and Kukës, registered as Doculive No. 201301383/84**

A main issue for Tropoja hospital was lack of medical staff, specialists such as reanimation operators, pediatricians, cardiologists and general pathologists. It counted only 5 physicians out of 12 that should be working at this unit. Another problem was the lack of funds for fixing the elevator of the hospital which was essential for the transport of patients.

A master plan has been prepared for reconstruction of the building of Kukës hospital but funds are not yet disbursed from the Ministry of Health. The heating system in summer does not exist in any wards. Also, there is no elevator system to transport patients from one floor to another. Another concern reported by the staff is the aggressive behavior of the relatives of patients, in particular cases, against the emergency personnel, when in many times their life is threatened. After concluding on this situation, we recommended:

- *Measures should be taken to meet the needs as per requirements for all the*

problems encountered by our institution, in hospitals of Tropoja and Kukës.

The Ministry of Health stated that in the framework of the health system reform, it focused its work on upgrading physical infrastructure, medical technology, capacity building of human resources and improvement of the regulatory framework in Tropoja and Kukës regional hospitals.

▪ **Inspection in the Regional Hospital of Korça, registered as Doculive No. 201302043**

One concern was the lack of medical specialists at the institution such as neurologists, surgeons, rheumatologists, pediatricians, nephrologists, toxicologists etc. The lack of medical equipment forces patients to seek solutions to private hospitals or refer to the UHC in Tirana. Maternity hospital needed construction, which left much to be desired in terms of walls or the general view. After the inspection we recommended:

- *Measures should be taken to staff the Regional Hospital of Korça with medical specialists and allocate funds for the reconstruction of maternity hospital.*

The Ministry of Health reported, *inter alia*, that it is committed to improve infrastructure, medical technology and strengthen human resource capacities in Korça Regional Hospital.

▪ **Inspection in the Regional Hospital of Përmet, registered as Doculive No. 201302088**

During this inspection we encountered a number of problems, e.g. the food was of poor quality, there was no central heating and cooling system and heating was provided through radiators furnished by the patients themselves. Medical staff was very limited in number and nurses of this hospital did not have due qualification for the work they performed. There were poor sanitary conditions in rooms, toilets and corridors. Also, supply with food supply items did not meet the needs of patients and medical staff. Many drugs were provided by patients themselves. Incineration of wastes was not realized through autoclaves because they had never been operational at this hospital, and the waste was collected and disposed of by Përmet municipality. Another very troubling issue was the lack of medical staff with specialists such as radiologists, surgeons, neurologists, pediatricians, gynecologists etc. Lack of medical equipment such as X-ray forced patients to seek solutions to private specialists or to address to the University Hospital Center in Tirana. The building of the regional Hospital of Përmet needs reconstruction and though some repairs have been done, there are parts that leave much to be desired, such as the walls or general appearance of the hospital. A matter of concern in this hospital, and based on DCM No.798, dated 29.09.2010 "On approval of rules for hospital waste management" was that hospital wastes were thrown in different locations, and not burned in crematorium as it should really happen. Following these findings, we recommended:

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- *Measures should be taken to resolve the problems encountered, in order to meet the standards for providing hospital service for patients at the Regional Hospital of Përmet."*

The Ministry of Health reported, *inter alia*, that all proper measures are being taken regarding the problems encountered in the Regional Hospital of Përmet.

▪ **Inspection in the Regional Hospital of Peshkopi and Bulqiza, registered as Doculive No. 201203884**

During this inspection we found that heating system of hospital facilities was accomplished with central heating and it was functional. Supply with medicaments was generally good, especially for the emergency unit, which according to hospital executives was also the main service at the hospital. A problematic issue remains the implementation of procurement process for the purchase of drugs from the Regional Hospital of Peshkopi, a process which in the case of delays, suspension, or cancellation, affects the timely supply with medicines of Bulqiza District Hospital. Another problem observed was related to the lack of professional medical staff such as reanimation operators, anesthesiologists, surgeons or gynecologists. As regards treatment, there were no applications. This was confirmed by patients and their family members, present at the time of inspection in question. Besides these surveillances made at the time of inspection, we emphasize that especially the lack of professional medical staff is a serious concern raised in other applications of other trade union entities organized in the mineral extraction industry in the area of Bulqiza or even in programs or different TV chronicles where it is reflected the state of medical service in Bulqiza Hospital.

According to the management of this medical institution, lack of medical staff has transformed the hospital of Bulqiza into an emergency health service rather than a hospital, which should provide all hospital services because in these conditions surgical intervention cannot be performed. Hence, in many cases patients who need to undergo surgeries are sent to the regional hospital of Peshkopi, which is located about one hour away from the hospital of Bulqiza district and in circumstances where the roadway to this destination is bad. This problem becomes more immediate, *inter alia*, because the work of miners in the mine chromium adits of Bulqiza is an activity with increased risk, proven by the frequent accidents that have been occurring during work at the mine. Following these findings, we recommend:

- *Necessary measures should be taken to increase the number of professional medical staff, such as reanimators, anesthesiologists, surgeons or gynecologists. Also, measures are required to provide timely supply with medical drugs, effectively solving issues of delays caused due to the performance of tendering processes by the Regional Hospital of Peshkopi.*

The Ministry of Health reported that problems encountered will be taken into consideration for potential solution in the future.

▪ **Inspection in the Regional Hospital of Shkodra, registered as Doculive No. 201300837**

With the intention not to focus on the historical background of Shkodra Regional Civil Hospital, we should clarify that surgical activity at this hospital is the second one after the hospital in Tirana because there are treated many serious medical cases such as patients suffering from kidney disease, namely patients treated with dialysis, those suffering from heart disease or tumor but the funds granted to Shkodra hospital are minimum and lack of funds brings poor quality of hospital service, thus asking patients to buy the medication they need. Another issue of concern is that the cost of a patient surgery is never calculated and in this connection the Ministry of Health should send an annual draft related to the calculation of funds.

The third issue of concern at this hospital also based on DCM No. 798, dated 29.09.2010 "On approval of rules for hospital waste management" was that medical wastes were thrown away in different locations rather than burned in the crematorium. The devices for incineration of hospital wastes were not functional.

The fourth problem is that the operation room of the surgery ward had no ventilation or air cooling system during summer. Also, this service lacked in some other departments like Pediatrics and Pathology. The fifth problem at that hospital was food quality. Food was not consumed by patients and they provided food by themselves. Following these findings, we recommend:

- *Measures should be taken to resolve the problems found, in order to meet the hospital service standards.*

The Ministry of Health reported, *inter alia*, that measures are being taken to implement our recommendations.

▪ **Ex-officio case initiative registered as Doculive No. 201301339**

The People's Advocate Office initiated an administrative investigation for an article in the newspaper "Gazeta Shqiptare", titled "The physician refuses to work with a nurse because the latter wears a headscarf." This writing was about an incident occurred between the endocrinologist F.Gj., and the nurse I.H., who was working with her. The latter is a Muslim and wears a headscarf and for this reason the physician told her that the Institution where they were working is laic and women wearing headscarves were not accepted. This event later degenerated into physical conflict between the hospital director B.S, and a relative of the physician in question, where the parties were taken to the Police Station. Our institution has already explored the fact that an employee of the state administration, physician and intellectual addressed to a religious woman, saying: "You are wearing a headscarf. This Institution is laic and not religious, and the state is laic so go and work at institutions where you are allowed to wear a headscarf."

Among the large number of international acts, we can mention Article 18 of the

Universal Declaration of Human Rights, which states: "Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or beliefs, alone or together both in public and privately, through education, practice, worship and observance". Article 10/2 of the Constitution provides that "The state is impartial in questions of belief and conscience, and also, it guarantees the freedom of their expression in public life". Additionally, Article 24 of the Constitution stipulates: *"Everyone is free to choose or change his religion or belief, as well as to express them individually or collectively, in public or private life, through cult, education, practices or performance of rituals."*, also Article 17/1 of the Constitution states: *"The limitation of rights and freedoms provided for in this Constitution may be established only by law for a public interest or for protection of the rights of others. A limitation shall be proportional to the situation that has caused it"*. Moreover, the restriction that can be applied in these cases cannot violate the essence of freedoms and in any case it shall not exceed the limits laid down in the European Convention on Human Rights under Article 17/2 of the Constitution.

In these circumstances, the Constitution of the Republic of Albania, European Convention of Human Rights and organic laws do not restrict freedom of religion and religious practices and, consequently, cannot be discriminated against an individual only that he practices a particular faith. Naturally, the question arises: Can a state administrative body or its personnel restrict freedoms guaranteed by the Constitution? Definitely: "Noone". Freedom to manifest one's religion or belief may not be subject to other restrictions, except those prescribed by law and which are necessary in a democratic society, in the interest of public safety, public order, health and morals or the protection of rights and freedoms of others. On the other hand, we should bear in mind the general principle of law that what is not precluded by law is expressly allowed. In this case, the clothing and covering of the believer cannot be considered in violation of the standard of coexistence in a public institution, and excessive outer appearance, as it does not hinder the professional process and does not prejudice coexistence in community. Following these findings, we recommend:

- Measures should be taken against the endocrinologist F.Gj., in Burrel hospital.
- Engagement and awareness of all health facilities for preventing the re-occurrence of discrimination cases not only among medical personnel but also against patients treated by these units.

The Ministry of Health reported that it has asked from the Hospital Service Department of Mat to take appropriate measures to implement recommendations of the People's Advocate.

▪ **Ex-officio case initiative registered as Doculive No. 201302449**

Experts of the Office inspected in October the Health Centre No.1 of Tirana. This inspection was conducted following the application filed by an old patient H.S., who stated that patients who received medical treatment in that Institution had faced bad

conditions for months. Inspection was focused on monitoring, collection and assessment of opinions, actions and practices of legal obligations of its personnel with regard to the respect of patients' rights. This health center consisted of a staff of about 44 medical specialists and 40 supporting staff nurses. There were 350 thousand people living in this area that received treatment at this center, a significant number of patients who, at least once a month, had to cope with the conditions and deliver the specialized medical service in these facilities. Territorial area includes residents of the City of Students (Campus), Bërzhita, Shkoza, Krraba, Petrela, Dajt and Medical Centers No. 1, 2, 10. Supply of necessary items like medicines, kits, reagents, film and other related supplies was normal, with a minor lack for about two weeks due to tendering procedures, and 3-month absence of the director due to health reasons. We asked Mr. Progri, in his capacity as the director, to explain us the reason that had caused the suspension of work, as the billboard outside the facilities showed that investment should have been performed early in the institution. He stated: "I do not know anything since I was not a member of the bidding evaluation committee conducted by the RHA Office and the Ministry of Health, and I have not seen any contracts or documents related to this investment." He said that in his knowledge and what he had asked from the said ministry as well as from the health authority, he had been reported that they would be transferred somewhere, but no solution was provided. Finally the RHA's lawyer claimed that the investment company had no building permit to reconstruct the health center.

On-site inspection of interior and exterior facilities of the building found that the walls of the first floor had much humidity and mold; tiles of the corridor were broken in most areas; physicians' rooms and laboratories had much humidity. The situation was worse in dermatologist room, where the windows were decayed due to humidity. The toilet in the first floor (the only one in the building) was out of order and locked by the staff. The second floor of the building had a highly damaged ceiling connected with the building's roof and the staff reported that in heavy rains water enters inside the facilities. This was because the company had carried out some intervention works on the terrace a few months ago. An outrageous situation was found in Room No. 24, where there was the newest and most expensive device called "Audiogram." In rainy days, this device did not provide service to patients because the rainwater entered inside. This situation is considered intolerable not only risking to damage the device but also lacking the service delivery to patients who need this examination. Following these findings, we recommended:

- *Measures should be taken to transfer the Specialties Health Centre No.1 of Tirana, to a suitable environment for the medical treatment of patients, in normal and decent conditions, until the completion of its full reconstruction.*

The Ministry of Health reported that the delay for reconstruction works of this Health Center has been caused due to lack of construction permit from Tirana Municipality. This problem is being negotiated to rent a building until its full reconstruction.

▪ **Ex-officio case initiative registered as Doculive No. 201300719**

The citizen from Vlora, F.Q. stated that she suffered from a rare disease called "segmental dystonia", and she had been looking around to find the drug "BUTOX" for three years, necessary for her treatment. She was in difficult economic situation and the earnings she received, respectively the disability allowance, could not afford this drug. The case of that citizen has been made public several times in print and visual media, where senior executives of the Ministry of Health had promised solution but nothing has been done.

Article 55 of the Constitution of the Republic of Albania stipulates that "*Citizens equally enjoy the right to health care from the state. Everyone has the right to health insurance pursuant to the procedure provided by law*". Law No. 10107 dated 30.03.2009 "On Health Care in the Republic of Albania" provides: "*The right to health care is a fundamental individual right*". As already known, in 2011 the Ministry of Health ratified the "Patient Card", an international document. This "card" helps the patients to possess a document through which they will "be protected and compensated in case of injury and will have access to health services." Every patient has the right to access to personal health services, as appropriate. Health services must guarantee equal access to everyone, without discrimination, based on financial income, residence, type of illness or period of service.

Following these findings, we recommended to the Ministry of Health:

- "Measures should be taken to treat this case with priority and find a rapid legal remedy for the citizen F. Q".

In its reply, the Ministry of Health stated that it is following up the concern of that national, submitting it for competence and final solution to the University Hospital Center of Tirana.

Note: Our Institution has also formulated the Draft Report on the two-year monitoring of hospitals at national level, which after the review by the Ministry of Health and non-profit organizations will be submitted for review to the Albanian Assembly.

Conclusions

In the context of examined complaints and the large number of inspections we have carried out at institutions where health service is provided, we are able to report the following issues:

Poor management and misallocation of funds, their misuse and abuse, persistent lack of medicaments and other medication supplies at hospitals, failure to conduct medical tests of the sick at public institutions due to lack of kits and reagents, inadequate therapeutic and diagnosing modern technologies in relation to the current

requirements and needs but also the existing local opportunities. This has occurred not only at regional and suburban hospitals but also at the central national ones. Even in the facilities where these pieces of equipment are available, they remain non-operational for a long time as there is a lack of repair contracts with the respective companies or they are violated. Improper management of human resources, lack of specialized physicians who leave or are retired in most of the hospitals nationwide; there is no prospective study of the needs for specialized physicians and establishment of specialized services to provide relevant specialists in accordance with these needs. Absence of accountability according to hierarchical chains.

L. For a healthy environment

Overview

Promotion and protection of a healthy environment are among the priorities of the People's Advocate Office for 2013. The problematic issues of complaints and applications examined during 2013 are mainly focused on the elimination of pollution from various environmental agents and illegal and prohibited activities, installation of cell phone antennas and risks posed to citizens by the transmitted waves, air pollution from incineration of various dangerous agents, collection of public waste in public locations harming the quality of citizens' life and health in the areas polluted by considerable waste. This is the same subject of complaints treated with priority by our institution in the past.

During 2012 there were 23 complaints of various individuals registered, asking for assistance of the People's Advocate for the due implementation of legal provisions by the public administration bodies regarding issues of clean and healthy environment, in order to improve the way and quality of peoples' life.

The People's Advocate Office has exercised its powers regarding various issues of environmental impact. In this framework, upon our own initiative we started during 2013 the examination of 8 cases with priority interests for a community of citizens of a specific area.

Of applications treated in 2013, seven (7) are solved in favor of citizens, 2 fall within other public administration bodies' competences, worth mentioning the complaint of the Institute of National Issues regarding the cancellation of permission for the construction of Namazgja Mosque because a legal process had been instituted on this case and a complaint had been submitted to the People's Advocate institution.

With regard to the addressed issues, 3 recommendations are sent to respective bodies urging response with appropriate actions, based on legal provisions, in order to guarantee a healthy environment in support of the complaints of individuals and other local residents affected by environmental concerns. In the meantime, 12 other complaints are postponed for examination in 2014.

Environmental concerns in Albania

Air pollution is one of the main environmental issues in the Albanian big cities, especially in Tirana. Air pollution is a consequence of the increase of number of cars and decrease of the urban green areas.

Water pollution in Albania is a consequence of poor waste management in rivers and lakes and poorly managed sewage system of discharge of wastewater and unprocessed waters.

Waste collection in Albania and waste recycling are made at poor quality levels. There is not any waste collection system, especially in rural areas.

Illegal cuts in forests and fires are the main reasons of deforestation and disappearance of some forests in Albania.

Climate changes have produced a significant impact in Albania. Increase of the sea level has lead to the disappearance of several meters of land along the seaside areas every year. Also, forest fires are now increased in number due to higher temperatures in summer.

Analysis of Specific Cases:

The people's awareness to call for support and responsiveness of state institutions for the environmental protection is increasing. In addition to the response of the People's Advocate Office to follow-up the case *ex-officio*, there were strong reactions from certain groups or categories of people to sensitize state authorities for public information and environmental protection, as a future and heritage belonging to all generations. Such a reaction was observed during protests of the Alliance against the Import of Chemical Weapons, which was closely followed by the People's Advocate Office.

In comparison to 2012, in 2013 there was an increase in the number of cases reviewed, thus indicating the growing importance this issue represents for the People's Advocate Office and citizens who are sensitive about the surrounding environment.

Regarding the applications examined and resolved in favor of applicants, we can mention the case initiated *ex-officio* related to sewage pollution in Lin village of Pogradec. In order to exercise constitutional and legal powers to protect rights, freedoms and lawful interests of citizens from the actions or inactions of public administration bodies, taking into account the print media reports, the People's Advocate Office initiated *ex-officio* to examine the issue of solid wastes and wastewater thrown on the shore of the lake, mainly in Lin village, harming and contaminating the surrounding environment and affecting tourism in the area.

The issues identified were related to the discharge of household and business wastewater of Lin village in the Lake of Ohrid, discharge of inert substances and solid waste along the Lake, and malfunctioning of sewage collector, as a result of which sewage leaked into the lake. In this context, the implementation of this system would bring a positive impact not only on the environment and local residents but also for tourists who want to spend beautiful and relaxing days in a healthy environment.

As above, regarding the needs to further investigate this matter, our Office requested local authorities, as well as the number of agencies to exercise their functions in the field of environmental monitoring and protection, to provide wider information about this issue whether private subjects or families caused pollution of the lake, whether such entities were prosecuted and concrete measures taken against them, whether the sewage collector had started to operate, in order to avoid their discharge into the lake, and everything else that had to do with this issue, in order to examine this issue more objectively and within reasonable limits.

After examining the documentation and positions adopted by the public administration bodies involved in this proceeding, the People's Advocate concluded that there was no need to follow up this case because the District Prefecture, Municipality of Korça, Public Health Directorate and District Regional Environmental Agency that conducted periodic inspections to identify the situation and take concrete measures to improve it, gave concrete feedback.

In the meantime, the municipality confirmed that city collector was already put into full operation to collect, remove and treat the city's wastewater.

Conclusions

The People's Advocate has also emphasized in previous reports that environmental protection in Albania requires special attention and cooperation of all individuals and units, aiming at an improved health care and better quality of life.

We have encountered problems with regard to waste disposal, treatment and processing or respect of other environmental standards, which appear to have no consequences but their effects are dangerous to the citizens' health and life.

To have a more effective control over the territory, it is imperative that Environmental Inspectors and Regional Environmental Agencies at the district level identify their duties and responsibilities provided by laws and regulations, on the basis of which they perform their functions. As in previous years, the People's Advocate emphasizes that there should be identified and punished persons who dump and burn wastes in outdoor facilities, treatment of construction waste from creation, transportation up to their disposal, monitoring and control of the noise level in urban and tourist centers, monitoring and adoption of actions for the removal of motor vehicles, trailers and their spare parts, out of order, located near the national road, and other tasks derived from the variety of acts regulating environmental issues.

M. Issues during the activity of local government bodies

Overview

In the framework of the accomplishment of constitutional obligations to protect the individual legitimate interests, the People's Advocate also monitors the activity of local government units, in order to guarantee good governance and ensure higher quality of its services to the community.

From a general analysis, the People's Advocate Office considers that the current legislation governing the operation and powers of local government is complete, but there is a poor level of its implementation in the executive activity, especially in local municipalities.

As it has been underscored in our previous reports, the staff of some local governmental bodies has problems with the formulation of administrative acts, lack of legal references, modalities of the administrative proceeding, failure to respect legal timelines, infringement of such principles as that of the cooperation between the administration and private individuals, conclusion of proceedings by a decision, the right to inform individuals, conflict of interests in the decision-making process, kinship relations between local government officials and residents that lead to subjective decisions or execution of the administrative acts or of certain local government plans. All these issues lead to a poor service of the administration to citizens, delays in addressing problems of the residents in areas under their jurisdiction, as well as denial of the standards an administration should apply to the service of individuals.

Analysis of Specific Cases:

The citizens' applications filed with the People's Advocate show their concern about the duty of communes and municipalities for environmental protection under Article 10(2/f) of Law No. 8652, dated 31.07.2000 "On Organization and Functioning of Local Government", as amended, which stipulates their task for waste collection, removal and treatment, and in harmony with Law No. 8934, dated 05.09.2002 "On Environmental Protection" governing relations between the individual, community and environment. This issue has been previously identified in our annual reports but we regretfully note that local government units are not paying any special attention to the strict application and surveillance of their competences in this area.

Also, another serious related concern noted is the poor management of the territory under jurisdiction of these local government units and indiscriminate increase in the number of illegal instructions throughout the territory. This was observed particularly during the period before and after parliamentary elections in the Republic of Albania.

Of the applications filed, 7 involved claims against Prefectures and their subordinate bodies, such as the Property Titles Verification Committee, 589 applications against municipalities while in 2012 there were filed 532 applications, 140 applications against Communes compared to 125 applications in 2012, and 1 application against the District of Berat regarding the applicant's unjust dismissal.

Considering the large number of applications filed against these local government bodies, as well as the increase of their number compared to the previous year, the People's Advocate Office has found that local management, as well as employees of these local government units wrongly and unduly comply with legal provisions regulating their activity.

As in the last year, lack of cooperation of many local government units with the local ownership titles' verification committees, under Law No. 9948, dated 07.07.2008 "On the Examination of Legal Validity of Property Titles on the Agricultural Land", remains one of the causes leading to long-drawn administrative and subsequently judicial proceedings. The situation results in a lower efficiency of the Committees, the mandate of which, as provided by law 176/2013 "On Some Amendments and Additions to the Law No. 9948, dated 07.07.2008 "On the Examination of Legal Validity of Ownership Titles on the Agricultural Land" must be completed until 30 June 2016.

Right to information during administrative proceeding

Article 23 of the Constitution of the Republic of Albania provides: "The right to information shall be guaranteed". This right is also provided by Law No. 8503, dated 30.06.1999 "On the right to information on official documents", article 18 of which envisages the power of the People's Advocate for the implementation of this law, ensuring and guaranteeing the transparency of public administration bodies in relation to the citizens. The Code of Administrative Procedures provides for the right to information as one of the fundamental principles for the operation of Public Administration (it constitutes the legal basis and is the same with the previous report).

The issues we have examined during 2013 are the same as in previous years. According to the examined complaints, the local administration is not respected and the right to information during the implementation of an administrative proceeding is not applied to these subjects of administrative law with a direct or lawful interest in this proceeding or by the persons involved in this proceeding, being concurrently affected by the effects of execution of the local government administrative acts they were not informed of. More specifically, we have observed that the parties are not notified about the initiation or completion of the administrative trial, summoning as litigants when their interests are prejudiced, and legal time limits to make available information or official acts claimed by individuals, have expired, respecting the procedures applied by these local government bodies but which no longer meet their obligations to the citizens.

Violation of the right to information during administrative proceeding by A.L.U.I.Z.N.I. at district level

Following the examination of complaints, many citizens wish to be officially informed about the stage of legalization of the buildings they have illegally constructed. The People's Advocate notes that there are still many citizens who have applied for years to ALUIZNI district offices but their applications for legalization have still not been deliberated. In this framework, initiatives are launched on restructuring as it is reported a heavy flow of requests for information regarding the applications filed by nationals to the district A.L.U.I.Z.N.I. on the legalization of informal constructions, their own property on which they have still not received any reply. Regarding these cases, the People's Advocate establishes that the legalization process has been currently suspended, in the framework of the restructuring of ALUIZNI regional offices, to further continue with the elaboration of all requests the citizens have submitted over years. According to the most recent data, of about 293000 submitted applications, only 22000 were completed, pending solutions for a whole category of citizens, who have respected the administrative procedures and declared their buildings but have still received no official reply.

The People's Advocate welcomes the new legal package of the Ministry of Urban Development and Tourism, to anticipate all steps and procedures to be subsequently followed for the legalization process.

In this framework, we appreciate similar initiatives to finalize a process started long time ago and a large number of citizens may be granted permits for the legalization of their buildings.

Specifically, there have been 9 complaints from different districts against the Agency of Legalization, Urban Planning and Integration of Informal Buildings. They had the same subject: absence of information about the phase of processing self-declarations and several year delay of the process of legalization of illegal constructions; 7 of them were resolved after our interventions with the Regional Directorates and the citizens were provided relevant data as in cases of complainants Q.D. from Elbasan, B.Z. from Lushnja, B.B. from Saranda, S.S from Tirana etc.

That institution had a poor performance since 2006. There is a lack of effectiveness and cooperation with the Territory Development Councils, District Councils and other local government bodies and Local Immovable Property Registration Offices.

Thousands of files are pending examination, in conformity with Law No. 9482, dated 03.04.2006, as amended "On legalization, urban planning and integration of illegal constructions" and DCM No. 438, dated 28.06.2006 "On setting out criteria and procedures and applicable documentation for qualifying legalized or non-legalized constructions".

The only solution remains the resumption of the process of massive legalizations and their initial registration within the term of office of the current government.

Inaction by local administration bodies

Complaints filed with the People's Advocate Office involving the inaction of local administration bodies, refer to the activity of Local Urban Construction Inspectorates (LUCI) in communes / municipalities, as well as the National Urban Construction Inspectorate (NUCI).

The People's Advocate Office received 71 complaints during 2012 in relation to the inaction of LUCI and NUCI to verify unauthorized constructions, take legal measures and sanctions against the perpetrators and failure to execute decisions on the demolition of buildings.

Initial operation of LUCIs in municipalities /communes started with the entry into force of Law No. 9780 dated 16.07.2007 "On inspection of construction", as amended, which assigned powers for controlling and enforcing law in the field of construction from the Construction Police to LUCIs at municipalities /communes.

Shifting of these powers from a centralized body under the dependence of the central government to a created body under the local government authority, generally aimed at providing respect for local autonomy for the performance of decentralization process. Further, in practical terms the law was supposed to provide a more sensitive institution, in each case under the supervision of illegal activity in the field of construction, considering its proximity with local citizens. It can be said that almost six years after the preparation of this law, the purpose for which it was adopted has brought results only in terms of control as regards the implementation of legislation in the field of construction within the administrative territory of the municipality/commune. Specifically, physical interventions in illegally constructed buildings or in those lacking a construction permit, as well as operation of local LUCIs leave much to be desired.

Violation of the constitutional right to freely enjoy property, as provided for in Articles 41 and 42 of the Constitution of the Republic of Albania, through the construction of a building without a construction permit, in almost all cases examined for failure to have respected urban distances between existing buildings and those under construction, constitutes a serious concern which the People's Advocate has attempted to fairly minimize through the examination of individual applications.

Apparently, this right would not be violated as above, if the state authorities in charge of the control of construction legality, showed efficiency in law enforcement. Almost in all cases reporting the violation of the right to freely enjoy property, expressed by the non-enforcement of illegal decisions by LUCIs in municipalities / communes, there is a failure to apply legal time limits as provided for the enforcement of judgments of this nature under Law No. 9780 dated 16.07.2007 "On Construction Inspection," Article 13 "Issuance of administrative decisions and time limits", paragraph 3 which reads: *The decisions of municipal/communal/ regional/national LUCIs shall include an execution time limit of up to 60 days. Exceptionally, the decisions for the demolition of illegal construction shall include an enforcement time limit of up to 30 days*".

Therefore, the law provides a 30-day deadline for enforcement of the decision on

demolition, and in special cases up to 60 days, which means they are non-negotiable deadlines and therefore binding.

- *Problems of Local Urban Construction Inspectorate*

Generally, the applications submitted to the People's Advocate Office by various citizens are about the failure of LUCI to act within legal time limits regarding the constructions without proper permit from the responsible planning authority, as provided by Law No. 10119, dated 23.04.2009, as amended, "On Territorial Planning". Basically, the inspectors of LUCIs in large cities operate until they find the violation, take the decision for a fine or suspension from work, failing to commit any administrative actions regarding the illegal construction, in breach of Article 83, "Enforcement" paragraph 6 of the above law, which provides as follows:

*"For works carried out without a permit or in violation of permit conditions under this law, **inspection authorities**, in addition to the punishment for violations found, according to Article 82 of this law, **shall require the offender** to submit to the responsible planning authority under sections III, IV and V of this chapter, an application to be provided with a permit for illegal works or works performed in violation of the terms of the initial permit."*

This abusive practice followed by a number of LUCIs in large municipalities has caused a state of illegality, as it is justified by failure to standardize or harmonize the two laws regulating construction activity in the area. Specifically, letter "d" of Article 5 of Law No 9780, dated 16.07.2007 "On Construction Inspection", expressly provides that *"it decides to demolish the illegal construction"*, while according to Law No. 10119 dated. 23.04.2009, "On Territorial Planning", as amended, Section VII, "Monitoring, Inspection, violations and offenses", Article 82, "Administrative Offences", paragraph 8, "Performing works without permission", in any case the Local Urban Planning and Construction Inspectorates and National Urban Planning and Construction Inspectorates have no right to take decisions on demolition but only to impose a fine, according to specification or calculation with the basis of average construction cost.

Another problem encountered during the examination of a number of applications by the People's Advocate Office, through official replies of LUCIs at different local municipalities, has resulted in potential avoidance of the sanctioning of already completed buildings built without construction permits.

Specifically, the first paragraph of Article 12, Law 9780 dated. 16.07.2007, "On Construction Inspection" has established: *"In exercising the powers and duties provided for in this Law, the inspectors in chief / inspectors shall have the right to access and exercise control over the **construction sites** ", while in the last paragraph of this section it is, inter alia, established: "If the identity and address of the inspected entity is known, a copy of the findings shall be posted for 10 days in announcement places of the city / municipality / region and at the **construction site**"*

Additionally, the Law No. 9780 dated 16.07.2007 "*Construction inspection*" has been recently amended by Law No. 10240 dated 25.02.2010 "*On some amendments to Law No. 9780 dated 16.07.2007, "On construction inspection"*", according to which it is possible the interference of LUCI with the territory administered by municipalities /communes. Accordingly, Article 1, paragraph 2 reads: "*The exercise of responsibility under paragraph 1 of this Article shall be performed only when in the construction site, subject to inspection, has not started or is not under inspection by the local inspectorate*".

As established by the content of two provisions, in case of exercising controls for law enforcement in the field of construction and planning, the law gives discretion to the Urban Planning and Construction Inspectorate to act only when the facility continues to be built without construction permit, while in the cases for review it is concluded that these are completed or are in the final phase of construction.

- Analysis of specific cases regarding the Local Urban Construction Inspectorate

Application registered as **Doculive No. 201300235**, filed by the citizen A.A., resident in Ballsh, who complained in the quality of representative of residents of flat No. 46 in the Quarter "5 Shkurti" regarding the failure by LUCI of Ballsh Municipality to act against the violation, by his neighbor, of urban planning requirements of the holding construction of the existing facility. Referring to paragraph 3, Article 63 of the Constitution of the Republic of Albania, article 21 / b of Law No. 8454, dated 04.02.1999, "On the People's Advocate", Article 3 of Law No.9780, "On Construction Inspection" and taking into account that the said case had to do with an application previously reviewed, but the problem raised by the complainant had not been exhausted completely, the People's Advocate recommended:

- *Resumption and conclusion of the administrative proceeding under Law No. 9780 dated 16.07.2007 "Construction Inspection", as amended, regarding intervention in the holding structure of the existing facility, first floor of an apartment building in "5 Shkurti" neighborhood.*
- *Setting up a group of experts from Ballsh municipality, concerning the verification of cracks in the complainant's apartment, common facilities of the building or other apartments in this building.*
- *Verification, if such results are grounded, regarding the claim filed on the damage to the holding structure of the flat caused from works to adapt the living area into a private business, sanctioning of unlawful interference, while the same procedure should be followed regarding the occupation of the functional square of the flat.*

The Mayor of Ballsh reported that after the on-site verification, there were found violations of urban planning requirements for which it is officially taken the decision for its restoration to previous state by the offender, as referred to in article 5, paragraph (ë) of Law No. 9780, "Construction Inspection", as amended.

Application registered as **Doculive No. 201301163**, filed by the citizen E.ZH., resident in Tirana, who complained against the LUCI of Tirana Municipality concerning the failure to act against the illegal construction, additional floor in the apartment building where she lives in "Medar Shtylla" Street in Tirana. To examine this application, the People's Advocate Office asked explanations from LUCI, Tirana Municipality, about the procedural administrative actions applied for the administrative investigation of the matter. In his reply sent by letter No. 5288/2, dated 21.06.2013, the Inspector in Chief of LUCI of Tirana Municipality informed us that a minutes was kept on the specific case registered as No. 008412, dated 10.05.2013, and the decision to suspend construction works No.914, dated 05/20/2013, as well as the decision to impose a fine No.1489, dated 05/20/2013. Regardless of the reply of LUCI, Tirana Municipality, the problem raised by the complainant was not completely exhausted; therefore the People's Advocate Office addressed to the Department of Urban Planning and Territorial Development of Tirana Municipality the recommendation to exercise its responsibilities and legal powers provided for in Law No. 10119 dated 23.04.2009, "On Territorial Planning", as amended, for the demolition of the illegal extra floor, which was being constructed by three residents of the last floor of the building near "Pillar Shtylla" street in Tirana. Inspector in Chief of LUCI, Tirana Municipality, reported by letter No. 11655 / 2, dated 12.04.2013 that the responsible authority at the local government unit is performing all legal due procedures required for the final resolution of the matter.

Application registered as **Doculive No. 201300916**, filed by the citizen Y.J., resident in Durrës, who complained on the failure of LUCI, Durrës Municipality, to act against the building of a concrete structure where his neighbor used to exercise his private activity, certainly in the absence of legal documentation and occupying public common spaces. In these circumstances, for a faster examination of claims filed by the complainant, the expert in charge of following up the case, met the Inspector in Chief of Durrës LUCI and verified the practice followed by the body controlling law enforcement in the field of construction within the administrative territory. Verification has found that regarding issues raised by the complainant, the LUCI of Durrës municipality had taken the decision No. 21, dated 05.24.2013 for demolition of the illegal construction, thus expressing full readiness for its execution within the period envisaged by Law No. 9780 "On Construction Inspection", as amended, Article 13, paragraph 3.

- Conclusions regarding the activity of Local Urban Planning and Construction Inspectorate

In 2013, while treating individual applications regarding the inactions of local administration bodies, mainly LUCIs at the municipalities/communes, in the field of construction and planning, the People's Advocate Office has noted an obvious lack of cooperation of the relevant units not only with citizens who have appealed against the dangerous development of illegal constructions, especially during unresponsive situation created by this year's parliamentary elections, but also with the People's

Advocate Office, preparing the ground for informal construction across the administrative territory, as well as in areas of national interest. Therefore, through this report the People's Advocate articulates the need for change or harmonization of the current applicable legislation, in order to provide effective improvement of work against illegal activity in the field of construction.

Observance of legal time limits

This issue has been focused in the report of last year but it is still a serious bottleneck in the activity of local government units. Failure to act in due time has made a number of private entities develop buildings in manifest violation of construction permits, which should be monitored and complied with by LUCI and then it has to be proceeded with their declaration for legalization to ALUIZNI regional offices at district level. Failure to respect legal time limits in treating applications or requests of private natural persons and legal entities by the local administration has been and remains a very sensitive issue encountered for several years by the People's Advocate.

The identification of contraventions and failure to execute demolition decisions taken by LUCIs within the legal time limits has become an increasingly disturbing reality. LUCI has taken periodic actions on a selective basis, which have no effect in preventing unauthorized constructions for which the Inspectorates have been established. Inspectors fail to exercise their legal duties since the beginning of an unlawful construction reported by individuals, who are adversely affected by them. On the other hand, inspectors argue that it is impossible for them to act once the constructions are already completed or inhabited and they might have objective reasons such as shortage of supplies.

In many municipalities or communes, inaction by LUCI and respect of legal provisions in the field of construction continues to be a result of nepotism, kinship, relatives or political beliefs of local management with the developers.

Conclusions

Compliance with the legal provisions and strict enforcement of law and human rights in relation to unlawful actions or inactions of the administration by local government bodies, brings a positive impact on the good governance of these bodies. On their side, due account should be taken for the effective enforcement and exercise, within legal time limits, of powers and functions recognized by law and other bylaws, mainly focused on the increase of public participation in the decision-making process, respect and realization of their right to information, equal treatment of individuals in social programs, preventing abuses of beneficiary schemes and abusive delivery of that assistance based on preferential criteria, timely delivery of economic and social aids for the families, which in many cases have them as a single source of living.

The People's Advocate believes this fact will enhance the citizens' confidence in local government bodies, improve service delivery to residents of a specific area, and

contribute to the improvement of management skills of the local administration as servants of all individuals it has under its jurisdiction.

N. Complaints of former political prisoners

Overview

One of the categories of applications handled by the People's Advocate Office during 2013 included claims or applications coming from formerly political prisoners of the communist regime or their heirs. The total number of such applications in 2013 was 15.

As one year ago, these applications included claims on the failure to receive compensation installments they are due to benefit as former political prisoners, the unjustly denied redress specified by the provisions of Law No. 9831, dated 12.11.2007 "On the Compensation of Former Political Prisoners of the Communist Regime", as amended, incorrect amount of compensation set by the Ministry of Justice, failure to find the remains of the relatives who were formerly politically persecuted and had died during their imprisonment term, delay of the procedures to establish the amount of compensation, applications to benefit the total compensation amount in a lump sum and not in instalments, claims on delays caused to the compensation process for the category of internees during the communist regime, according to the legal requirements.

Of the total applications received by the People's Advocate during 2013, 6 are under examination, and 9 were concluded. Of the finalized applications and requests, it results that 2 fell out of our scope, 3 were unfounded, and 4 were resolved in favor of the applicants.

During this year, applications submitted by these individuals have been prioritized and carefully handled from a more in-depth perspective than a year ago. Specifically, regarding the process of the compensation of former political prisoners of the communist regime, the absent and delayed process for the opening of files and functioning of the Task Force for searching, localizing and identifying persons executed during the communist regime.

- Regarding the process of the compensation of former political prisoners of the communist regime, in respect of the provisions of Law No.9831 dated 12.11.2007 "On the Compensation of Former Political Prisoners during the Communist Regime" as amended, it is worth noting there are still unresolved issues requiring quick and concrete action.
- It is necessary to realize the legislative initiative for an amendment to DCM No.419 dated 14.04.2011 "On Approval of Deadlines and Scheme of Compensation Funds for the Former Political Prisoners during Communist Regime", with the view of defining reasonable deadline for the completion of compensation policy for former

politically persecuted individuals during communism. As observed in our recommendation letter No. K1/G60 -17 dated 12.02.2013 to the Minister of Justice, this act not only was issued with almost two- year delay from the time defined in the law, but the content of its provisions shows that the term of allocation of funds is transformed from a taxation period set by the rate, to a term that entirely depends on due performance of full approval and completion of compensation to the distribution of the second installment for all former political prisoners. Indeed, we have a compensation scheme with distribution in eight equal installments but with a timeline that recognizes only a starting date of the process and not a fixed end date. Law No. 9831 dated 12.11.2007, as amended, and the regulations adopted for its implementation, especially DCM No.419 dated 14.04.2011, have created confusion in the expected performance of the compensation process by the interested parties and effectively led to the perceived conclusion, the disrespect of law, thus violating the principle of legal certainty, which is a substantial component of the rule of law. Regarding this recommendation we have not received any reply, so we sent it to the Minister of Justice in December 2013, pending a final resolution.

- There should begin the treatment of the category of interneers, represented by the interneers or those expelled in camps during the communist regime, with the respective compensation under the provisions of Law No. 9831 dated 12. 11. 2007 “On compensation of former political prisoners during communist regime”, as amended. As we have highlighted, although the interested individuals have long submitted the whole necessary official documentation to the Ministry of Justice for that purpose, their treatment by compensation has still not started. This process is stalemated due to the non-performance of obligation by the Ministry of Justice to propose to the Council of Ministers the approval of compensation for that category of former political prisoners, with the respective Decisions of Council of Ministers. As regards this recommendation, we still had no feedback; therefore we were obliged to re-send it to the present Minister of Justice in December 2013 pending a final solution of the matter.
- There should be completed the legal basis required for the process of financial compensation for the category of interneers or those expelled during the communist regime, as stipulated in letter “c” of article 6 of the Law “On compensation of former political prisoners of the communist regime”, as amended. Notwithstanding the applications of the interested entities, the Council of Ministers has still not approved the pension scheme under the respective DCM, a scheme with those former political prisoners as potential beneficiaries. In these circumstances, in the beginning of 2013 we have recommended to the Minister of Labor, Social Affairs and Equal Opportunities and the Minister of Justice, to submit within the shortest time possible, to the Council of Ministers, proposals for the approval of a pension scheme for the category of interneers or those expelled from the communist regime. We had no feedback regarding this recommendation, therefore we were obliged to re-send it to the Minister of Social Welfare and Youth

and the Minister of Justice in December 2013, pending a final solution of the matter.

- The necessary legal basis must be completed to enable the process of financial compensation for the category of persons deported or expelled during the communist regime, as stipulated in Law No.9831 dated 12.11.2007 "On the Compensation of Former Political Prisoners during the Communist Regime", as amended. As we have already stressed, although interested individuals have long submitted all relevant documentation to the Ministry of Justice, these persons are not yet compensated. This process is deadlocked because of failure by the Ministry of Justice to present as soon as possible to the Council of Ministers, proposals for the approval of compensation for this category of former political prisoners, with respective DCMs. We did not have any reply for this recommendation; therefore we had to re-send it to the Minister of Social Welfare and Youth and Minister of Justice in December 2013, pending a final solution.

According to some applications, various individuals from certain subcategories for compensation beneficiaries under the law "On the Compensation of Former Political Prisoners during Communist Regime", as amended, they could not have been part of the legal scheme of benefits because they had submitted the application and relevant accompanying documentation for compensation out of the terms set forth in paragraph 2 of Article 19 of Law No.9831 dated 12.11.2007 "On the Compensation of Former Political Prisoners during the Communist Regime ", as amended.

We highlight the fact that the Parliament has yet to approve a draft procedure, which, if approved, would provide a new term for the submission of applications and documentation by interested individuals, who could perform this process for various objective and subjective reasons, as provided for in Law No. 9831 dated 12.11.2007, as amended.

