



**REPUBLIC OF ALBANIA
PEOPLE'S ADVOCATE**



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**Declaration by the People's Advocate of Albania
On the occasion of International Human Rights Day**

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On the occasion of the International Human Rights Day and in keeping with the institutional mission to monitor the human rights situation for Albanian citizens, in the capacity of the People's Advocate, I would like to share with you an objective presentation of the predicaments and challenges that our society faces. This address shall aim at providing a forthright presentation of numerous issues that are of concern for citizens of the Republic of Albania – whom we support without reservation and with no compromise. Our institution has indeed received and administered a high number of complaints by citizens, while at the same time carrying out extensive and continuous inspections.

Let me start this presentation with the situation of property rights in Albania, comprising rights guaranteed and safeguarded by the Constitution.

PROPERTY

The respect of rights on private property is not to the level foreseen by the legislation and regulatory framework in place, including because of the lack of respect by public administration bodies of the principle of lawfulness, protection of the public interest and rights of individuals, as well as due wanting efficiency and over-bureacracy. A particularly problematic situation in this regard is the excessively