In specific cases, during the process of examination of applications, there have been found delays or even failure by the Ministry of Justice to deliver official explanations, which has affected the terms of their consideration on our side.

- Under the protection and respect of human rights, and considering the applications filed by formerly persecuted individuals, but also in a broader context for the creation of institutional commitment to good governance standards, the People's Advocate has assessed and estimated that our society deserves to know who govern and who protect its interests, through a transparent process of opening files.

In this connection we believe that one of the still outstanding issues of our society inherited from a post- communist experience remains the adoption of a comprehensive law on the existential principles of a democratic society for opening files.

The efforts made so far in this regard have proved unsuccessful in the context of the respect of standards, principles and democratic values of the rule of law and as such, they are still not associated with a comprehensive product and consensus, which considers the process of opening the files as a current prerequisite, even after many years of the collapse of the previous totalitarian system.

The need for such a law is, *inter alia*, closely linked with the creation of public confidence to conduct a real process for opening files, transparency of crimes and their consequences from the previous system and which will provide the governed today that the current ruling classes and individuals at other levels of public positions or even civil society representatives will not carry prejudice and anti-democratic spirit of the past.

We are currently faced with a legal and institutional deadlock, which affects all political, social and psychological aspects of the Albanian society, due to the lack of a legal filter, consistent with a principle-based approach to this issue. This deadlock already technically created due to the repeal of Law No.10034 dated 22.12.2008 "On integrity of senior officials of the public administration and elected representatives" by the Constitutional Court, highlights the need of stakeholders who have the right to propose legislation, drafting and adopting a new law for opening the files, which meets all the required standards and respects the principles on which the democratic society is based.

There are examples and legal experiences in this regard, therefore it is reasonable and logical to consider that a new law on opening of files should provide an administrative process, which:

- Facilitates individual access to the records that former secret services have collected about interested parties, either individuals attending this service and who have suffered the consequences of this activity, full-time employees, or informers of secret services, or beneficiaries of the activity in question. Realizes transparency for individuals implicated in the repressive state activity, to the level of civil society representatives.
- Provides public and private entities with access to the said information, in accordance with the purpose of the process for opening the files.
- Provides public transparency of repressive activities of the former secret services, establishing that access is personal and bears legal restrictions for publication.
- Protects the concerned subject of records from the infringement of the right to privacy, violation of which could be caused by the misuse of personal records collected by former secret services.

- Creates competent bodies and regulates their functioning as responsible bodies for carrying out the process of opening the files.

This law should firstly help the victims of prosecution and persecution of former regime through the activities of secret services and secondly the public and private entities in terms of the consequences of repressive activities on the rights of individuals that have occurred in the past, to distance the event from individuals who have used it, in order to conclude "who is who" and what values carries and should carry, despite the place currently occupied in the society.

We believe that a law on opening the files, and even more after many years of transition, should not become a "repressive" law against certain individuals but a likely reflection of society as a whole, to embrace some values that we have often misused for instant purposes by powerful individuals who actually had delayed this process.

In these circumstances, it is necessary to regulate a specific law which will procedurally and institutionally govern such a purification process for the Albanian society. Taking into account the need for a process for opening the files, the People's Advocate, through consultation with civil society stakeholders, has prepared a recommendation which will be soon sent to the Government to realize the relevant legal initiative.

- The People's Advocate has consistently received applications from the Association of Former Politically Persecuted Persons during Communism and the families of people executed during this regime, requiring the intervention of the People's Advocate with competent state institutions to search, localize and identify persons executed during the communist regime, for which there is no information where they were buried.

In view of this activity and its facilitation and coordination, by virtue of Decision No. 133 dated 24.02.2010 "On Establishment of the Task Force to search, localize and identify persons executed during the communist regime", the Council of Ministers has decided to establish the said task force, defining the scope of work, composition and duties of its members.

Accordingly, in the end of 2013 the People's Advocate Office started a comprehensive review and analysis of problems related to the above mentioned applications, requiring detailed information about the activities and accomplishments of this Task Force, from the moment of its establishment to present. The information required must provide information to specify the total number of applications submitted to the Task Force by stakeholders, the number of claims resolved and rejected, as well as those still unanswered or in the process of examination. Additionally, information is requested regarding the number of meetings held by the structure and level of cooperation and coordination between the ministries responsible for the implementation of DCM No. 133 dated 24.02.2010.

As a problem related to the complexity of issues of the former politically persecuted persons, we believe that intervention should be carried out in the framework of the effectiveness of this structure, for which a recommendation will be sent after submitting the required information for this purpose.

Analysis of Specific Cases:

The citizen F.M. filed the **application No. 201300646** with the People's Advocate Office against the Ministry of Justice for failing to answer with regard to the issue of untreated request and refusal to pay him the compensation as a former political prisoner, after delivering the application and complete documentation sent to this institution for this purpose.

After we examined this application, we asked the Ministry of Justice to furnish explanations about the reasons for failure to give an answer to this case. The answer we were sent showed that the court decision on the basis of which the complainant was convicted in 1952, did not provide that kind of punishment category defined in Article 4 of Law 9831/2007, as amended, to the benefit of financial compensation. In these conditions, in our response for the applicant we enclosed a copy of these acts on the basis of which it was considered to reject the applicant's request to the Ministry of Justice and we completed the examination of this case.

The citizen N.C. filed the **application No. 201300457** with the People's Advocate Office, who complained that the Ministry of Justice failed to accept the documents presented, to compensate him as a politically persecuted person.

After examining the case, we referred to the Ministry of Justice to explain the delay of the compensation review documentation submitted by the applicant.

In reply, the Ministry of Justice confirmed that administrative procedures to examine the documentation and the applicant's file had already been completed, meeting formal requirements of the law. Consequently, the nominal compensation practices of the applicant will be included in the list the Ministry of Justice will send for approval to the Council of Ministers. As above, after the positive resolution of the issue we stopped to examine it.

Conclusions

The process of compensation of former political prisoners of the communist regime upon the entry into force of Law No. 9831 dated 12.11.2007 "On Compensation of the Former Political Prisoners of the Communist Regime", as amended, is followed by legal amendments which result not to be in the knowledge of most of the members of this category currently waiting to receive financial compensation. This practice followed and apparently without consulting the stakeholders, has produced a confusing situation where only a start date and no end date is known in the compensation process.

Treatment of the overall process of compensation is associated with a lack of legislative initiatives required to address all beneficiary categories prescribed by law.

The People's Advocate sent some recommendations during 2013 for improving this situation, but no concrete actions were taken by the relevant state institutions. Therefore, we sent our recommendations to the new Government.

Effectively, there is a broad scope of rights of the former persecuted persons and is brought to the attention of the People's Advocate but financial compensation issues are being addressed as matters of priority, as well as the process of opening and searching files, localizing and identifying people executed during the communist regime.

CHAPTER III

Report of People's Advocate Activities in capacity of the National Prevention Mechanism Against Torture, 2013

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Execution of tasks and competences of the National Preventive Mechanism Against Torture in 2013

Introduction to OPCAT and NPM functions in Albania

The Republic of Albania has signed the Optional Protocol of the Convention against Torture and other Inhuman and Degrading Treatments (OPCAT)", and approved it by virtue of Law No. 9094, dated 03.07.2003, conferring to the People's Advocate competences to act in capacity of the National Preventive Mechanism Against Torture.

According to the Optional Protocol of the Convention against Torture and other Inhuman and Degrading Treatments (OPCAT)", the National Preventive Mechanism Against Torture carries on its activity based on a series of domestic acts, where two of the most important ones are the Constitution of the Republic of Albania and Law No. 8454 dated 04.02.1999 "On People's Advocate", as amended.

These provisions envisage the core principles of inspections of the places of detention and guarantee an activity which is compliant with the relevant international standards, whereas article 19/1 of Law No.8454, dated 04.02.1999 "On People's Advocate", as amended, authorized an independent and comprehensive monitoring and investigation activity for each case of torture, inhuman and degrading treatment, ensuring wider access to any premises or offices to any officials without immunity and any documentation, either be classified, of the public administration bodies.

Further, other amendments by Law No. 9888, dated 10.03.2008, Law No.8328 dated 02.04.1998 "*On rights and treatment of prisoners and pre-trial detainees*" provide additional room to the People's Advocate in his capacity as the National Preventive Mechanism Against Torture (NPM) to accomplish duties during the control of penitentiary services. Article 74/1 of this law acknowledges to the People's Advocate, in capacity of NPM, the right as a special entity for the supervision of enforcement and implementation of the law on prisoners and pre-trial detainees. The People's Advocate Office is entitled to regularly observe the treatment of individuals whose liberty is deprived in the places of detention, arrest or imprisonment, with the view of strengthening, if appropriate, the protection of individuals from torture, cruel, inhuman or degrading treatment or punishment. According to this provision, that Office has the right to specifically submit reports and recommendations to the respective bodies, in order to improve the treatment and conditions of detainees and to prevent torture and cruel, inhuman or degrading treatment or punishment.

According to OPCAT, the purpose of activity of the National Preventive Mechanism Against Torture (NPM) is the conduct of regular visits in all premises of public institutions where the liberty of an individual is restricted or is done on the basis of a court decision or administrative order. In this context, institutions such as prisons, pre-trial detention and police custody facilities, mental health hospitals, military units and other premises will be subject to regular inspections. Furthermore, problems identified from these inspection visits will be translated into periodic national and international

progress reports and recommendations, in order to promote the continuous respect of human rights and improve the training standards of recruited personnel. During 2013 the People's Advocate Office, in capacity of the National Preventive Mechanism Against Torture (NPM) has consolidated and upgraded the structure of the Unit for Prevention of Torture, working with professionalism to review any practices giving rise to the violation of human rights in the form of torture, inhuman and degrading treatment. As a result of these improvements, the NPM activity has sustained qualitative increase for the prevention of the foregoing practices, promotion of good practices and strengthening of dialogue with the state authorities due to close cooperation with the specialized Civil Society Organizations. These non-profit organizations have regularly supported NPM by providing qualitative expertise with physicians, psychologists, educational experts and other stakeholders in accordance with OPCAT standards.

Inspections, visits and any other controls carried out at the State Police Institutions, penitentiary institutions (prisons and pre-trial detention facilities), Psychiatric and Infective Hospitals, military bases and units, Border and Migration Regional Departments and other centers for sheltering illegal immigrants and trafficked persons, aimed to provide a full monitoring coverage of the situation of human rights at these institutions, in order to prevent violations and adopt an official position on the reported issues.

During 2013, the People's Advocate, in capacity of the National Mechanism for the Prevention of Torture, carried out **108** inspections, re-inspections, controls with special topics and visits at the penitentiary institutions and other facilities as mentioned above. In addition to the direct contacts during inspections, the entire above activity was associated with **55** recommendations.

The above recommendations and interventions are mainly focused on the measures to be taken for the respect and improvement of the rights of prisoners and pre-trial detainees, to meet their basic health and educational needs.

In addition to the above recommendations, a series of other measures are suggested, which have aimed at making internal infrastructure-related investments and staffing. Parallel efforts are made with the prison administration for the encouragement and promotion of activities intended for the protection of human rights.

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, has continued to carry out its activity for the inspection of State Police premises by monitoring and controlling the lawfulness and regularity of escorts, apprehension or arrest of individuals, their treatment within the police premises, conditions of these facilities etc.

NPM is currently subject to a procedure of restoration and updating. Its founding members were shifted to important job positions at the public administration as a result of the good work and professionalism shown as part of NPM. Accordingly, their vacancies will be filled with other members, young professionals with proper knowledge and desire to further advance work and achievements to date. The aim will be directed to the structuring of a multi-disciplinary NPM, including also

physicians, psychologists and psychiatrists, in order to meet OPCAT obligations and enhance the independence and professionalism of inspections and recommendations.

As it has happened so far, cooperation with the civil society will surely continue for conducting joint visits, further increasing the transparency of activity of the public order bodies/prisons and other related institutions, with the view of achieving the required standards for which we are making collective efforts.

We are aware that the continuous improvement of the work of NPM will be our permanent challenge but we believe that like six years ago when we launched that initiative, we will know how to meet the expectations and set further goals.

Inspections conducted in 2013 at Prisons and Pre-trial Detention Facilities

During 2013 the People's Advocate, in capacity of the National Preventive Mechanism Against Torture, has conducted **34** inspections, re-inspections, controls with special topics and visits at prisons and pre-trial detention facilities.

As regards the detention and pre-trial detention facilities, there were made **20** recommendations, of which **18** were made after monitoring and visits at penitentiary facilities by which issues for improving conditions and treating prisoners and pre-trial detainees were addressed; **2** other recommendations were of general character for the standardization of conditions of the treatment of people deprived of liberty and respect of their rights from the penitentiary administration etc.

Following the content of 20 recommendations, a series of problems were reported, which need immediate revision and improvement. This process requires decision making from the senior state authorities as in most of the cases it faces the obstacle of the lack of funds and adoption of bylaws to bring substantial improvements of the system both in form and content.

Key aspects and findings of monitoring at pre-trial detention and penitentiary system during 2013.

The following is a summary of aspects and main findings from the monitoring visits according to the five main fields taken into account by the NPM experts:

1. Treatment of prisoners/pre-trial detainees
2. Protective measures
3. Material conditions
4. Regime and activities
5. Health service

Treatment

The scope of activity of the monitoring team was to collect information about the treatment of prisoners/pre-trial detainees, identification of torture cases, degrading

and discriminating treatment, exercise of physical violence beyond the limits provided by normative acts or psychological pressure against this category, and cases of the adoption of disciplinary measures of “segregation from joint activities“. According to the information received both from the heads of institution and the group and private discussion with the pre-trial detainees/prisoners, during inspections the monitoring team did not report any flagrant cases of torture or excess use of violence or psychological violence by the personnel of penitentiary facilities. However, complaints were filed by specific convicts against specific employees of the penitentiary institutions for the exercise of physical and psychological violence. A disturbing fact is also that some of these cases were linked with the physical and psychological abuse against juveniles. The monitoring team conducted a comprehensive investigation regarding such a complaint at Kavaja penitentiary institution, transferring to the Prosecutor’s Office the relevant files for further investigation.

The monitoring of the NPM group of experts was also focused on disciplinary measures, their lawfulness and the conditions and correctness of their execution. At some point of monitoring, there were cases when the convicts and pre-trial detainees were in isolation rooms under the disciplinary measure and were met and asked about their condition. In the end of the assessment of these cases, the NPM experts concluded that no cases of substantial violations were reported in the procedures in respect of the disciplinary measures. The isolation conditions in these rooms remain problematic because they are not in compliance with the fundamental standards of human rights as they are inappropriate to afford living conditions in respect to human dignity.

The institution of the People’s Advocate deems that special attention should be paid to the training of prison staff in relation to the rights of prisoners during hunger strike, the meetings with relatives, the convicts’ controls and premises where they live. Also, in respect to the convicts’ dignity, their relatives and children, the contacts of the convict with the relatives and his/her minor children should be addressed with special priority, arranging appropriate venues as they do not exist in some prisons. Also, we have periodically recommended **the drafting and approval of a clear and comprehensible set of rules and procedures, which describe in details the circumstances when the compensation permissions** or the employment procedures and the prisoners’ payments at penitentiary institutions should be provided. These rules and procedures should be in full compliance with the international conventions, laws and other bylaws of the Albanian State for the penitentiary system.

Protective measures.

Following the objective of its monitoring visits at the penitentiary institutions, the monitoring team aimed to provide an assessment of the conditions and treatment of prisoners and pre-trial detainees. The monitoring team inspected the implementation of protective measures by assessing their compliance with the domestic legal acts and international standards.

The admission procedures were generally applied at the institution and Reception Commissions were operational at each Penitentiary Institution; personal documents

and records were completed followed by observation and accommodation in rooms according to the eligibility criteria. No cases of violation of the admission procedures and documentation irregularities were generally reported.

Disciplinary procedures were also subject to monitoring by NPM and no violations were found regarding the procedures of application or their implementation. The Disciplinary Commissions operated in accordance with the legal provisions within the scope of their activity.

As regards the procedures of complaints and claims of the prisoners/pre-trial detainees during 2013, a good job is done by the Directorate General of Prisons pursuant to the recommendations of the People's Advocate for setting up a system for admission and processing of complaints/claims by the education sector of all Penitentiary Institutions and observance of deadlines for the delivery of official replies by the institution according to the Code of Administrative Procedures of the Republic of Albania. This system is currently operational at each Penitentiary Facility.

Material conditions

The NPM monitoring team, in accordance with the objectives of the visit, gathered information and conducted field monitoring of various aspects of the material conditions of prisoners/pre-trial detainees at the penitentiary institutions, mainly focusing on the following aspects: food and timely serving of meals, natural lighting, ventilation-aspiration and heating system, meeting basic requirements for personal hygiene, proper sanitation conditions, clothing, overcrowding, living conditions etc.

Food was served in three meals at specific times and proportionally distributed during the day. The prisoners/pre-trial detainees did not confirm the amount of food but in many cases there were complaints about the cooking quality and meal cooking variety. Complaints were mainly about the lack of variety of meals in the daily menu.

Inspections have been conducted in kitchen facilities, hygiene, as well as the conditions for preparation of meals, relevant documentation about the daily and weekly menu or preservation of samples in refrigerating units. These requirements were generally found compliant with the legal standards, except for the fact that in some penitentiary institutions the samples were not preserved in the refrigerating units as required by the legal framework. Regarding the continuous supply with running water, Elbasan Penitentiary institution had deficiencies of running water which was conditioned by scheduled hours, respectively 7.00-8.00 hrs, 13.00-15.00 hrs, 19.00-20.00 hrs, namely the water was available for about 4 hours a day. We also observed water supply restrictions at some other penitentiary institutions.

Some of the local penitentiary institutions continue to undergo problems of wear and tear and inappropriate conditions, especially related to humidity, damage of hydro-sanitation and sewage network. There are unpainted premises, and electric and plumbing networks out of technical parameters. There is a lack of shower sets in the toilets. Neither natural lighting, nor full ventilation of cells and heating is provided.

These issues have been often brought to the attention of the Directorate General of Prisons, but we believe it is not an exclusive competence of this institution. If we want

the improvement of human standards in the country and especially for prisoners, the Albanian Government and the Ministry of Justice and Ministry of Finance, in addition to their commitments should allocate appropriate financial support.

Regardless of the measures taken for opening new penitentiary institutions, overcrowding continues to be a main concern in prisons. The People's Advocate has often underscored the importance of reducing the number of inmates in prisons, respecting the standards of living space, as overcrowding is the main cause of wear and tear of the prison premises and poor quality of services to the prisoners.

Another challenging living condition of the penitentiary institutions was also the lack of heating in rooms and collective facilities. Central heating systems in almost all penitentiary institutions, when installed, were not operational as a result of technical defaults or absence of fuel. In most cases, the prisoners/pre-trial detainees used blankets and warm sleeping clothes in order to warm up during the cold winter days.

Further, another concern of some penitentiary institutions is related to the lack of supply with some basic products of personal hygiene (toothpaste, toothbrushes, shampoo etc) and other detergents required to clean the cells, as well as lack of uniforms and gloves during food distribution, shortages for the disinfection of insects, etc.

Most of living rooms at penitentiary institutions lack clothes cabinets and the prisoners/pre-trial detainees keep them in plastic bags or sacks, mainly under the beds. Such a fact observed by the monitoring team is contrary to the international legal requirements²³.

Regime and activities

Following the objectives of monitoring visits at the places of detention, the inspection team was also focused on evaluation and observance of the right of pre-trial detainees and prisoners to contact their family members four times a month and to respect the number of phone calls with the relatives corresponding to 8 phone calls per month. Both these rights were applied in accordance with the required parameters. Meetings with family members lasted around 30 minutes and realized under acceptable conditions. During the discussion with the experts, the prisoners/pre-trial detainees expressed their desire to have close meeting opportunities with their family members, especially in cases of meeting with their children. These conditions are offered only in few recently built institutions (Vlora, Durrës, Elbasan, Korça) according to the international parameters or subject to conditions or circumstances provided by the institution. By order of the head of institution, meetings in these cases were held in meeting rooms with relevant legal advisors of the institutions. In respect of the dignity of inmates, their family members and children, contacts of the prisoners with their relatives and minor children should be addressed with special importance. Normal conditions should be made available, as in many prisons they do not exist.

²³Rule 22 of European Regulation of Prisons

As regards the phone calls, the prisoners/pre-trial detainees were allowed to make the phone calls provided by law and additional phone calls both in number and after the schedules announced, subject to their specific requests and circumstances.

The facilities where the prisoners/pre-trial detainees meet their family members were also monitored. In most cases, the meetings were realized in glass or iron barred isolated compartments, where the family members stayed on one side and the prisoners and pre-trial detainees were on the other side. Each meeting lasted up to 30 minutes.

Communication with legal advisors was always permitted. According to the General Regulation of Prisons the right to information was guaranteed via the access provided to the pre-trial detainees to print and electronic media. TV-s and radio were allowed for use at all penitentiary institutions.

The monitoring team was especially interested in the employment of prisoners at penitentiary institutions. In this regard, the monitoring team verified the information obtained from the employed prisoners, and double checked their names in the official list of the employed individuals given by the institution. The work done at all facilities (except for Burrel penitentiary institution) was paid back by reduction of days from the sentence. The prisoners were not supplied with employment record books and neither had they a social contribution certificate. Further, a persisting concern of pre-trial detention institutions is the lack of payment of the respective working days, but their conversion into reduction of sentence period. Such a method is a prejudice of assuming guilty the category of pre-trial detainees.

With the same concept, as regards the job done by pre-trial detainees of these institutions, they are not paid back with the respective value of social insurances they deserve. So, this employment period at the penitentiary institution is not recognized as a period of work by the social insurance system. Based on the information shared by the employed pre-trial detainees, some of them worked every day of the week, i.e. even on Sunday, thus violating the Labor Code which guarantees for the employees a day off. All these facts confirm the discrimination between both categories, the one of free employees and the pre-trial detainee employees.

The right to outdoor activities was applied in accordance with the available conditions of the institutions. The right to take fresh air was properly applied. All prisoners and pre-trial detainees as per units, visited the outdoor ventilation facilities twice a day, currently two hours in the morning and one hour in the afternoon. The aeration/ventilation facility in some new penitentiary institutions had also a sheltered space which gave the prisoners more favorable options to stay protected by the influence of various climate conditions. However, there were complaints by prisoners/pre-trial detainees about the limited space available for ventilation, which also conditioned the performance of another activity during that period. At the Penitentiary institution 313 the right to ventilation was not applied according to the relevant parameters, due to the lack of premises. Outdoor and indoor facilities in the unreconstructed prisons and pre-trial detention facilities do not comply with the standards required for smooth operation of such institutions. These premises are favorable for the psycho-social rehabilitation of the prisoners/pre-trial detainees.

Compulsory education at penitentiary institutions was not provided in conformity with the existing Agreement between the Ministry of Justice and the Ministry of Education on the nine-year education system. The heads of institutions informed the experts they had sent official letters to the Regional Educational District Directorates, hereby requesting potential facilities for the delivery of study programs to the pupils without schooling or even to those who had not completed compulsory education. According to the findings of NPM experts, this scheme had not reached its purpose.

Furthermore, the Professional Training Regional Centers had offered professional training courses at the penitentiary institutions. In cooperation with the psycho-social staff of the institutions, preparatory work had begun for setting up the group of participants. They had the right to attend more than one course, if they wished so. According to the psycho-social staff, the classes of these courses were scheduled to include up to 10 persons with duration of up to 1.30-2 hours in these classes.

The most common activities of the penitentiary institutions consisted of possible classes of different table games, such as cards, chess, backgammon, participation in reviews of different books and borrowing books from the library for reading.

The libraries have lately increased their capacities with new books from the Directorate General of Prisons. Given that the inventory of libraries was still not completed at all institutions, some of them could not furnish more detailed information about their titles, or precise numbers. Yet, the prisoners/pre-trial detainees raised complaints about the limited number of activities offered by the institutions. These activities, as it was informed by the staff of psycho-social care, were conditioned by the funds allocated for that purpose.

The right to religious belief is respected at the penitentiary institutions. The new facilities have religious ritual premises for different religions. Also, many religious organizations and institutions help the convicts with the exercise of religious beliefs.

A psycho-social care unit is attached to the legal sector under the organizational structure of pre-trial detention institutions. It consist of:

- the head of unit, who was also the lawyer of the institution;
- two psychologists, but according to the professional background, one of them had to be a psychologist, and the other one, a social worker;
- two social workers.

The psychologist and social workers have divided their workload according to the relevant sectors. Psycho-social files of the pre-trial detainees should not be open or exposed. They should be kept in cabinets or lockers. In some of the files reviewed after being authorized by the prisoners/pre-trial detainees, we noticed they were updated with information about the prisoners/pre-trial detainees. Absence of a psychiatrist at the institutions to identify diagnosis and persons with mental health problems, had a negative effect on the work of experts of that sector.

Following the discussion with staff members of psycho-social care, they shared the

need for participation in training events, mainly on mental health issues. The files of psychologists of the institutions on persons who were supposed to have mental health problems, in absence of a psychiatrist had remained undiagnosed. They had reflected individual treatment plans based on DSM-IV-TR (The Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, test revision), and on measuring instruments for the level of anxiety, self-assessment etc. Relations between staff and pre-trial detainees were friendly. There were no complaints by the pre-trial detainees in this regard.

Health Service

Following the inspection of health care facilities, we observed inappropriate physical premises for medical or check-up examinations, supplied with auxiliary equipment. The monitoring team had access to the rooms of pharmacists and dentists. The monitoring team contacted physicians and assistant physicians. They stressed the difficulty and failure to supply all prisoners/pre-trial detainees with health certificates, to receive prescribed reimbursable drugs (which were reported in the regime by at least 20 cases).

Additionally, most of the penitentiary institutions had a precondition to recruit a psychiatrist (on part time basis as in Korça Penitentiary institution) for the frequent cases of mentally ill and former substance addicts. The problems of these prisoners/pre-trial detainees were related both to inadequate diagnosis and medical treatment. This concern is also associated with inappropriate access to psychiatric consultations at the regional psychiatric hospitals. Even the consultations of other specialties and laboratory tests posed difficulties. Dental service was not operational at the penitentiary institutions due to the lack of a dental unit and auxiliary equipment.

Dental services were barely carried out at the public or private clinics at own expenses of prisoners. In the course of inspection of the rooms of prisoners/pre-trial detainees, and contacts and interviews with them, the above mentioned difficulties on shortages of medicine, delayed consultations and limited dental service within the institution were confirmed. In cases selected from the interviews, having examined their medical files, a regular follow-up of their health concerns was established. Further, processing for the purpose of admission was highly operational, being also reflected in the proper completion of files.

Unlawful detention of persons for which the court had imposed the medical measure of "forced medication" is an emergent concern. From the recent information, it is reported a number of about 100 persons with that status.

Other concerns are listed as follows:

- Absence of medical personnel, especially of psychiatrists.
- Absence of equipment and emergency medicines in some cases, and of equipment and dental service medicines.
- Shortage of psychological service and insufficient records in the file of interventions provided by the psychologists.

Inspection initiatives ex-officio and recommendations made during 2013 at prisons and pre-trial detention facilities.**Penitentiary institution of Fushë-Kruja, Doc. No. 201302517**

The People's Advocate, in capacity of the National Preventive Mechanism against Torture, conducted a general inspection at Fushë-Kruja Penitentiary Institution on 17. 10. 2013.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the prisoners and pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Measures should be taken to separate the adults from the 18-21 year olds, thus preventing the cohabitation of an adult pre-trial detainee with a 18-21 year old (within the pre-trial detention unit);
2. Immediate measures should be taken to clean the facilities from the existing bugs in the rooms of prisoners/pre-trial detainees, intensifying the period of their disinfection;
3. Measures should be taken for the energy supply and continuous water supply;
4. Appropriate measures should be taken to reduce overcrowding and ensure a fair distribution of the pre-trial detainees in living rooms, in respect of the standard of living surface per person.
5. Immediate measures should be taken to provide beds, chairs and cabinets in rooms for each pre-trial detainee;
6. Immediate measures should be taken to provide the required ventilation duration as per the physician's descriptions;
7. Measures should be taken for the speedy operation of hot-water showers;
8. Fixing and operation of the heating system for the cold months of the year;
9. Measures should be taken to create an appropriate premise for meeting of prisoners/pre-trial detainees with juvenile relatives;
10. Measures should be taken to maintain active professional and educational courses;
11. Appropriate measures should be taken from the responsible personnel to enable individual and group consultancy in the rooms scheduled for such services;
12. Psycho-social files should be completed with clinical data of the course of disease and plans oriented to clinical goals;
13. Efforts should be made for a better maintenance and hygiene of the hospital premises, common facilities and for a large number of prisoners/pre-trial detainees' rooms as a key component for a good physical and mental health;

14. Speedy supply with medicines, in particular the emergency medicines and dental materials;

15. Failing to recruit a psychiatrist, a local psychiatrist has to be potentially recruited, in order to conduct more frequent psychiatric examinations and in a growing number.

Penitentiary Institution 313, Tirana, Doc. No. 201302303

The People's Advocate, in capacity of the National Preventive Mechanism against Torture, conducted a general inspection on 26. 09. 2013 at "Jordan Misja" (313) Penitentiary Institution in Tirana.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the prisoners and pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Measures should be taken to close down this pre-trial detention facility as incompatible with the standards for treatment of pre-trial detainees, provided for in the national and international legislation.
2. Measures should be taken to reduce overcrowding of that facility.
3. Measures should be taken to supply the pre-trial detainees with necessary hygiene products, in accordance with the international standards.
4. Immediate measures should be taken for the supply of surveillance rooms with basic furniture, in order to respect the dignity of pre-trial detainees.
5. Measures should be taken to adapt the premises and initiate professional and educational courses;
6. Measures should be taken for the training on test evaluation, diagnosing and treatment of mentally ill persons;
7. Increase of the treatment capacity with advisory services;
8. Measures should be taken for the professional completion of files;
9. Speedy recruitment of an additional physician and physician assistant;
10. All pre-trial detainees should be supplied with a health certificate as the primary and required component both for the drug reimbursement and implementation of medical tests or other specialized medical consultations;
11. Potential operation of the laboratory;
12. Efforts should be made to reduce delays of medical examinations or consultations by better processing the complaints of pre-trial detainees from the mid-rank personnel;
13. Measures should be taken for a better management of health issues at the Reception Commission;

14. Increase of the number of consultations made by the psychiatrist as it would be compliant with the highest requirements for a similar service.

Penitentiary Institution of Vlora, Doc. No. 201301783

The People's Advocate, in capacity of the National Preventive Mechanism against Torture, conducted a general inspection on 12. 07. 2013 at Penitentiary Institution of Vlora.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

Following the inspections and visits conducted at that institution, a number of problems were reported, in respect of which the following recommendations were made:

1. Measures should be taken to eliminate humidity, mainly in the third unit, with the view of improving infrastructure-related conditions in the affected sections of the building.
2. Reconstruction of the isolation, surveillance and transit premises in terms of the defaults reported in these premises, and better circulation of fresh air and natural lighting by enlarging cell windows, without affecting the institution's security elements, for the purpose of the respect of rights of the pre-trial detainees in conformity with law and to eliminate their health consequences due to insufficient ventilation.
3. Measures should be taken for the periodic disinfection of the institution to clean it from the insects and prevent any potential epidemics that might result from untimely disinfestations.
4. Supply with sanitation products, both in quantity and quality, painting of oxidized beds and replacement of food distribution items, in order to improve the conditions and ensure that the current hygiene standards are respected.
5. Measures should be taken to establish a meeting room for the pre-trial detainees with their minor children, in order to offer premises that are acceptable and psychologically appropriate for the minors during the meeting with their parents.
6. Creating a separate area for the telephone set, outside the division employees, in order to ensure communication privacy for the pre-trial detainees.
7. Infrastructure within the health and dental service premises should be improved, in order to meet the required standards and enhance the service provided to this category.

From the feedback received, we were informed that recommendations were accepted and all proper measures would be taken for their implementation.

Penitentiary Institution of Tepelena, Doc. No. 201301782

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, conducted a general inspection on 17. 07. 2013 at Tepelena pre-trial detention facility.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the prisoners and pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Measures should be taken for the support of Penitentiary Institution of Tepelena with material and financial resources, in order to enable the implementation of educational, social, artistic, cultural and religious activities.
2. Speedy operation of the scheme of trilateral agreement on drug reimbursement.
3. Measures should be taken to improve work in the field of social care, in order to enable consultancy and development of social topics and foster cooperation with the institutions for the purpose of rehabilitation of the pre-trial detainees.
4. Prevention of overcrowding at the pre-trial detention facilities due to serious lack of infrastructure, thus aggravating their health situation.
5. Recruitment of a psychologist within the framework of completion of the organizational structure;
6. Psycho-social staff training, with the view of further development of capacities for the professional treatment of especially vulnerable groups;
7. Providing a special facility for the psycho-therapeutic treatment of prisoners;
8. Heads of this institution should claim the observance of working schedule by virtue of the contract they have with the physician, dentist, pharmacist, assistant physician.
9. Adequate efforts should be made for the recruitment of a full-time physician.
10. Measures should be taken for the improvement of dental service.
11. Immediate measures should be taken for the supply of pre-trial detainees with necessary sanitary products (except the soap).
12. Appropriate measures should be taken for the repair and full operation of hot-water showers.
13. Appropriate measures should be taken for the separation into special units of the 18-21 year old pre-trial detainees, in order to prevent joint activities with adult pre-trial detainees.

Penitentiary Institution of Saranda, Doc. No. 201301781

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, conducted a general inspection on 13. 07. 2013 at Saranda pre-trial detention facility.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Procurement of funds for the reconstruction of Saranda Penitentiary Institution under the conditions and standards of the legal framework in force.
2. Until the adoption of this measure, a potential option should be explored to provide heater for the kitchen through a special fund, as a necessary means to maintain hygiene and prevent diseases.
3. Measures should be taken for the support with material and financial resources, in order to enable the implementation of educational, social, artistic, cultural and religious activities.
4. Speedy operation of the scheme of trilateral agreement on drug reimbursement.
5. Measures should be taken to improve work in the field of social care, in order to enable consultancy and development of social topics and foster cooperation with the institutions, for the purpose of the rehabilitation of pre-trial detainees.
6. Prevention of overcrowding due to serious lack of infrastructure, thus aggravating their health situation.

As regards the position and measures you will take in pursuance of such recommendation, we should be informed within the 30-day time limit as provided by article 22 of the Law No. 8454 dated 04.02.1999 "On People's Advocate".

Penitentiary institution of Tropoja, Doc. No. 201301488

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, conducted a general inspection on 22. 06. 2013 at Tropoja pre-trial detention facility.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Repairs and necessary refurbishment works, to enable a quicker transfer of the pre-trial detainees to the new premises of Tropoja Penitentiary institution.
2. Initiation of educational and professional training courses.

3. Measures should be taken for the support with material and financial resources, in order to enable the implementation of educational, social, artistic, cultural and religious activities.
4. Identification of modalities for the applicability of the trilateral agreement on medicines at the penitentiary institutions situated in the areas where there are no pharmaceutical depots.

Penitentiary Institution of Kukës, Doc. No. 201301487

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, conducted a general inspection on 20. 06. 2013 at Kukës pre-trial detention facility.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Measures should be taken for the initiation of educational and professional training courses;
2. Measures should be taken for support with material and financial resources, in order to ensure the implementation of educational, social, artistic and cultural activities;
3. Cooperation with the non-profit organizations and other organizations of religious and rehabilitation character should be promoted;
4. Potential option of keeping the internal doors open, if they are not contrary to the safety requirements;
5. Immediate recruitment of a physician as without the latter, health care is at risk, there is no drug reimbursement scheme and no medical examination at the time of admission;
6. Hygienic, ventilation and lighting conditions should be improved for a better physical and mental health;
7. Appropriate measures should be taken to furnish the medical rooms with the necessary furniture and supplies.

Finally, based on the conditions reported by the previous monitoring visit, conditions identified in that visit or the progress or potential progress for meeting the required standards and following the discussion with the heads of institution in question, the monitoring team concluded that this Penitentiary Institution is highly damaged and its conditions harm the physical and mental health of pre-trial detainees, and infringe their human dignity. Further, as there is no other option available, it is recommended closing down that institution and transfer of pre-trial detainees to other nearest pre-trial detention facilities.

Penitentiary Institution of Elbasan, Doc. No. 201301200

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, conducted a general inspection on 14. 05. 2013 at Elbasan pre-trial detention facility.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Immediate measures should be taken by the Directorate General of Prisons for reducing the number of pre-trial detainees at this correctional institution.
2. Measures should be taken for the running water supply by using water deposits or opening wells.
3. Measures should be taken for installing a phone set and adapting a shower facility available for the surveillance rooms.
4. Emergent installation of the relevant security cameras in the ventilation area in the first floor, between the first and the second building, at the staircase.
5. Measures should be taken for the immediate repair of the aspiration system in the shower facilities. These repairs should be made by the relevant construction company which dealt with infrastructure before the handover.
6. Appropriate measures should be taken for repairing the damaged benches in some pre-trial detention rooms.
7. Informing the Directorate General of Prisons about issues of legal protection of the employed pre-trial detainees specifically linked with the payment obligation, their registration in the social insurance scheme, observance of the right to one day off per week etc.
8. Psycho-social files of the pre-trial detainees should be kept in lockers.
9. Potential cooperation with non-profit organizations and other institutions operating in Elbasan, to provide supplementary services and activities for the pre-trial detainees.
10. Creation of a meeting facility for pre-trial detainees, in order to offer an environment that is acceptable and psycho-socially appropriate for the meeting with their minor children.
11. Completion of the gym with necessary equipment and its operation within the shortest time possible.
12. Implementation of the Cooperation Agreement with the Ministry of Education and Science for conducting educational courses at Elbasan Penitentiary Institution.

13. Psycho-social staff training on mental health issues for the penitentiary system.
14. The physician of the Penitentiary Institution should be recruited on a part time basis.
15. Including at least one physician assistant to the organizational chart, to replace the other physician assistant in case of absences or permits.
16. Institutional cooperation agreement with the regional hospital to ensure access to all types of consultations, examinations or necessary medical tests.
17. Potential part-time recruitment of a psychiatrist.
18. Operation of the dental care which not existing within the institution facility.
19. The Institution should attempt to provide medicine for the pre-trial detainees within the shortest time possible, in order to make applicable the trilateral treaties for drug reimbursement.

Penitentiary Institution of Berat, Doc. No. 201301035

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, conducted a general inspection on 03. 05. 2013 at Berat pre-trial detention facility.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Immediate measures should be taken for the final construction and speedy operation of Berat new pre-trial detention building facility.
2. Immediate measures should be taken to reduce overcrowding of the pre-trial detainees, distributing them to other related institutions and immediate transfer of the prisoners convicted by virtue of a final court verdict, from the pre-trial detention facilities to prisons.
3. Immediate measures should be taken to preserve the food samples under refrigerating conditions.
4. Appropriate measures should be taken regarding the legal protection of the employed pre-trial detainees, specifically related to the payment obligation, their registration in the social insurance scheme, observance of the right to at least one day off per week.
5. Immediate measures should be taken for the favorable psycho-social treatment of pre-trial detainees;
6. Appropriate measures should be taken for the staff training on drafting of therapeutic plans;

7. Appropriate measures should be taken for the due maintenance of personal psycho-social data on pre-trial detainees;
8. Appropriate measures should be taken for the initiation of professional and educational courses;
9. Appropriate measures should be taken for the maintenance and administration of books;
10. Appropriate measures should be taken for raising a fund to meet the basic needs for hygiene and clothing for the needy persons and those lacking financial support;
11. Appropriate measures should be taken for the operation of the medicine distribution scheme, so that their administration is functional and quicker;
12. Appropriate measures should be taken for the transfer of mentally ill persons to specialized institutions;
13. Appropriate measures should be taken to enable the recruitment of a part-time psychiatrist as there are growing needs for his professional assessments, particularly under the current conditions of this Penitentiary institution;
14. Appropriate measures should be taken for the improvement of dental care;
15. Appropriate measures should be taken for the supply of existing rooms used for medical examinations and treatment, with relevant infrastructure facilities.

Penitentiary Institution of Lezha, Doc. No. 201300723

The People's Advocate, in capacity of the National Mechanism, conducted a general inspection on 20. 03. 2013 at Lezha Penitentiary institution.

By the end of this inspection, once informed about all findings of the inspection team and the issues raised by the prisoners and pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Immediate measures should be taken to fix the non-insulated voltage wires and install plugs in the rooms and shower facilities. Lezha Penitentiary institution had failed to adopt measures for the protection of life and health of pre-trial detainees, as no plugs were installed, wires and switchboards were not insulated, as well as the shower sets of pre-trial detainees, which, under the reported conditions, pose a risk to the life and health of pre-trial detainees.
2. Immediate measures should be taken to cover all sections with telephone sets, in order to ensure the compliance with the number of phone calls and access to their use by pre-trial detainees. A problematic issue was the standard of phone communication with relatives, specifically the opportunity and conditions offered by the institution for respecting this standard.
3. Immediate measures should be taken to provide both running water and energy

supply on a 24-hour basis. Part-time supply with both running water and energy was reported. This shortage along with the failure of supply with personal hygiene items such as shampoo, toothpaste, detergents and cleaning items, waste plastic bags and other related articles, shows that Lezha Penitentiary Facility has a problematic plan in creating proper conditions for the maintenance of collective and personal hygiene. In order to meet the personal hygiene standards, there were shower facilities but they were generally non-operational, thus representing another standard violated by that institution.

4. Introducing to the Directorate General of Prisons the overcrowding situation, claiming the adoption of measures for reducing the number of pre-trial detainees through their transfer and distribution to other pre-trial detention facilities. Overcrowding continues to be one of the most disturbing problems, as it gives rise not only to the breach of the standard of living space per person but also threatens their life and health by using three-level bunk beds or forcing them to sleep on the floor.
5. Immediate verification of the persons registered in the recruitment list and its completion with persons who effectively worked but did not result with such a status. Immediate verification of the working days for each of the employees, transparency of working days for each of the employees in the framework of the institution's obligation. The Directorate General of Prisons should be informed about issues of legal protection for the employed pre-trial detainees, specifically linked with the payment obligation for their registration in the social insurance scheme, observance of the right to a day off per week etc. Violations were reported both in terms of the absence of workers in the list of the employed and their financial non-treatment. Further, the treatment of employed pre-trial detainees who do not benefit equal rights as the other employees, stemming from the Labor Code and the Social Insurance Law, is considered as a discriminatory approach.
6. Creation of a special section for the 18-21 year old pre-trial detainees. That institution reportedly lacked a special unit for the 18-21 year olds and this age group was forced to live and carry out joint activities together with the adult pre-trial detainees sharing the same unit.
7. Reconstruction of indoor premises as the lack of plugs, broken glasses and other faulty appliances poses a risk to the life of pre-trial detainees.
8. Creation of indoor gym facilities.
9. Allocation of a special fund for material resources, with the view of facilitating the organization of rehabilitating and sports activities.
10. Recruitment of psychologists in the framework of completion of the organizational structure.
11. Staff training on file records and treatment plans.
12. Immediate supply with emergency medicines.

13. Change of conditions of the hospital premises, distinguishing it from the other facilities of the Penitentiary Institution.
14. Supply of the physician's and nurse room with other proper medical supplies and furniture to ensure appropriate premises for medical examinations and check-ups.
15. Better operation of the drug reimbursement scheme due to the delayed medicine supply.
16. Supply of this Penitentiary institution with another medical van as the current one is out of order.
17. Better operation of the Reception Commission.

Penitentiary Institution of Durrës, Doc. No 201300442

The People's Advocate, in capacity of the National Mechanism, conducted a general inspection on 07. 02. 2013 at Durrës pre-trial detention facility.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Immediate measures should be taken for identifying the security staff members, who have exercised violence against the pre-trial detainees and have not reported the event to their superiors and the relevant registers and have not taken disciplinary measures against them as provided by law;
2. Growing access of the transparency of pre-trial detainees not only by guaranteeing the right to complaint but also through advisory efforts of the social workers and educational staff;
3. Immediate measures should be taken to cover the premises out of the focus of security cameras with additional surveillance cameras, to ensure the transparency of security staff actions;
4. Measures should be taken to provide running water on a 24-hour basis through the use of water deposits and motor-pumps or by opening wells within the institution premises; soliciting or using a special item fund to be spent for that purpose;
5. Operation of the heater and shower facilities, which in most of the cases were out of order;
6. Immediate identification of the solution for specific pre-trial detainees who could not realize their right of having fresh air at a different time from the one of the unit where they lived or their transfer to another unit, with the view of preventing potential conflicts;
7. Immediate verification of the persons registered in the recruitment list and its completion with persons who effectively worked but did not result with such a

status. Verification of the working days for each of the employees, transparency of the institution regarding the working days of each of the employees;

8. Training seminars for the psycho-social staff, with the view of further developing professional treatment capacities and correct documentation in the file;
9. Improvement of individual treatment programs for the persons from vulnerable groups;
10. Re-distribution of the provided services: Through their services, the psychologists should be able to supervise the formulation of intervention plans by other experts, in order to provide the delivery of more professional and effective services;
11. Allocation of a fund by the institution for educational and sports articles and supply of classrooms with proper education-oriented infrastructure;
12. Supply of this penitentiary institution with a dental device unit;
13. Recruitment of specialized psychiatrists.
14. Revision of the organizational structure to include psychologists;

Penitentiary Institution of Lushnja, Doc. No. 201300587

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, pursuant to article 19/1 of Law No.8454, dated 04.02.1999, "*On People's Advocate*", as amended, on 27 February 2013 inspected the Penitentiary institution of Kosova, Lushnja.

According to the monitoring procedure, the monitoring team initially met the director of the institution and informed him about the purpose of their visit. The director expressed his readiness to meet all of the monitoring team requirements. Further, consultations were developed with the Head of Prison Police, Head of Internal Regime of the Penitentiary institution, Chief of Logistics and other officials. The monitoring team privately contacted the prisoners, inspected all of their accommodation premises and was informed about the whole documentation reflected in the relevant registers and acts.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Appropriate measures should be taken to reduce the level of overcrowding and meet the living space standard for each convict in m² and m³.
2. Measures should be taken to eliminate humidity in rooms, kitchen and in the whole building, and painting of the premises in order to improve conditions according to the required standards.
3. Continuous repair of the sanitation appliances in all premises of the penitentiary institution.

4. Measures should be taken to perform disinfestations in all premises of the institution, in order to prevent potential epidemics and provide updated hygienic conditions.
5. Completion of the monitoring scheme through installation of cameras in all premises which are currently unsupervised.
6. Display of posters about the prisoners' rights, in all premises of this institution.
7. Supplementing all necessary first aid kit medicaments.
8. Replacement of the accommodating supplies in the premises where the health service is provided, such as cabinets, chairs, tables etc.
9. Measures should be taken for the re-setting and repair of the central heating system.
10. Measures should be taken for the construction of religious ritual premises, with the view of providing an opportunity to the prisoners to practice religious rituals.
11. Measures should be taken for supplying the institution with a medical van for the transport of the sick convicts.
12. Measures should be taken for sheltering tends in some of the airing facilities, with the view of their operation even in hot or rainy weather.
13. Measures should be taken to increase the number of books in the library.
14. Measures should be taken for the supply with necessary dental repair materials.
15. Measures should be taken by the Directorate General of Prisons for the specialized examination of four convicts at this Penitentiary Institution in respect of which the latter had submitted an official request.

Penitentiary Institution of Korça, Doc. No. 201301156

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, pursuant to article 19/1 of Law No.8454, dated 04.02.1999, "*On People's Advocate*", as amended, on 15-16 April 2013 inspected the Penitentiary Institution of Korça.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Immediate measures should be taken to eliminate cases of violence exercised by the prison police officers against the prisoners/pre-trial detainees.
2. Immediate measures should be taken for improving the food quality for prisoners and pre-trial detainees.
3. Premises and conditions for special meetings should be improved and a separate

space has to be created for meetings with minor children.

4. Measures should be taken to install telephone sets in the isolation rooms and in the second unit of pre-trial detention system.
5. Measures should be taken to ensure that all prisoners and pre-trial detainees are provided an adequate amount of basic personal hygiene products (including the toothpaste, toothbrush, shampoo etc.), as well as all materials needed for cleaning their cells.
6. Improvement of psychological services and reflection in the file records of measures made for prisoners/pre-trial detainees who were former drug users, mentally ill and for the prisoners/pre-trial detainees who had no contacts with their family members.
7. Measures should be taken for sheltering tents in some of the airing premises, with the view of their operation even in hot or rainy weather.
8. Completion of the monitoring scheme through installation of cameras in all premises which are currently unsupervised.
9. Display of posters with the prisoners' rights, in all premises of this institution.
10. Immediate termination of pre-trial detainees' ventilation within enclosed facilities and their walks outdoors in fresh air.
11. Reduction of the working time of prisoners/pre-trial detainees employed at that institution to the extent of the implementation of relevant provisions of the Albanian Labor Code.

Penitentiary Institution of Peqin, Doc No. 20131483

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, pursuant to article 19/1 of Law No.8454, dated 04.02.1999, "*On People's Advocate*", as amended, on 06.06.2013 inspected the Penitentiary Institution of Peqin.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Measures should be taken to eliminate overcrowding in Peqin penitentiary institution.
2. Identification and publication of the official accommodating capacity of the pre-trial detention premises in Peqin Penitentiary Institution.
3. Operation of the surveillance premises in accordance with their legal mission.
4. Measures should be taken for a more regular presence of the staff of physicians/physician assistants within the penitentiary regime.

5. Considering, in the beginning of 2014, the issues of delayed medicine supply by the currently contracted pharmaceutical depot, in order to contract such a subject closer to that penitentiary facility.
6. Immediate measures should be taken for the improvement of water quality for prisoners and pre-trial detainees.
7. Preservation of refrigerating food samples for the residents at a conditional food regime due to diseases such as diabetes etc.
8. Immediate measures should be taken for the increase of the number of joint EC in four maximum security units, where there are no EC in the living rooms, repair of personal hygiene appliances that are currently out of order and operation of all showers in the pre-trial detention facilities.
9. Measures should be taken for the running water supply on a 24-hour basis.
10. Measures should be taken to create a separate facility for meetings with minor children.
11. Measures should be taken to ensure that all prisoners and pre-trial detainees are provided with an adequate amount of basic personal hygiene products (including toothpaste, toothbrush, shampoo etc.) and all materials needed for cleaning their cells.
12. Measures should be taken for the supply of living rooms in the pre-trial detention premises, with clothes cabinets or shelves.
13. Measures should be taken for sheltering tents in some of the airing premises, with the view of their operation in hot or rainy weather.
14. Completion of the monitoring scheme through the installation of cameras in all premises that are currently unsupervised.
15. Display of posters with the prisoners' rights, in all premises of the institution.

Penitentiary Institution of Kruja, Doc No. 201301718

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, pursuant to article 19/1 of Law No.8454, dated 04.02.1999, "*On People's Advocate*", as amended, on 26.07.2013 inspected the Penitentiary Institution of Kruja.

By the end of this inspection, once informed about all findings of the inspection team and the issues raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Immediate accommodation of the mentally ill persons under unlawful detention, in psychiatric wards administered by the Ministry of Health until the establishment of special medical institutions as provided by law.
2. Thorough reconstruction of the building of penitentiary institution of Zahari, Kruja.

3. Revision of the emergent organizational structure to include two psychiatrists.
4. Supply of the penitentiary institutions with medical vans.
5. Operation of the new energy supply line and reconstruction of the internal energy supply line.
6. Measures should be taken for the water supply on a 24-hour basis.
7. Display of posters with the prisoners' rights, in all premises of the institution.
8. Measures should be taken to create a special room for meetings with minor children.
9. Sheltering tents in some ventilation premises.

Penitentiary Institution of Burrel, Doc. No. 201301772

The People's Advocate, in capacity of the National Preventive Mechanism Against Torture, pursuant to article 19/1 of Law No.8454, dated 04.02.1999, "*On People's Advocate*", as amended, on 27.06.2013 inspected the penitentiary institution of Burrel.

By the end of this inspection, once informed about all findings of the inspection team and concerns raised by the pre-trial detainees, the People's Advocate introduced the final conclusions recommending as follows:

1. Refurbishment of the premises by making relevant repairs and maintenance works to eliminate humidity and paint the rooms of inmates.
2. Improvement of the common living premises by making relevant repairs of bathrooms in the maximum security units, particularly to eliminate humidity, mend the broken pipelines, shower sets, lighters and power supply system according to the technical safety standards.
3. Improvement of the running water supply from the networking of water supply into units, extending the water supply period.
4. Improvement of food quality.
5. Measures should be taken to provide the required amount of the basic personal hygiene products (including toothpastes, tooth brushes, shampoo etc) and with other adequate equipment for cleaning their cells.
6. Continued adoption of measures required for the compulsory education of the illiterate persons and of those who have not completed compulsory education.
7. Measures should be taken to provide medical full time training at the institution.
8. Heating of the units according to the prison regulation standards.
9. Provision and use of premises for the religious ritual practice by the convicts.

10. Improvement of premises for meeting relatives and creating a special room for meetings minor children.
11. Improvement of psychological services and reflection in the file of the measures taken.

Penitentiary Institution “Mine Peza”, Doc. No. 201302441

The Penitentiary Institution “Mine Peza” (302), Tirana, was inspected by the experts of the National Preventive Mechanism Against Torture on 27 September 2013. By the end of this inspection, once informed of all findings of the inspection team and concerns raised by the pre-trial detainees, the People’s Advocate introduced the final conclusions, recommending as follows:

1. Emergent measures should be taken to reduce overcrowding, *inter alia*, due to improper infrastructure of the Penitentiary Institution 302, “Mine Peza”, for exceeding official accommodation capacity.
2. Measures should be taken to eliminate humidity in the living premises and toilets.
3. Measures should be taken for the use of isolation rooms and surveillance only in their official capacity.
4. Based on the international legislation accepted by the Albanian state through the ratification procedure, it is recommended the adoption of adequate measures to create special premises for the separate accommodation of juveniles and adults.
5. Measures should be taken for the opening of a trade unit within the penitentiary institution.
6. More operational conditions are required for the drug reimbursement scheme.
7. Measures should be taken for supplying all pre-trial detainees with health certificates as the main component for the operation of drug reimbursement scheme.
8. Measures should be taken for improving hygiene in the rooms of pre-trial detainees through their supply with detergents and waste plastic bags.
9. Reduction of the working hours of pre-trial detainees employed at this institution to the extent of the implementation of relevant provisions of the Albanian Labor Code.
10. Measures should be taken to create a special room or adapting the existing premises for meetings juveniles.
11. Completion of the monitoring scheme through camera installation in the premises that are not currently supervised.

Issues of the penitentiary system as identified by the complaints and findings of inspections in 2013.

Despite the insistence of the People's Advocate, issues with an identified need for immediate changes remained unaddressed in 2013. Therefore, we have to bring to your attention the issues raised in the 2012 annual report of the People's Advocate, as below:

-During 2013 most of the local prisons and pre-trial detention facilities continue to suffer from problems of wear and tear and improper conditions, in particular the humidity (Prisons 325, 313 of Tirana, Rogozhina, Tepelena, Lezha, Kosova of Lushnja, Burrel, pre-trial detention Facilities of Berat, Saranda, 313 and 302 in Tirana), shortage of water supply, especially in summer (Prisons of Rogozhina, Kruja, Pre-trial detention Facility of Elbasan), non-functional toilets, showers, airing facilities, isolation cells, lack of premises for education, practice of religious rituals, sports activities etc. (Prisons of Burrel, Lezha, Tepelena, Kosova in Lushnja and Pre-trial detention Facilities of Saranda, Berat, Penitentiary Institutions No. 313 and 302 in Tirana). The People's Advocate urges the recommendation for Burrel Prison to be closed down and continue to transfer the mentally ill patients from Kruja Prison and other related correctional institutions to specialized health facilities, according to the relevant parameters and standards. During inspections and re-inspections conducted in 2013 at all these institutions, we basically stressed the immediate need for partial investments that would significantly improve the existing conditions. These issues have been regularly reported to the Directorate General of Prisons but we believe they fall within the exclusive powers of this institution. If we claim the improvement of human rights standards within the country, especially for the sentenced persons, the Albanian Government and the Ministry of Justice and Ministry of Finance should take into account that apart from commitment, this process requires due financial support.

- One of the main issues which continues to be disturbing for the People's Advocate is the failure to find a final solution for the housing within a hospital facility out of the penitentiary system, of the persons in respect of whom the court has taken the measure of forced medication, in conformity with Law No. 44 "On mental health" and decisions of the District Courts. The People's Advocate has raised this issue every year and has not agreed with the situation in which these persons are still involved, medicated within the premises of the penitentiary system. During 2013 we were informed that the Ministry of Health is taking measures to build a special institution, in order to treat these persons according to law, as also recommended by the People's Advocate. Building a new institution according to the international standards would be a legal solution²⁴.

-A very serious concern which continues to be raised in many confidential communications with the inmates and pre-trial detainees is the issue of corruption in sections of the penitentiary administration. Such corruption has given rise to the claim for serious violation of the rights and treatment of individuals within these institutions.

²⁴Upon the adoption of the new Law No. 44/2012 "On Mental Health", which is of current standards and other bylaws for its implementation, we believe the present concern will be ultimately resolved.

The People's Advocate has attempted to verify some reported corruption cases; however, it was very hard for him to find out the truth. Considering the periodic finding of prohibited items in specific cells or due to unequal treatment of some inmates and pre-trial detainees', it is indirectly understood that corruption is present in the penitentiary system and represents a threat for successful treatment of the rights of convicts or pre-trial detainees. We have periodically recommended **drafting and approval of a clear and understandable set of rules and procedures detailing the circumstances in which compensation or special permits may be granted**, or employment procedures and payments of the inmates/pre-trial detainees at the penitentiary institutions. These rules and procedures should be fully compliant with the international conventions, laws and other bylaws of the Albanian state on the penitentiary system.

- Despite the measures taken for setting up new penitentiary facilities, overcrowding continues to be a major concern in prisons. The People's Advocate has often underscored the importance of reducing the number of inmates in prisons, respecting the standards of living space as overcrowding is the main cause of the wear and tear of prison premises and poor quality services to the inmates.

- The People's Advocate Office believes that special attention should be drawn to the prison staff training regarding the prisoners' rights during hunger strikes, meetings with their relatives, controls of inmates and premises where they live. Further, in respect of the dignity of inmates, family members and their children, special priority should be attached to the contacts of inmates with their families and minor children, arranging appropriate premises as they lack in some prisons. Further, we have periodically recommended **drafting and approval of a clear and understandable set of rules and procedures detailing the circumstances in which compensation or special permits may be granted**, as well as the employment procedures and payments of the inmates/pre-trial detainees at the penitentiary institutions. Such rules and procedures should be fully compliant with the international conventions, laws and other bylaws of the Albanian state on the penitentiary system.

- Cases of torture and exercise of physical and psychological violence against the pre-trial detainees and inmates by the prison police officers remain in the focus of the functional duty of NPM. There have been some relevant complaints but in three cases during 2013 there were proven the claims of complainants on exercise of torture by the prison police officers, such as in the penitentiary institutions of Kavaja, Korça and 313 in Tirana. As regards these cases, we have recommended to the prosecutor's office to institute investigation for the criminal offence of torture and arbitrary acts.

The mission of NPM is: "Prevention of torture and maltreatment or inhuman and degrading treatment, focusing on their future and not on their past. However, an integral part of the preventive mandate of NPM is the assessment of institutions' feedback after having reported maltreatment cases

Confidence in the prohibition of torture and other forms of maltreatment will be decreased whenever the police officers who exercise violence are not held liable for their actions. When no immediate and effective feedback is collected after the receipt of information about maltreatment, the persons who are prone to exercise violence

will believe they will not be punished. Therefore, all efforts to promote the principles of human rights through merit-based recruitment and professional training will be undermined. Failure to implement proper measures by the colleagues, managers and investigation authorities will impact the degradation of values constituting the very foundation of democratic societies.

Otherwise, when the prison staff members ordering, authorizing, allowing or exercising violence are brought before justice for their actions or omissions, then a clear message is conveyed that such behaviors will not be tolerated. In addition to the respect of law, a similar message would ensure the general public that no one is above the law, neither those who are responsible for its implementation.

Impunity should not be allowed at the institutions. It often occurs that colleagues help each other in relation to alleged maltreatment cases or they attempt to cover the unlawful actions of their colleagues. A public awareness campaign should be launched via training and personal examples, in order to promote a culture considering the support and coverage of acts of the colleagues maltreating inmates, as non-professional and an obstacle to their career.

Finally, no one should be doubtful about the commitment of the People's Advocate to fight impunity. Such a commitment will be present at every level. If appropriate, NPM will not hesitate to act through statements up to the highest political and governmental authorities, in order to convey the clear message of "zero tolerance" against the exercise of torture and other forms of maltreatment at the penitentiary institutions.

Complaints and applications submitted by prisoners and pre-trial detainees.

Of 220 complaints examined, 193 are already closed and 27 are being followed up. 51% of the completed cases have been resolved in favor and 49% cases are unfounded.

The scope of complaints followed up for the year 2013 is basically linked with the infringement of prisoners' rights while serving their sentence at the penitentiary institutions and addressed to the prison administration or the Directorate General of Prisons. They were about the improvement of material conditions in prisons, unfair refusal of the applications for permit, adoption of unfair disciplinary measure, unlawful actions of the police officers (physical or psychological violence, degrading actions, violation of privacy etc), refusal of the request for transfer to another prison and complaint about the health service. Further, complaints have been addressed to the Ministry of Justice due to the failure to reply to their applications for pardon, to the prosecutor's office due to non-calculation of the pre-trial detention period in the sentence term, as well as complaints against the courts and judicial decisions for unfair sentences. Meanwhile, there have also been applications for the delivery of free legal aid.

Issues of penitentiary system arising from the examination of individual complaints

Overview

A total of 220 individual complaints were submitted in 2013 regarding the prisoners' rights, of which 193 are closed and 27 are still subject to review. Of closed cases, 51% had proven to be ill-founded and 49% were resolved in favor of the complainant during the reviewing process.

Complaints were submitted by the prisoners and their family members. The prisoners may inform us of their complaints by sending a letter via mail or calling the institution's phone number. The phone contact service has become a favorite means for the prisoners to submit complaints, especially in 2013. The staff of the People's Advocate Office will clarify by phone the complaint details in order to find out if the institution is competent or not to proceed with the application. If the complaint is beyond the due competence, the prisoner will be advised about the legal procedure he/she should follow. If the complaint is held admissible, it will be registered and the prisoner will be informed by a letter about the procedures to be followed and the number of employee deliberating the case. During the official working hours, the prisoners may call the phone numbers of the institution, to ensure that their complaints have arrived. The prisoner will be shortly informed thereof due to the electronic program for the registration of complaints.

As you may read below, there is a diverse scope of complaints. Some complaints may seem insignificant but we should take into account that the prisoners have limited independence in their life. In these circumstances, even a petty concern may have major consequences. Nevertheless, each accepted complaint reflects an individual situation. The largest number of complaints focus on the quality of health service; failure of reply to the request for special permit; refusal of the request for compensation permission; non-release due to completion of sentence term; unfair confinement in the isolation cell; failure to reply to the request for transfer to another penitentiary facility; refusal of the request for transfer to another institution due to health situation and proximity to the family domicile; unfair disciplinary measure; food quality; lack of heating.

Analysis of Specific Cases

Employment in prisons is a key input to the rehabilitation of prisoners and their preparatory social integration. Employment has a positive impact on prisoners also in other forms. Employment income would help most of them buy phone cards to speak with their relatives and friends and for other articles such as food, detergents etc. Without these incomes, it would be easy for a prisoner to be indebted and suffer consequences. Additionally, work gives the prisoners a sense of discipline and purpose while the unemployed prisoners spend their days closed in their cells, thus causing boredom and isolation.

Although the work of prisoners should be paid, such a right is still not applied due to the non-issuance of bylaws. As regards the job remuneration of prisoners, on 04.03.2013 a recommendation was sent to the Ministry of Justice, hereby asking the

formulation of the draft decision of Council of Ministers on setting out criteria for the job remuneration of prisoners and its immediate delivery for approval to the Council of Ministers.

We are currently waiting for a reply from the Ministry of Justice.

The prisoners should serve their sentence at an institution with the closest proximity to the family domicile area. Prisoners often claim that the application for transfer to an institution near their domicile is held admissible only if one has financial means to pay for benefitting such a right. The investigation of complaints for the failure to reply to the request for transfer or for its refusal, has shown that some of them are resolved during the case review, namely, the Directorate General of Prisons has been involved in the procedure of request consideration and the prisoner is transferred to the desired facility. In some cases the prisoner is not transferred due to overcrowding of the penitentiary facility he has asked to be transferred to.

Prisons should be well-organized facilities with clear rules, so that inmates and prison personnel are informed about the legal limits of their actions. Some disciplinary measures taken against the prisoners for some violations have been subject to complained.

While examining a complaint for disciplinary measure, the role of the People's Advocate Office is not to reassess the facts but to ensure that the procedure followed is fair. The prisoner should appear before the Disciplinary Council, be heard and informed in writing about the grounds of the measure taken. According to the deliberated cases, this procedure has been duly respected.

Most of the prisoners will be released to be integrated in the society. In the light of this fact, it is essential to attempt for ensuring the prisoners a smoother rehabilitation. During sentence term the prisoners have lost the decision making authority for daily tasks such as the time for having meals, sleeping and talking. For someone who is released after a long sentence term, social rehabilitation may be challenging, particularly when he/she lacks family support. A key role in this transition is played by the prisoner's right to benefit compensation permit. This several day permit enables the prisoner to restore the lost contacts. Refusal of the application for remuneration permit has been subject to some complaints processed by the People's Advocate Office. In cases of the complaints of prisoners for remuneration permit and special permit, the People's Advocate Office has no authority to grant permit or not, but it may only verify the procedure for the examination of these applications. Following an analysis of these measures, they were reportedly refused due to the lack of confidence relating to the housing of inmates out of the institution. The latter had no guarantee that the prisoners' life and health would not be harmed during the permit term or that the prisoner might threaten the life and health of other people. To consider this opportunity, the institution received information from the state police and the prisoner's relatives.

Conclusions

It is a duty of the state institutions to take measures for the rehabilitation of inmates through their employment, programs and services. Considering that work plays a central role for the prisoners' rehabilitation, based on a logical conclusion, we should make every possible effort to promote employment in prisons and the work done should be remunerated. Absence of replies to date on the recommendation made for the job compensation of prisoners shows a lack of goodwill.

As regards the cooperation with the Directorate General of Prisons and the Penitentiary Directorate, we may admit that this cooperation continues to be successful. In some cases, the replies from the directorates of prisons were delayed due to the post-election period.

Inspection of Hospital Centers during 2013

The legal framework on the basis of which the mechanism has exercised its role to respect legal provisions institutionally is Law No. 8432, dated 14.12.1998 "On Asylum in the Republic of Albania", DCM No. 589 dated 28.08.2003 "On establishment and operation of the National Reception Center for Victims of Trafficking", Law No. 44/2012 "On Mental Health", Law No. 10107 dated 30.03.2009 "On Health Care in the Republic of Albania", as well as under Article 74/1, paragraph a of Law No. 9888, dated 10.03.2008 "On some amendments to Law No. 8328, dated 16.04.1998", as amended, "*On the rights and treatment of prisoners and pre-trial detainees*".

Thematic planned inspections were conducted by the People's Advocate at the Mental Health Hospital Centers, Tirana Prison Hospital and juvenile pre-trial detention facilities. These institutions highlighted problems regarding the conditions and treatment of citizens by the administration and responsible staff, in accordance with the legal provisions under the relevant field.

The operational structure of institutional and infrastructure conditions, is also monitored.

Processing of the citizens' applications against the above-cited institutions plays a specific role, by verifying on a step by step basis the procedure conducted by these institutions for the final resolution of the appeal in favor of citizens.

To accomplish its constitutional mission, the People's Advocate Office pursues compliance and law enforcement by the above-mentioned institutions as follows;

Fulfillment of all conditions under the legal provisions for mentally ill people and their professional treatment by the medical staff, and primarily their rehabilitation with psychosocial therapy as being specific for these functions. Monitoring of certain sections at these institutions where intensive therapy is applied for specific cases regarding physical limitations, methods of use of force with standardized tools and environments in which it is practiced procedure and forms of compulsory and forced hospitalization, according to the law and procedures followed. Improvement of

conditions in recreational facilities for children suffering from mental disability, providing all equipment required for intensive psychosocial rehabilitation, with the aim of escalating the prior situation and their gradual change in relation to their initial diagnosis.

- Due observance of the legal provisions at penitentiary institutions for males, females and juveniles, in respect to their conditions and treatment provided by Law No. 9888 dated 10.03.2008 *"On some amendments to Law No. 8328, dated 16.04.1998, as amended "On the rights and treatment of prisoners and pre - trial detainees"*, their health care, financial amounts for their personal service needs, social rehabilitation with forms of employment within the institution, full involvement in social activities, education for different categories, licensing through professional courses, impact of the staff to enable preparatory custodian staff of their social rehabilitation etc.

Problems found during inspections at Hospital Mental Health Centers, Hospital of Infectious Diseases in Tirana and Tirana Prison Hospital

The National Preventive Mechanism Against Torture has conducted inspections and thematic inspections at Hospital Mental Health Centers, Hospital of Infectious Diseases at the University Hospital Center, Tirana Prison Hospital.

Inspections at Hospital Centers and Social Centers have a major role for the identification of problems about the conditions and treatment of citizens in accordance with the legal provisions under the respective field. The importance of this process lies not only in implementing the law on rights and freedoms of individuals but also for optimal institutional and infrastructural conditions within the facilities of these institutions.

Additionally, to carry out this process, a specific role is attributed to the strict treatment by the NPM of citizens' complaints about all of the above institutions.

During inspections and monitoring of mental health institutions, the People's Advocate has found that although the physical conditions in some hospital premises were improved, they did not meet standards and were understaffed. Nationwide inspections at Mental Health Hospitals have found over years that a large number of patients were housed at these institutions for a very long period of time. Mostly, the presence of these patients is found at the Mental Health Hospital of Vlora and Elbasan, where their number ranges up to 130 citizens. Most of these patients are abandoned by families and do not have chronic or acute diseases, but they represent cases of mental retardation or epilepsy. Although the law does not provide for mental health institutionalization or their permanent housing at these institutions, relevant structures have provided no facilities for these very specific cases. Also, recommendations contain points on the revision of the budget and organizational aspects of the system of mental health care in the country.

Hospital overcrowding in Vlora is a problem also associated with the inclusion of mentally ill patients long abandoned by their families. It is recommended a fund allocation for the construction of Vlora Mental Health Hospital. Investing has begun and new buildings are being constructed within the perimeter of the existing hospital.

Existing buildings in this institution are out of standards and full of humidity, with inadequate infrastructure, highly damaged water supply and sewage networks etc.

Two buildings are built in the capacity of rehabilitation centers in Vlora but they do not meet the needs of newcomers as their capacity goes up to 30 patients. Currently, there are difficulties for the deinstitutionalization of chronic patients because rehabilitation centers do not provide the capacity and relevant staff in relation to the number of patients. Accordingly, a large number of patients are hospitalized at mental health hospitals and long-term housing in these institutions undermines prospects for recovery or rehabilitation.

Inspections at institutions where mental ill patients are treated, have found a lack of contemporary instruments of restraints and protocols of their use, therefore it is recommended to provide facilities in accordance with specifications for conducting intensive therapies. Further, it is reported a lack of task-force staff for emergency cases, physician- patient, nurse - patient and career – patient relationship, lack of rehabilitation and reintegration programs with activities inside and outside the institution.

Problems encountered and addressed by the NPM in relevant recommendations are mid-term and long-term training for health care hospital staff and nurses, creation of a special registry to reflect forced admissions and mainly for medical treatment in 48 four hours and later, protocol records and completion of all sections according to the law for all records, periodic monitoring of the physical standards of patients, dental problems.

Also, there is a major deficiency in prophylactic - specification elements and mainly in the laboratory ones as these institutions do not have laboratory facilities, while during the intensive therapy or flows of outpatients at times of crisis there is a need for a quick result of physical parameters for patients. Also, the physician - psychologist cooperation to develop a specific treatment plan for each patient is almost non-existent at every hospital.

Patients treated at the Prison Hospital have almost the same problems but they largely need to have various rehabilitation and re-integration activities. The specific situation of the institution does not facilitate the "bedrest" regime, as the General Regulation of Prisons is applied in daily practice. Infrastructure and financial problems reduced over the years impact the improvement of living conditions for patients as the existing building is highly damaged, thus harming the patients' health. Also, understaffing affects several sectors, such as (wardens, social, rehabilitation and nursing staff etc.), as well as in cases of paraplegics treated at this institution.

Problems encountered in 2013 during inspections carried out at Hospital Centers, Center for Asylum Seekers, Victims of Trafficking Center and Kavaja Juvenile Correctional Institution are reflected with the following recommendations:

Doc No. 201301766 (still under review)

Inspection at Tirana Prison Hospital Centre

During the monitoring visit at Tirana Prison Hospital Centre, representatives of the People's Advocate contacted the senior staff members of the institution to develop a preliminary discussion of the current situation and provide evidence on the relevant capacity, organizational chart etc. Further, a monitoring visit was conducted in all facilities, mainly in the female/male units, physicians' rooms, nursery, kitchen, surveillance rooms, airing premises and psycho-social activity facilities etc.

During inspection the monitoring team met patients of all units, who reported various problems addressed as complaints by the People's Advocate. In addition, experts reviewed the patients' clinic and psycho-social files, with the view of assessing treatment and their health care and psychological situation.

Following the monitoring visit, representatives of the People's Advocate had a final meeting with senior staff members of the institution and medical staff, to conclude on findings already reflected in the relevant recommendation:

- Measures should be taken to provide and add necessary funds for reconstruction of the PHC facilities by eliminating all infrastructure-related problems and more specifically, humidity, and those linked with the patients' daily life in connection with financial inadequacy reported at this center due to reduction of its budget over years.
- Measures should be taken to immediately provide facilities for meetings of patients with their relatives at current standards, in order to respect their rights as provided by law and their treatment under the required medical standards.
- Appropriate measures should be taken to provide a medical van of current standards and to avoid the transport of patients by the current vehicle for preventing undesired health care situations incurred during their transport in relation to emergency interventions.
- Appropriate measures should be taken for the operation of the specific surveillance room for those diagnosed with mental health problems under isolation measures.
- Measures should be taken to provide training courses for the rehabilitation staff and mainly the psycho-social one, in order to enhance the service quality of all the required (rehabilitating, reintegrating) programs, basically for the service of patients with mental health problems, change of practice on performance of all social activities while in outdoor facilities and their development after that schedule.
- Formulation of specific programs at appropriate time schedules, in order to enhance conditions for the rehabilitation and positive psycho-social impact for prisoners and pre-trial detainees (more specifically for cases under forced medical treatment) and time management in compliance with the regulation of the institution to prevent long-term accommodation of such a category into closed facilities.

- Measures should be taken to paint oxidized beds, provide bedding for patients in need, personal hygienic cleaning in the facilities offering such a service, subject to their personal needs, in order to improve conditions for the hospitalized patients.
- Measures should be taken for training the nursing and health-care staff to provide a more professional service, mainly to the patients with mental health problems as the main category of that center and those with disabilities.

Doc No. 201302376 (still under review)

Inspection at Vlora Mental Health Hospital

During the monitoring visit at Vlora Mental Health Hospital, representatives of the People's Advocate Office contacted the senior staff of the institution to develop a preliminary discussion regarding the current situation of the institution, and provide evidence on the relevant capacity, organizational chart, current situation of the relevant sections, performance of works in the new building etc. Then, a monitoring visit was conducted in all facilities and mainly in the sections providing medical treatment for patients with chronic and acute diseases (females/males), admission section, physicians' rooms, nursery, kitchen, dining facilities, facilities of the 2 respective centers, facilities for psycho-social activities, showers and toilets etc.

During inspection, the monitoring team contacted patients of all units, and also examined the conditions in their rooms and in external facilities. Additionally, they verified cases of forced hospitalization and compliance of procedures pursuant to the law on mental health. Further, it verified cases of newcomers at this institution.

Following the monitoring visit, representatives of the People's Advocate held the closing meeting with senior staff of the institution and the medical staff to conclude on findings which were already reflected in the relevant recommendation:

- Completion within the deadline of the new building, as well as prevention of increasing the patients' number in all units of the hospital and mainly in the admission section, by cooperating with the regional hospital on non-specific cases (narcotics/alcoholics), in order to facilitate to a certain extent the situation created in the Psychiatric Hospital in Vlora, given that current conditions in the actual buildings accommodating most of the patients of this institution, are far from the required standards.
- Measures should be taken to increase the psycho-social staff and establish the task-force personnel for the overcrowded units for specific cases requiring custody, with the view of the service delivery and care for the patients at the required standards.
- Measures should be taken to provide all male/female patients with seasonal clothing and enable the heating of their living facilities, in order to prevent undesirable situations affecting their health.
- Fund delivery to provide that hospital an admission unit with all prophylactic equipment (laboratory, means of restraint means (fixation), cardio-vascular device

etc) according to the service specifics based on medical mental health standards, with the aim of the delivery of a decent and professional service at the required standards, for the observance and improvement of medical and life conditions in the course of their recovery.

- Immediate measures should be taken for the improvement of situation at the women's unit, with all issues addressed (hygiene, clothing, staff), in order to treat them properly and professionally and prevent undesirable situations at that unit with epidemiological and health consequences.

Doc No.201301401 (no answers are provided).

Monitoring Visit at the Infectious Disease Hospital at Tirana University Hospital Center

During the monitoring visit at the Infectious Disease Hospital attached to Tirana University Hospital Center, representatives of the People's Advocate Office contacted the head of service of infectious disease hospital to develop a preliminary discussion on the current situation of the institution. Records were administered on the capacity, organizational structure, current situation of wards, new investments, device or equipment etc. Further, monitoring visits were conducted in all facilities, mainly in the wards where patients with serious infectious diseases are medicated and in facilities where patients with HIV virus were administered medical treatment. Additionally, the quarantine facilities were visited in which the 24-hour "Daycare Hospital" was adapted for civil emergencies, Ambulatory Clinic, rooms of physicians, sickrooms, shower facilities and toilets etc.

During the inspection meetings were held with the patients of all wards, who shared opinions about their conditions and hospital treatment. Further, the procedures for admission of patients according to the diagnosis references were verified, in order to prevent their re-contamination during their accommodation at that institution.

After the monitoring visit the People's Advocate Office representatives had a final meeting with the head of infectious disease hospital service and medical personnel, in order to discuss the inspection findings reflected in the monitoring report along with the respective recommendations:

- Appropriate measures should be taken for the procurement of funds to complete, in accordance with the medical standards, the service to patients at the Ambulatory Clinic and Daycare Hospital in terms of reconstruction of the first ward to fully eliminate humidity and provide the enlargement of facilities at the Infectious Disease Hospital.
- Measures should be taken for improving the conditions of patients and of nursing staff, supplying the rooms of patients and nurses of each ward with new accommodation supplies and equipment.
- Measures should be taken to make the shower sets operational, supplying them with the necessary components or parts.

- Measures should be taken for the full time recruitment at the hospital of contracted employees and increase of the number of task force personnel for the reception of ambulatory emergencies, including employees according to the respective sections (stretcher holders, transporters of biological samples, nurses at the endoscopic and fibro-scanner section and Daycare Hospital, as well as physicians and nurses for the IST Ambulatory Clinic, Hepatitis and CO infections).

Doc. No. 201302307 (still under review)

Monitoring visit at the Center of Asylum Seekers

During the monitoring visit at the Center of Asylum Seekers, representatives of the People's Advocate Office contacted the management of that center to develop a preliminary discussion on the current situation of the institution. Records were administered on the current population, newcomers, capacity, organizational structure, current situation of buildings, new investments etc. The visit was then conducted in all facilities and basically in the accommodation, dining and cooking facilities of the asylum seekers, social and sports activity premises etc. During the inspection meetings were held with the asylum seekers, who shared information about their conditions and treatment at that center. Additionally, psycho-social and rehabilitation programs developed for that category were verified.

After the monitoring visit, the People's Advocate Office representatives had a final meeting with the head of institution and medical personnel, in order to discuss inspection findings reflected in the monitoring report, along with the respective recommendations:

- Fund delivery for reconstruction of the complete building, with the view of improving the living conditions and eliminating humidity in the facilities, which is an issue of concern for the health of asylum seekers.
- Monthly financial assistance management for the persons accommodated at the centre, as defined by Law No.1060 dated 26.01.2009, "On Amendments and Additions to Law No. 8432, dated 14.12.1998," On Asylum in the Republic of Albania".
- Creating financial conditions to increase the number of psychologists, guardians, physicians or nurses, and a favorable environment for providing outpatient medical first aid at the centre.
- Increase of food quantity and use of dietetic food in specific cases, supply the beneficiaries with seasonal outfits, mainly winter clothing, and provide the centre with entertainment supplies for the juveniles.
- Adoption of measures to provide the centre with dental service for each beneficiary, in order to treat them in accordance with the law and train the mid – term and long - term psycho-social personnel.

Doc No. 201301402 (still under review)**Monitoring visits at the Victims of Trafficking Reception Center**

During inspection at the Victims of Trafficking Reception Center, representatives of the People's Advocate Office met the center staff members and developed preliminary discussions about the current state of the institution. Further, information was provided about the number of beneficiaries, newcomers, current state of buildings, new investments etc. Inspection was conducted at all facilities, particularly in the living premises of the beneficiaries, dining and cooking facilities, sport and social activity areas. During inspection meetings were held with beneficiaries who spoke about their conditions and treatment at the center. Medical and psycho-social files and reintegration and rehabilitation programs conducted by the relevant staff for this category were also verified.

After inspection the People's Advocate Office representatives held a final meeting with the management of this institution and the psycho-social personnel, to share the findings identified during the inspection. Findings were reflected in the inspection report along with the relevant recommendations.

Adoption of measures to enable the delivery of a sufficient budget for the center, disbursement of funds for repairs and restoration works, in order to eliminate current problems in the existing buildings (reconstruction, maintenance and restoration) and provide better living conditions for beneficiaries, in conformity with the standards under applicable legal provisions.

Adoption of measures to enter into an agreement with Tirana Regional Educational Directorate, provide access to education for the persons housed at this center, who have reached the age of compulsory education, in order to shortly introduce them to the learning process, make them attend the compulsory education and follow the relevant cycle, in order not to lose the academic year. This process is carried out in accordance with the right of each individual to free education. These measures are also applied for the 3-6 year old children of the center.

Assignment of rights and duties of this public institution, services to be taken in order to provide a normal life for the victims of trafficking, and also the status, rights and duties of the persons accommodated at this center, in accordance with Article 6 of Law No. 90/2012, dated 27.09.2012 "On organization and functioning of public administration".

Adoption of measures to provide people sheltered at the center with clothing they do not have (sweaters, shoes, trousers etc), in order to treat them with kindness and respect.

Adoption of measures to optimize the play area for juveniles, in order to meet their entertainment needs, at least within the center facilities and restore in working condition the computer supplies within the facilities of this center.

Document No. 201300588 (still under review)**Monitoring visit at Kavaja Juvenile Correctional Institution**

During inspection at Kavaja Juvenile Correctional Institution, the People's Advocate Office representatives met the management of the Institution to develop preliminary discussions about the current situation of this Institution, and to be provided with information about the capacity, institution's organization, conditions and treatment of juvenile offenders etc. Monitoring visits were later conducted in all facilities and mainly in the individual cells of juvenile inmates, showers and toilets, classrooms, counseling facilities, psycho-social and sports games facilities, isolation premises, handwork facilities, physician's and dentist's room, nursery, kitchen, airing facilities etc.

They met detained and convicted juveniles, who spoke about different issues and the People's Advocate Office handled these problems as complaints. Clinical and psycho-social files were checked, in order to verify the juveniles' health and mental status, as well as psychological programs focused on the rehabilitation and recovery of juvenile offenders.

After the monitoring, representatives of the People's Advocate Office held the final meeting with the management of the Institution, to share findings from the inspection. These findings were reflected in the monitoring report along with the relevant following recommendations:

- Measures should be taken to increase the number of basic-rank police officers in the Institution's organizational structure, for the supervision of isolation facilities and premises at night and provide service to juveniles at the best quality possible, as well as hiring a part-time IT technician to repair computers and other defaults (ringtones at emergency rooms) that may prejudice the safety of juvenile offenders.
- Repair of shower sets and sanitation supplies within the shortest time possible, provision of sanitary products according to the monthly quantities provided for in the internal institutional regulation and painting of walls in the juvenile correctional facilities and their cells, in order to provide conditions compliant with the required standards.
- Measures should be taken to recruit a dentist for providing this service within the facilities of this institution as the equipment or supplies for this service are already available at this institution.
- Proper means or supplies for the performance of sports activities and renovation of the football field, in order not to cause injury to juveniles' limbs while playing and provide mid-term and long-term training for the psycho-social staff, in order to accomplish their mission for the social reintegration of juveniles before their release.
- Improvement of the food menu regarding the variety of ingredients, larger bread portions, enhancement of milk quality and revision of the bank contract with the relevant company, in order not to deprive juveniles from the right to purchase products within the penitentiary institution.
- Provision of juveniles with bedding, linen, other related articles and laundry supplies for every sector, in order to improve the conditions of juvenile offenders.

- Inspection of all internal facilities which cannot be monitored by the camera system and installment of surveillance cameras in these areas in order to prevent undesired situations prejudicing the safety of juveniles.

Inspections on the verification of accomplishment of the People's Advocate recommendations in monitoring visits of 2012 (follow-up visits)

Inspection initiative ex officio of Tirana Penitentiary institution 313 (juvenile unit), concerning the verification of accomplishment of the People's Advocate recommendations in monitoring visits of 2012:

- Painting cells and other facilities of the unit of juveniles and women at the Pre-trial detention Facility 313, repair of shower sets and supply of every cell with a dustbin and sanitation products, in order to improve the inmates' life quality and personal hygiene (accomplished).
- Refurbishment of the women unit and elimination of humidity from cells, showers, and bathrooms (unaccomplished).
- Speeding up the supply of juveniles' cells with new accommodation items. Establishment of a central ventilation system, in order to protect individuals from the high summer temperatures, and delivery of the dental service with the required dental products for enhancing the quality of such service for the juveniles (unaccomplished).

Inspection initiative ex officio of Tirana Penitentiary Institution 313 (women unit) on the implementation of recommendations of the People's Advocate during the monitoring visit in 2012:

- Elimination of humidity in the cell No.10 and potential removal of the pre-trial detainees from this cell. (unaccomplished)
- Drawing up a plan of measures for repairing wall plaster, works to improve toilets, eliminate cables and replace broken ceramic tiles. (accomplished)
- Installation of internal fans, washing equipment, required material for the dental service. (unaccomplished)

Inspection initiative ex officio of Tirana Penitentiary institution 302 on implementation of recommendations of the People's Advocate during the monitoring visit in 2012:

- Measures taken to eliminate humidity, mainly in the Unit 3. (partly accomplished)
- Reconstruction of the isolation, surveillance and transit facilities, natural lighting and airing through the enlargement of cell windows, without affecting the institution's security elements. (unaccomplished)
- Measures taken for regular disinfections of the institution to eliminate insects or bugs (accomplished).

- Provision of sanitation products, painting of oxidized beds and replacement of food items. (accomplished)
- Measures taken to create a meeting facility for juveniles, create separate area for the telephone set, outside the division employees and improvement of health and dental service. (partly accomplished)

Inspection initiative ex officio of Berat Penitentiary institution on implementation of the recommendations of the People's Advocate during the monitoring visit in 2012:

- Measures taken to complete works for the new building. (partly accomplished)
- Measures taken to repair shower sets, paint all facilities, supply various sanitation products, put covered dustbins in all the cells and insulate the electric wires in line with the technical safety standards. (accomplished)
- Measures taken to create a proper area for the social and educational service, to update the library, and promotion of reintegration programs. (unaccomplished)
- Measures taken to include a nurse and dentist in the staff of the health service, create a medical room, speed up procedures for the implementation of the trilateral agreement on the list of reimbursable drugs and availability of medicines. (partly accomplished)
- Implementation of the Agreement on education. (partly accomplished)

Inspection initiative ex officio of Tirana Prison Hospital Centre on the implementation of recommendations of the People's Advocate during the monitoring visit in 2012:

- Measures taken to provide patients and facilities with sanitation products for all the center units, change sheets and towels, paint oxidized beds and repair shower sets. (partly accomplished)
- Measures taken to create a special surveillance room, supply means of physical restraint, extend the telephone set cable and increase ramps in these facilities for quadriplegic patients. (partly accomplished)
- Measures taken to enhance the quality of all relevant (rehabilitating, re-integrating) programs, extend educational facilities and enrich the library with books and literature sources to enable proper conditions for activities within these facilities. (partly accomplished)
- Measures taken to improve the food menu and create a meeting area for the patients and their relatives, in line with the current conditions and standards. (unaccomplished)
- Measures taken to conserve drugs in accordance with the pharmaceutical standards, supply the missing drugs and adapt alternative medications, in

accordance with the specifics and diagnoses treated in this institution. (accomplished)

- Measures taken to conserve food samples in conformity with the prison rules, provide a medical van according to the required standards, and avoid exposure of the means of restraint by the security officers while being in the internal facilities of this center (partly accomplished).

Inspection initiative *ex officio* of Tirana Mental Health Hospital, on implementation of the People's Advocate's recommendations during the monitoring visit in 2012:

- Measures taken to change window panes, sheets and towels, paint the walls, and correct all infrastructural defaults. (unaccomplished)
- Measures taken to fix the missing doors in the bathrooms, provide sanitation products and 24-hour water supply. (partly accomplished)
- Measures taken to improve the dining facility, create a comfortable environment for family meetings at every unit, operate the alarm system for civil emergencies and elevators. (partly accomplished)
- Measures taken for the promotion of rehabilitating and re-integrating programs and their reflection in an agenda. Creation of a form for every patient and supply facilities with all the relevant materials for conducting the activities. (accomplished)
- Measures taken to increase nursing personnel, select a task-force staff, provide training and internal technical staff for repairs. (partly accomplished)
- Measures taken to improve the surveillance and isolation facilities, to bring the patients in fresh air areas instead of staying in their beds. (partly accomplished)
- Measures taken to conserve the drugs, in line with the pharmaceutical standards, supply the units with medicines and the hospital with safety belts. (unaccomplished)
- Measures taken to have a functional yard in the juveniles unit, create facilities for the parents, supply linens and towels and potential enlargement of the unit, considering that it is the only of its kind exclusively treating the juveniles. (*partly accomplished*)

Implementation of recommendations of the People's Advocate on issues reported from the monitoring visits of 2012.

As regards the issues reported at the penitentiary institutions and Prison Hospital, we stress out that some of the recommended issues have been applied but there are still areas of concern such as;

- Poor infrastructure at some penitentiary facilities.
- Examination of health issues and their timely diagnosing.

- Increase of the psycho-social, mental health, nursing staff organizational structure (Hospital Prison Center).
- Supply of cells with ventilation equipment during summer.
- Increase of rehabilitation and re-integration programs, mainly in juvenile correctional facilities.
- Continuous health staff training.
- Long-term psycho-social staff training
- Promoting the rehabilitation of mentally ill persons at the relevant institutions.
- HPC budget decrease over years.

As regards the problems identified at Hospital Centers, we emphasize that some of these recommended issues are applied but some issues still remain problematic, such as;

- Infrastructure wear and tear.
- Understaffing at the health units regarding the number of patients medicated by these institutions (physician-patient, nurse-patient).
- Lack of the means of restraint (fixation) and premises for intensive therapies, in accordance with the diagnosing prophylactics.
- Lack of laboratory facilities at the admission units, specifically for mental health and specialized task force staffs.
- Lack of the number of psycho-social staff members for the practical implementation of rehabilitation programs.
- Hospitalization of the patients abandoned by their families with epileptic specifics and mental disorders.
- Increase of the number of rehabilitation centers at a national level.

A total of 29 follow-up visits were conducted in 2013 regarding the fulfillment of recommendations of the People's Advocate for the year 2012, respectively a total of 12 at the police stations and 17 at the prisons/pre-trial detention centers and HCPs. The follow-up visits show the same situation described in the above comparative cases.

Ex officio, ad-hoc and legislative recommendations-Implementation of the People's Advocate recommendations on the identified issues:

Upon the recommendations related to all the above findings, the People's Advocate Office, in its capacity of the National Preventive Mechanism Against Torture, closely monitored the efforts to correct the deficiencies and maintain constant international communication and cooperation, aimed at their implementation.

All the involved institutions responded to and welcomed the recommendations and contributed to their implementation. We reiterate that, although the People's Advocate recommendations were accepted by the respective institutions, their implementation has been complete only in few cases, while some recommendations were partly accomplished or the situation had remained the same.

Recommendation to Lezha Penitentiary Institution, registered as Doc no. 201301595

It is recommended to analyze and normalize the situation created in the Penitentiary institution of Shën Koll, related to the problems identified in this recommendation.

After being informed by the electronic media regarding the hunger strike of some prisoners in Shën Koll Penitentiary Institution of Lezha, in meeting constitutional and legal powers regulating the activity of the People's Advocate Office, the People's Advocate immediately sent a working team to administratively approach this case.

In accordance with the development of investigative procedures, the working team firstly had a meeting with the Director of Institution and communicated the purpose of the visit.

In addition, experts of the People's Advocate held separate meetings with prisoners in respective rooms of "Ordinary Security" Building 2 of this institution. During the questioning, the latter reported a number of problems listed as below:

- *Impact of the administration of Shën Koll Penitentiary Institution to vote a particular political party.*
- *Limitation of fresh air hours for inmates of "Ordinary Security" Building 2 of Shën Koll Penitentiary Institution of Lezha.*
- *Poor food quality*
- *Overcrowding*

The records administered by the senior staff of Shën Koll Penitentiary Institution showed that the official capacity of the Ordinary Security should include 411 people, while there were currently 432 prisoners. In fact, the interviewed prisoners of the aforementioned building stated that overcrowding was caused by the use of three-level bunk beds or living in rooms with lower standards than those provided by the Regulation of the Directorate General of Prisons,²⁵ where up to 5 convicts were settled.

In view of the above, we recommended:

- Initiation of the administrative procedure for taking disciplinary action against the Director of Shën Koll Penitentiary Institution, Mr. Kastriot Piroli, due to the decision of the human resources official in favor of a particular political entity.

- Adoption of measures to prevent in any form or manner any repeated political influence by the administration of Shën Koll Penitentiary Institution, at the discretion of prisoners/ pre-trial detainees to vote in favor of political parties participating in local or central elections.
- Adoption of urgent measures to shortly resolve the conflicting situation in the "Ordinary Security" Building 2, in Shën Koll Penitentiary Institution of Lezha.
- Adoption of urgent measures to improve food quality in Shën Koll Penitentiary Institution in Lezha, and inspections to be carried out by the relevant structures of the Directorate General of Prisons²⁶, with the view of assuming individual responsibility towards people covering this aspect of operation of the penitentiary system. Measures should be taken to reduce overcrowding in all ordinary security units in Shën Koll Penitentiary Institution of Lezha.

In reply to the above-cited document, the Director General of Prisons basically sent a negative answer which we are commenting in relation to the recommendation of NMP points.

- *Initiation of the administrative procedure for taking disciplinary measure against the Director of Shën Koll Penitentiary institution, Mr. Kastriot Pirolu, due to the decision of human resources official in favor of a particular political entity.*
- *Adoption of measures to prevent in any form or manner repeated political influence by the administration of Shën Koll Penitentiary Institution, at the discretion of prisoners/ detainees to vote in favor of political parties participating in local or central elections.*

Regarding the above two points, Mr. Dibra firmly objected that something like this had occurred, while the interviews with prisoners reflected in the minutes state quite clearly the fact of seeking a vote in favor of political parties participating in the elections. However, the inclusion of the above mentioned recommended items in the document were strongly and indisputably conditioned by the confession of what had happened by the Director of Lezha Prison in the presence of the Head of Police Unit of the Penitentiary institution.

- *Adoption of urgent measures to shortly resolve the conflict in the "Ordinary Safety" Building 2, in Shën Koll Penitentiary Institution of Lezha.*

In reply to this point of the recommendation, Mr. Dibra has totally overlooked the fact of our initial explanation that airing schedules in the building 2 are respected by Lezha Penitentiary Institution, as defined by the regulation of the Directorate of Prisons, and later the NPM explained that prisoners did not apply the schedules in question due to a conflicting situation for which the Penitentiary administration had not reacted for a while.

Regardless of the reply, the available information proves that the relevant NPM recommendation is implemented through the transfer of convicts involved in the conflict in question, to other Penitentiary Institutions and Vaqarr Penitentiary institution.

- *Adoption of urgent measures to improve food quality in Shën Koll Penitentiary institution of Lezha, and audits to be conducted by relevant structures of the Directorate General of Prisons²⁷, with the aim of assuming individual responsibility towards people covering this aspect of operation in the penitentiary institution.*

Mr. Dibra denied that food was of poor quality, while according to the information resulting from inspection, the food quality in this institution has improved significantly, and a number of controls were carried out by the Directorate General of Prisons (point of recommendation).

- *Adoption of measures to reduce overcrowding in all ordinary security units of Shën Koll Penitentiary Institution of Lezha.*

With regard to the said population figures of Lezha Penitentiary institution, Mr. Dibra explained in his reply that such numbers are not found in prisons but in pre-trial detention facilities. The recommendation clearly explained the overcrowding in ordinary security, supported by facts but also administered on the basis of figures obtained from the administration of Lezha Penitentiary institution.

Recommendation registered as Doc No. 201301768

Recommendation concerning the implementation of legal obligations for preparation and issuance of bylaws based on the implementation of article 18, paragraphs 1 and 2, 27, paragraph 5, letter "d " and 28, paragraph 2 of Law No. 44/2012 dated 19.04.2012 "On mental health", as amended.

In meeting constitutional and legal powers, the People's Advocate has, through periodic inspections at mental health facilities, continuously monitored the observance of human rights and standards provided to the persons of this category, in order to improve the treatment and conditions of patients and ensure full respect for human rights at the institutions in question.

Specifically, monitoring visits were conducted at Tirana Hospital and Special Institution in Zahari, Kruja, during which infrastructure-related problems were reported. Further, in conditions of deprivation of liberty, although the court has taken the decision of forced medication and not punishment by imprisonment, it was found that 111 people were held in the two institutions in question.

We believe that issuance of bylaws in question within a shorter time is deemed necessary because it will firstly define equal standards, and secondly will establish procedures to be followed regarding measures of physical restraint of the patients accommodated in special units. We emphasized that issuance of these bylaws would ensure the full enforcement of the aforementioned law.

²⁷ *Ibid*

In view of the above, with the purpose to shortly implement this very important law, the People's Advocate submitted the following recommendations:

1. Preparation and approval, within the shortest time possible, of bylaws stipulated in Articles 18, paragraph 1 and 27 paragraph 5 letter "d", Law No.44/2012 "On mental health".
2. Preparation and submission for approval to the Council of Ministers, of bylaws stipulated in Articles 18, paragraph 2 and 28, paragraph 2 of Law No.44/2012 "On mental health".

The responsible institutions have not sent a reply regarding this recommendation.

Cases started ex- officio by the People's Advocate on problems encountered during the monitoring, as per the respective field.

People's Advocate recommendations on violence related cases in penitentiary facilities, during the monitoring and individual complaints

During the monitoring of penitentiary institutions, the inmates have filed complaints with regard to physical or verbal violence committed against them by internal regime or security officers. In capacity of the NPM (National Preventive Mechanism Against Torture), the People's Advocate has exercised its legal authority against any claims focused on "violence", and set up a group of experts to verify these cases. A number of cases were referred in 2013. They were verified and the procedural documentation was sent to the respective institutions. There was a violation of fundamental rights of the complainants, as guaranteed by Article 25 of the Constitution and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, *to avoid being subjected to torture, punishment or cruel, inhuman or degrading treatment.*

Recommendation registered as Document No. 201301221 (no answer is provided)

We recommend the initiation of investigation against the citizen B.B., for the offence of "torture", provided by Article 86 of the Criminal Code, as amended.

To: Tirana Prosecutor's Office

On 22.05.2013, some experts of the National Referral Mechanism Against Torture at the People's Advocate Office, conducted a monitoring visit in the women unit of Tirana Penitentiary Institution No. 313. During the visit, the citizen E.M. complained to the experts that she had suffered physical abuse by a police officer. According to the complainant, at 12:00 hrs on 19.05.2013 she was in the cell No.10 of women unit, together with three other detainees, Dh.K, B.I and B.B.

The complainant explained the reason why she suffered physical violence by the female prison officer, as well as the reaction of her cell mates who intervened to separate them.

After they were interviewed, it was concluded that the three of them had seen the incident occurred in their cell, namely the physical violence against the complainant by the female prison officer. Their statements and procedural actions proved the statement of the complainant about the physical violence she has suffered by the female prison officer.

Also, from the registry examination administered by the medical staff of Penitentiary Institution No. **313**, it was found that on 19.05.2013 the complainant was visited by some members of personnel and was administered "diazepam" tranquilizer.

In the meantime, experts who investigated this case asked the female prison officer about the claims raised against her by the complainant, but she refused to have physically abused her. Despite her denial, we emphasize that the claim raised by the complainant was proven by exhibits.

By the end of the administrative investigation of this complaint, we concluded that action by the female prison officer of the women regime in the Penitentiary Institution 313 is inhuman and contains elements of "torture" offence.

There were violated the complainant's fundamental rights as enshrined by Article 25 of the Constitution and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms *to avoid being subjected to torture, punishment or cruel, inhuman or degrading treatment*. In the end of the investigation, the Tirana District Prosecutor was recommended to initiate investigations against the citizen B.B, with the duty of female prison officer in the Penitentiary Institution 313, for the offense of "torture", provided by Article 86 of the Criminal Code, as amended.

Recommendation registered as Document No. 201300875 (accepted)

We recommend the initiation of investigation against the citizens Altin Sulo and Bizantin Agolli for the offense of "arbitrary act", provided by Article 250 of the Criminal Code, as amended.

To: Korça District Prosecutor

The citizen D.P filed a complaint to the People's Advocate Office, explaining that when he heard that his brother had suffered a car accident, he was severely shocked and being in despair (but without any malicious aim) he hit the cell door several times. After a few minutes the cell door was opened and two male prison officers of the internal regime of Korça Penitentiary institution entered the cell. According to the complainant, after that the two male prison officers came near him. Specifically, they drew near the bed where he was lying and kicked him. They kicked him on the left shoulder and on the upper rib of the left arm.

The complainant D. P explained that the behavior of the two male prison officers had not been normal because they had not asked him what had happened but they started to exert violence by hitting him. The complainant claimed that after he was kicked, he felt intense and constant pain in the chest. Therefore, on 04/02/2013 he was taken to the physician to go through relevant medical checkup. According to the complainant,

this event was witnessed by the citizens A. H, N.J. and E.Z., who, at the moment of incident, shared the same cell with him.

As in the application the complainant had filed, the latter claimed that the event was witnessed by citizens A. H, N. J and E, Z and these persons, on the basis of a minutes report, were interviewed by experts of the People's Advocate Office to testify what happened on 15/04/2013.

After their questioning, it was found that the three of them had witnessed the event occurred in their cell between David Plasaj and the male prison officers of the internal regime of Korça Penitentiary Institution. The witness statements have fully proven the claim of the complainant for being attacked by the male prison officers. The witnesses also explained the reason why the complainant had hit the door, which had occurred as a result of being in despair because he had received news of his brother's accident.

After this claim was investigated, we concluded that this action by the male prison officers of the internal regime of Korça Penitentiary Institution contains elements of the offense of "arbitrary act", provided by Article 250 of the Criminal Code. This arbitrary action was committed by them in the quality of state employees as male prison officers in Korça Penitentiary Institution. As above, the People's Advocate Office addressed to the Korça District Prosecutor the recommendation to initiate investigation against the citizens A. S and B. A, who worked as prison police officers in Korça Penitentiary institution, for the offense of "arbitrary act " provided by Article 250 of the Criminal Code, as amended.

In the letter No.1 / 7 of 01/07/2013, the Head of Korça District Prosecutor's Office, Mr. Ferdinand Elezi, reported that criminal proceeding No.686 for the offense of "arbitrary act " as provided by Article 250 of the Criminal Code, was registered on the basis of the People's Advocate report.

Recommendation registered as Document No. 201300613 (accepted)

We recommend the initiation of criminal prosecution against the male prison officer of Kavaja Juvenile Correctional Institution, for the criminal offence of "torture" as provided by Article 86 of the Criminal Code, as amended.

To: Kavaja District Prosecutor's Office

During the inspection by representatives of the People's Advocate Office in Kavaja Juvenile Correctional Institution, an application was submitted in the form of a petition by some citizens serving their sentence in Kavaja Juvenile Correctional Institution (S.T, R.M, M.H, M.H, S.T, O.S, A.L and D.T). These juveniles pretended they were maltreated by the male prison officer, A. N.

To prove the claims of the complainants, the People's Advocate Office decided to institute an independent investigation. According to the explanations given by the juveniles, the male prison officer consistently showed a violent behavior to them, mainly on the first day of their conviction. This employee entered into the cell where the juveniles were staying and they claimed he hit them on the face saying that this behavior was a welcome sign in that institution.

All the above juveniles declare such fact in the presence of their fellows. Juveniles also stated that similar actions by the said male prison officer also occurred in facilities which are partly not monitored by security cameras and mainly in cells.

In their statements the juveniles explained they felt scared and threatened by this officer during his service in their unit. They unanimously claimed his presence had often caused anxiety, mostly in the early morning hours, where he entered their cell and approached their beds, hitting them with the excuse of getting up to be ready for school activities.

The male prison officer who has committed acts against the complainants was interviewed and his words were recorded by the working team. While admitting that he had committed acts with the above juveniles, he refused to have physically abused them as the complainants claim.

By the end of the review and investigation of this issue and the documentation administered, we concluded that juveniles had suffered physical and psychological violence, as during the questioning juveniles testified in detail the violence related cases against them and their fellows.

Their treatment by the male prison officer is inhuman and degrading. In its content this action is criminal, because this employee has consumed the elements of "torture" offence. Violence against juveniles was committed to punish them under unprotected conditions, seriously prejudicing their rights provided for in the legislation. This violence is associated with the violation of their privacy in the cell and with a strong impact on their psychological condition.

Applicants were violated their fundamental rights guaranteed by Article 25 of the Constitution and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, *to avoid being subjected to torture, punishment and other cruel, inhuman or degrading treatment*. Regarding the above findings, the People's Advocate addressed a recommendation for Kavaja District Prosecutor to institute criminal prosecution against the male prison officer of Kavaja Correctional Juvenile Institution, A.N, for the criminal offence of "torture", provided by Article 86 of the Criminal Code, as amended.

In the letter No. 09 of 06/01/2014, Head of Kavaja District Prosecutor's Office, Mrs Ornela Rrumbullaku, stated that criminal proceeding No. 104 for the criminal offence of "torture", provided by Article 86 of the Criminal Code, as amended, was registered on the basis of the People's Advocate report.

Recommendations initiative *ex officio* by the People's Advocate on migration issues in the Republic of Albania

The People's Advocate, as a promoter of human rights and fundamental freedoms, notes a new dynamic on migration issues, particularly in the light of information showing that EU policies on migration, which until now have been focused on securing a safety zone, freedom of movement within the EU, by harmonizing national policies of its member countries, are already focused on a partnership between EU countries and non-member EU countries, access to global migration. Some EU

countries, especially new member countries are already engaged in the formulation of the National Strategy on Migration and their Action Plans, precisely oriented towards this new policy migration of the EU.

While the EU migration policy is now focused on a partnership with Albania and when different countries have prepared its specific national strategy on migration and detailed action plans, through which they define a clear policy of partnership in this regard, Albania cannot guarantee partnership with fragmented migratory policies in various sectorial strategies, but a National Strategy on Migration and a detailed Action Plan are required.

Albanian migration dynamics, clear definition of the migration policy of Albania, management in the spirit of migration partnership, migration policy approach towards the EU, coordination of activities and events between state and non-state structures within the country and abroad in terms of migration management, as well as support of international partners in this field, required for drafting a new National Strategy on migration and a detailed Action Plan.

The absence of this strategy will give rise to the infringement of rights of the Albanian citizens, foreigners or stateless (located in the territory of Albania as regular or irregular residents), who are involved in the issue of migration.

Recommendation registered as Document No. 201301007 (no answer is provided)

Addressed to the Prime Minister of the Republic of Albania regarding the: "Drafting and approval of the new National Strategy on Migration and a detailed Action Plan"

Albanian migration dynamics, clear definition of the migration policy of Albania, management in the spirit of migration partnership, migration policy approach towards the EU, coordination of activities and events between state and non-state structures within the country and abroad in terms of migration management, as well as support of international partners in this field, required for drafting a new National Strategy on migration and a detailed Action Plan.

In our opinion, the absence of this strategy will give rise to the infringement of rights of the Albanian citizens, foreigners or stateless (located in the territory of Albania as regular residents), who are involved in the issue of migration.

Recommendation registered as Document No. 201301007 (accepted)

Addressed to the Minister of Interior, Mr. Flamur Noka on "Pronouncement of nullity of the administrative act, Order of the Minister of Interior No. 90, dated 30.05.2012, "On documents to be submitted by Albanian citizens for the change of name/surname at registry offices and procedure to be followed by the registry clerk".

By letter of the Ministry of Interior with Prot. No.4467/1, dated 12.08.2013, sent by the Secretary General Mr. Isuf Çela, a reply was given about the procedures for documents to be submitted by the Albanian citizens on the change of name/surname at registry offices and the procedure to be followed by the registry clerk as below;

Law No.10129, dated 11.05.2009 "On civil status", as amended, has been subject to amendments regarding the procedure foreseen for the change of name/surname of citizens, approved by Law No. 130/2013.

Therefore, upon the entry into force of the new law on civil status on 29.05.2013, provisions regulating the name/surname according to the bylaw, Order of the Minister of Interior No.90, dated 30.05.2012, are repealed.

Recommendation registered as Document No. 201301007 (no answer is provided)

Recommendation addressed to the State Police Directorate General on: "Pronouncement of nullity of the administrative act of the State Police Deputy/Director General, No. 8671, dated 11.30.2012 "On cross-border control of Albanian citizens".

From the content of this administrative act, which can be considered an order because its content has prescriptive elements clearly specifying that all Albanian citizens of "INAD" category, returned by the Police of Schengen/EU countries, with Entry – Refusal Act, on the grounds of the information in the SIS (Schengen Information System); those of "deportees" category, returned from Schengen/ EU countries, accompanied by appropriate documentation (Departure -Orders, Expulsion - Orders Entry - Ban), after visa liberalization (dated 15.12.2010); those of "deportees" category, returned by police of Schengen/EU countries and not accompanied by appropriate documentation (Departure Orders, Expulsion - Orders Entry - Ban, SIS), after the visa liberalization (dated 15.12.2010), who are repeat offenders more than once and are registered in TIMS as "deported" under the above grounds, will be denied exit at the Albanian border where they have as destination Schengen /EU countries when travelling without a visa".

Monitoring Visit at Police Units and State Police activity monitored by NPM (*National Preventive Mechanism Against Torture*) in 2013

In capacity of the National Preventive Mechanism Against Torture, in 2013 the People's Advocate conducted **65** inspections, re -inspections and thematic controls of all State Police structures in the country. 11 recommendations on the improvement of human rights standards and treatment of individuals at these institutions were formulated and submitted to the Director General of Police. In this context, there have been treated **31** applications of citizens against police authorities, divided in relevant fields: 18 applications for the exercise of physical violence by police officers, 10 applications for unlawful escort to police facilities and 3 applications for other concerns. 25 applications were settled, of which 5 were in favor of the complainant, through the implementation of the recommendation by the authority we addressed to, 3 applications were in favor of the applicant during the examination process, 10 applications were unfounded, 5 applications were out the jurisdiction and 2 applications were archived because people had withdrawn, while 6 applications are being followed up. Also, 6 recommendations on the protection of citizens' rights from acts or omissions by the police have been prepared and sent to the State Police authorities.

Specific monitoring objectives

The monitoring visits were focused on inspection, visits, surveillance, collection and evaluation of records, actions and practices of legal obligations by police personnel to respect the rights of the escorted, detainees or arrestees. Monitoring included:

- Treatment of the escorted, detainees or arrestees (from a legal, medical and psychological perspective);
- Examination whether safeguards are respected, provided by legal provisions for the escorted, detainees or arrestees (right to information, notification of the relatives or third parties about their detention, access to health care services, access to a lawyer);
- Material conditions;
- Police personnel.

Methodology

Such monitoring was conducted through the analysis of several sources:

1. Meetings with representatives of the administration of institutions (chief/deputy chief of police station)
2. Inspection of escorting facilities and security rooms (photograph and description).
3. Examination of the administration documentation on the escorted, detainees and arrestees.
4. Questioning of the escorted, detainees or arrestees;
5. Questioning of police officers.

Method of information collection and verification before, during and after the visit

Before the visits, based on the methodology of NPM inspections, the monitoring team gathered all the necessary legal information for the monitoring process (codes, laws, and Decisions of the Council of Ministers, orders and instructions). Monitoring followed the issue planning phase, which focused on identification of realistic performance progress indicators and indicators to be improved.

Legal Reference

Arrest and detention of persons suspected of criminal offenses is regulated by the Criminal Procedure Code (CPC), which has been in force since August 1995 (with subsequent amendments). A suspect of having committed a criminal offense may be held by the police, on the basis of their competence, up to 96 hours. If the prosecutor does not order the immediate release, within 48 hours of arrest or detention he will require validation of the measure in the court of the place where the person is arrested or detained. Failure to comply with this time limit makes the arrest or detention

ineffective²⁸. The judge has a period of 48 hours from the submission to the court of the prosecutor's request to conduct a hearing and announce the decision on validation of arrest or detention and adoption of a personal security measure against the person.²⁹

Persons for whom the court has imposed the security measure of "arrest in prison" should be transferred to Penitentiary institutions.

As regards the identification of the person against whom investigations are conducted, Criminal Procedure Code (CPC) in its Article 295 has set a period up to twelve hours, at which time police authorities are allowed to hold any person who refuses to give his identity or suspected of using a false identity. Further, in accordance with the Law "On State Police"³⁰, someone may be held under police custody for a period not exceeding ten hours, in the following cases: for supervision of a juvenile for purposes of education or escorting him to the competent authority, or when a person is the carrier of a contagious disease, mentally incompetent and dangerous for the society.³¹

The monitoring team initially contacted the Deputy District Police Director of Korça, and then the chief of section of general patrols and security facilities who escorted the monitoring team during the visit in the police station premises. The contacted persons were informed about the purpose of the visit.

When the monitoring team was due to visit the rooms of police security personnel, personal data were recorded in the register of meetings between detainees / arrestees and human rights defenders (NGOs).

²⁸Article 257, paragraph 1, CPC

²⁹Article 258, paragraph 2; Article 259 of CPC

³⁰Article No. 9749, dated 04.06.2007, as amended, articles 11, paragraph 6 and 101, paragraph 1

³¹Article 101, paragraph 1 of Law No. 9749, dated 04.06.2007

TREATMENT OF THE ESCORTED/DETAINEES/ARRESTEES

Torture and other types of maltreatment

During the inspection of Korça District Police Directorate, the monitoring team interviewed detainees/arrestees, mostly males and some females. Most of the interviewees confirmed they were fairly treated during their police custody. Most of the interviewees did not claim any inhuman treatment or physical or psychological violence. Nevertheless, during the interviews with persons suspected by the Police for having committed any criminal act, the monitoring team became aware of a number of complaints of these citizens claiming alleged physical abuse on them by police officers, mainly at the first moments of detention / arrest.

Interviewees were, in each case, unable to report the identity of the police officer whom they accuse of maltreatment. Some of them stated that in more than one occasion during their detention, there had been present police officers without a uniform, which makes their identification impossible. Complaints mainly consisted of physical violence of slapping the face and head; knocking on head, use of rubber sticks on hands and verbal violence, specifically offensive words and insults against the detainees/arrestees.³²

Among the group of detainees/arrestees, the monitoring team also interviewed juveniles (3 juveniles in Korça Police Station). Two of the respondents claimed they had been subjected to physical abuse by police (especially slaps on face) at the time of arrest and /or during the questioning.³³ Juvenile citizens A.J., and S.T., confirmed that at about 16:30 hrs on 15/04/2013, they went to Maliq police station upon their free will, escorted by the person who had filed the charge against them. When they arrived at the police station, there appeared 2 persons. One of them was a police officer and the other one was a local police officer.

Citizens A.J. and S.T. claimed that from the moment of their questioning by the police officers, they were subjected to physical violence. Citizen S.T. claimed that the police officer had hit him in the face 2-3 times while he was alone. Further, citizen A.J. claimed that the police officer had slapped him on his face in the presence of the citizen S.T., in the facilities of Maliq police station. During the inspection there were no signs of violence such as laceration, hematoma or wounds.

³²Article 28 , paragraph 5 of the Constitution , Article 3 of the European Convention of Human Rights, stipulating that "No one shall be subjected to torture or inhuman or degrading treatment or punishment"; Manual register of Standard Operating Procedures for treatment and safety of arrestees and detainees in police units "approved by Order of the State Police Director General No. 763, dated 27.09.2011, chapter 1, paragraph 3, sub-paragraph 3.1, letter a and d;

³³Article 37 b of the Convention on the Rights of the Child;

Also, in the same police station (Korça), the citizen E.M. reported that police had exerted violence against him at the time of detention near his home in the village. He complained that he had suffered physical violence. He was slapped on his face 4-5 times and on his head and was hit with a rubber stick on the palms of the hands, inside the police car. He also complained of verbal violence through offensive words. While asked about the identity of police officers whom he blamed for the violence, explanations were not complete (he gave them more detailed description but did not disclose the identity). In the body there were no signs of violence reported as laceration, hematoma or wounds, and psychological state at the time of questioning was stable.

During his stay at the station there was no application for maltreatment or physical/verbal violence.

Also, the citizen B.L. complained of intimidation and physical violence by the police at the time of detention. This person was contacted by the monitoring team immediately after his arrest. During the interview, citizen B.L. appeared frustrated and his frustration was mainly related to the grounds of arrest. At the time of the interview there were not found any signs of lesions/ hematoma resulting from physical violence on any of the persons questioned.

Psychological state of the interviewed person was peaceful and did not witness consequences caused by maltreatment. The persons questioned showed no fear or intimidation to report the maltreatment they had suffered.

Keeping under detention / arrest in an unofficial place

Most of the persons interviewed by the monitoring team confirmed that the process of detention/arrest, escort to police stations or housing in the security rooms was performed in conformity with legal procedures prescribed in the Criminal Procedure Code, by virtue of law "On State Police" and the Manual of Standard Operating Procedures for treating and securing persons arrested and detained in police units", approved by Order of the State Police Director General No. 763, dated 27.09.2011 (hereinafter referred to as the Manual). However during the questioning the detainees / arrestees complained that in some cases they were not brought directly to the police stations but stayed in the police car before being sent to police stations.

Also, the interviews by the monitoring team verified claims of the detainees /arrestees over discrepancies between the time (hour) when they had been detained or arrested and the time entered into the minutes of arrest in *flagrante delicto*. The citizen E.M. claimed that he was first contacted by the police and became aware of his arrest on 14/04/2013, 7:30 to 8:00 AM while the minutes of arrest in *flagrante delicto* included the date 14/04/2013, at 13:30hrs. The same situation was also claimed by two juvenile citizens A.J and S.T., who confirmed that although they had been brought to Maliq police station on 15/04/2013 at about 16.30 hrs, the minutes on arrest in *flagrante delicto* which they carried, was bearing the date 15/04/2013, 20:30 hrs.

Use of force and firearms

As described in the provisions of the law "On State Police"³⁴ a police officer may use force to meet a legal aim only when it is necessary and only if all other measures are unsuccessful or impossible. Use of force by the police becomes the minimum level of necessary force, in each case according to the principle of proportionality. The level of force should be to the extent provided by law, including obedience by use of words, physical restraint, striking instruments, tools with paralyzing chemicals, electric shock device, police dogs and firearms.

Manual of Standard Operating Procedures for treating and securing the arrestees and detainees in police units (Chapter IX, Section 2), foresees the use of force and physical coercion to avoid:

- a. Attempts to forcibly flee /escape from security rooms, courtrooms, hospitals or from their vehicles during the transport;
- b. Violence against other arrestees/detainees or the service personnel;
- c. Violent acts to harm the health or cause suicide;
- d. Severe damage to items, common furniture and equipment of security rooms;
- e. Active and passive opposition or resistance in implementing orders or compulsory transfer.

Further, regarding the use of firearms³⁵, their use by the state police is provided to stop or neutralize illegal actions of the detainees /arrestees, when other means have not produced any results. The use of firearms in connection with the detainees /arrestees as an extreme measure can be done in cases where:

- The person has committed, is committing or there is sufficient evidence that he has committed a serious crime, and attempts to escape detention or arrest;
- Arrestees or detainees attempt to escape sentencing, pre-trial detention rooms or places where they are held to be escorted by persons or by vehicles transporting them.

The information we collected during the visits did not report any cases involving the use of force and physical coercion means, and no cases of the use of firearms by the police against the detainees/arrestees, in order to meet a legitimate aim under the applicable provisions.

Apprehension/arrest and control

³⁴Article 118, Law No. 9749, dated 04.06.2007

³⁵Law No. 8290, dated 24.02.1998 "On the use of firearms"

Based on the information collected during the visits, contacts with the detainees/arrestees and review of records identifying the detainees/arrestees, it was found that in some cases persons were arrested by the police prior to the time recorded in the minutes of the arrest *in flagrante delicto* and not in conditions of *flagrante delicto*, as reflected in the minutes. As above, ambiguity was found in the definition and identification of cases of detention and arrest in *flagrante delicto*. Pursuant to Article 251 of the Criminal Procedure Code, the person captured in *flagrante delicto* (in progress or immediately after the commission of an offense), when there are the criteria provided for in this section, shall be immediately arrested as soon as he is apprehended and will be held in custody for 10 hours.

It is worth mentioning the case of the citizen E.M., who claimed that he was informed on 04/14/2013, at 7:30hrs to 8:00hrs in the morning while he was going out of the house, while the minutes of arrest in *flagrante delicto* dated 04/14/2013, 13:30. The same situation was also claimed by two juvenile nationals A.J and S.T., who confirmed that despite they had gone to the police station of Maliq at their free will, on 15/04/2013 at 16.30hrs, the record of arrest in *flagrante delicto* which they had with themselves dated 15/04/2013, 20:30 pm.

FUNDAMENTAL PROTECTIVE MEASURES

Right to information

During the visits at police facilities, including both the police station premises (corridors, offices of judicial police officers) and security cells, there were generally reported informative posters about the rights of the escorted/detainees/arrestees. In the interviews with the detainees/arrestees, some of them admitted they were informed about their rights from the police officers once they were detained/arrested. However, in the course of interviews, some detainees/arrestees stated they had not received the necessary information about their rights from the moment of their detention.

Lack of information of the detainees/arrestees about their rights is associated with a lack of access to inform their relatives about their detention and/or the lack of access to a lawyer upon their detention³⁶. The citizen F.K. claimed of being informed about the rights of detainees/arrestees not at the time of arrest but on the following day. During the interview conducted by the monitoring team, the arrestee E.M. confirmed of not being informed of individual rights, nor about the right to not speak and no defense counsel was made available.

Lack of the right to information was particularly reported by the interviews made with the juvenile detainees, who, although had signed the statement of notice about their rights, claimed of not being informed about their rights as they were not furnished

³⁶Article 255 of the Criminal Procedure Code

explanations about the right to not speak³⁷.

The monitoring procedure identified that in the premises of police stations there were no informative posters of the rights of the escorted/detainees/arrestees in a foreign language, in accordance with the applicable provisions.

Announcement of family members³⁸

Following the visits, it was reported that in many cases the detainees were provided the opportunity to speak with a relative. However, some of the detainees/arrestees who were interviewed complained they lacked an opportunity to inform the relatives right after their apprehension.³⁹ After the claim raised by the complainants, the monitoring team examined the minutes on arrest of these citizens in *flagrante delicto*, confirming the claims raised by the interviewed arrestees.

During the visit it was established that phone sets for the communication of detainees/arrestees with their family members⁴⁰ were missing in some security facilities.

Access to medical care

As described in the Manual of Standard Operating Procedures for treating and securing the arrestees and detainees in police units (Chapter II, section 7), the physician interviews and verifies to find out if there is any sign of violence, maltreatment or various diseases of the arrestees /detainees before their accommodation in security rooms,. Provisions also foresee that any detainees/arrestees shall be subject to a medical checkup (if necessary) by the physician/nurse of the department or the police station, within 12 hours of the detention/arrest.

The right to receive medical care (including physicians chosen by the detainees/arrestees) is set out in the Manual associated with the right to free health care services during their stay in the security rooms (Chapter III, section 1.9, 1.10). Proper implementation of these provisions constitutes a guarantee against possible abuses by police. From the information collected during the visits it was noted that detainees/arrestees generally had access to visit the physician, but with their free will in many cases refused to undergo medical examination.

Police Stations which have undergone reconstruction and act in conformity with the Manual are equipped with a special room for the physician, in accordance with normative standards, with fixed bed, the place where it is kept the record of visits,

³⁷ Article 35 and Article 255 of the Criminal Procedure Code

³⁸ Article 31, letter "a" of the Constitution

³⁹ Article 255, paragraph 4 of the Criminal Procedure Code

⁴⁰ Chapter V, Paragraph 6.1, letter "f" of the Manual

clinical records of detainees detailing the date, time and objective examination, and clinical applications.

Access to a lawyer

From contacts and information collected during the visit, it resulted that some of the interviewees had access to a lawyer since the first moment of their detention⁴¹, making possible the presence of the lawyer during the questioning by police authorities. However, the questioning found delays in terms of the access to a lawyer, taking formal statements from the detainees / arrestees without the presence of a defense counsel. Some of the arrestees had requested the presence of the lawyer *ex officio* but while staying in the security rooms they did not have any contact with him.

During the questioning some of the arrestees, in particular juveniles, claimed that at the time of arrest and questioning they were not provided access to a lawyer, psychologist or parent, a claim which was supported by lack of signatures of these persons in the minutes of the arrest in *flagrante delicto*. Interviews with the adult citizen BL. and citizen A.H. found that they were questioned without having access to compulsory defense by a lawyer and psychological assistance⁴², despite the presence of a psychologist in the police station facilities.

It was found that the psychologist of Korça Police Station staff did not have any relevant Bachelor degree. Despite the training offered in the field of psychology and psychological services, it seems impossible to provide standards of a professional assistance in cases where the service is provided by a non-professional. It was also found that inmates/detainees were unable to choose the defense lawyer, as their list was not displayed.

LEGAL PROCEEDING

Period of detention/arrest

From the information collected during the visits, the monitoring team found that the detainees/arrestees were generally given the statement on recognition of their rights, copies of the minutes of detention/arrest, as well as copies of personal search⁴³. From examination of the records of detainees/arrestees, there were not found any cases in breach of a period of 96 hours provided by some laws for keeping someone under police custody⁴⁴.

Access to trial

⁴¹Article 53 of the Criminal Procedure Code

⁴²Articles 35 and 49 of the Criminal Procedure Code

⁴³Chapter III, paragraph 1.14 of Manual

⁴⁴Article 28, paragraph 2 of the Constitution; article 258, paragraph of the Code of Criminal Procedure

The hearings on validation of measure for detainees/arrestees were found conducted within a 48-hour period of police custody of the detainee/arrestee. Most of the detainees were waiting for a hearing on the measure validation.

PROCEDURAL SAFEGUARDS

Audio and video recording

The security system in many rooms of the police stations was monitored by cameras but their records were not saved in tapes or DVDs. Audio-visual recording equipment are installed at police stations to control and monitor the areas but the information collected on Police Station servers is only temporary, so the control showed only the current state of affairs and did not identify situations or cases occurred the previous day.

Registers

During the inspection, gaps were identified in the completion of manual of the escorted/detainees and arrestees to specify all police actions, i.e., the reason of escort/detention or arrest, injury signs, the name of officer who has taken the action, the place where he is held, the time when the person came to police facilities, the time when he is informed of his rights, the time when he is questioned and the time when he contacted a family member, a lawyer or a physician. The crime suspects continue to be kept escorted. Such actions are contrary to Articles 11/6, 101/5, 103/1 and 107 of the Law 9749, dated 04.06.2007 "On State Police".

MATERIAL CONDITIONS

Escort and security facilities

Security facilities far from the standards required by law are located in the police stations of Elbasan, Pogradec, Peshkopi, Burrel, Berat, Lushnja, Kruja, Shkodra, Vlora, and Saranda and in Tirana Police Stations No. 1, 2 and 3.

Escorting facilities far from the standards required by law are located in the police stations of Elbasan, Gramsh, Librazhd, Peqin, Devoll, Erseka, Pogradec, Peshkopi, Burrel, Bulqiza, Berat, Çorovoda, Kuçova, Mirdita, Kurbin, Lushnja, Mallakashtra, Kruja, Shijak, Shkodra, Puka, Malsi e Madhe, Tepelena, Përmet, Vlora, Saranda, Delvina, Has, Tropoja and in Tirana Police Stations No. 1, 2, 3, 4 and 6.

Police stations that were subject to reconstruction are in line with the standards.

Conditions in the security rooms are fully compliant with those provided in standard operational procedures and in the manual on treatment of detainees and arrestees. Special rooms are created for men, women and juveniles. The questioning room for meetings with lawyers or judicial police officers, is compliant with the required standard, supplied with wall-mounted tables, chairs and equipment. There is a

separate room for the physician, in accordance with the normative standards. Rights of the detainees and arrestees are displayed in the internal facilities of security rooms. There is an operational interphone in the interior lobby of security rooms. It was found that in the security rooms, wall-mounted signal device for contacting the employee service, if necessary, did not work.⁴⁵

Food treatment

During the monitoring of police stations, after questioning the detainees /arrestees, there were found cases of lack of food treatment for the detainees/arrestees, under the normative applicable provisions.⁴⁶

During the contact with police staff in some police stations, a "catering/food supply" contract of service between the institution and a private entity was reported, in relation to the treatment of detainees /arrestees⁴⁷. Verification has shown that the documentation on food provision for the detainees/arrestees was not specified:

- The amount in ALL (Albanian Lek) of daily portion or daily meal for every detainee/arrestee.
- The amount of food provided to each person based on the calories needed.

Also, during the monitoring it was mainly found that kitchen staff was not provided with a cooking register. The storage box of cooked food did not have necessary documents (lacked the registration booklet of the person who administered storage, time for putting it inside the box, and the type and the name of the stored food). It was also noted the lack of food samples in their storage box, in contravention to the normative applicable provisions.⁴⁸

Situation of vulnerable groups

The monitoring found that only Korça Police Station had security rooms, of these one for juveniles, one for females and three for male adults. Regarding these courtrooms it was found the existence of three ones, in accordance with the requirements of the normative provisions on the provision of material conditions for guaranteeing the rights of vulnerable groups. In particular, it had to consider the juvenile escort room accomplished with the support of Save the Children Foundation because it was in full compliance with the normative provisions, ensuring normal conditions for escorting juveniles.

⁴⁵Chapter V, paragraph 4.3, letter " c " of the Manual

⁴⁶Chapter IV, Sections 2.1 and 2.2 of the Manual

⁴⁷Chapter IV, Section 2.4 of the Manual

⁴⁸Chapter IV, Section 2.5 of the Manual

Summary of recommendations developed by the NPM during 2013 on findings of inspection/monitoring conducted at District Police Directorates and their subordinate Police Stations.

Doc No. 201300132/3	
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Recommendation on the inspection of Shkodra Police Directorate and its subordinate Police Stations.

1. Building or reconstruction of escort facilities in Shkodra, Puka and Malesi e Madhe Police Stations, as per the requirements of Law No. 9749, dated 04.06.2007 "On State Police", Letter Rogatory No.703 dated 07.08.2008 of the State Police Director General, creating suitable and decent separate premises with the necessary supplies for females, males and juveniles.
2. Building or reconstruction of new security facilities in Shkodra District Police Directorate, as per the requirements of Law No. 9749, dated 04.06.2007 "On State Police" and manual "*On the Rules of Treatment of Detainees and Arrestees in the Police Security Facilities*".
3. Correct records of the citizens' escort/detention/arrest.
4. Implementation of legal provisions of the Criminal Procedure Code on recording the exact time of arrest or detention of citizens and not initially treated as escorted.
5. Installation of the monitoring system within the escort facilities, particularly in investigation premises of Shkodra District Police Directorate and all of its subordinate Police Stations. Monitoring should begin from the entrance of the police station building, in order to avoid the occurrence of any disconnection point up to the detention area.
6. Creating monitoring rooms for citizens' questioning by Judicial Police Officers of Shkodra District Police Directorate and its subordinate police stations.

Doc. No. 201300136/2	
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Recommendations on the inspection at Tirana District Police Directorate and its subordinate Police Stations.

1. Establishing immediate operational new security facilities at Tirana District Police Directorate and bringing security facilities out of order at Tirana Police Stations No. 1, 2, 3 and 6.
2. Building escort facilities in Tirana Police Stations No. 1, 2, 3, 4 and 6 as per the

requirements of Law No. 9749, dated 04.06.2007 "On State Police" and Letter Rogatory No.703 dated 07.08.2008 of the State Police Director General, in order to create separate suitable, decent facilities with the necessary supplies for females, males and juveniles.

3. Constructive changes in the security facilities of Tirana Police Station No. 5 and Kavaja, in order to meet the standards of the manual "On the Rules of Treatment and Security of detainees and arrestees in police security facilities".
4. Management of the central and local police bodies must take measures to provide that all police officers have knowledge on the law "On State Police " and fully implement the legal requirements regarding the escort of citizens to police authorities, and treat them with dignity.
5. Removal of violence-oriented objects in the offices of judicial police officers, where detainees or arrestees are questioned.
6. The following measures should be shortly implemented at Tirana Police Station No. 1:
 - Transfer of the reception room from the escort facility and its transformation into an escort room for women and juveniles, or keeping it under its current function and creating new escort facilities.
 - The escort facility located within the security facilities should not be used for intoxicated persons and drug users.
7. Correct records of the escorted, detainees, arrestees by paying particular attention to notification of family members, relatives or the trusted persons, time of notification, name and telephone number of the notified person.
8. The register on complaints of the escorted, detainees, arrestees should be made operational, and the citizen released should sign in this register. This information will prevent the potential abuse of police officers regarding the reason and time of their escort.
9. Implementation of legal provisions of the Criminal Procedure Code on recording the exact time of arrest or detention of citizens and not initially treated as escorted.
10. Installation of the monitoring system within the escort facilities, particularly in investigation premises of Tirana District Police Directorate and all of its subordinate Police Stations. Monitoring should begin from the entrance of the police station building, in order to avoid the occurrence of any disconnection point up to the detention area.
11. Appropriate measures should be taken to provide running water at Police Stations where water lacks, and showers should be installed in security facilities.

Doc. No. 201300501/2	
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Recommendations on the inspection of Durrës District Police Directorate and its subordinate Police Stations.

1. Timely completion of escort and security facilities at Durrës Police Station, as per requirements of law 9749, dated 04.06.2007 "On State Police".
2. Building new escort and security facilities in Kruja Police Station, as per requirements of the Law No. 9749, dated 04.06.2007 "On State Police", Letter Rogatory of the State Police Director General and the manual "On the rules of treatment and security of detainees and arrestees in police security rooms".
3. Correct records of the escorted, detainees and arrestees.
4. Management of the central and local police bodies must take measures to provide that all police officers have knowledge on the law "On State Police" and fully implement the legal requirements regarding the escort of citizens to police authorities, and treat them with dignity.
5. Implementation of legal provisions of the Criminal Procedure Code on recording the exact time of arrest or detention of citizens and not initially treated as escorted.
6. Installation of the monitoring system within the escort facilities, particularly in investigation premises of two Police Stations. Monitoring should begin from the entrance of the police station building, in order to avoid the occurrence of any disconnection point up to the detention area.
7. Appropriate measures should be taken to create a telephone set in the security facilities of two Police Stations.
8. Creation of the register regarding the complaints of the escorted, detainees/ arrestees.

Doc. No. 201300726/2	
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Recommendations on the inspection of Fier Police Directorate and its subordinate Police Stations.

1. Building escort facilities in Lushnja and Mallakastër Police Stations, as per the requirements of Law No. 9749, dated 04.06.2007 "On State Police" and Letter Rogatory No.703 dated 07.08.2008 of the State Police Director General, in order to create separate suitable, decent facilities equipped with the necessary supplies

for females, males and juveniles.

2. Repair of all defaults as shown above, in Fier Police Station escort facilities.
3. Construction of new security facilities in Lushnja Police Station, as per requirements of Law No.9749, dated 04.06.2007 "On State Police", the Manual "On the Rules of Treatment of Detainees and Arrestees in the State Police Security Facilities".
4. Repair of all defaults as shown above, in Fier Police Station security facilities and making the heating system operational.
5. Correct records of the escorted, detainees and arrestees.
6. Continuous training of all police officers have knowledge about the law "On State Police", and full implementation of legal requirements regarding the police escorting cases.
7. Implementation of legal provisions of the Criminal Procedure Code on recording the exact time of arrest or detention of citizens and not initially treated as escorted.
8. Installation of the monitoring system within the escort facilities, particularly in investigation premises at the Police Stations where such a system does not exist. Monitoring should begin from the entrance of the police station building, in order to avoid the occurrence of any disconnection point up to the detention area.
9. Transfer from the police facilities to pre-trial detention and Penitentiary Institutions under subordination of the Directorate General of Prisons, of all the pre-trial detainees under the security measure of "arrest in prison" and of the detainees due to enforcement of a criminal judgment in absentia on "imprisonment", taken against them by a court of law.
10. Appointment, at Fier District Police Directorate, of an expert-psychologist with appropriate education.

Doc. No. 201300963/2	
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Recommendation on the inspection of Korça District Police Directorate and its subordinate Police Stations.

1. Building escort facilities in Pogradec, Devoll and Erseka Police Stations as per the requirements of Law No. 9749, dated 04.06.2007 "On State Police" and Letter Rogatory No.703 dated 07.08.2008 of the State Police Director General, in order to create separate suitable, decent facilities equipped with the necessary supplies for females, males and juveniles.

2. Construction of new security facilities in Pogradec Police Station, as per the requirements of Law No.9749, dated 04.06.2007 "On State Police", the Manual "On the Rules of Treatment of Detainees and Arrestees in the State Police Security Facilities".
3. Adoption of measures for correcting the shortcomings identified in the register of the detainees/arrestees lice, in order to standardize this procedure in line with the requirements of Law No. 9749, dated 04.06.2007 "On State Police" and the Manual "On the Rules of Treatment of Detainees and Arrestees in the State Police Security Facilities". The register should contain all the state police activities, such as time and reason of detention or arrest, the place where the person is kept escorted, when he/she came to the police facility, when the person was informed of his/her rights, how and when he contacted a family member, a lawyer, a physician or a psychologist in cases of minors.
4. Adoption of appropriate measures to ensure that every individual escorted, detained or arrested for whatever purpose, is immediately informed at the moment of apprehension, on his rights and, then, in the place he/she has to undergo direct examination or where other procedural actions shall be performed, make sure that he/she is provided with short informative materials in a language he/she understands, listing their own rights. It is the duty of the State Police to make sure this legal obligation is met.
5. Management of the State Police central and local bodies must take measures to provide that all police officers have knowledge on the law "On State Police " and fully implement the legal requirements regarding the escort of citizens to police authorities, and treat them with dignity.
6. Police staff continuous training, in order to eliminate all forms of maltreatment of the escorted and detainees/arrestees, as unacceptable and punishable actions. In addition, key importance has to be attached to modern and scientific methods of criminal investigation through investments and staff training, so as to increase the number and kind of evidence collected against the defendants, minimizing the importance of his/her admission or objection of the criminal offence in the investigation process.
7. Provision of legal aid at the moment of detention. Further steps should be taken to ensure free legal aid (representation) for all those who cannot afford a defense counsel.
8. Provision of compulsory legal and psychological assistance in case of detention or arrest of a juvenile, and the immediate notification of his/her family members.
9. Measures should be taken regarding the food supply according to the standards set out in the Joint Order No. 432, dated 10.03.2008, of the Minister of Interior and Minister of Health.

10. Implementation of legal provisions of the Criminal Procedure Code on recording the exact time of arrest or detention of citizens and not initially treated as escorted.
11. Display in the police facilities of Erseka and Maliq Police Stations, of posters containing information on the rights of the escorted.
12. Installation of the monitoring system within the escort facilities, particularly in investigation premises at all Police Stations of Korça District Police Directorate, where such a system does not exist. Monitoring should begin from the entrance of the police station building, in order to avoid the occurrence of any disconnection point up to the detention area.
13. Measures should be taken to install the telephone set within the escort facilities of Korça Police Station to provide the detainees/arrestees the opportunity to meet their family members, as foreseen in the Manual "On the Rules of Treatment of Detainees and Arrestees in the State Police Security Facilities".
14. Transfer from the police facilities to pre-trial detention and penitentiary institutions under subordination of the Directorate General of Prisons, of all pre-trial detainees under the security measure of "arrest in prison" and of the detainees due to enforcement of a criminal judgment in absentia on "imprisonment", taken against them by a court of law.
15. The register on complaints of the escorted, detainees, arrestees should become operational by paying special attention to the sections reflecting signs of injury, name of the officer who has taken the actions and the place where they are held.

Doc. No. 201300974/2	
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Recommendation on the inspection of Lezha District Police Directorate and its subordinate Police Stations.

1. Sinks should be installed in the toilets of escort rooms and iron doors should be replaced with wooden doors as per the stipulations of Letter Rogatory No. 703, dated 07.08.2008 of the State Police Director General "On the Preliminary Evaluation Report of the CPT delegation and Adoption of Measures in meeting its Recommendations".
2. Construction of escort facilities in Kurbin Police Station should be completed as per the requirements of Law No. 9749, dated 04.06.2007 "On State Police"
3. Adoption of measures for correcting the shortcomings identified in the register of detainees/arrestees, in order to standardize this procedure in line with the requirements of Law No. 9749, dated 04.06.2007 "On State Police" and the

Manual "On the Rules of Treatment of Detainees and Arrestees in the State Police Security Facilities". The register should contain all the state police activities, such as time and reason of detention or arrest, the place where the person is kept escorted, when he/she came to the police facility, when the person was informed of his/her rights, how and when he contacted a family member, a lawyer, a physician or a psychologist in cases of minors.

4. Adoption of appropriate measures to ensure that every individual escorted, detained or arrested by the police, for whatever purpose, is immediately informed at the moment of apprehension, on his rights and, then, in the place he/she has to undergo direct examination or where other procedural actions shall be performed, make sure that he/she is provided with short informative materials in a language he/she understands, listing their own rights. It is the duty of the State Police to make sure this legal obligation is met.
5. Police staff continuous and intensive training on relevant curricula, in order to have information and strictly apply the legal criteria on escorting citizens to the police, and treating them with dignity.
6. All cases of the treatment of the escorted, detainees/arrestees should be examined to initiate disciplinary proceedings against those police officers who will commit offenses.
7. Installation of the monitoring system within escort and security facilities, and particularly in investigation premises at all Police Stations where this system does not exist. Monitoring should begin from the entrance of the police station building, in order to avoid any disconnection point up to the detention area.
8. Display of posters, within the security and escort facilities, containing information on the rights of the escorted, detainees and arrestees.
9. Display of posters for the respect of human rights by police officers, to stop the violence etc. These posters should be placed in the escort and security facilities, as well as in offices and other police premises.
10. Measures should be taken to install the telephone set within the escort facilities in Lezha Police Station to provide the detainees/arrestees the opportunity to meet their family members, as foreseen in the Manual "On the Rules of Treatment of Detainees and Arrestees in the State Police Security Facilities".
11. The register on complaints of the escorted, detainees, arrestees should become operational by paying special attention to the sections reflecting signs of injury, name of the officer who has taken the actions and the place where they are held.

Recommendations on the inspection of Berat District Police Directorate and its subordinate Police Stations.

1. Building of escort facilities in Berat, Kuçova and Çorovoda Police Stations, as per the requirements of Law No. 9749, dated 04.06.2007 "On State Police" and Letter Rogatory No.703 dated 07.08.2008 of the State Police Director General, in order to create separate suitable, decent facilities equipped with the necessary supplies for females, males and juveniles.
2. Construction of new security facilities in Berat Police Station, as per the requirements of Law No. 9749, dated 04.06.2007 "On State Police", Manual "On the Rules of Treatment of Detainees and Arrestees in the Police Security Facilities".
3. Adoption of measures to correct the shortcomings identified in the register of detainees/arrestees, in order to standardize this procedure in line with the requirements of Law No. 9749, dated 04.06.2007 "On State Police" and the Manual "On Rules of Treatment of Detainees and Arrestees in the Police Security Facilities". The register should contain all the state police activities such as time and reason of detention or arrest, the place where the person is kept escorted, when he/she came to the police facility, when the person was informed of his/her rights, how and when he contacted a family member, a lawyer, a physician or a psychologist in cases of minors.
4. Analysis, identification of liability and initiation of disciplinary proceeding against the judicial police officer Rrapo Xhavera for the offence committed against the citizen Rafaen Laze, a case which is described above. Because of his unlawful actions, court validation of arrest *in flagrante delicto* is made with a 24-hour delay.
5. Adoption of appropriate measures to ensure that every individual escorted, detained or arrested by the police, for whatever purpose, is immediately informed at the moment of apprehension, on his rights and, then, in the place he/she has to undergo direct examination or where other procedural actions shall be performed, make sure that he/she is provided with short informative materials in a language he/she understands, listing their own rights.
6. Management of the State Police central and local bodies must take measures to provide that all police officers have knowledge on the law "On State Police " and fully implement the legal requirements regarding the escort of citizens to police authorities, and treat them with dignity.
7. Implementation of legal provisions of the Criminal Procedure Code on recording the exact time of arrest or detention of citizens and not initially treated as escorted.

8. Installation of the monitoring system within escort and security facilities, and particularly in investigation venues at all Police Stations where this system does not exist. Monitoring should begin from the entrance of the police station building, in order to avoid any disconnection point up to the detention area.
9. Measures should be taken to install the telephone set within the escort facilities of Berat Police Station to provide the detainees/arrestees the opportunity to meet their families, as foreseen in the Manual "On the Rules of Treatment of Detainees and Arrestees in the State Police Security Facilities".
10. Transfer from the police facilities to pre-trial detention and penitentiary institutions under subordination of the Directorate General of Prisons, of all pre-trial detainees under the security measure of "arrest in prison" and of the detainees due to enforcement of a criminal judgment in absentia on "imprisonment", taken against them by a court of law.
11. The register on complaints of the escorted, detainees and arrestees should become operational by paying special attention to the sections reflecting signs of injury, name of the officer who has taken the actions and the place where they are held.

Doc. No. 201301372/2	
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Recommendations on the inspection at Elbasan District Police Directorate and its subordinate Police Stations.

1. Building of escort facilities in Librazhd Police Stations, as per the requirements of Law No. 9749, dated 04.06.2007 "On State Police" and Letter Rogatory No.703 dated 07.08.2008 of the State Police Director General, in order to create separate suitable and decent facilities, equipped with the necessary supplies for females, males and juveniles.
2. Construction of new security facilities in Elbasan Police Station, as per the requirements of Law No. 9749, dated 04.06.2007 "On State Police", Manual "On the Rules of Treatment of Detainees and Arrestees in the Police Security Facilities".
3. Correct records of the escorted, detainees and arrestees.
4. Training of police officers by the State Police central and local structures in order to be informed about the law "On State Police" and strict implementation of legal requirements regarding the cases of escorting citizens to the police units.
5. Implementation of legal provisions of the Criminal Procedure Code on recording the exact time of arrest or detention of citizens and not initially treated as

escorted.

6. Installation of the monitoring system within escort and security facilities, and particularly in investigation venues at all Police Stations of Elbasan District Police Directorate of Elbasan, where this system does not exist. Monitoring should begin from the entrance of the police station building, in order to avoid any disconnection point up to the detention area.
7. Measures should be taken to install the telephone set within the security facilities of Elbasan Police Station.
8. Analyzing and finding the responsible persons for cases found at Elbasan and Librazhd Police Stations, where the suspects as possible perpetrators of offenses or in the quality of persons reporting favorable circumstances for investigation, are treated as escorted.
9. Necessary measures should be taken for providing food at any time to the detainees/ arrestees.
10. Making proper arrangements to create a room for keeping personal items of the detainees/arrestees and providing a copy of personal control record.
11. The register on applications of the escorted, detainees, arrestees should become operational.

Doc. No. 201301441/2	
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Recommendation on inspection in Dibër District Police Directorate and its subordinate Police Stations.

1. Building or adaptation of escort facilities in Dibër, Burrel and Bulqizë Police Stations as per the requirements of Law No. 9749, dated 04.06.2007 "On State Police" and Letter Rogatory No.703 dated 07.08.2008 of the State Police Director General "On the Preliminary Evaluation Report of the CPT delegation and Adoption of Measures in meeting its Recommendations".
2. Construction of new security facilities in Dibër and Burrel Police Stations, as per requirements of Law No. 9749, dated 04.06.2007 "On State Police", Manual "On the Rules of Treatment of Detainees and Arrestees in the Police Security Facilities".
3. Installation of the monitoring system within the escort and security facilities. Monitoring should begin from the entrance of the police station building, in order to avoid the occurrence of any disconnection point up to the detention area.
4. Changing the function of the chief nurse within the organizational structure and

replacement with a physician.

5. Police staff continuous training on relevant curricula, in order to have information and strictly apply the legal criteria on escorting citizens to the police, and treating them with dignity.
6. Implementation of legal provisions of the Criminal Procedure Code on recording the exact time of arrest or detention of citizens and not initially treated as escorted.
7. Analyzing all cases regarding the treatment of detainees/arrestees and initiating disciplinary proceeding against police offenders.
8. Reconstruction of facilities where food is prepared for detainees/arrestees and replacement with new equipment or food supply by private subcontractors.
9. Correct records of the citizens' escort/detention /arrest.
10. The register on complaints of the escorted, detainees, arrestees should become operational.

Doc. No. 201302285/2	
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Recommendations found during the monitoring at Kukës District Police Directorate and its subordinate Police Stations.

Treatment of detainees / arrestees in accordance with human rights

1. Based on the information collected during the visit, it is recommended that police authorities should take necessary measures to combat all forms of maltreatment by the police. All police officers should be mindful to understand that any form of maltreatment of the escorted/detainees/arrestees is not acceptable and will be punished accordingly. For this purpose, consideration should be given to investment in appropriate investigative tools and skilled human resources, in order to reduce potential collection of crime records only through confession.

It is recommended police awareness about the effects and consequences of physical and psychological violence against the escorted, detainees, and arrestees, objection of all cases of violence against these persons and consequences in their career resulting from violence. It is also recommended to organize training sessions for police officers, in order to recognize and respect the rights of the escorted/ detainees/arrestees.

2. Inspections conducted, identified the need to strengthen the legal framework on the rights of the escorted, detainees, arrestees, and their treatment. Though not comprehensively, provisions of the law "On State Police" allow for the rights of the escorted but the detainees and arrestees lack that kind of treatment. It is

recommended the law "On State Police" includes the guarantee of rights of the escorted, detainees and arrestees, and legal safeguards for the realization of these rights.

3. It is recommended the investigation of every reporting case by the escorted, detainees, arrestees, for physical abuse by police during the arrest, and the responsible persons should be punished and brought to justice.

The right to information

4. It is recommended that police authorities adopt proper measures to ensure that all detainees/arrestees are fully informed about their fundamental rights since the time of their detention, through the delivery of initial clear verbal information from the police, being supplied with information sheets on fundamental rights of the escorted/detainees/arrestees immediately after their arrival to the police facilities. It is recommended that the information sheets reflect the rights and obligations of the people escorted/detained/arrested even in English and Italian language, in accordance with the legal provisions in force.

5. It is recommended to gradually provide the public with information on the rights of the escorted, detainees, arrestees, through the promotion of human rights, publishing flyers or information in the mass media.

The right to contact family members

6. Additionally, the above analysis provides the right to contact family members, which from the information collected, was found partially accomplished. It is recommended that, in accordance with the legal framework in force, the police authorities should take necessary measures to ensure that all detainees/arrestees should contact their family members from the first moment of arrest/detention, and to clearly reflect this in the relevant records and registers of the escorted/detainees/arrestees.

The right of detainees/ arrestees to contact a lawyer

7. Given the above analysis on the access of detainees/arrestees to contact a lawyer, a recommendation is addressed to the Albanian authorities for adopting stringent measures to enforce the legal obligation for protection of the detainees/ arrestees represented by a lawyer from the moment of their detention. To enable the full realization of this right, a copy of the list of lawyers, members of the Bar Association, available to contact the detainees/ arrestees should be made accessible.

8. It is recommended the adoption of appropriate measures by the police to inform the detainees/ arrestees about the right to have a lawyer and the real opportunity to contact one before the investigation has been completed. They may waiver such a right at their discretion and such a fact should be reflected in writing in the relevant documentation.

Respect of the rights of juvenile detainees /arrestees

9. Monitoring team particularly emphasized the respect of the rights of juvenile detainees/arrestees. Given the above analysis on their access for information about their rights, parental presence, access to a lawyer or a psychologist, the Albanian authorities are recommended to take strict measures to prevent in any case the questioning of juveniles without the presence of a lawyer, despite their waiver of the right to have a lawyer.

10. It is also recommended that the Albanian authorities should take measures to strictly apply the presence of a psychologist and the parent in every state and proceeding level⁴⁹, by staffing relevant the police station with relevant experts in the field of psychology. It is recommended that the psychologist post should be filled by a professional of the field, with relevant university education, with the view of providing skilled and professional specialized assistance.

Training courses to update the principles and legal concepts

11. Given that the monitoring found in stances of noncompliance of time or the moment of *flagrante delicto* with the situation described in the records of the arrest in *flagrante delicto*, special attention should be paid to the concept of arrest in *flagrante delicto*, to ensure that the police authorities do not exceed their powers when detaining people. Therefore, it is recommended the performance of training courses for updating the legal principles and concepts, to protect human rights, respect law and provide supplementary knowledge under Law No.9749, dated 04.06.2007"On State Police".

Material conditions

12. Building escort facilities in Has and Tropoja Police Stations as per requirements of law and normative acts.

13. It is recommended to provide the detainees /arrestees with suitable items for sleeping, according to the sanitary requirements stipulated in bylaws.

14. Immediate removal of the covert room from the escort facilities, with technical equipment and prevention of this practice from re-occurring in the future.

15. Installation of the monitoring system within the escort and security facilities at Tropoja and Has Police Stations. Monitoring should begin from the entrance of the police station building, in order to avoid the occurrence of any disconnection point up to detention area and their potential custody in a term of no less than one week.

Doc. No. 201302288/2	
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Recommendations on issues encountered during the monitoring visits at Puka and Fushë Arrëz Police Stations.

Treatment of detainees /arrestees in accordance with human rights

1. The inspection conducted, identified the need to strengthen the legal framework on the rights of the escorted, detainees, arrestees, as well as their treatment. Though not comprehensively, provisions of the law "On State Police" allow for the rights of the escorted but the detainees and arrestees lack that kind of treatment. It is recommended the law "On State Police" includes the guarantee of rights of the escorted, detainees and arrestees, and legal safeguards for the realization of these rights.

The right to information

2. It is recommended that police authorities adopt proper measures to ensure that all detainees/arrestees are fully informed about their fundamental rights since the time of their detention, through the delivery of initial clear verbal information from the police, being supplied with information sheets on fundamental rights of the escorted/detainees/arrestees immediately after their arrival to the police facilities. It is recommended that the information sheets reflect the rights and obligations of the people escorted/detained/arrested even in English and Italian language, in accordance with the legal provisions in force.
3. It is recommended to gradually provide the public with the information on the rights of the escorted, detainees, arrestees, through the promotion of human rights, issuing flyers or information in the mass media organs.

The right to contact family members

4. Additionally, the above analysis provides the right to contact family members but from the information collected this was found partially accomplished. It is recommended that, in accordance with the legal framework in force, the police authorities should take necessary measures to ensure that all detainees/arrestees should contact their family members from the first moment of arrest/detention, and to clearly reflect this in the relevant records and registers of the escorted/ detainees/arrestees.

The right of detainees /arrestees to contact a lawyer

5. Given the above analysis on the access of detainees/arrestees to contact a lawyer, a recommendation is addressed to the Albanian authorities for adopting stringent measures to enforce the legal obligation for protection of the detainees/ arrestees represented by a lawyer from the moment of their detention. To enable the full realization of this right, a copy of the list of lawyers, members of the Bar Association, available to contact the detainees/ arrestees should be made accessible.
6. It is recommended the adoption of appropriate measures by the police to inform the detainees/ arrestees about the right to have a lawyer and the real

opportunity to contact one before the investigation has been completed. They may waive such a right at their discretion and such a fact should be reflected in writing in the relevant documentation.

Respect of the rights of juvenile detainees /arrestees

7. Monitoring team particularly emphasized the respect of the rights of juvenile detainees/arrestees. Given the above analysis on their access for information about their rights, parental presence, access to a lawyer or a psychologist, the Albanian authorities are recommended to take strict measures to prevent in any case the questioning of juveniles without the presence of a lawyer, despite their waiver of the right to have a lawyer.
8. It is also recommended that the Albanian authorities should take measures to strictly apply the presence of a psychologist and the parent at every state and proceeding level by staffing the police station with relevant experts in the field of psychology. It is recommended that the psychologist post should be filled by a professional of the field, with relevant university education, thus enhancing the opportunity to provide skilled and professional specialized assistance.

Twinning courses to update legal principles and concepts

9. Given that the monitoring found instances of non compliance of time or the moment of *flagrante delicto* with the situation described in the records of the arrest in *flagrante delicto*, special attention should be paid to the concept of arrest in *flagrante delicto*, to ensure that police authorities do not exceed their powers when detaining people. Therefore, it is recommended the performance of training courses for updating legal principles and concepts, to protect human rights, respect law and provide supplementary knowledge under Law No.9749, dated 04.06.2007"On State Police".

Material conditions

10. Construction of escort facilities in Police Stations of Pukë, as per requirements of law and normative acts.
11. Installation of the monitoring system in escort and security facilities of Puka Police Station. Monitoring should begin from the entrance of the police station building, in order to avoid the occurrence of any disconnection point up to the area of detention and their potential custody for a term of no less than one week.

Overview of police activity regarding the respect of human rights and fundamental freedoms

In capacity of the National Preventive Mechanism Against Torture, the People's Advocate Office has conducted **65** inspections, re - inspections and thematic controls

at all local State Police structures. 11 recommendations were formulated and presented for the improvement of standards of human rights and treatment of individuals settled at these institutions, and 6 recommendations were oriented to violence or arbitrary acts by police authorities.

Problems encountered during inspections at police stations and generalized recommendations

Construction or reconstruction of escort and security facilities at all State Police units, as per requirements of Law No. 9749, dated 04.06.2007 "On State Police ", Manual "On the Rules of Treatment of Detainees and Arrestees in the State Police Security Facilities".

Training of state police officers, in order to strictly recognize and implement normative acts during the police escort, detention or arrest of citizens, and treating them adequately.

The People's Advocate Office has regularly addressed these issues to the State Police units, calling for their solution.

In view of the above, the State Police Director General has prepared the working program to meet the People's Advocate Office recommendations, and in this regard it has set up a working group for monitoring and implementing the relevant tasks.

The working program defines concrete measures and tasks to be taken for implementing recommendations of the People's Advocate Office. Some of these tasks have also fixed deadlines.

During inspections conducted this year, it is found that a number of State Police units have made some improvements, specifically;

- District Police Directorates and Police Stations have adopted concrete actions for their subordinate structures, with the view of the above program implementation;
- New escort and security facilities have been built at the District Police Directorate of Tirana and Durrës Police Station, in line with the current standards.
- Positive feedback by forwarding to the Law Commission of the Albanian Assembly, based on the People's Advocate recommendations sent to the Minister of Interior and the State Police Director General during previous years, for the amendment and improvement of Law No. 9749, dated 04.06.2007 "On State Police".
- A trainer has been appointed at each police station, to continuously train police officers who work in escort and security facilities;
- Standardization of the register for the escorted/detainees and arrestees, as per requirements set out in Law 9749, dated 04.06.2007 "On State Police" and the

Manual "On the Rules of Treatment of Detainees and Arrestees in the State Police Security Facilities".

- In almost all police units there are registers regarding applications of the escorted, detainees or arrestees;
- Cooperation between police authorities and transparent behavior with civil society, where some agreements have been concluded.
- Removal of violence-related objects in the offices of judicial police officers and in the facilities where the detainees or arrestees are questioned.
- Establishment of new facilities for the questioning of citizens at Elbasan and Pogradec Police Stations.
- Placement of signboards showing the rights of the escorted, detainees/arrestees at almost all escort and security facilities.
- Use of a model form, listing the rights of the escorted, detainees/ arrestees at almost all Police Stations.

Besides the positive achievements, a series of problems are associated with the conditions of escort and security facilities, the way how law is enforced by State Police officers during the escort / detention and arrest of citizens, and how they are treated at these facilities, which might prejudice the citizens' rights and freedoms.

Regarding escort and security facilities

1. Escort facilities far from the standards required by law are at the Police Stations of Elbasan, Gramsh, Librazhd, Peqin, Devoll, Erseka, Pogradec, Peshkopi, Burrel, Bulqiza, Berat, Çorovoda, Kuçova, Mirdita, Kurbin, Lushnja, Mallakastër, Kruja, Shijak, Shkodra, Puka, Malësi e Madhe, Tepelena, Përmet, Vlora, Saranda, Delvina, Has, Tropoja and Tirana Police Stations No. 1, 2, 3, 4 and 6.
2. Security facilities far from the standards required by law are located at the Police Stations of Elbasan, Pogradec, Peshkopi, Burrel, Berat, Lushnja, Kruja, Shkodra, Vlora, and Saranda and at Tirana Police Stations No. 1, 2 and 3.

Regarding the treatment of the escorted, detainees and arrestees;

- Gaps identified in the register of the escorted, detainees, arrestees to specify all state police activities such as time and reason of detention or arrest, traces of injuries, name of the official where the person was kept, when the person arrived at the police facility, when the person was informed of his/her rights, when he was questioned, how and when he contacted a family member, a lawyer or a physician.

- Keeping the persons as suspected for having committed a criminal offense, while such action is in violation of Article 11, paragraph 6, of Law No. 9749, dated 04.06.2007 "On State Police".
- Minutes of detention or arrest of persons caught *in flagrante delicto* is not completed in real time when the person has been captured. Based on Articles 144, 250 of the Criminal Procedure Code, recording in the minutes the time of arrest of the person caught *in flagrante delicto* or detained is a key element on the basis of which the pre-trial detention effects begin. Further, under Article 258 of the Criminal Procedure Code, the prosecutor, within forty-eight hours from the arrest or detention, applies for evaluation of the remand order to the court of the place where arrest or detention took place.
- Exhibits are administered in the offices of judicial police officers because there are no specific premises.
- Most of the Police Stations, with the exception of Korça, Tirana and Durrës, do not have monitoring system to survey the escort and security facilities.
- In some cases, relatives or a trusted person are not informed and also the time of notification, notifying party's name and telephone number.
- Failure to provide legal assistance from the moment when the person is detained.
- Failure to provide, at any moment, free legal aid for the entire category of people who do not have financial means.
- Lack of compulsory legal and psychological assistance in cases of arrest or detention of juveniles. The most flagrant case occurred in Korça Police Station, where during the inspection it was found a juvenile who was being questioned not in presence of the psychologist, despite the fact that the psychologist of Korça District Police Directorate was present and was accompanying the inspection team but he was not informed to take part during the questioning of juvenile.
- Some Police Stations /Directorates do not have information forms about the rights of the escorted, detainees, or arrestees, when the latter are foreign citizens.
- Unsuitable conditions and lack of organizational skills for food treatment, in accordance with the food treatment standards, as stipulated in the Joint Order No. 432, dated 10.03.2008, of the Minister of Interior and Minister of Health at the police stations of Korça, Pogradec, Vlora, Saranda, Gjirokastra, Shkodra and Elbasan.
- Improper conditions to provide medical treatment and lack of organic function with a physician at two police directorates. More specifically:
 - There is no facility to be used for medical examination at Dibër District Police Directorate.

- As regards Dibër and Kukës Police Directorates, the detainees/arrestees continued to be administered medical aid at the regional hospitals of Burrel, Bulqizë, Peshkopi, Kukës, Has and Tropoja because the organizational structure of these police departments did not provide a general practitioner with a suitable room to perform medical check-up and where he could keep the necessary medicaments. This function within the Department of Human Resources was titled as "Chief Nursing Officer".
- According to the public order police officers of that Police Directorate, the lack of physician had caused some problems in the work of this sector as the regional hospital physicians recommend that the detainees/arrestees had to undergo medical treatment within the hospital facilities even if it was unnecessary. These actions of medical staff not only compromised their position but also caused constraints in public order police services because the structure of that sector has not provided specific officers to guard detainees/arrestees within the hospital facilities.

Data on reported cases of violence, arbitrary actions of police bodies analyzed by the NPM during 2013.

Introduction of specific cases and recommendations:

Doc. No. 201300567/3	
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We recommend the immediate termination of actions of Tirana District Police Directorate police officers for the secret surveillance of the citizen Skënder Tufa and three former political prisoners of the communist regime, former hunger strike participants, Fatmir Lloçi, Petrit Lipe and Besim Valeri.

1. Immediate termination of the actions of Tirana District Police Directorate police officers for the secret surveillance of the citizen Skënder Tufa and three former political prisoners of the communist regime, former hunger strike participants, Fatmir Lloçi, Petrit Lipe and Besim Valeri.
2. Immediate termination of the unlawful escorts of the group of former political prisoners of the communist regime and adoption of measures for the full compliance with police escorting legal standards.
3. Serious and objective deliberation of this case. Initiation of the disciplinary proceeding and adoption of the disciplinary measure against police officers who have conducted and the ones who have ordered police escorting of the citizens Skënder Tufa, Fatmir Lloçi, Petrit Lipo and Besim Valeri.
4. Generality of this case in order to prevent the State Police offices from the potential violation of human rights and fundamental freedoms, subject to this

recommendation.

Doc. No. 201300567/6	
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Recommendation on the immediate termination of unlawful actions of Tirana District Police Directorate against the citizen Skënder Tufa etc, former political prisoners of the communist regime.

1. Immediate measures should be taken for the termination of unlawful actions of Tirana District Police Directorate for periodic escorting to the police station and surveillance of the citizens Tufa, Fatmir Lloçi, Petrit Lipe and Besim Valeri.
2. Serious and objective deliberation of this case and identification of specific responsibilities. Initiation of the disciplinary proceeding and adoption of the disciplinary measure against the police officers who have ordered the surveillance of the citizen Skënder Tufa.
3. Generality of this case in order to prevent the State Police employees from the potential violation of human rights and fundamental freedoms.

Doc No. 201300598/7	
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Recommendation on the full compliance with legal standards for escorting citizens to the police premises.

1. Measures should be taken for the full compliance with legal standards for escorting citizens to the police premises.
2. Immediate termination of unlawful police escorting of the citizen Oltion Nurçe.
3. Serious and objective deliberation of this case and identification of specific responsibilities. Initiation of the disciplinary proceeding and adoption of disciplinary measure against the police officer, Jetnor Xhaferri, who has ordered the police officers to escort the citizen Oltion Nurçe to the police premises.

Doc. No. 201300979/4	
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Recommendations regarding the suicidal hanging incident of the citizen N. K within the escorting premises of Tirana Police Station No. 3.

1. Analysis of the suicidal hanging of the national N. K within the escorting premises of Tirana Police Station No. 3 and administrative responsibilities' identification of the senior officials of Tirana District Police Directorate and Tirana Police Station

No. 3, who have not taken proper measures for building escort premises in conformity with law and organizing police services, with the view of preventing undesirable events within the police premises.

2. Generality of the suicidal hanging case and causes of such occurrence regarding the citizen Ndue Kolthi by all local police bodies, with the view of upgrading the police service quality and preventing similar events in the future.
3. Revision and improvement of the *“Site plan of the public order police premises”* within the Police Station No. 3 of Tirana and all national police local bodies, and their staffing with the number of police officers required to better implement their functional tasks and at a high quality. If this service cannot be covered by police officers, a potential option may be the construction of a monitoring system of the escort premises from the information office.
4. Immediate measures have to be taken for building escort facilities of citizens at the Police Station No. 3 of Tirana and at all Police Stations on a national level, where they do not exist, according to the provisions of Law No. 9749, dated 04.06.2007 “On State Police” and the letter rogatory No. 703, dated 07.08.2008 of the State Police Director General, providing separate suitable and decent premises equipped with the necessary furniture for women, men and juveniles, without iron grills or doors and without latches and locks.
5. Adequate measures should be taken by the units of the State Police Directorate General for organizing inspections at the local police bodies regarding the implementation of duties provided by law, letters rogatory, orders, instructions and recommendations of the People’s Advocate, related to the above described issues.

Doc No. 201301432/2	
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Recommendation for the full compliance with legal standards for escorting citizens to the police premises.

1. Measures should be taken for full compliance with legal requirements for escorting citizens to the police premises.
2. Serious and objective deliberation of this case and identification of specific responsibilities. Initiation of the disciplinary proceeding and adoption of disciplinary measures against the police officers, who have escorted the citizens Sh. Sh and F. R to the police premises.

Doc. No. 201302125/3

Recommendation on the initiation of disciplinary proceeding against the General Patrol employees, B. T and H.H, and the judicial police officer L. F, police officers at

the Police Station No.2 of Tirana.

1. Initiation of the disciplinary proceeding against two employees of the Police General Patrol and the Judicial Police Officer, L. F, in conformity with article 76 of Law No.9749, dated 04.06.2007 "On State Police".
2. The legal violations reported in this case should be generalized, so that to prevent in the future similar cases of the violation of citizens' rights.

CHAPTER IV

Proactive role of the People's Advocate Office

1. Reception of citizens

Introduction

Reception of citizens and implementation of services with a sense of ethics, culture and professionalism upon the submission of complaints to the People's Advocate Office, represents a legal obligation but at the same time is one of the key priorities of the institution. To this end, the Directorate of Services to Citizens is established and made operational. From the experience to date, this structural change has upgraded the level of treatment of citizens' complaints.

Since its initial operation the office for reception and services to citizens has been and still remains the primary point of contact between the citizens and the institution. Through this office the citizens are versed with the constitutional and legal perspective of the People's Advocate Office, are assisted to fill out the complaint forms and are advised and guided on the legal procedures they should follow when the complaints are out of the jurisdiction and competences of the People's Advocate.

Considering the scope of complaints, the reception office also informs the citizens about the applicable legislation protecting their alleged rights and the institutions of public (central and local) administration guaranteeing and enshrining its protection as a legal obligation.

Protection and promotion of human rights and fundamental freedoms are considered as intrinsically linked with the enhancement of proactive role and working quality of the staff of assistant commissioners. One of the crucial measures undertaken in this respect is the establishment and daily operation of an "*ad-hoc*" commission composed of experts from the sections and National Preventive Mechanism Against Torture, which in capacity of an "*advisory body*", depending on the subject of complaints, makes their classification as "*complaints within the jurisdiction and competence*" to be further examined by the experts according to the right they cover and to "*advice and guidance*" for the complaints within the legal framework on which the People's Advocate Office operates.

This method of classification of applications has given rise to the reduction of fictitious number of the examined complaints, has shortened the period for examination of cases which do not fall within the jurisdiction and competences of the People's Advocate and delivery of answers to the citizens within the deadlines stipulated in the Code of Administrative Procedures and Internal Regulation of the institution.

From the procedural perspective the examination of complaints has continued and covered cases falling within the scope of work of the People's Advocate, which have been subject to a more comprehensive procedure of investigation of the alleged right of citizens or natural persons and legal entities to the public administration; conduct of a series of inspections at the public administration offices, depending on the subject of complaint; increase of the number of complaints examined by initiative ex officio, taking into account the issues covered by print and visual media and without doubt, the increase of the number of recommendations to the public administration etc. These measures impacted the increase of job performance of the experts' staff but also the quality for preparation of recommendations according to the area and law, for the protection of citizens' interests from violations of the public administration.

The office for reception of citizens has also served as a "filter" for the complaints addressed to the People's Advocate via mail, regional offices, "Open Days", to the official email and Facebook addresses, public phone number 0689034648 which is made available on a 24-hour basis and the green line 0800 1111.

This process for the reception of citizens' complaints is made public during the direct contacts with the citizens in the organization of "Open Days" and through posting of points of contact in the institution's official website, regional offices, police directorates and police stations across the penitentiary system, mental health hospitals etc.

In 2013 the number of complaints, applications or notices filed by the citizens with the People's Advocate Office amounted to 4346, of which 2943 complaints are considered "*within the jurisdiction and competence*" of the People's Advocate and 1403 complaints are considered as "*advice and guidance*" for citizens.

Specifically:

❖ PA Reception Office	1826	complaints
❖ Complaints via mail	1607	"
❖ Open Days	362	"
❖ Regional Offices	274	"
❖ Online complaints	286	"
❖ Complaints via phone	121	"

Reception of citizens

One of the main instruments playing a key and active role for the operation of the People's Advocate Office is the Office of Services to Citizens.

During 2013, a number of 1826 citizens have submitted their complaints to the said Office, of which 1009 complaints were subject to the procedure contemplated in the

Internal Regulation of the Institution, the one of registration and further revision by the assistant commissioners of sections, subject to the scope of complaint.

On the other hand, a number of 817 complaints with subject out of jurisdiction and competence of the People's Advocate were classified as "*verbal advice and guidance*" delivered to the citizens by the relevant experts, advising them on legal procedures they should follow and addressing them to the public institutions to seek the right they have claimed.

The Office of Services to Citizens has concurrently delivered "*written (official) advice and guidance*", regarding the number of complaints sent to the People's Advocate Office via mail, email and social networks, which are considered by the "*ad-hoc*" commission as "*out of jurisdiction or competences*". The number of advice and guidance submitted to the citizens in writing amounts to 586 cases of complaints.

Below you will find the table of written and verbal "*advice and guidance*" on the types of complaints qualified as "*out of jurisdiction and competence*" of the People's Advocate Office for the year 2013:

No.	Group of complaints	Number of advice
2	Complaints on civil disputes	219
3	Complaints against private entities	195
4	Applications for representation before the court	166
5	Complaints on notification	50
6	Complaints against institutions of foreign countries	34
7	Family conflicts	81
8	Other (ambiguous complaints, requests for financial aid, employment applications, complaints on the failure to benefit agricultural land etc)	288
9	Total	1403

As already reflected, the 26% highest percentage of advice is represented by replies to the citizens' applications against the decisions of Albanian court of all levels, and the decisions of district prosecutor's offices on the non-initiation of criminal proceedings or dismissal of cases. In these cases, the citizens are guided to follow, within the legal time limits, the appealing procedure according to instances of the judiciary and against the decisions taken by the prosecutors of cases at the district prosecutor's offices to refer by complaint to the Attorney General pursuant to article 24/5 of the Criminal Procedure Code.

Most of the complaints (20%) are classified as out of the jurisdiction of the People's Advocate Office because the complaints lacked a clear subject and were anonymous; applications for employment; applications for financial aid; complaints on the failure to benefit agricultural land by virtue of Law No. 7501, dated 19.07.1991 etc. Regarding these complaints, the citizens were advised to clarify the subject of complaint and the responsible public institution which has breached the alleged right. Therefore, the citizens have re-sent some of the complaints to the People's Advocate Office after clarifying the subject of complaint.

In view of the above, 16% of advice and guidance are represented by complaints on "civil disputes between individuals", due to violation of the right of ownership alleged by the parties, claiming the support of the People's Advocate Office to settle the conflict. By the answers to these complaints, the citizens were advised to refer to the court to resolve all types of conflicts.

There is also a growing number (14 %) of complaints the citizens have filed with the private entities, raising allegations against the employers such as unjustified immediate termination of the employment contracts or claims over the non-observance of the employment contract conditions etc. In these cases the citizens are advised and guided to refer to courts, in respect of the rights, obligations and time limits set out in the Labor Code.

Further, a number of applications were submitted to the People's Advocate Office by citizens (12%) for representation before the court by the PA experts regarding the cases they have brought to the court. In cases of these applications, the citizens were informed about our incompetence to represent a litigant before the court and they are guided to contact private lawyers. When the citizen complained about the absence of financial means to contact a private lawyer, in the framework of the memorandum of cooperation, their applications were delegated for competence to the State Commission for Free Legal Aid at the Ministry of Justice.

Conflicts within families up to threats against life comprise a limited number of complaints but they are very disturbing for our society (6%). In case of these complaints, the citizens are advised and guided to closely cooperate with the police authorities to prevent incidents or file a written report to the police department and the prosecutor's office, in order to follow the case up to the court. In cases of life threats against women and children, the complainants are advised to seek protection orders

from the court.

Another category of the citizens' complaints belongs to those against the public administration bodies, informing the People's Advocate Office on the issues raised (4%). Given the scope of these complaints, the citizens were advised to seek the claimed right from the institution it is referred to and in case of the absence of will to furnish explanations to the citizens, failure to provide information or reply within the time limits specified in the Code of Administrative Procedures and the Law "On Information", we have instructed them to refer immediately to the People's Advocate Office, in order to consider and review the citizen's complaint as a legal and constitutional right.

Another group of the advised complaints includes the complaints claimed by the Albanian citizens against decisions of the courts of foreign countries. They were basically about the violation of rights and trial procedures. Further, there was a number of complaints addressed to the People's Advocate for infringements of the citizens' rights against the foreign authorities both in Albania and abroad.

In cases of more specific complaints, the People's Advocate, by the authority conferred by law and inter-institutional relations with the international bodies, has referred to the counterpart Ombudsmen, in order to consider the case within the legal framework of the respective countries, informing the citizens thereof. In most of the cases, the citizens are advised and guided to contact private lawyers of the respective countries to follow up the case at the court.

2. Activity of Regional Offices and "Open Days"

Regional Offices

Under the institutional vision as clearly defined in its Strategy for the period 2013-2015, with the view of effective protection of citizens' rights, freedoms and lawful interests, the People's Advocate Institution operates through regional offices opened in some of the largest urban centers, according to the national geographical distribution. Currently, 4 regional offices are opened and operate out of 6 offices, which is the aim of the People's Advocate in the framework of the Institution's strategy.

The purpose for opening regional offices for the People's Advocate Office is to ensure to citizens wider access and a quicker solution of their complaints against the public administration, mainly with the local government bodies and to shorten the physical distance between the citizen and the institution, to apply for the receipt of complaints.

Considering the prospects, also in view of the distribution of complaints over years, according to the geographical areas of the country, 6 main municipalities are designated for the creation of regional offices in the municipalities of Fier, Shkodra, Berat, Saranda, Pogradec and Kukës.

By employing the in-house human resource capacities, financial remedies of the institution and cooperation with the local government bodies, it is made possible the opening and operation for many years of the regional offices of Fier and Shkodra Municipalities.

The Regional Office of Fier was created in May 2012 on the basis of a Memorandum of Cooperation between the People's Advocate and Fier Municipality, providing the premises for receiving the citizens' complaints, mediation between the citizens and local government offices in the country to process complaints and their consultation every Friday to resolve issues raised in the citizens' complaints by the representatives of the People's Advocate.

Meanwhile, the Regional Office of Shkodra has been operational since November 2006 on the basis of a trilateral treaty between the People's Advocate Office, "Save the Children Albania" and "SIDA". Besides the reception and consultancy of citizens about the complaints against public administration, it has also performed the function of a sub-section and a monitoring body of children's rights under the Convention of the Rights of Children in Albania.

One of the main objectives in 2013 as part of the Strategy of People's Advocate Institution for the period 2013-2015, in order to be a proactive institution in service of and closer to citizens, in the framework of a pilot project in cooperation with the civil society and local government, has also been the extension of regional offices to two other municipalities, with the view of creating facilities for those citizens, who lacking financial remedies to come from remote areas to Tirana, have the option to file complaints to the geographically closest regional office. In this context, the opening of two other regional offices at Berat and Saranda Municipalities was made possible in 2013 and the signature of memoranda with local government representatives in Pogradec and Kukes municipalities and opening of relevant offices at these municipalities are still ongoing.

In the spirit of signature of cooperation memoranda with the respective municipalities of cities and civil society groups of that area, we have manifested common will to receive and resolve in due time the citizens' complaints, to make available an office within the premises of municipalities for the exercise of powers of the People's Advocate and for designating a contact person, with voluntary contribution without compensation by the civil society groups, in the quality of the representative of Regional Office of the People's Advocate Institution.

During 2013 there was a total number of 276 complaints from the regional offices. 95 complaints were within the scope of powers of the People's Advocate, Further, 99 other complaints qualified as "advice and guidance" given when the case has been out of the scope of institution, were admitted for review at the Regional Office of Fier. As regards the Regional Office of Shkodra, the number of complaints admitted for review has amounted to 67 and 7 complaints for "advice and guidance". The complaints received at the regional offices of Berat and Saranda were few in number,

considering the short time of their operation.

Below we present an overview of complaints examined by the regional offices:

Regional Offices	Complaints admitted	Advice and guidance	Total
Regional Office of Fier	95	99	194
Regional Office of Shkodra	67	7	74
Regional Office of Berat	0	8	8
Total	162	114	276

Open Days

Another instrument applied by the People's Advocate Office for the purpose of the promotion of citizens' freedoms and rights is also the organization of meetings to receive complaints with citizens in different local districts, on the basis of a program previously approved with local government bodies, referred to as "Open Days".

The meeting of the People's Advocate with citizens during the "Open Days", with the view of hearing and receiving the complaints, has enhanced the Institution's performance in front of citizens, confidence in mediation between the public administration and citizens for resolving their complaints and is considered as an effective tool to know the reality and obstacles encountered by the citizens due to the failure of local government bodies to resolve their complaints in due time.

During 2013 a number of meetings were conducted at the local municipalities and communes within the framework of "Open Days" such as in Peshkopi, Burrel, Elbasan, Cërrik, Peqin, Shkodra, Fier, Pogradec Erseka, Ballsh, Durrës, Fushë Kruja, Kurbin, Korça, Saranda, Lushnja, Berat, Vlora etc.

The People's Advocate and in particular his experts, in addition to the duty for verification of cases in charge of and during the control of implementation of recommendations by the local government bodies, have organized meetings with citizens at almost every local municipality and commune, with the view of collection and examination of their complaints.

For the year 2013 the total number of citizens received during "Open Days" amounted to 362. In the framework of these complaints, the citizens were advised on a case by

case basis regarding the procedures they should follow on the application filed or their cases were admitted for further elaboration by the People's Advocate Office.

3. Relations with Media

The People's Advocate Office is transparent and ensures that information on its activity is always accessible by citizens, international partners or interested parties through its media coverage. Our firm target is to draw the attention of central and local authorities on the essential improvement of citizens' rights and freedoms through the public presentation of their issues. Therefore, this has led to a solid and continuous cooperation during this year between the People's Advocate and local media. The performance and high expectations in the face of the public during this year have proven that the People's Advocate Office has not only worked closely with media based on the aforementioned aim but also that such cooperation has been fruitful in terms of public presentation of the issue linked with human rights. Since the beginning of the term of office, it was publicly declared that media and civil society would be the allies of People's Advocate during this mandate and it can be stated that common interaction has been present during the period 2012-2013. Never before in the history of institution, the media presentation and discussion of the issues of human rights by the People's Advocate have been at the level of the last two years.

A clear testimony of this effective cooperation with media may be established not only for public information about the presence and role of the People's Advocate but also for a number of issues that have become sensitive topics for the public opinion via TV stations, newspapers and other national media. It is worth mentioning the debate initiated by the People's Advocate on the LGBT community rights up to their right for marriage. This issue was promptly raised in a public debate in all local media.

It is worth stressing that cooperation with media during this year has been both fruitful and bilateral. The activity of the People's Advocate Office has been often selected as a central topic in the daily media but on the other hand, media often served to encourage institutional actions by our personnel in the areas of human rights. The People's Advocate, his Cabinet Office and administration have continuous institutional direct contacts and via the press office, with journalists and representatives of print, online and audio-visual media. Main activities of the People's Advocate were attentively broadcasted by main local media in newspapers, TV stations and online websites. The People's Advocate, members of personnel and Cabinet Office have been regularly present in media in all cases when the media and public have required our involvement and commitment but especially in cases when the duty and law oblige us to draw attention on issues regarding human rights in Albania.

People's Advocate Office as a source of information

During 2013 the People's Advocate Office has continuously been a point of reference and source of news for media and their operators. It is worth mentioning that due to

the People's Advocate Office, the most important conference on human rights was organized in Tirana in December. For the first time the People's Advocate launched a forum of debate and dialogue with all society stakeholders for human right issues. On the occasion of the International Day on Human Rights, the People's Advocate Igli Totozani organized on 9-10 December a national conference for human rights, the largest one ever held in Albania.

The conference was also attended by:

Mr. Vangjel Dule, Deputy Speaker of the Parliament of Albania

Mrs. Albana Vokshi, member of the Albanian Parliament, Head of Commission for Labor, Social Affairs and Health

Mr. Ilirjan Celibashi, Minister for Relations between the State and Parliament

H.E. Ettore Sequi, ambassador of the EU Delegation in Albania

Mr. Alexander Arvizu, US Ambassador etc.

In his welcome speech in the conference, the People's Advocate Igli Totozani declared that an advisory board shall be set up at the institution, composed of 25 persons. "They will be civil society representatives, professionals of the University law, persons with important public functions, will jointly decide how to act, have a continuous and sustainable dialogue with the local civil society and to give it space in order to articulate its role more dynamically".

Totozani further added that the aim is to develop shared discussions about the challenges ahead of us.

"We wish to set an example of public communication in Albania, how the bodies should continuously communicate with the civil society and introduce a new component of good governance, which is a comprehensive decision making".

During discussions in this round table, the US ambassador in Albania, Alexander Arvizu underlined that the Assembly should be urged to discuss the proposals of the People's Advocate for increasing the number of Roma community rights.

"Referring to the 'Universal Declaration of Human Rights', I appreciate the fact that all people are born under equal and inalienable rights.

Albania has always been an example with respect to human rights. We urge the Assembly to dwell upon recommendations of the People's Advocate on Roma issues. A flawless performance is hard to be achieved for every nation. We should continue to strive toward a more perfect union and I believe the same applies in Albania as well. We should continue toward a more perfect union. The Assembly has adopted stricter laws against hatred but there is still no permanent shelter for Roma community", stated the ambassador.

Meanwhile, the Ambassador of European Union in Albania emphasized that there should be a broader dialogue in Albania concerning human right issues. Sequi also conveyed a message to the young people:

“There should be broader dialogue in respect of human rights. Try to dedicate to human rights, to ensure a better future, to become better EU citizens”.

Turning back to the agenda of the previous year, the work of the People's Advocate was focused again on sensitive issues of the society which had always the support and commitment of the institution in the framework of the protection of human rights and fundamental freedoms such as :

- Roma community issues
- LGBT issues
- Inundated residents in Shkodra
- Bloodfeud
- Hunger strike of the former political prisoners
- Tenants and houses of former owners
- Election of the new commissioner from the disabled people
- Disability allowances
- Children's rights
- Women's rights
- Minorities' rights etc.

One of the priorities of work of the People's Advocate during 2013 has been the improvement of living conditions of the Roma community. In an interview given for DW, the People's Advocate Igli Totozani stated: “Roma integration in the Albanian society remains a challenge for the new government”.

“The most important step we have taken during this period is that in cooperation with Roma organizations and civil society (there are about 26 associations with which we have closely worked, some international and some local ones), we managed to understand the shortcomings of our social system, which is the endless number of criteria that some of the social groups are not able to meet. Therefore, they fail the ‘exam’ and do not benefit from the modest advantages of the Albanians social system.

What we have proposed is a triad of key recommendations jointly signed by the People's Advocate and 26 civil society organizations, part of which are also many

important international and national organizations and Roma federations. They are sent to:

Minister of Welfare and Youth, Mr. Erjon Veliaj,

Minister of Interior, Mr. Saimir Tahiri

Minister of Urban Development and Tourism, Mrs. Eglantina Gjermeni.

Interviews of the People's Advocate, Mr. Igli Totozani in the national TV stations

During 2013, under the auspices of the Institution, the People's Advocate Mr. Igli Totozani has been present in interviews taken place in TV studios, which were focused:

1- On the work and institutional focus of the People's Advocate

2- On specific topics and issues addressed by the People's Advocate and its staff. His direct exposures to media have aimed at especially the promotion of rights of the vulnerable groups, different issues of concern, promotion of image and work of the institution, clarification of powers of the People's Advocate and protection he affords to the rights, lawful interests of individuals from unlawful actions or inactions of the administration bodies.

During 2013 the People's Advocate, Mr. Igli Totozani, has been present in the following TV studios and programs:

- Studio 24 program- /News 24
- Evening interview- Patrik Sadikaj/ Ora News
- Interviews in Studio on various issues/ A1 Report
- Interview in Studio- ABC Televizion
- Igli Totozani in *Jamais Vu* Ora News
- Program 7 pa 5 in Vision+
- Interviews in Channel One
- Interview given for Voice of America
- Interview given for Deutsche Welle
- Participation in the program Studio e hapur in News24
- Interview of the Albanian People's Advocate and Polish Ombudsman in News24

- Opinion Program in Klan TV
- Exclusive Program –Europe I want Top-Channel

Commissioners, representatives from the Cabinet Offices, assistant commissioners and members of the People's Advocate Office have been also present in Klan TV to discuss issues which are directly linked with the respect of human rights and fundamental freedoms. Experts of our staff have joined TV studios of Top Channel, Top News, News 24, Ora News, A1Report, Vizion Plus, Channel One, UTV etc.

Interviews for information editions are given for almost all TV stations, where it is worth mentioning:

- News 24
- Ora News,
- Vizion Plus,
- Top Channel,
- Top News,
- A1 Report,
- TVSH,
- UTV,
- Albanian Screen,
- Koha TV,
- Klan TV,
- Channel One,
- Scan TV,
- Planet TV,
- Shijak TV etc.

Presence of the People's Advocate in the pages of opinions of the Albanian daily periodicals

The People's Advocate, Mr. Igli Totozani had an active presence not only in TV interviews and debates but also in the pages of opinions and comments of the Albanian daily periodicals. Opinions and comments were focused on human rights, respect of human rights, issues of legislation and its enforcement, issues to be improved, changes to be made for improving the quality and standards of living of the groups in need such as Roma community, rights of women, bloodfeud, disabled people, LGBT community etc.

Online websites

During 2013 the news of the People's Advocate were broadly covered by online

media and portals such as Balkanweb, Top Channel, Tema, Panorama, Republika, Shekulli, Shqiptarja.com, Mapo, Shqip, Dita, Ama-News, Start Newspaper, NOA, Idea Newspaper etc.

Media coverage and online portals of this news has brought about two main components in the activity of the Institution:

- Information and news on the People's Advocate activity has become universal, namely, they are accessible by any countries in the world;
- All articles may be available in the official website www.avokatipopullit.gov.al/ in the section "Media and People's Advocate".
- The analysis of the activity of the institution is approached under a new perspective from the feedback of the general public and readers.

The public feedback and suggestions of the citizens directly sent via media have helped re-define benchmarks in the work of the People's Advocate, based on priorities, expectations and sensibilities of the public opinion.

People's Advocate Office and its activity in the focus of international media

One of the events voiced by the international media during 2013 involved the protection and efforts which the People's Advocate Office has continued to provide for the rights of Roma community and protection of LGBT groups in Albania.

The events in question were covered by international prestigious media such as:

- Reuters
- Associated Press
- Huffington Post
- ANSA
- Radio Free Europe
- Repubblica
- Washington Post
- Voice of America (VOA)
- Daily News
- Balkan Insight
- BBC,

- Bota Sot
- Zëri
- ELLE Magazine
- Prishtina Press
- Deutsche Welle

Interviews in local TV stations

Apart from the central national media, the People's Advocate has been present in local media of the cities he has visited in the framework of "Open Days". The interviews in local TV stations or studios intended to inform the area community on actions and inactions of the administration, competences and activity of the People's Advocate Institution and direct response to the local issues related to the legal framework of duties and priorities of the People's Advocate.

4. Communication via official website and social media

www.avokatipopullit.gov.al is the official website of the People's Advocate Office. It was launched for the first time in 2009 and we should admit it is not one of the best websites. Therefore, it was subject to a radical change. This new website funded by the Kingdom of Denmark, aims to be more accessible by the citizens, to have options of communication with the citizens and to help the citizens with its full-range information and services.

The new website of the People's Advocate Office, which has been lately made operational, enables the citizens to find necessary information but most importantly, the application of online complaints is an innovation of the site.

The citizens may file a complaint to the People's Advocate Office, without the need to refer to its offices. They can hardly do it via Internet. Similarly, they will be able not only to file an online complaint but also to follow up the status of their complaint.

Another fresh component of this new website is transparency. We have always desired to set a positive example for the other institutions and public administration. The staff of the People's Advocate Institution is determined to be more transparent with the citizens; therefore special attention must be paid to transparency.

In this website, we aim to introduce our institution as "it is". The sections comprising this webpage include salaries, expenses for tenders, purchases, official travels, expenses for the maintenance of the institution, vacancies, foreign financing etc.

The bilateral communication with citizens is of special importance for our work and at the same time guides us to attach special priority to the concerns of citizens. To have the opinions of citizens, we have planned to make the website interactive. We

enabled comments from the citizens and they will also be the decision makers for the topics we will choose as the most emergent ones and will focus on our activity. We will conduct a monthly survey in the website, where the replies given will guide us to what is of priority, in support of the protection of human rights and fundamental freedoms.

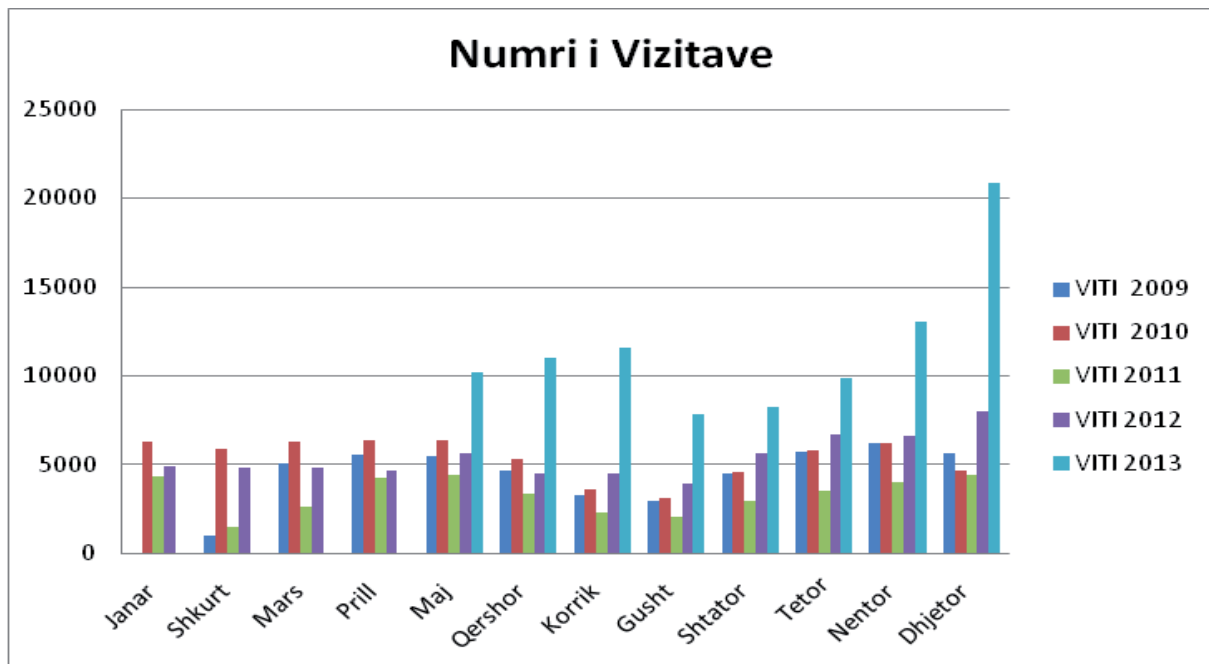
Obviously, for the students, researchers and the concerned parties, the website offers a good opportunity to make use of materials, recommendations, legal basis and reports of the People's Advocate Office. All these materials produced by the institution of the People's Advocate will be reflected in this website.

To be closer to the citizens, in addition to the contacts of central and regional offices (phone numbers and email) the website of People's Advocate has published two phone numbers in service of citizens. The phone number 0689034648 is made available to the public on 24-hour basis, every day of the week. The citizens may send a brief problem statement via SMS, as well as the full address of the complainant and then they will be contacted by experts of the People's Advocate Office. As regards the inmates at Penitentiary Institutions, communication is provided via direct phone calls. Further, the free phone number 0800 1111 is made available to the citizens during the official timetable 08:30 to 16:30, from Monday to Friday.

The website also paid special importance to regional offices. The project funded by the Kingdom of Denmark had foreseen the opening of 6 regional offices. To date, 4 regional offices could be opened, specifically in Shkodra, Fier, Berat and Saranda (you will find more detailed information about the activity of these offices in Chapter III, Clause 2 "Activity of Regional Offices and "Open Days".

The website had not been operational for several months due to the attack of hackers. Specifically, since 5 May 2013 the official website of the People's Advocate www.avokatipopullit.gov.al has been inaccessible. The website was attacked by hackers under the name of Ismalic Ghosts Team with the message: "To be or not to be".

The staff of the People's Advocate maximized its efforts to restore the website to the previous status but the damage sustained due to the attack of hackers was huge and the recovery took some months.



Number of website visitors from 2009 to 2013					
	YEAR 2009	YEAR 2010	YEAR 2011	YEAR 2012	YEAR 2013
January	0	6,332	4,377	4,919	0
February	1,014	5,892	1,454	4,839	0
March	5,084	6,312	2,665	4,844	0
April	5,547	6,364	4,297	4,690	0
May	5,512	6,369	4,433	5,642	10,230
June	4,676	5,310	3,346	4,538	10,975
July	3,260	3,637	2,284	4,466	11,621
August	2,963	3,118	2,099	3,927	7,805
September	4,508	4,574	2,955	5,671	8,252
October	5,706	5,799	3,551	6,674	9,881
November	6,213	6,192	3,980	6,596	13,043
December	5,632	4,685	4,443	8,009	20,868
Total	50,115	64,584	39,884	64,815	92,675 ⁴⁹

People's Advocate and social networks

In recent years the social media is becoming a very important tool for changing the traditional and daily behavior of a growing number of citizens, increasingly serving as a modern channel of information, communication, decision making and contact maintenance.

⁴⁹ For the period of January-April 2013 the number of visitors cannot be identified because the People's Advocate Institution website has not been operational

One of the key purposes in our work ahead is the strong will to develop a direct dialogue and relationship with the citizens, so we should not underestimate this opportunity offered by social media.

In addition to its official website, the People's Advocate Institution has built a functional link with the citizens by means of the Facebook platform.

We have deemed this platform as an opportunity and tool to gradually increase the democratic level of participation of the Albanian citizens not only for the decisions we take, but also for the designation of our institution's priorities.

According to the data offered by this network, the Facebook platform has been the most visited site at global level for 2013. It is already known for several years that the number of Albanian visitors of this platform is also progressively increased. Every day we see a larger number of Albanians joining as users of this platform.

The institution of the People's Advocate has been present in Facebook since March 2012. During this period of time, we have succeeded in this platform of communication:

- To promote the appropriate information of human right areas of primary public interest.

During the last year some 180 complaints were made by the citizens in the Facebook webpage of the People's Advocate Institution. We have attempted to give an answer to all of them, based on the categories of their complaints. This is done, dividing them in categories such as:

- Advice and information (not all the complaints made to the People's Advocate profile have been within the jurisdiction of this institution. In these cases, citizens are given the right assistance and information on the institution where they should submit their concern or complaint for solution.
- Complaints, defined by the experts as within the jurisdiction of the People's Advocate Institution. In these cases, the citizens are asked to submit to the People's Advocate Office all related documents required for the registration of the complaint.

This new radical cultural change of communication is considered by the People's Advocate Office as a unique opportunity to further improve the communication with citizens and their awareness of their human rights and freedoms. Therefore, the presence of the People's Advocate in social networks, has been and will be a driving priority ahead in the field of communication and the relations with citizens.

- Offer cooperation to the citizens (through exchange of information, advice and guidance etc);
- Include citizens in the identification of priorities of the work of our institution;

- Share decisions, information and activities with the citizens;
- Transform the citizen into a partner, not only a receiver of our messages;
- Illustrate the activities of our institution and their goals.

5. Cooperation of the People's Advocate Office with non-profit organizations.

As promised in the beginning of his mandate two years ago, during 2013 the People's Advocate continued a close cooperation established with the civil society organizations. The work started in 2012 with the signing of 117 agreements with civil society organizations throughout the country, further expanded during 2013 with the institutionalization of a civil society network. By the end of 2013, on December 10, on the occasion of the International Day of Human Rights, the People's Advocate Office launched the establishment of an Advisory Board of the civil society with advisory functions at the People's Advocate Office. Established in accordance with the strategic vision the institution has developed for the good governance and decision making, the aim of the Board is to ensure a constant and stable communication with the Civil Society by means of two important components:

1. An efficient public communication, and
2. A more comprehensive decision making.

In accordance with the Charter of the United Nations for Human Rights and Universal Human Freedoms, the European Charter of Human Rights and Paris Principles on the National Institutions of Human Rights, the Board is established as an independent body which work is based on impartiality and objectivity. The composition of the Board ensures a representation of all civil society organizations selected independently by the organizations themselves organized in coalitions and alliances in Tirana, a number of organizations of the most important regions of the country, as well as activists and personalities with well-known public contribution in various fields of activity. Coming from various areas of life and different parts of the country, the members of the board reflect the diversity of opinions and activities, principles upon which our society is built.

The Advisory Board on Human Rights is established as an independent body with consultancy and advisory functions. The Board makes sure the People's Advocate has the right advice and consultancy in the areas of protection and promotion of human rights. The Board makes proposals for the protection and promotion of human rights and explores the risks of violations of these rights coming from various social processes, and the science and technology progress as well. The pluralistic composition of this Board creates a permanent dialogue between the People's Advocate and the civil society. The Board accomplishes its mission based on serious and impartial work. Its proposals are always made in a constructive and cooperative spirit.

In order that all members of the board bring their contributions in the areas of their respective competences and aspirations, the Board activity is based upon democratic principles, aiming at building consensus and maximizing the results of its work. The Board will serve as an advisory body of the People's Advocate with the main focus on: a) the analysis of draft-laws/bylaws proposed to the Parliament; (b) practical monitoring of the law implementation with a focus on the identification of progress made and further needs for improvement; (c) promotion of human rights, especially those related to children, persons in need and other vulnerable groups of the society; (d) identification and proposal of the key issues of the engagement agenda of People's Advocate for the coming year. The meetings of the Board are open. Members of the government, representatives of the international community, academia and university circles, various experts etc, can be invited for participation in the Board meetings. The People's Advocate enjoys institutional discretion for the practical use and applicability of the advice and recommendations.

As stated above, on **9 and 10 December 2013**, the People's Advocate organized a two-week conference titled: "Together for Human Rights". The conference included six sessions, three for each of the days, with focus on the rights of children, women, LGBT group, children and families confined to their homes due to bloodfeud, rights of people with disabilities and minorities. To ensure a better public communication between the Civil Society and State Institutions, the conference was conceived as an open forum where many participants would have their say as an important space of debate, where the personnel of the People's Advocate would hear and take note of problems and suggestions of the participants during all sessions.

In his welcome speech, Mr. Igli Totozani thanked all conference participants, representatives of the civil society, public administration, local government, parliamentary representatives, international community and ambassador guests of the European countries. He expressed special gratitude to the Kingdom of Denmark for the comprehensive financial aid provided to the People's Advocate Office and Save the Children as one of the co-hosters and co-funders of that event. During the two-day conference discussions were developed on concepts and issues of the civil society, in an open dialogue with the governmental representatives, with a combination of debates between ministers and ambassadors, contributions of the civil society and employees of the independent institutions. Some of the success figures of the conference include 234 participants, 61 panelists, 6 governmental institutions, 5 ambassadors, 12 international organizations: 26 NGOs; 6 members of parliament, 2 independent institutions etc. During the conference sessions it was agreed that discussions and contributions should be included in a special report for the conference and serve as a reminder for the issues raised and solutions proposed, so that the relevant parties would launch appropriate steps. The report which was produced by members of the Advocate staff is already disseminated to the respective state institutions, international organizations and civil society organizations.

Below you may find a chronological summary of the activities of the People's Advocate with the civil society during 2013.

On **13.02.2013** the People's Advocate attended the International Scientific Conference "Albania and National Ethnic and Cultural Minorities." The conference was hosted by the Faculty of Law, "Marin Barleti" University, in cooperation with the Albanian Institute for Public Issues attached to this University. In his presentation, Mr. Totozani stressed the fact that minorities are a valuable asset for every country and for Albania. Further, he highlighted the generally positive climate existing in Albania regarding the treatment of minorities but there are still many issues of concern which require immediate attention. He mentioned as some key steps to be launched by the Albanian state, *inter alia*, drafting a special law on minorities and official definition of the "minority" term.

On **21. 02. 2013** the People's Advocate, Mr. Igli Totozani attended the workshop with the topic "Democracy development through Gender Equality". In his speech held on that occasion, *inter alia*, Mr. Totozani stressed that there is no democracy if half of the society continues to be maltreated and violated by the other half. 100% equal attendance of citizens is required for rooting democracy in our country. Measures such as the share of 30 per cent in the lists of MPs, prepared by the political parties, represent an initial step for the increase of women's participation in the policy making but such a measure is not a magical solution. Furthermore, it is an inadequate measure not only in terms of content but also in the way how it may be implemented in the lists of parties during the expected elections.

On **03.05.2013** the People's Advocate made a press release where he stressed that in 2003 the Council of Europe drafted a recommendation according to which none of the genders can be represented in a decision making level with less than 40%. This recommendation is based on the concept of gender balanced participation, with special focus on women's participation in the parliament and governance. Ten years after this recommendation, there is still much to be done by Albania.

We would like to emphasize that formula for women's representation in the political party lists for parliamentary elections, is obviously not the most welcomed by the People's Advocate and civil society but as it is, it should be applied by the electoral subjects. Preparing the ground for the balanced parliamentary participation of women, the political parties will convey a clear message of goodwill for real changes in the national political decision making system.

The People's Advocate, Mr. Igli Totozani, received in his office on **07.06.2013** the Chairman of the Union of Journalists, Mr. Aleksandër Çipa and Mrs. Anila Basha. During the meeting, Mr. Çipa raised his concern about the decision of the Central Election Commission on the admission of the recorded cassettes by the political parties for publicizing their activity during the pre-election period. "The CEC decision is a precedent in breach of the information and distorting media mission. The Union of Journalists has presented a note of protest against the CEC decision, to the Albanian constitutional institutions. This decision violates articles of the Constitution for the right to information. The People's Advocate should provide institutional contribution for the protection of the Constitution"-stated Mr. Çipa.

The People's Advocate, Mr. Igli Totozani, extended his personal gratitude to the Union of Journalists for their trust and added: "We are the institution of human rights and the custodian body for the law on the right to information. In principle, we favor the inviolability of media freedom. I have set up a working group which until Monday, will prepare an official position of the People's Advocate Institution on this matter. A recommendation will be drafted to be referred to the Central Election Commission but it will not be the only instrument to be used"- stressed Mr. Totozani.

On **17 – 10 June 2013** the People's Advocate, Mr. Igli Totozani attended the Regional Workshop held in Belgrade with the topic "On human rights of lesbians, gays/homosexuals, bisexuals and transgender persons (LGBT), equal treatment and fight against discrimination". The inherent dignity of every human being, without discrimination or distinction and refusal of discrimination of any kind, are the basic human principles. Nevertheless, the lesbians, homosexuals, bisexuals, transgender and intersex persons continue to be victims of violence, intolerance and discrimination. Some international instruments were built to address this issue. A resolution for sexual orientation was adopted by the UN Council for Human Rights in June 2011. The Committee of Ministers of the Council of Europe has adopted the recommendation CM/ Rec (2010)5 on measures for the fight against discrimination based on sexual orientation and gender identity. While progress is made, violence, intolerance and discrimination against LGBTI persons continues to be a serious concern. The rights of LBGTI community are human rights and as every other human being, they should enjoy the right to free assembly, to freely protest, to openly express their opinions and even raise families and children, stated Mr. Totozani.

Upon special invitation of the Commissioner for Enlargement and Neighboring Policy, Mr. Štefan Füle, the People's Advocate, Mr. Igli Totozani delivered a presentation on **20. 06.2013** in the Conference on Freedom of Expression and Media in the Western Balkans and Turkey held in Brussels. He protected the freedom of expression and media as one of the pillars of democracy and civilization, stressing out that without media there is no democracy and development. This is particularly important in countries such as those of Western Balkans, where democratic traditions are far from consolidation. He appealed to the governments to adopt an impartial position to all media, without discrimination, in order to be effectively independent in their work.

Another appeal for media and journalists was that they should respect the mission and ethical and moral code of their profession.

On **11 July 2013** the People's Advocate declared he would join the civil society initiative for drafting a new law on opening of files. In an interview given in Ora News for the Director of Information, Mr. Patrik Sadikaj, the People's Advocate, Igli Totozani, declared that the Albanian society immediately needs to be liberated from the communist heritage.

On **25.07.2013** the People's Advocate, Mr. Igli Totozani, received in his office a group of Civil Society Organizations for environmental protection. During the meeting the

People's Advocate stated that the institution he is in charge of, protects citizens from unlawful and irregular actions of the administration, and also promotes human rights. Mr. Totozani assured the believers that the People's Advocate supports the construction of a mosque, so that the Moslem citizens will not be discriminated but as every other believer; they will have their prayer cult. In our institutional capacity, we operate on the basis of the citizens' complaints. We consider the foregoing as a complaint and will set up a group of experts for this purpose, to follow up the case and examine all the complaints currently filed by the Civil Society organizations"- stated in the end Mr. Totozani.

On his side Mr. Sazan Guri introduced a series of claims why these constructions should not take place in a specific location and clarified that the group of Civil Society organizations which scope of work includes environmental issues, have nothing against the Moslem community and religious activity.

On **09.08.2013** the People's Advocate delivered a statement on the situation of Roma community. This statement was released following the active involvement of the People's Advocate during August for the protection of the rights of Roma community members displaced from their houses in front of Pallati me Shigjeta (Arrowed Apt. Building) in Tirana. Since the initial action of the construction company to displace Roma people for the purpose of erecting a multi-storey building, the People's Advocate appealed to the Government and Tirana Municipality to control the lawfulness of this action and take appropriate measures for the housing of those families, for their due access to primary health care service and for bringing their children to school within a reasonable distance. This statement has published a number of recommendations addressed to the Albanian institutions, among which the Recommendation to the Police Station No. 2 on the situation of Roma community and Recommendation to the Mayor, Mr. Lulzim BASHA about the steps to be launched for an emergent and mid-term solution to the problems of this community.

On **30 August 2013** the People's Advocate regretfully reported, via a press release, a persisting concern on disability allowances. There were delays all over the territory of the Republic of Albania regarding the execution of monthly allowances for the disabled people. The concerns were reported on site by the assistant commissioners of the People's Advocate but they were transmitted by the representatives of relevant organizations.

In these circumstances, the Ministry of Labor, Social Affairs and Equal Opportunities and the Ministry of Finance were publicly drawn the attention for immediate execution of these payments. The Disabled People and their rights constitute one of the most important missions of the People's Advocate. They are part of Recommendation 11 for Albania defined by EU and in this context but without limitation, the policy and legislative developments on disabled people and their implementation have been subject to discussions, assessments and recommendations of our institution.

On **24-25 September** 2013 the People's Advocate attended in Bonn, Germany, the

International Conference “On educational situation of Roma community in the Southeastern Europe”. In his speech he emphasized that was an additional opportunity to bring to the attention and reflect upon challenges faced by this community in each of our countries. The right time has come for us to reflect that only 2 years from the finalization of Roma Decade announced in 2005, with high expectations for Roma integration in our societies, we regretfully note they continue to live under extreme poverty, discrimination and exclusion.

In his institutional capacity, the People’s Advocate stressed from the very outset that equality before law, as provided by the legislations of all our countries, would not be sufficient for the social integration of Roma community. The People’s Advocate in Albania has requested from the lawmaking and law-enforcement institutions to reduce the level of criteria to be met by Roma people, in order to benefit limited profits under the Albanian social assistance system. Accordingly, we have requested that for a specific period of time, Roma people should be subject to positive discrimination in order to afford them the same level as the average citizens. We have claimed this for the basic services such as those linked with the registration in registry offices, enrollment at schools and kindergartens, social housing programs, training and employment programs etc. During his stay in Bonn, he had an interview for Deutsche Welle Radio about the situation of Roma community in Albania.

The People’s Advocate made a press release on the occasion of the International Day of Older Person on **1 October 2013**. In his statement he expressed the gratitude and respect for their values and contribution provided over years. Elderly people remain one of the most vulnerable groups in Albania. The absence of minimum incomes denies this social category access to the proper health service and they have insufficient incomes to afford living and often remain without support.

By estimating the contribution of the elderly and being aware of the need for care of this category, we should put an end to the negligence and their exclusion from the society, thus building a society for all age groups.

The approval of the Third Age Status is required to safeguard the rights of elderly people for social justice, to work, have access to health care services and so on.

The People’s Advocate, as an institution guaranteeing human rights and fundamental freedoms, has in the focus of its work the protection of rights of the elderly people.

Through his recommendations to the central and local government, the People’s Advocate has called for the improvement of living conditions at the day-care and residential centers for the elderly, as well as the application of the required standards, in order to provide this social group a more decent and safer life, so that they will feel equal as the other members of society.

On **26.11.2013** the People’s Advocate launched consultation sessions with the civil society regarding the names of candidates for PA Commissioners he will propose to the Albanian Assembly.

During this week the People's Advocate, Mr. Igli Totozani has held regular meetings with representatives from civil society organizations such as women, children, disabled people, Roma, bloodfeud representatives and activists of other fields. Commissioners are voted by the Parliament by a simple majority and they have a three-year term of office. The People's Advocate aims to submit to the Assembly candidacies among the most distinguished lawyers, possibly with contribution to the civil society, not involved in politics and impartial. Commissioners are elected among the best legal experts for a three-year term of office, with a right to renewal.

On 28 October 2013 the People's Advocate invited in the round table session Mr. Erion Veliaj, Minister of Social Welfare and Youth, Mrs. Lindita Nikolla, Minister of Education and Sports, Mrs. Elona Gjebrea, Deputy Minister of Interior and Mr. Gjon Radovani, Deputy Minister of Urban Development and Tourism.

The People's Advocate and civil society representatives and the Commissioner against Discrimination introduced recommendations designed to improve the situation of Roma minority.

Pursuant to article 81/1 of the Albanian Constitution, we recommend to the Ministry of Education to accomplish the legislative initiative for some amendments to the Law No. 69, dated 21.06.2012 "On pre-university education system in the Republic of Albania", which will envisage and guarantee the integration of Roma children in education, from the pre-school to higher educational levels.

We recommend to the Ministry of Social Welfare and Youth to provide mitigating criteria for the entitlement of financial aid, with the view of proper and viable access of individuals, members of Roma minority since the present requirements cannot be met thus involving an exclusion character for this minority.

We recommend to the Ministry of Interior that for protecting vital interests of the Roma minority in Albania, initiatives should be launched for amending Law No. 10129 dated 11.05.2009 "On Civil Status", in order to enable this community less stringent time limits than the ones provided by law and to have the possibility of registration or change of domicile even if they do not complete the documentation required for that purpose in the registry office they currently belong to.

We recommend to the Ministry of Urban Development and Tourism to review the law "On social housing programs for urban area residents", considering this minority as a high priority category and to simplify legal housing requirements as Roma minority members are excluded from the housing scheme applied by the Albanian government as the relevant criteria cannot be met by this community.

The People's Advocate and civil society maintain that without launching the aforementioned reforms such as the equal right to housing, social support, health care and education as all other citizens, the Roma minority will remain excluded.

On **02. 12. 2013** the People's Advocate attended the session of the Working

Commission for Gender-Based Violence. He stated, *inter alia*, that gender-based violence and particularly domestic violence against women continues to be a common and disturbing phenomenon for the Albanian society. There are alarming figures of women who were victims of domestic violence in 2012 and 2013 (23 women in 2012 and 27 in 2013).

In these circumstances, a further consolidation of referral mechanisms for domestic violence is immediately required. Coordination between central and local institutions should be improved and non-existing units have to be built, specifically the public reception centers and relevant social services for victims. Another recommendation is that gender integration should be part of all social, economic approaches and policies in Albania, in order to achieve a sustainable development through the optimal use of capacities of the national human resources and these achievements should be accessible by all social groups. Measures under the National Strategy for Gender Equality and Gender-Based and Domestic Violence 2011-2015 are required to build procedures and opportunities for subcontracting NGOs to deliver respective services for the victims of such violence. Implementation of policies linked with the participation of women and girls under the income supporting schemes, in active employment, professional training and re-training programs for improving the economic situation of women are approaches to provide a better situation of women and girls. Mr. Igli Totozani called for the work improvement of the police and justice bodies, for the purpose of identification of domestic violence offence perpetrators and their punishment within the shortest time possible. He reiterated that establishment and strengthening of mechanisms for gender equality at central and local level, especially the acceleration of process for recruitment of gender officials at the ministerial structures and local officials for gender issues at the local municipalities, will, *inter alia*, enhance the level of public awareness and gender emancipation.

6. Cooperation of the People's Advocate Institution with respective offices and other international organizations.

Introduction

The People's Advocate Institution has deemed the international community organizations as important allies and partners to attain its goals for the protection and promotion of human rights.

The Internal Regulation of the Institution underscores the importance given by the People's Advocate to international relations. This document pays due attention to the close cooperation of the People's Advocate and employees of this institution with international partners, in order to ensure the practical implementation of measures for the protection and promotion of human rights.

In this context, during 2013 the Section of Coordination, Foreign Relations and European Integration at the People's Advocate Institution was further supported, currently staffed with 2 experts and the head of unit. The main task of this section is to

coordinate common activities with the counterpart offices, international organizations in Albania and abroad, and other partners in the field of human rights, by strengthening the cooperation and coordination. International agenda has attached special importance to communication and exchange of experience for updating the best European and international standards in the area of human rights.

During 2013 the Section of Coordination, Foreign Relations and European Integration has maintained constant communication with international partners in Albania and abroad. This communication mainly consisted of the exchange of information on the situation of human rights and fundamental freedoms in Albania, and sharing specific reports and other related events organized by the institution.

The following pages introduce the international activity of the People's Advocate Institution. The year 2013 has shown an increased presence and contribution by the institution within the international framework of human rights. The international activity of the People's Advocate Institution during 2013 is focused on the following areas:

1) Bilateral Activities; 2) Multinational Activities in the framework of regional, European and international organizations; 3) Membership in international organizations and networks, and 4) Internationally supported projects.

1) *Bilateral Activities*

During 2013 there was a growing cooperation and coordination with counterpart organizations of other countries. This has promoted the exchange of best practices with the other European Ombudsmen Institutions and growing experience of the People's Advocate in the international framework.

In this framework, on 3-5 February 2013 the People's Advocate paid a visit to the Kosovo People's Advocate Office in Pristina. The purpose of this visit was to further strengthen the cooperation between both counterpart institutions and other stakeholders of our countries focused on the areas of human rights, including the civil society (members from the Albanian civil society were also part of the delegation).

Cooperation between the Albanian and Kosovo People's Advocates was further consolidated with the visit of 1-3 May 2013 in Tirana of Mr. Sami Kurteshi, the Kosovo Ombudsman, upon the invitation of Mr. Igli Totozani. A cooperation agreement was signed during this visit between our two respective institutions, with special focus on strengthening of cooperation between the National Preventive Mechanism Against Torture (at the People's Advocate Office in Tirana) and the Unit for Preventive Mechanism Against Torture (at the People's Advocate Office in Pristina). Mutual cooperation between both institutions was related to the exchange of practices on treatment of citizens' complaints and assistance for the engagement and cooperation in regional, European and international networks of the national human rights institutions.

During his official visit in Poland on 13 March 2013, the People's Advocate attended the conference on "Main challenges of the People's Advocate in the new century" hosted by the Vishegrad Group with the Western Balkans Ombudsmen. In the bilateral meeting with the Polish Ombudsperson, Mrs. Irena Lipowicz, various cooperation options were explored, including the long-term qualification of PA experts from the counterpart Polish institution.

On 13-15 October 2013 the Polish Ombudsperson, Mrs. Irena Lipowicz paid an official visit in Tirana upon the invitation of the Albanian People's Advocate. During this visit a seminar was organized on 14 October 2013 regarding the improvement of human rights standards and cooperation with the civil society, focused on "protection of human rights and the role of People's Advocate". This seminar was co-hosted in cooperation with the Polish Embassy in Tirana. Various representatives from public institutions, international institutions and civil society attended the seminar, including the Speaker of Assembly, Mr. Ilir Meta, the EU Ambassador in Albania, Mr. Ettore Sequi etc. Also, in the framework of this cooperation, the Polish Embassy and the Polish Ombudsman Institution hosted a study visit of three representatives from the civil society to the Polish Ombudsman Office.

On 4-5 July 2013 the People's Advocate, Mr. Igli Totozani paid a two-day visit in Athens upon the invitation of the Greek Ombudsperson, Mrs. Calliope Spanou. During the meeting with Mrs. Spanou several aspects of the work of both institutions regarding the protection of human rights were discussed. Discussions were also focused on the issue of toponyms for which both institutions appealed to their respective governments to find a way of understanding for the good of children. Both institutions agreed to convene joint annual meetings and keep constant contacts in the interest of citizens of both countries. Furthermore, the People's Advocate paid a visit in a penitentiary facility, where a number of Albanians were serving their sentences, and held other meetings with various organizations for the protection of human rights of Albanian people in Greece. Among others, discussions were focused on the situation of Albanian immigrants in Greece, the possibility of voting in the framework of Embassy, support of immigrants returned in Albania, as well as the efforts to set up a cultural centre in Greece for the Albanian immigrants.

The People's Advocate also plays an active role in the regional networks. He is one of the founding members of the Regional Network of the National Preventive Mechanism Against Torture (NPM), established in Belgrade in the beginning of 2013. The People's Advocate Institution has created and maintained direct bilateral relations with other regional Ombudsmen, including the Ombudsmen of Kosovo, Montenegro, Serbia, Greece, Macedonia and so on. Direct cooperation contacts are also built by other staff members, especially between the respective employees and experts of the Preventive Mechanism Against Torture of the regional countries.

Also, direct cooperation contacts are established with the People's Advocate Offices at European level, including the Ombudsmen of EU, Denmark, Spain, France, Norway etc.

2) *Multinational Activities in the framework of regional, European and international organizations*

During 2013 the cooperation between the People's Advocate Institution and various international organizations is further strengthened within the country and abroad, including the UN Organization (UN), Council of Europe, OSCE, UNDP, UNICEF etc.

In this cooperation framework, the UN Office in Albania and the People's Advocate are engaged to work together on issues of common interest.

In March 2013, in cooperation with the UNDP Office a three-day seminar was conducted in Albania with the topic "Role of the People's Advocate for the promotion of equality and non-discrimination policies" focused on the consolidation of staff capacities of the People's Advocate institution for protection and promotion of the rights of women, LGBT, Roma minority and other disabled people.

In addition, based on the TAIEX program supported by the European Union, in order to strengthen staff capacities and further enhance professional skills of the People's Advocate Institution, some 5 study tours were conducted to the People's Advocate Offices of the EU countries. 3 staff members of the institution have participated in each of these study tours in the People's Advocate Offices of Denmark, Spain (2 events), France (2 events) and Poland. Cooperation and coordination with the respective institutions are further consolidated due to the EU support. A total of 17 staff members of the People's Advocate institution have joined study tours in 2013.

Another joint seminar was conducted from 20 to 22 November 2013 in cooperation with the Office of UN High Commissioner for Human Rights, with the topic: "Use of indicators regarding the implementation and evaluation of human rights". Various participants from the Albanian public institutions attended the seminar. Its central aim was to promote awareness and show the importance of statistical data use and other indications for promotion and monitoring of the implementation of human rights in Albania.

The People's Advocate had been constantly present in the international events of 2013. Accordingly, on 7 May 2013 the People's Advocate attended the 26th annual session of the International Coordinating Committee (ICC) of Human Rights Institutions in Geneva, where he was elected a member of two important international boards, the Board of Regional European Network, and ICC Bureau. The said Bureau which is composed of a total of 16 members representing 4 different regions of the world is one of the most important ICC bodies. Also, the People's Advocate Office participated in the meeting of ICC Bureau held in Accra, Ghana, from 25 to 26 November 2013. This meeting, *inter alia*, developed discussions on ICC Strategic Plan 2013-2015 and the latest international events in the area of human rights. On the other side, the People's Advocate in the ICC framework is in the re-accreditation process of "A" status, according to the re-accreditation procedures taken place every 5 years.

Taking into account the importance that the People's Advocate attaches to international organizations and mechanisms for the protection of human rights, basic documents of these institutions are in the focus of the daily activity and work of the People's Advocate. In this framework, the People's Advocate Institution not only provides analyses of international conventions and reports but it also follows up their implementation by other national institutions of public administration in Albania, through promotion of the respective recommendations regarding the improvement of human rights situation in harmony with the basic human rights principles.

In this connection, in June 2013 the People's Advocate submitted to the UN Human Rights Committee an independent (parallel) report by the Albanian state for implementation of the International Convention for Civil and Political Rights in Albania, and the relevant working activity of the People's Advocate. The UN Human Rights Committee addressed the second report of Albania and document presented by the People's Advocate in the 108th session of the UN Human Rights Committee.

The People's Advocate staff has established close cooperation with human rights units and mechanisms at European level. It is worth mentioning the serious cooperation with the European Commission against Racism and Intolerance (ECRI). The People's Advocate submitted corresponding reports to the ECRI and lobbied to the government for implementing ECRI recommendations. Such cases are those linked with ECRI recommendations for improving the situation of Roma and ethnic minorities in Albania.

In this context, in 2013 the People's Advocate provided the following recommendations:

- 1) Recommendation "On improving legal framework for the recognition and protection of minorities in Albania, in accordance with provisions of the Council of Europe "Framework Convention for the protection of national minorities" addressed to the Prime Minister of the Republic Albania.
- 2) Recommendation "On improving pre-university education system in the Republic of Albania" (Law No. 69, dated 21.06.2012)" addressed to the Minister of Education and Science.
- 3) Recommendation "On improving the Law on Protection against Discrimination" (Law No. 10221, dated 04.02.2010)" addressed to the Minister of Justice and the Minister of Labor, Social Affairs and Equal Opportunities.
- 4) Recommendation "On measures for improving living conditions of Roma ethnolinguistic minority" addressed to the Minister of Transport and Infrastructure.

On one hand, in the framework of the LGBT community rights, the People's Advocate activity has been developed in close cooperation with civil society organizations, groups of interest, and international partners, including the Council of Europe Office in Tirana. In close cooperation with the Council of Europe Office in Tirana, the People's

Advocate provided a number of recommendations for the improvement of legislation, including amendments to the Family Code. On the other hand, it is worth mentioning the recommendation for amendments to the Criminal Code, including the classification as a serious circumstance of criminal acts related to grounds of sexual orientation and gender identity⁵⁰.

Due to the cooperation with the OSCE, in the framework of the project "Best Practices for Roma Integration (BPRI)" funded by the European Union and implemented by OSCE Office for Democratic Institutions and Human Rights (ODIHR), a Roma Coordinator for Protection Against Discrimination was recruited in June 2013 to support the People's Advocate for processing the complaints; providing appropriate information based on all submitted requests, and was designated as a point of contact for the cooperation with relevant authorities in the area of Roma human rights and non-discrimination⁵¹.

Also, in the framework of cooperation with the OSCE, the People's Advocate, Mr. Igli Totozani attended the high level conference hosted by OSCE Office "Tolerance and Non-Discrimination", held from 21 to 22 May 2013 in Tirana, Albania.

The People's Advocate active role was also highlighted on 28 November 2013, during the meeting of the 8-th Congress of the Association of Ombudsmen and Mediators of La Francophonie held in Senegal, where the People's Advocate, Mr. Igli Totozani was elected as a Member of the Administrative Council. The latter is one of the main management bodies of this organization, which members are elected once in two years.

This Council takes important decisions for the organization, in the periods between the General Assembly meetings.

Among the seminars and other events hosted in cooperation with international organizations, it is worth mentioning the following activities:

- **On 24 September 2013** the People's Advocate Office hosted the activity for presenting the opinion of the Commissioner for Human Rights of the Council of Europe, Mr. Nils Muižnieks, concerning the "Independent and Efficient Examination of Complaints against the Police". Among others, this event focused discussions on the People's Advocate role for the examination of complaints against police authorities. During this event, emphasis was shifted to the rapid, professional, and all-inclusive treatment, which will pave the way for a rapid recovery of the violation consequences and rehabilitation of victims, and for maintaining confidence and credibility for the state law enforcement agencies. Obligation and commitment of the People's Advocate Institution for protecting and safeguarding human rights against any unlawful actions and/or

⁵⁰ This recommendation was accepted and in May 2013 the Criminal Code was amended in line with the recommendation in question.

⁵¹ For the first half of 2014, this position is adopted due to the support provided within the UNDP framework

omissions of the police and public order will continue to be unchanged for the good of democracy and rule of law in Albania. Mr. Muižnieks stressed the importance of the People's Advocate role in his work performed to date regarding the complaint files against the police authorities.

- **On 3 December 2013**, the People's Advocate Institution, in cooperation with UNICEF Office in Albania, organized a round table on the role of the People's Advocate Office for monitoring children rights. The purpose of this event was to promote the awareness on children's rights and the need for establishing the children's right section at the People's Advocate Office in Albania, based on recommendations of the Committee on Children Rights (October 2012) in Albania.
- In the framework of the international day of human rights, **from 9 to 10 December 2013** the People's Advocate Institution hosted the National Human Rights Conference with the topic "2013 – a year of our rights, progress and future perspective". Staff members from the People's Advocate and other public institutions, representatives from diplomatic missions accredited in Albania, international organizations, civil society organizations and other related authorities attended this conference. The event was organized and funded by 'Save the Children' organization.
- **From 17 to 18 December 2013**, a training seminar on children's rights was conducted: "**Save the Children and People's Advocate Office**", hosted by 'Save the Children' Organization. The purpose of the training was to update knowledge of the People's Advocate staff on "Human Rights" issues. Ten staff members of the People's Advocate Office attended the training session.

2.1. Meeting of the People's Advocate with various representatives of diplomatic missions, international organizations and other human right authorities.

During 2013, various representatives of international organizations within and out the country, diplomatic missions accredited in Albania, and human rights authorities held meetings with the Albanian People's Advocate. Among others, it is worth mentioning the following events:

- **Meeting on 05.04.2013 with the Chair of National Swiss Council, Mrs. Maya Graf**

On 05 April 2013, the Chair of the National Council of Swiss Confederation, Mrs. Maya Graf had a meeting with the People's Advocate, Mr. Igli Totozani. In this meeting, Mrs. Graf showed her interest in the situation of democracy in Albania and the People's Advocate duties associated with the key problems faced by this institution for the protection of human rights. Mrs. Graf extended her gratitude for the readiness of Mr. Totozani to be transparent about the work of the People's Advocate Institution in Albania, considering it a positive indicator

for a small country like Albania.

- **Meeting of the People's Advocate on 17.09.2013 with Mrs. Dunja Mijatovic, OSCE representative for the Freedom of Media**

The meeting of Mrs. Mijatovic with Mr. Totozani was mainly focused on media situation in Albania, law on the right to information under auspices of the People's Advocate, as well as other potential fields of cooperation and assistance. Mrs. Mijatovic renewed her assurances for the future cooperation modalities, and exchange of experience and opinions on the freedom of media.

- **Meeting of the People's Advocate on 4.11.2013 with Mr. Jarab, regional representative for Europe of the UN High Commissioner for Human Rights**

In this visit, Mr. Jarab was accompanied by Mrs. Yesim Uruc, UNDP Director in Albania, Mr. Detlef Palm, UNICEF representative in Albania and Mrs. Entela Lako, program analyst of UNDP office in Albania. Mr. Jarab commended and highly evaluated the work and contribution provided by the People's Advocate regarding the protection of human rights, especially with regard to vulnerable groups such as Roma, LGBT, violated women, children etc. On his side, the People's Advocate, Mr. Igli Totozani informed Mr. Jarab about the situation of human rights in Albania and introduced his working activity and vision for developing a new culture of human rights in Albania. Both parties expressed their readiness for strengthening cooperation between the respective institutions.

The People's Advocate had a series of periodic meetings with other representatives of the international community within the country and abroad, including meetings with the US Ambassador in Albania, Mr. Alexander A. Arvizu; the Head of European Union Delegation in Albania, Mr. Ettore Sequi; the Resident UN Coordinator in Albania, Mrs. Zineb Touimi-Benjelloun; the Head of OSCE Presence in Albania, Mrs. Florian Raunig; the Head of Council of Europe Office in Tirana, Mr. Marco Leidekker; the Danish Ambassador in Albania, Mr. Mads Sandau- Jensen; the British Ambassador in Albania, Mrs. Nicholas Cannon; the Polish Ambassador in Albania, Mr. Marek Jeziorski; the Israeli Ambassador in Albania, Mr. David Cohen; the Charge d'Affaires of the Swedish Embassy in Albania, Mr. Patrik Svensson; the former People's Advocate of Slovenia and UNDP representatives in Albania; the member of European Parliament, Mrs. Tanja Fajon; the Responsible Authority of the joint project of EU and Council of Europe, Mr. Rainer Hofmann etc.

Other members of the staff of the People's Advocate institution built close relations with international partners, based on the areas of human rights, and maintained a constant communication regarding the situation of human rights in the country.

2.2. Visits, meetings, and presence of the People's Advocate in regional, international and multinational activities

- **Visit of the People's Advocate in Geneva, Switzerland, 18 - 20 March 2013.**

In the framework of cooperation of the People's Advocate Institution with the Office of the High Commissioner for Human Rights, Mr. Igli Totozani and his delegation conducted a study visit to the Office of the High Commissioner for Human Rights in Geneva, Switzerland. During his visit in Geneva, Mr. Totozani attended the twenty second session of the UN Council for Human Rights in Geneva. That visit was focused on the enhancement of cooperation of the People's Advocate Institution with the UN and especially with the High Commissioner Office for Human Rights.

During this visit, Mr. Totozani had a special meeting with the UN High Commissioner for Human Rights, Mrs. Navanethem Pillay. After an overview of the Albanian People's Advocate activity, Mrs. Pillay congratulated Mr. Totozani for the key role of the People's Advocate Institution on the implementation of international standards for human rights in Albania, and his efforts and public messages regarding the human rights promotion of vulnerable groups in the country. Special emphasis was placed by both parties on the People's Advocate role for promotion of human rights, as well as the valuable contribution to the European integration of the country. On her side, Mrs. Pillay highly evaluated the active and constructive engagement of the People's Advocate on the cooperation with respective national human rights institutions of the Balkan countries.

Mrs. Pillay assured Mr. Totozani about the support of her Office and other UN structures for further consolidation of the People's Advocate Institution. Mr. Totozani and Mrs. Pillay shared their engagement to further strengthen the mutual cooperation with focus on the improvement of human rights standards within the country and beyond in the region.

- **Visit of the People's Advocate in Strasbourg, France, on 30-31 May 2013.**

Upon the invitation of Mr. Stephanos Stavros, General Secretariat of the European Commission against Racism and Intolerance (ECRI), the Albanian People's Advocate, Mr. Igli Totozani attended the seminar hosted by ECRI in Strasbourg, France. Among others, the meeting was focused on the independence, efficiency and relations of the national human rights institutions with civil society organizations.

- **Visit of the People's Advocate in Amman, Jordan, from 10 to 11 June 2013.**

Upon the invitation of AOM (Association of the Ombudsmen of Mediterranean Countries), the Albanian People's Advocate, Mr. Igli Totozani attended the seventh meeting of the Association of the Ombudsmen of Mediterranean Countries (AOM), held in the capital of Jordan, Amman. The main topic of the Conference was "Towards a better treatment of complaints against the administration". AOM is an organization established in 2008, which aim is to promote and protect human rights of the Mediterranean countries, based on democratic principles and good governance.

- **Visit of the People's Advocate in Belgrade, Serbia, from 16-19 June 2013.**

Upon the invitation of the European Commission, in the framework of the P2P European Commission Program, the Albanian People's Advocate, Mr. Igli Totozani attended the regional seminar for LGBT rights, equal treatment and fight against discrimination. The aim of the regional seminar was to inform the participants on EU policies and programs related to the equal treatment, fight against discrimination and rights of LGBT community members, and offer the opportunity of exchange and communication at national level and other European civil organizations operating in this area.

- **Visit of the People's Advocate in Brussels, Belgium, from 19 to 21 June 2013.**

Upon the invitation of Mr. Štefan Füle, European Commissioner for Enlargement and Neighboring Policy, the Albanian People's Advocate, Mr. Igli Totozani attended the conference "Speak Up!" on the "Freedom of Expression and Media in Western Balkans and Turkey" held in Brussels. During the third session of the conference with topic "Role of Parliament for the protection of freedom of expression and media", Mr. Totozani introduced his ideas stressing, *inter alia*, the importance of mechanisms promoting the freedom of expression culture and spread of information.

- **Visit of the People's Advocate in Berlin, Germany from 24 to 28 June 2013.**

Upon the invitation of the German Ministry of Foreign Affairs, the Albanian People's Advocate, Mr. Igli Totozani held several meetings with the Chair of the Committee on Petitions of the German Parliament, representatives of the Federal Ministry of Germany, Foreign Federal Ministry, and other representatives of civil society organizations, where among others, discussions were focused on issues of international legal cooperation, dialogue of the rule of law concept, settlement of disputes, and State Security files in the former Democratic Republic of Germany.

- **Participation of the People's Advocate in the seminar held in Danilovgrad, Montenegro, from 10 to 11 September 2013.**

Another event was the participation in regional seminars: "Regional School of Public Administration, ReSPA". In his remarks during the seminar, Mr. Totozani underscored the importance of regional cooperation among the national human rights institutions and appreciated the key role of civil society and media to meet the highest standards in the area of human rights.

- **Participation of the People's Advocate in the conference held in Bonn, Germany, from 24 to 25 September 2013.**

The People's Advocate, Mr. Igli Totozani attended the international conference focused on "Roma educational situation in (and from) Southeast Europe: Goals and Reality", held in Bonn, Germany. During the second session, Mr. Totozani presented his introduction on "Integration Strategies: State Institutions and NGO-s", where, *inter*

alia, he described the situation of Roma minority in Albania.

- **Visit of the People's Advocate in Madrid, Spain, from 26 to 28 September 2013.**

In the framework of cooperation of the People's Advocate Office with his Spanish counterpart, Mr. Igli Totozani attended the Opening Ceremony of the 30-th anniversary of the Spanish Ombudsman in Madrid. A round table was held in this meeting focused on "Challenges ahead of the Human Rights Institutions".

- **Visit of the People's Advocate in Vienna, Austria, from 7 to 8 October 2013.**

Upon the invitation of Mr. Thorbjørn Jagland, Secretary General of the Council of Europe and Mr. Alan Miller, Director of the Fundamental Rights Agency (FRA), the Albanian People's Advocate, Mr. Igli Totozani attended the conference with the topic "Consolidation of the protection of Fundamental Freedoms" held in Vienna, Austria. The Conference was focused on discussion of issues such as the impact of current economic situation on the national human rights institution; responsible bodies for guaranteeing equality and the People's Advocate Institutions for the protection of fundamental human rights.

- **Visit of the People's Advocate in Zagreb, Croatia, from 7 to 8 November 2013.**

Upon the invitation of the Croatian Ombudsman and the UNDP in Croatia, the Albanian People's Advocate, Mr. Igli Totozani attended the international seminar "Institutions of Ombudsmen in the southeastern countries: Accession to European Union and Universal Periodic Review". Seminar discussions were focused on the importance of the Universal Periodic Review and the context of situation of human rights in the framework of accession to EU.

- **Visit of the People's Advocate in Rome, Italy, from 17 to 19 November 2013.**

Upon the invitation of the Coordinating Committee of Italian Ombudsmen, the Albanian People's Advocate, Mr. Igli Totozani attended the "Coordinating meeting of Italian Ombudsmen". Within the framework of this event, Mr. Igli Totozani, in capacity of the People's Advocate, attended the meeting of Italian Ombudsmen, where, *inter alia*, discussions were focused on the consolidation of cooperation among the respective institutions for the protection of human rights and migrants' rights of the respective countries.

- **Visit of the People's Advocate in Pristina, Kosovo, on 4 December 2013.**

Upon the invitation of the Council of Europe in Pristina and the Office of the United Nations High Commissioner for Human Rights, the Albanian People's Advocate, Mr. Igli Totozani attended the Regional Conference "Institutions of Ombudsmen and challenges of the judiciary for the protection of Human Rights; best European practices and regional experience". During this conference, Mr. Totozani briefed on various models of cooperation between the institutions of Ombudsmen and

Constitutional Courts.

Other staff members of the People's Advocate Office have also participated in international seminars and conferences. Among others, it is worth mentioning the following:

- Upon the invitation of the OSCE, the People's Advocate representative participated in the second meeting of the Working Group for Self-Governance, held from 28 to 30 May in Sarajevo, Bosnia and Herzegovina. This meeting was hosted within the framework of the project "Best Practices for Roma Integration" funded by EU and implemented by the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The purpose of the meeting was to exchange experience and best practices in the field of Roma integration with local government, associations and institutions responsible for the respect of human rights.
- Upon the invitation of the Ministry of Foreign Affairs of the Kingdom of Netherlands, the People's Advocate representative participated in the ICPD international conference on human rights, held in the Netherlands from 07 to 10 July 2013. The Conference was focused on issues of human rights development.
- Upon the invitation of the International Ombudsmen Institute (IOI), two representatives from the People's Advocate Office attended the seminar on anti-corruption. The seminar was held in Vienna, Austria, from 15 to 18 September 2013.
- Upon the invitation of the OSCE, two representatives of the People's Advocate Office participated in the Regional Conference "Specific Challenges regarding the examination of complaints on ethnic-based discrimination-Exchange of Regional Experience and Practices" held from 25 to 27 September in Ohrid, Macedonia. The Conference enabled a forum for the comparative analysis of the anti-discriminatory legislation in Southeastern Europe, and addressed future challenges of the related bodies for the examination of complaints on ethnic-based discrimination.
- Upon the invitation of the Danish Human Rights Institution, the representative from the People's Advocate Office participated in the "Arab-European Dialogue of the National Human Rights Institutions" held in Copenhagen, Denmark, from 25 to 27 September 2013. In the frame of this conference, a joint statement of the national human rights institutions was released regarding the independence and responsibility of these institutions.
- Upon the invitation of Mr. Kjell Arne Bratli, Parliamentary Commissioner for the Norwegian Armed Forces, the People's Advocate representative participated in the fifth international conference for Ombudsmen concerning the Armed Forces, held in Oslo from 20 to 22 October 2013. The conference was focused on issues of gender equality, veterans and capacity development.

- From 4 to 6 November 2013, with the cooperation of 'Save the Children', representatives from the People's Advocate institution attended the meeting hosted by CRONSEE "Children's Movement", in Zagreb, Croatia. The central aim of the meeting was to exchange the best practices of Southeastern European countries related to the unaccompanied children's movement.
- From 13 to 15 November 2013, representatives of the People's Advocate Office attended the meeting on strategic planning of the European Network of National Human Rights Institutions (ENNHRI). The meeting held in Budapest, Hungary, aimed to finalize the strategic document of ENNHRI, and discuss various issues related to the activities of this network in the future. ENNHRI includes some 41 national institutions of human rights from all European countries. The goal of ENNHRI is to consolidate national human rights institutions in Europe by strengthening their capacities and establishing them in all European countries supporting also their accreditation in the International Coordinating Committee (ICC) of the Institutions of Human Rights. The People's Advocate Institution, in addition to the full membership in ENNHRI, is especially active for developing some projects of this network and supporting the ENNHRI secretariat through the assistance offered by the Section of Coordination, Foreign Relations and European Integration of the People's Advocate. The People's Advocate is member of a number of ENNHRI working groups and plays an active role in the working group with regard to Asylum and Migration issues. The People's Advocate representative participated in the meeting of this working group held from 12 to 13 December 2013 in Brussels (Belgium). Discussions of this forum were focused on the latest developments in the field of asylum and migration and status of asylum seekers in the area of European Union.

3) Membership in international organizations and networks.

Attaching priority to the cooperation with international human rights institutions, the People's Advocate Institution is currently a full member of 8 international Ombudsmen associations/ organizations, such as the following ones:

1. International Ombudsmen Institution (IOI), founded in 1978, member since 2000.
2. European Ombudsmen Institution (EOI) founded in 1988, member since 2000.
3. Association of Ombudsmen and Mediators of La Francophonie (AOMF), established in 1998, member since 2000.
4. United States Ombudsmen Association (USOA) established in 1977, member since 2006.
5. International Ombudsmen Association (IOA) founded in 1977, member since 2007.
6. Association of Ombudsmen of Mediterranean countries (AOM), established in 2008, member since 2009.

7. International Coordinating Committee of the National Human Rights Institutions (ICC), established in 1993. The People's Advocate Institution was initially accredited in ICC in 2004, and re-accredited in 2008.
8. Finally, since 10.01.2014 the institution of the People's Advocate is a member of the European Network of the National Human Rights Institutions (ENNHRI).

4) Internationally supported projects.

Starting from the end of 2012, the People's Advocate Office has been implementing the project titled "Danish support for the Albanian People's Advocate: Progress of local communities, civil society and media (2012-2015)", funded by the Kingdom of Denmark and supported during the implementation process by the Danish Institute on Human Rights. This project consists of five main pillars: 1) Development of a strategic mid-term plan for the People's Advocate institution; 2) Update of the technology system of the People's Advocate (IT); 3) Consolidation of partnership with civil society and media; 4) Consolidation of partnership with local government units; 5) Improvement of inspection level in pre-trial detention system and penitentiary institutions.

For the first time since its inception, within the framework of this project, the People's Advocate Institution developed a Strategic Plan covering the period 2013-2015. This Strategic Plan defines four strategic areas of actions and activities of the People's Advocate Institution in the coming years, identifies several projects for each action and activity area, and performance indicators for measuring the progress of the implementation of the institution's priority goals. The Strategic Plan, which is available both in English and Albanian language, describes in details the way ahead for the People's Advocate to undertake a more active role for the protection and promotion of human rights in Albanian society. The People's Advocate is aware that it is not the only factor for the Strategic Plan implementation in the coming years, because the progress of human rights in Albania requires the engagement of all other stakeholders of the society. Bearing this in mind, the strategic plan is formulated based on a wide process of discussions and consultations between staff members of the institution and other representatives of public institutions and civil society organizations. This comprehensive process guaranteed that all views of the various parties, including partners and plans for common concrete actions are attached to the Strategic Plan.

On 2 October 2013, the People's Advocate Institution made an official presentation of the "Strategic Plan 2013-2015 of the People's Advocate". Participants in this event were from various public institutions, diplomatic missions accredited in Tirana, international organizations and representatives of the civil society in Albania.

7. Strategic Plan and Action Plan of the People's Advocate Institution for the period 2013 – 2015

With the support of the Kingdom of Denmark, the People's Advocate institution has launched the formulation of the Strategic Plan 2013-2015. This key document, the first of its kind for the People's Advocate, describes a number of priorities and action areas, which aim is to accomplish the People's Advocate mission: promote and protect human rights in Albania.

Action areas of the Strategic Plan describe the main focus of work and efforts of the People's Advocate institution. These areas are divided as follows:

The first area of strategic activity: Public institutions apply human right standards and respect administrative practices;

The second area of strategic activity: development of human rights culture in Albania;

The third area of strategic activity: applying the best practices of the People's Advocate institution;

The fourth area of strategic activity: upgrading the level of international cooperation.

The approach to develop this Strategic Plan included the definition of staff vision and mission and the People's Advocate Institution.

Vision: A society driven by the principles of human rights, where the state institutions apply transparency and act in a fair, responsible and efficient way.

Mission: promotion and protection of human rights and individual legitimate freedoms and interests from unlawful or irregular actions/omissions of the public administration bodies and third parties acting on their behalf. Creation and development of a good governance culture which means good administration, transparency and accountability of the public administration towards the Albanian citizens, and overall further strengthening of the rule of law, as imperatives for the functioning of democracy and integration in the European Union.

Basic Values of the People's Advocate institution: professional, impartial and independent, transparent, cooperative, reachable, pro-active, non-discriminatory.

- I. **First area of strategic activity:** Public institutions apply the human rights standards and respect administrative practices.

The main goal of this field of activity is to ensure that public institutions apply regulations in accordance with the national and international standards of human rights and best administrative practices.

The following projects are part of this activity area:

Project I: Coordination with independent governmental institutions

The aim of this project is to foster a better coordination with independent institutions for a more effective access to citizens. The focus of the project is to establish a functional coordination between the People's Advocate institution and other independent organizations. Expected results of this project are: identification of the best practices related to more efficient approaches with citizens; information and implementation of tasks regarding the submission of requests to the parliamentary commissions and ministries for providing support with legal amendments; institutionalization of the cooperation with independent institutions.

Project II: Consolidation of accountability, transparency and capacities of public institutions regarding human rights

The purpose of this project is to strengthen capacities and transparency of the public administration institutions (at central and local level), in order to address the citizens' rights violated by the public administration. The focus of this project is to produce positive effects to the Public Administration. Expected results of this project are: identification and recommendation of the best administrative practices to public institutions; public administration staff awareness about human rights issues identified by the working activity of the People's Advocate; training on the best administrative practices for the implementation of related legislation, in order to increase the identification and training capacity on human rights violation cases; production and distribution of promotion guides on human rights at public institutions and related obligations of the public administration; production and dissemination of annual reports, special reports, and study reports to all relevant actors; submission of the requests to the Constitutional Court for repealing normative acts which are non-compliant with the Albanian Constitution and/or international agreements.

Project III: Protection of vulnerable groups

The purpose of this project is to mobilize and encourage staff members of all public institutions, in order to ensure an effective protection of human rights for the vulnerable groups. The focus of this project is to produce positive effects to the Public Administration (central and local one). Expected results of these projects are: identification, through inspections, of cases of torture, inhuman and degrading treatment of Albanian citizens from the public administration and initiation of criminal proceedings by the court against offence perpetrators; addressing recommendations to the respective institutions regarding the best standards of human rights;

improvement of living standards and services of the institutions where inspections are conducted; informing the personnel of institutions about the problems and findings of inspections conducted by the National Preventive Mechanism Against Torture.

II. The second area of strategic activity: Development of human rights culture in Albania;

The overall aim of this field of activity is to contribute to the creation of a new culture regarding the respect of human rights in Albania through close cooperation with civil society and media.

The following projects are part of this activity area:

Project I: Development of partnerships with civil society organizations, especially with those at community level.

The purpose of this project is to build synergy between the People's Advocate activities and civil society actions. The focus of this project includes cooperation with civil society organizations operating at community level, to reflect the vision of human rights to the life of communities and social groups such as elderly or disabled people, Roma, LGBT members, women, children, minorities etc. Expected results from the implementation of this project are: development of common policies and cooperation between NGO-s and the People's Advocate; establishment of the advisory board and creation of sub-boards; lobbying for legal amendments, bylaws, public information documents for the community and NGO-s; and training of the NGO members on issues of human rights.

Project II: Consolidation of the People's Advocate cooperation with media

The purpose of this project is to build a mutual partnership between the People's Advocate and media, in order to support public information and create a new culture on human rights. The main focus of this project is the cooperation with independent media at local and national level; media of public influence, well-known reporters and journalists with integrity values. Expected results from the implementation of this project are: development of a journalist network for cooperation with the People's Advocate institution; interviews, press releases, and presence in public debates on issues of human rights; public information related to issues of human rights through the newspaper of the People's Advocate; an official website of the People's Advocate accessible for all; a larger number of followers in social media, in cooperation with the media institute; training of journalists on human rights; open lectures in the journalism department; and professional on the job training for students.

Project III: People's Advocate institution and cooperation in the education area.

The purpose of this project is to further develop the educational unit capacities in the field of human rights at central and local level. The focus of this project is to establish cooperation with the Ministry of Education structures being responsible for the

education, with educational directorates at municipality and commune level and institutions related to education development. Expected results from the implementation of this project are: annual round table discussion forums; the annual event of Open Door Policy for children; publication and dissemination of information materials on children rights; training of pre-school and school teachers on human right issues.

III. The third area of strategic activity. Best practices of the People's Advocate institution

The overall aim of this field of activity is to improve the working quality of the staff of People's Advocate institution and make it a point of reference regarding not only the readiness and professionalism in addressing complaints and problems, but also an indicator of the highest human values regarding the treatment of complaints. This improvement will bring about an efficient evaluation and management system, which will be decisive for the long-term development of the institution.

The following projects are part of this field of activity:

Project I: Higher professionalism of the staff of People's Advocate institution.

The purpose of this project is to further develop the institutional and professional capacities in order to deliver more qualitative services. The target group of this project includes staff members of the People's Advocate institution. Expected results from the implementation of this projects are: consolidation of institutional and professional capacities to provide more qualitative services; training of the staff of People's Advocate on general and specific issues of human rights based on the accepted models; training of the staff of People's Advocate institution on formulation and conceptualization of the recommendations and progress reports of the institution; establishment of an information center on human rights (online and physical center), with documents, legal acts, progress reports, books etc., which reflects also the activity and work of the People's Advocate institution.

Project II: Organizational development of the People's Advocate institution

The purpose of this project is to enhance working standards of the institution through organizational re-structuring of the institution. The target group of this project is the staff of the People's Advocate institution. Expected results from the implementation of this project are: updating the structure (terms of reference) and organization scheme of the institution in accordance with the strategy objectives; respective update and amendment of the law on People's Advocate and bylaws with focus on the increase of efficiency and flexibility of the institution; improvement of the file (complaints) management system, in order to increase efficiency; improvement of the staff internal relations through a better functional scheme of the internal mechanisms of the institution.

CHAPTER V

General Information on the Activity of the People's Advocate Institution

1. Organizational structure of the People's Advocate Office for 2013

Pursuant to article 35 of the Law No. 8454 dated 04.02.1999 "On the People's Advocate", as amended, and the internal regulation and vision of the People's Advocate, as below you will find the organizational structure of the People's Advocate Institution for 2013.

In formulating and approving this organizational structure, basic considerations are given to the functional activity of the People's Advocate Office for the protection and promotion of human rights in the country.

One of the key objectives during the formulation and approval of the organizational structure in 2013 is focused on the constant increase of the number of staff experts and upgrading of their professional knowledge and skills. Also, the new organizational structure reflected the needs of the institutions in support of the recommendations of other international organizations, civil society etc. The organizational structure has also reflected the decisions and recommendations of the Civil Service Commission, EURALIUS Mission Report, and provisions of the Law No. 8454 dated 04.02.1999 "On the People's Advocate", supplemented by Law No. 8600 dated 10.04.2000, as amended by the Law No.9398, dated 12.05.2005, and the Law No.8549 dated 11.11.1999 "On the Status of Civil Servant".

The People's Advocate, by virtue of Order No.98 dated 24.09.2012, approved the organizational structure, which based on categories, had the following groups of employees.

- 4 employees elected by the Parliament (People's Advocate and 3 Commissioners).
- 4 employees of the Cabinet Office (Head of the Cabinet Office and 3 Advisors).
- 29 employees with the Status of Civil Servant.
- 10 employees of the supporting service.

This organizational structure harmonized also the relations between the supporting sections and policy implementation sections, attaching priority to the latter. By the end of December 2013, organizational structure of the People's Advocate institution is as

follows:

- Directors at the Directorate level, 3 (currently 2),
- Heads of Units, 3,
- Specialists, 6,
- Assistant-commissioners, 17, divided in three sections and the Mechanism for Prevention of Torture.

The Administrative Section deals with the complaints and applications to the central administration bodies, local government, and the third parties acting on their behalf.

The Section of Special Services deals with the complaints and applications regarding the police, intelligent service, prisons, armed forces, and judicial bodies.

The General Section deals with the complaints and applications not included in the first two sections, provides cooperation with non-governmental organizations and conducts studies in the field of the implementation of human rights and fundamental freedoms.

The National Preventive Mechanism Against Torture inspects the treatment of individuals who are deprived of freedom in the places of detention, arrest or imprisonment, formulates reports and recommendations for the respective bodies regarding the prevention of torture, as well as degrading and inhuman treatment of individuals.

The current organizational structure arranged the subordination of all staff members with the status of civil servant under the Secretary General, taking into account the legal procedures on recruitment, proposals for dismissal, adoption of disciplinary measures, job evaluations etc. On the other hand, the assistant-commissioners are under technical-methodical subordination of the Commissioners.

Another new approach is the establishment of the service directorate for citizens, which consists of 7 staff members, respectively 1 director, 2 responsible heads of units and 4 specialists. All recruitments for these job positions are made in accordance with the Law No.8549 dated 11.11.1999 "On the Status of Civil Servant".

This directorate is made up of the section for reception of citizens and the section of foreign relations. The main scope of this directorate is the consolidation of relations with the citizens and extension of cooperation with the respective offices in other countries, implementation of tasks linked with the integration process, and accomplishment of criteria for the EU membership candidate status of the country.

The section of foreign relations will support and coordinate the implementation of the project supported by the Danish government "On Consolidation of the Albanian People's Advocate institution: Closer to local communities, civil society and media for

the period 2012-2015”.

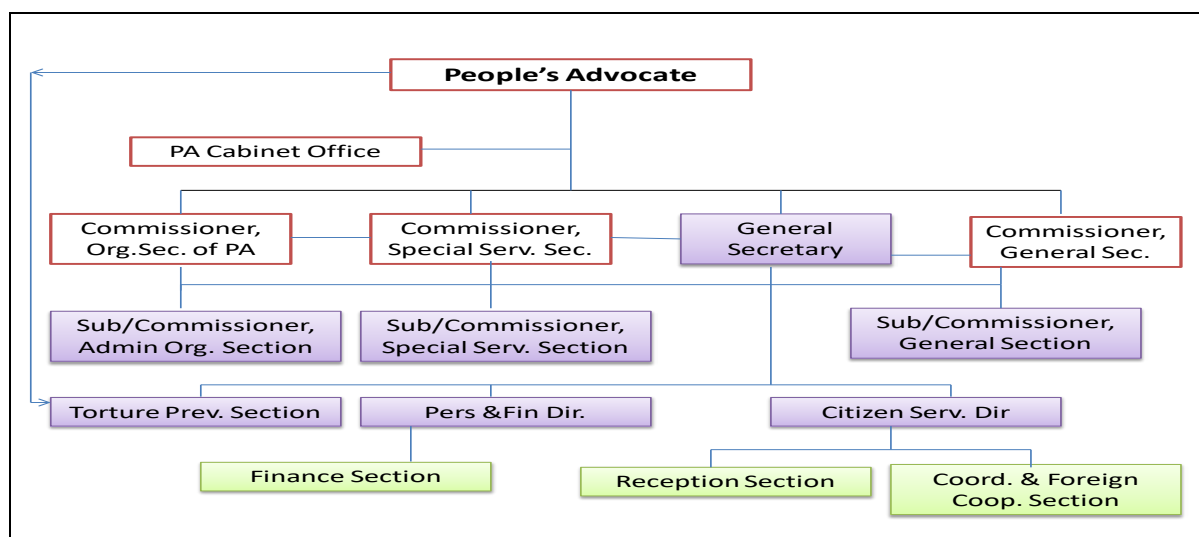
The relation of the cooperation of People’s Advocate Institution with media is of special importance as media will convey messages to the public opinion on the image and real work for the protection of human rights and freedoms. To this end, based on Order No.186 dated 28.10.2013, the People’s Advocate approved the organizational structure of the institution, where another advisor dealing with issues on media relations was added to the Cabinet Office structure. Additional task of his job is to follow the activities of the Danish project “Danish support to the People’s Advocate Institution in Albania: involvement of local communities, civil society and media”. The media advisor will follow the events planned to be conducted in seven regions of the country which will be broadcasted in national and local TV stations.

Media advisor will also follow the publication of the newspaper of the People’s Advocate Institution for the promotion of all activities supporting the protection of citizens’ human rights and freedoms.

Opening and management of the “YouTube” site and development of the plan for management of the website presented to social media is another priority of the Danish project, in order to reach adequate presence of the People’s Advocate Institution in social media forums.

With the support of the Danish project, the People’s Advocate Institution has formulated and is implementing the strategic plan for the period 2013-2016.

Organizational structure of the People’s Advocate institution



2. People's Advocate budget for 2013

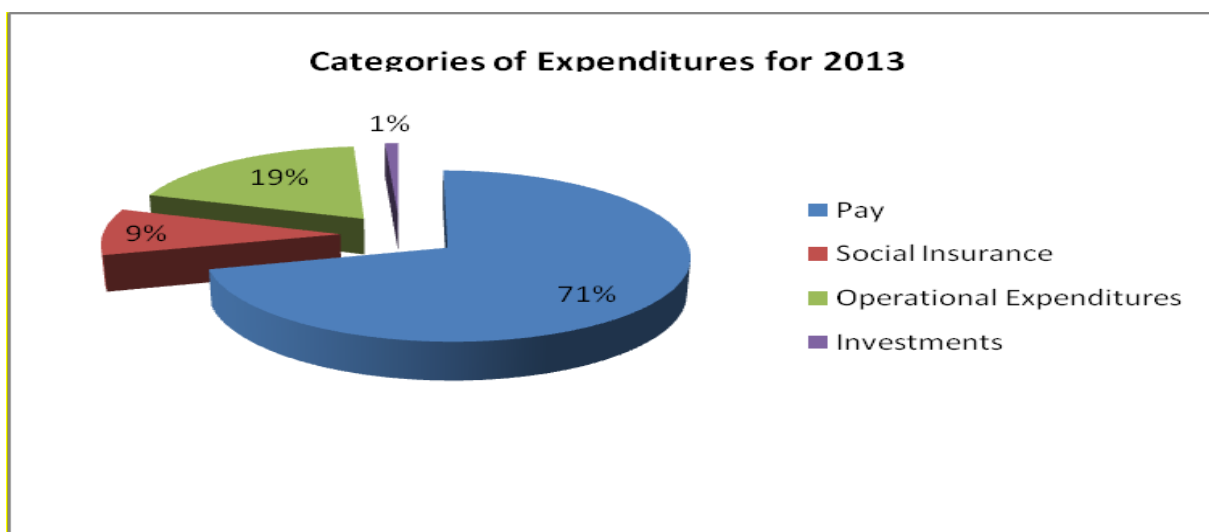
For 2013, the People's Advocate Institution, in conformity with Law No.119/2012 dated 17.12.2012 "On the Budget for 2013", allocated a total budget of 90,450,000 ALL. According to the Ministry of Finance document No. 15368/79, dated 18.10.2013 "On the implementation of Normative Act No. 6, dated 04.10.2013", some changes were made reducing the operational expenditures amounting to 3.000.000 ALL, by bringing the total expenses of the People's Advocate Office to a total of 87,450,000 AAL for 2013.

The following table provides the distribution of budgetary expenditures of the institution as per the economic expenditure categories:

Acc.N.	Title	Initial Schedule	Increase & Decrease	Changed Plan	Situation
600	Pay	65,000,0	– 3,600,000	61,400,000	56,173,58
601	Insurances	8,000,0	– 400,000	7,600,000	7,299,905
602	Operational	13,450,0	1,000,000	14,450,000	13,845,60
604	Intern. Trasfer.		816,000	816,000	811,109
605	Membership fee	1,000,0		1,000,000	953,547
606	Trans. Fam.		158,000	158,000	158,000
231	Investments	3,000,0		3,000,000	1,021,318
	TOTAL	90,450,0	– 2,026,000	88,424,000	80,263,06

The People's Advocate budget based on indications for 2013

No.	Title	Schedule	Situation	in %	Change
1	Pay	61,400	56,174	91%	– 5,226
2	Social Insurance	7,600	7,300	96%	– 300
3	Operational Expend.	15,450	14,799	96%	– 651
4	Investments	3,000	1,021		– 1979
	Total	87450	79,294	91%	– 8,156



The accomplishment of the pay funds reflects the structure and the organizational chart, internal and external movements. The level of execution of this pay fund is 91%. During 2013 the average personnel number was 44 employees out of 48 employees of the limited number approved by the above law. Lack of accomplishment of the pay funds is as a result of a commissioner vacancy and later this number amounted to 3 because of the termination of mandates of two other commissioners. Also, as a result of the movement of our institution's employees to other job positions, three other vacancies were created at the Unit for the Prevention of Torture attached to the People's Advocate Institution.

Operational expenditures approved in the institution, despite the changes made during the year, amounted to 14,450,000 ALL while by the end of year it was some 96 % of the initial schedule. For 2013, the operational expenditures were used to pay the energy bills, water, telephone expenses (Albtelecom and Vodafone), internet, newspapers, postal service, fuel, spare parts for vehicles, insurance expenses, per diem amounts for travel activities within the country and abroad, maintenance services such as photocopies and printers, expenses for foreign delegations, stationary items, cleaning materials etc. It is worth mentioning that most of the institution's expenses are allocated to travel activities and per diem amounts, fuel, spare parts for vehicles, postal and phone services.

Also, being a member of the international organizations such as the Association des Ombudsmans et Mediateurs de la Francophonie (AOMF), European Ombudsman Institute (EOI), Association of Mediterranean Ombudsmen (AMO), International Ombudsman Institute (IOI), International Coordinating Committee (ICC), some part of the budget is used for membership fees, which are paid in due time. They are reflected in the above table.

The investments for 2013 amounted to 3,000,000 ALL. By the end of the year the level of budget execution was 34% compared to the initial schedule. The budget allocated for investments (see the table above) is spent for the procurement of office furniture or supplies. This lack of budget execution is because of the delay of tender procedures for the re-construction of the roof/terrace of the institution building amounting to 747,168 ALL and freezing of this fund by the Treasury Branch. Therefore, this is debtor and the obligation is not settled for 2014.

3. Summary of statistics for 2013

For 2013, some 4346 complaints are submitted to the People's Advocate Office, of which 1403 complaints have an advisory focus, of which 817 verbal advice and 586 documentary advice. Complaints examined for 2013 regarding the People's Advocate mission amount to 2943.

During the examination of these complaints made by the People's Advocate institution 2777 complaints are closed, because of the following reasons:

Out of jurisdiction	108 complaints
Out of competences	193 complaints
Unfounded	643 complaints
Rejected recommendations	28 complaints
Accepted recommendations	177 complaints
Accepted without recommendation	1074 complaints
Withdrawn Complaints	54 complaints

For 2013, there are 666 complaints pending for 2014. Some 274 complaints are taken from the regional offices of Fier and Shkodra.

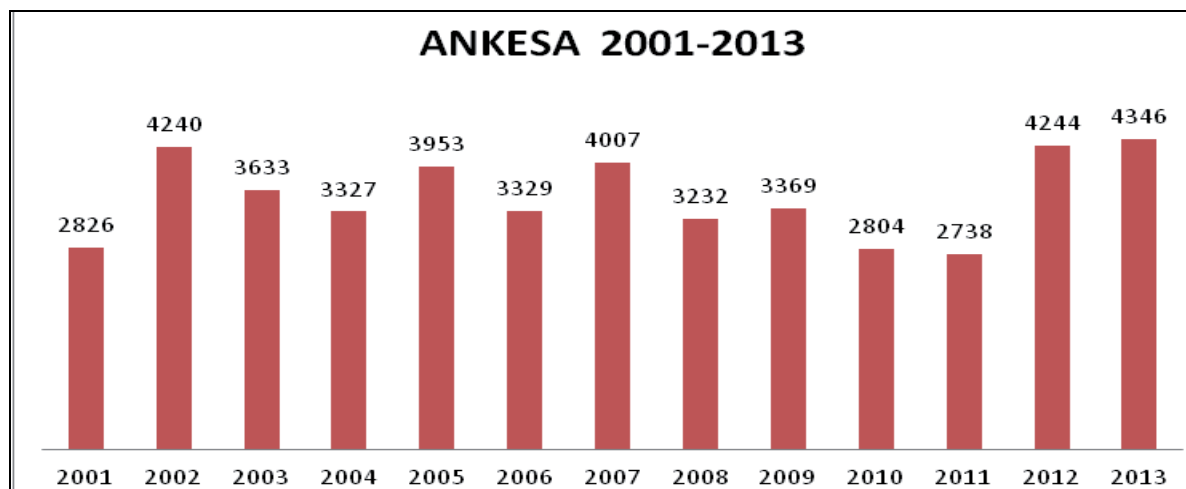
2943 complaints are distributed as per the respective sections:

General Section	884 complaints
Special Section	685 complaints
Administrative Section	1147 complaints
National Preventive Mechanism against Torture	220 complaints
Secretary General	7 complaints

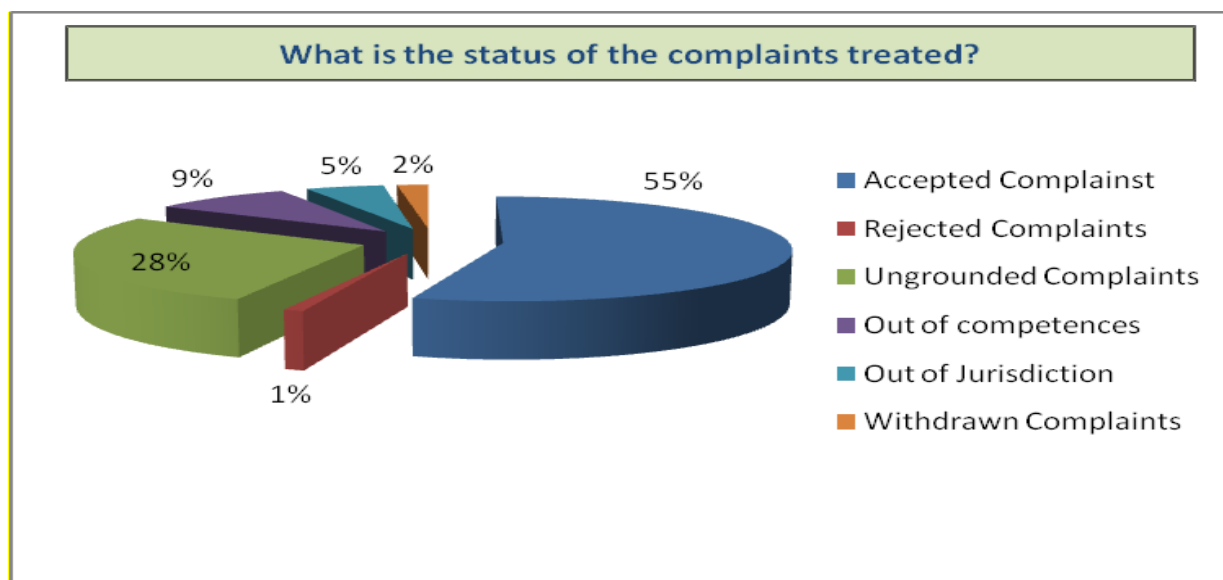
The following tables provide graphical information on the complaints administered during 2013 by the People's Advocate Institution. These graphs explain also a classification of the complaints based on years, solved complaints, cities, type of

rights, and respective ministries etc.

NUMBER OF COMPLAINTS DURING THE PERIOD 2001 - 2013

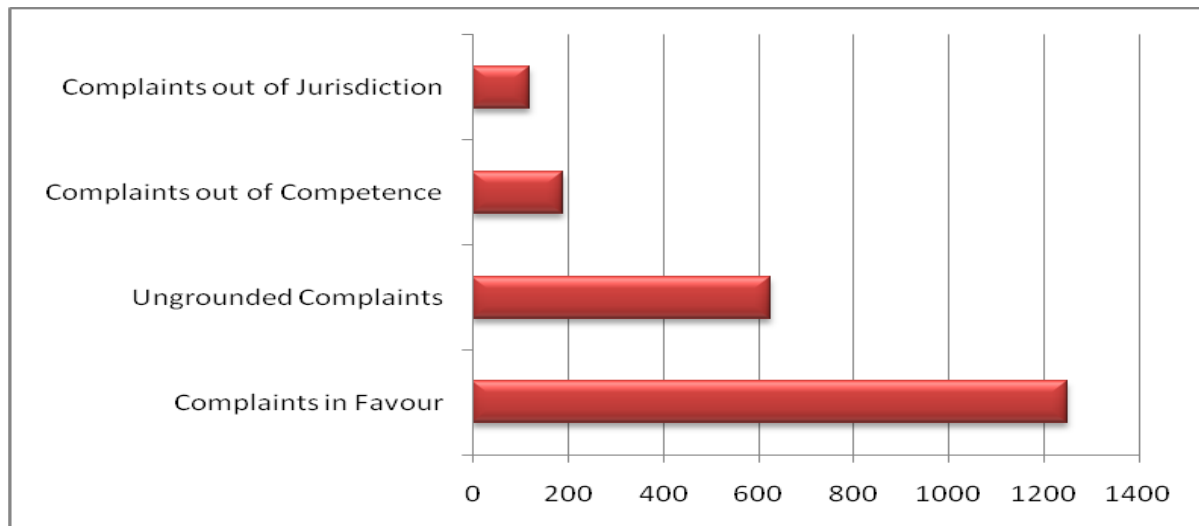


The following table provides graphical information on the way how the complaints submitted are treated by the People's Advocate, where 9% are considered out of the competences, 5% out of the jurisdiction, 28% unfounded, 55% accepted, 1% rejected, and 2% withdrawn by the applicants.

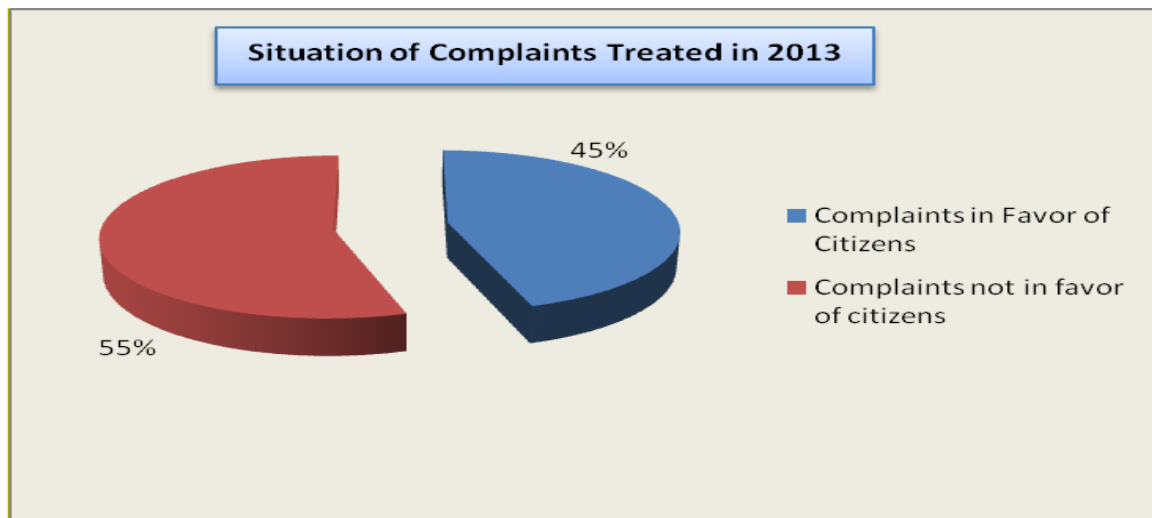


Classification of complaints based on their type of solution:

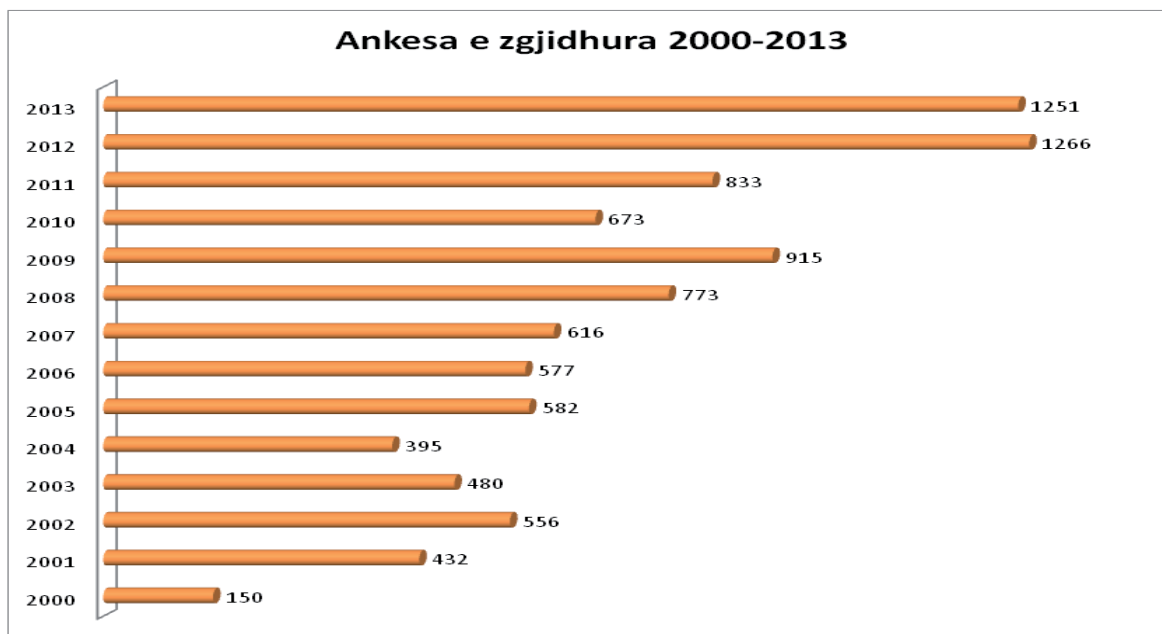
On the Activity of People's Advocate



The following table represents all complaints we have administered and finalized for 2013. Of 2277 complaints administered and solved for 2013: some 1251 or 55% are in favor of the citizens, while the complaints resolved not in favor of citizens amount to 1026 or 45%.

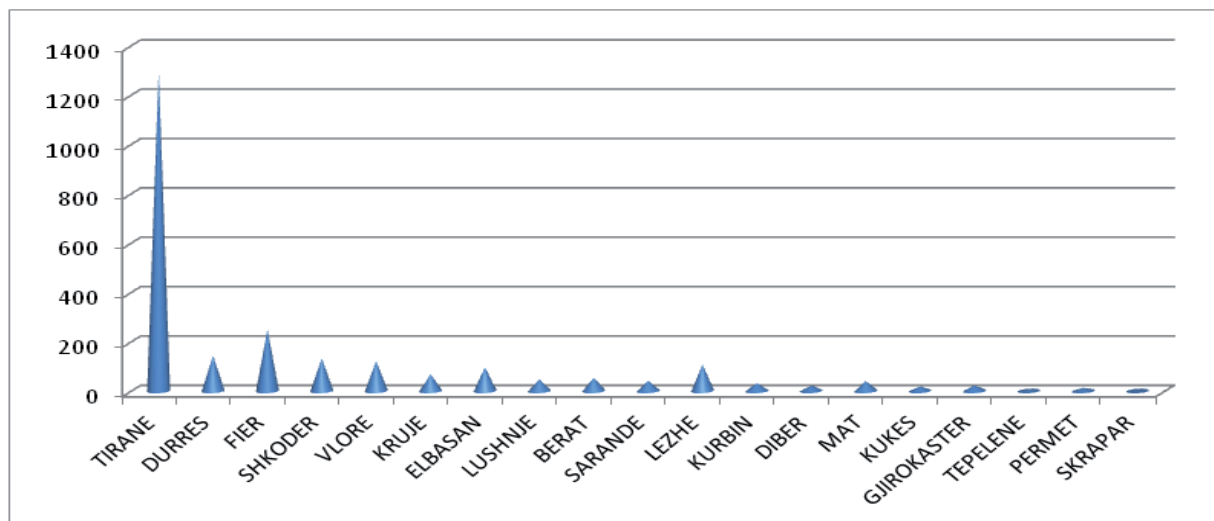


Comparison of complaints within the jurisdiction solved during the period 2000-2013



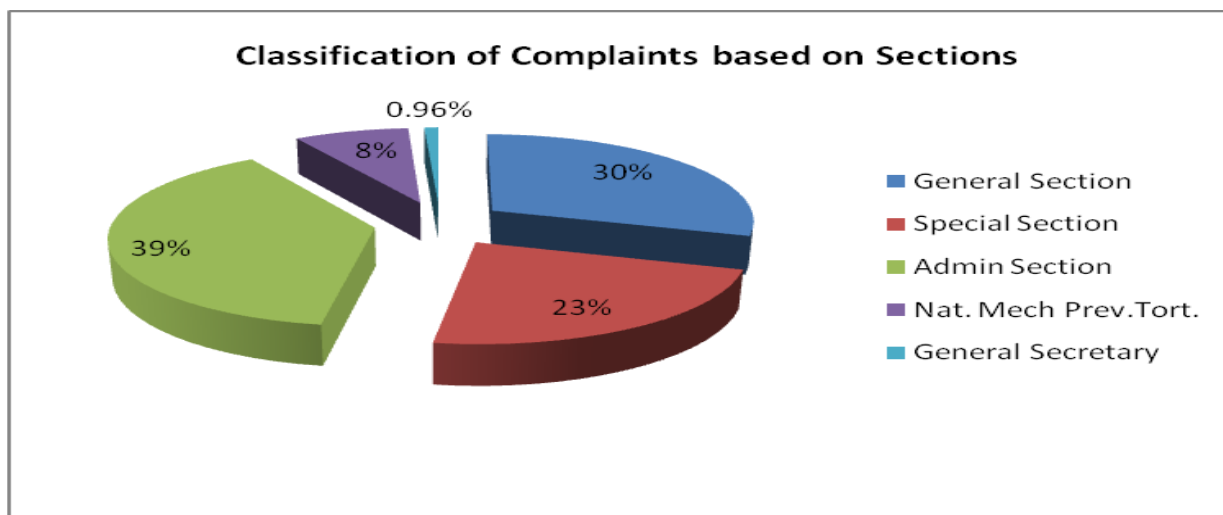
The following graphs show the districts/ cities where the complaints of citizens are submitted to the People's Advocate Office, reflecting the classification of the treatment of complaints as per the sections of the People's Advocate institution, their distribution based on the type of violated rights, and classification based on the respective ministries or other entities and bodies of public administration under their subordination.

Distribution of registered cases between the districts/ cities during 2013

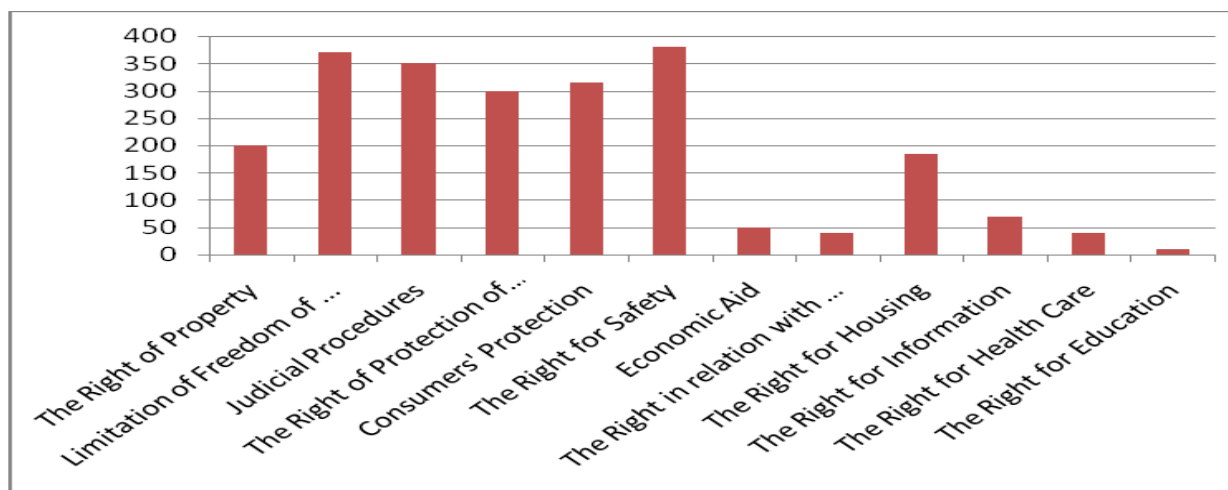


Below, we have presented the classification of complaints as per the institution sections for 2013:

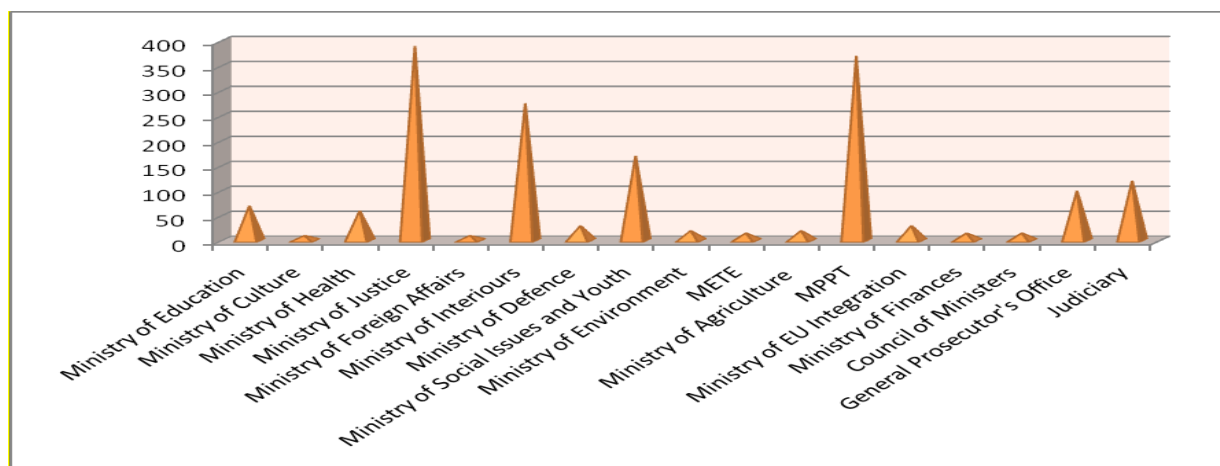
General Section 30%, Special Section 23%, Administrative Section 39%, National Preventive Mechanism Against Torture (NPM) 8%.



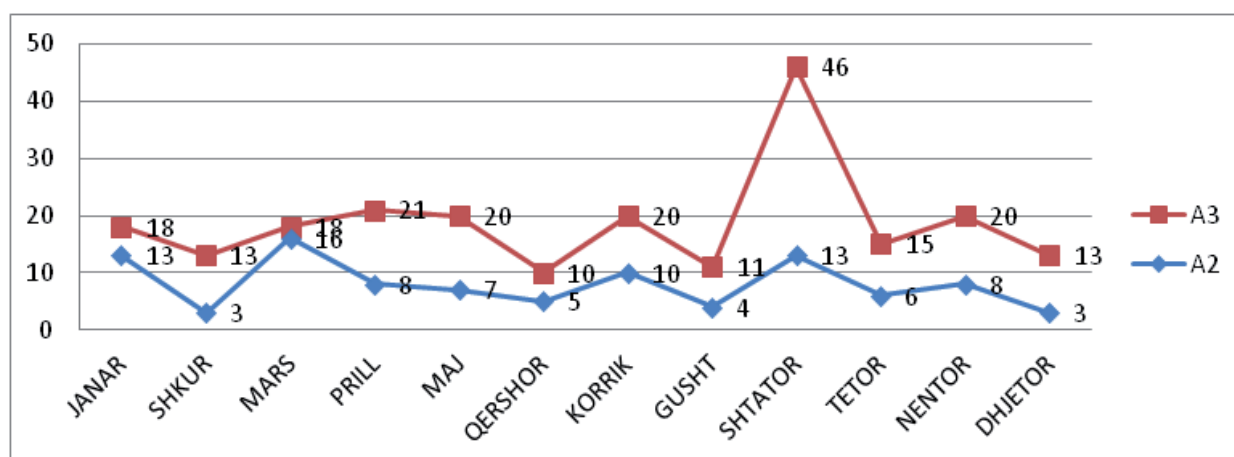
Complaints registered during 2013, classified as per the type of violated right



Distribution of complaints registered during 2013 based on the respective institutions

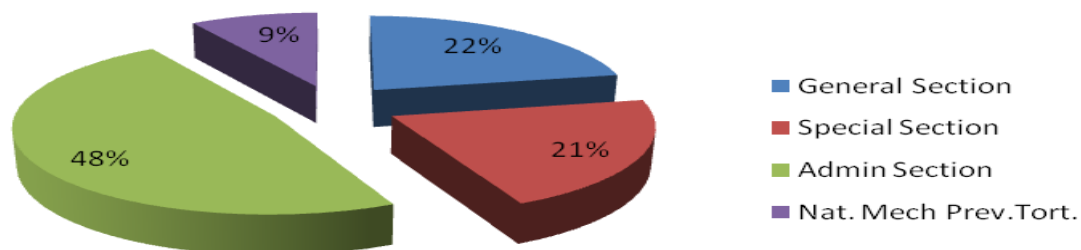


Cases Out of Jurisdiction (A3) and Out of Competences (A2) - January to December



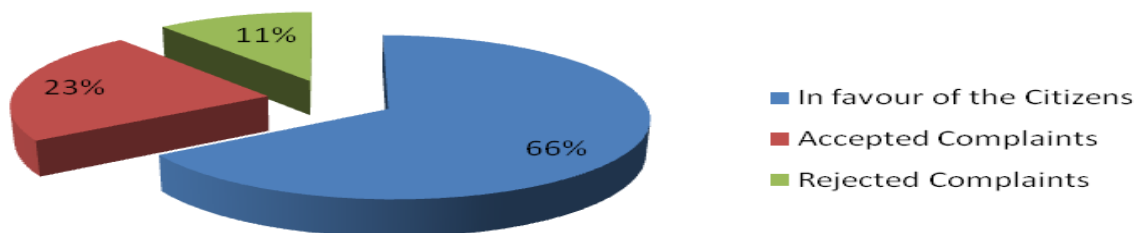
Backlogs:

For 2013, the People's Advocate Institution, in addition to the complaints registered and examined in 2013, has continued to process the previous complaints of 2012 which were treated in 2013. Some 577 complaints of 2012 have been untreated, out of which 380 were finalized in 2013, and 197 complaints will be treated in 2014. Below, you will find how these complaints are solved related to the respective section of the institution:

COMPLAINTS OF 2012 TREATED IN 2013 BASED ON SECTIONS

666 complaints remained unsolved in 2013; they will be treated during 2014.

In 2013, due to the complaints examined and solved during 2012, some 122 recommendations are given, of which 83 are accepted and 39 are rejected. Complaints solved in favor of citizens amount to 232. These complaints are presented in the following graph.

Complaints of 2012 solved in 2013

Annex

**List of Legislative Recommendations
and Requests submitted to the
Constitutional Court**

Legislative Recommendations:

A. Special Section

1. Recommendation to the Ministry of Justice *"On an amendment to article 262 of the Law No.7905 dated 21.03.1995, "Criminal Procedure Code of the Republic of Albania".*
2. Recommendation to the Council of Ministers *"On an amendment to the Decision of Council of Ministers No.190, dated 03.05.1995 "On the status of veterans of the war against Nazi-fascist occupiers".*
3. Recommendation to the Ministry of Justice *"Proposals for amendments and improvements of articles 48, 58 and 326 of the Criminal Procedure Code, on the designation of defense counsels regarding the criminal proceedings and criminal trial on the protection of lawful rights of the victim, and complaint against the decision of suspension of investigations".*

B. General Section

4. Recommendation to the Ministry of Finance *"On issuing of bylaws pursuant to article 8 of the Law No.7874 dated 17.11.1994 "On the status of Albanian Veterans of the National Liberation Anti-fascist War", as amended."*
5. Recommendation to the Ministry of Finance *"On adoption of the legal initiative for amendment and improvement of Law No.7703 dated 11.05.1993 "On social insurances in the Republic of Albania", as amended, i.e. article 32 of this law, in order that beneficiaries of old-age pensions shall enjoy the most favorable pension amount.*
6. Recommendation to the Ministry of Finance, Ministry of Labor, Social Affairs and Equal Opportunities, *"On amendment to article 7 of the Law No.7889 dated 14.12.1994 "On the Status of Disabled People", as amended, and article 11 of the Law No.9355 dated 10.03.2005 "On Social Assistance and Services", as amended, in order that a specific category of disabled people, based on the prescribed diagnosis under the Medical Fitness Commission are supported with the benefit of the sanitary package, as an additional element of the invalidity pension amount and the disability allowance."*

7. Recommendation to the Ministry of Foreign Affairs *"On adoption of immediate measures for resolving the issue of social and health insurance contribution payment for accompanying spouses of the employees in diplomatic missions."*
8. Recommendation to the Prime Minister of Albania: *"On designation of the competent body which will continuously propose draft-decisions for the increase of compensation amount of war veterans."*

-On the immediate submission and approval of bylaws pursuant to article 8 of the Law No.7874 dated 17.11.1994 "On the status of Albanian War Veterans of the National Liberation Anti-fascist War", as amended, for the increase of compensation amount of war veterans for 2013."
9. Recommendation to the Ministry of Justice *"On accomplishment of legal obligations for issuing bylaws on the treatment of communist regime internees, following the implementation of Law No.9831 dated 12.11.2007 "On compensation of former political prisoners of the communist regime", as amended."*
10. Recommendation to the Ministry of Labor, Social Affairs and Equal Opportunities and the Ministry of Justice *"On issuing of the Decision of Council of Ministers specifying the pension scheme for the internees and expelled persons, in accordance with the legal provisions "On compensation of former political prisoners of the communist regime, as amended."*
11. Recommendation to the Ministry of Justice *"On an amendment to the Decision of Council of Ministers No.419 dated 14.04.2011 "On approval of the schedule and distribution scheme of compensation funds for former political prisoners of the communist regime."*
12. Recommendation to the Prime Minister of Albania *"On amendment and improvement of the legal framework enabling the housing treatment, within the shortest time possible, of the individuals or tenant families living in the buildings of properties of the previously expropriated entities."*
13. Recommendation to the Prime Minister of Albania *"On amendment of the legal framework for the recognition and protection of minorities in Albania, in accordance with the definitions of Framework Convention of the Council of Europe "On Protection of Minorities."*
14. Recommendation to the Ministry of Education and Science *"On some improvements of the Law No. 69 dated 21.06.2012 "On pre-university education system in Republic of Albania".*
15. Recommendation to the Ministry of Justice and the Ministry of Labor, Social Affairs and Equal Opportunities *"On some improvements of Law No.10221 dated 4.02.2010 "On protection from discrimination."*

16. Recommendation to the Ministry of Justice “*On some amendments to the Criminal Code*”, where *inter alia*, another criminal offence is recommended to be added to article 50, letter “j” of the Criminal Code, related to the aggravating circumstances on the grounds of sexual orientation and/ or gender identity, as well as the amendment of articles 119/a and 119/b of the Criminal Code, regarding the distribution of homophobic materials and offence through computer network for sexual orientation and/ or gender identity orientation.

C. Administrative Section

17. Recommendation to the Ministry of Economy, Trade and Energy “*On the exercise of constitutional and legal powers by METE, followed by procedures on amendment of the Decision of Council of Ministers No. 275, dated 26.04.2010 “On restructuring of the state capital trade companies “Albetrol” sh.a Patos, “Mechanic Factory” Patos Ltd., and Oil Mechanic Factory, Kucovë” Ltd” regarding the benefits stemming from the seniority of released personnel of the oil company “Albetrol” sha, in 2010.*”
18. Recommendation to the Ministry of Foreign Affairs and the Ministry of Interior regarding the “*Application of urgent measures on the negotiation and resolution of the Greek toponym issue for the travel documents of Albanian citizens*”.
19. Recommendation to the Ministry of Health on the issue of the Roma community members of the former-Decoration Facility camping *regarding the formulation of legal framework supporting medical care and assistance*
20. Recommendation to ERE and the Ministry of Finance “*On immediate measures for the cancellation of the VAT bill included in the power invoices*”.
21. Recommendation to the Ministry of Transport and Infrastructure “*On drafting the legal framework regarding the increase of road safety*”.
22. Recommendation to the Ministry of Interior “*On drafting the legal framework regarding the increase of efficiency of the road police personnel*”.
23. Recommendation to the Ministry of Labor, Social Affairs and Equal Opportunities “*On drafting the legal framework regarding immediate actions of the Ministry of Labor, Social Affairs and Equal Opportunities in the Roma camp*”.
24. Recommendation to the Ministry of Agriculture “*On the application of procedures regarding the evaluation of acts and entry of Anamali Commune inhabitants in compensation lists*”.
25. Recommendation to the Ministry of Justice “*On the amendment of Law No. 7961 dated 12.07.1995, “Labor Code of the Republic of Albania”, (as amended), article 32” by adding as a legal provision ‘employee’s moral harassment by the employer’ under the fourth paragraph.*

D. National Preventive Mechanism Against Torture

26. Recommendation to the Ministry of Justice and the Ministry of Health on implementation of legal obligations for drafting and approving bylaws based on article 18, paragraphs 1 and 2, 27 paragraph 5 letter "ç" and 28 paragraph 2 of the Law 44/2012 dated 19.04.2012 "*On Mental Health*", as amended.
27. Recommendation to the Ministry of Justice "*On immediate measures for the implementation of the Law "On Mental Health" regarding the treatment of mentally ill persons who have committed criminal offences for whom the court has decided a forced medical treatment in a health institution.*"
28. Recommendation to the Prime Minister of Albania "On drafting and approving the new National Strategy on Migration, along with a detailed Action Plan."
29. Recommendation to the Ministry of Interior "*On declaration of nullity of the administrative act, Order No. 90, dated 30.05.2012 of the Minister of Interior "On documents to be submitted by Albanian citizens concerning the change of their name/ surname, in the registry offices and the procedures to be followed by the employees of the registry office".*
30. Recommendation to the Directorate General of the State Police "*On pronouncement of nullity of the administrative act of the State Police Deputy Director General No. 8671, dated 30.11.2012 "On control of the Albanian citizens crossing border check points".*

Requests to the Constitutional Court:

- Request for repealing the Council of Ministers Instruction No.2 dated 18.08.2011 as incompliant with the Constitution of the Republic of Albania, "On ways of implementing financial obligations of the budgetary institutions to treasury account".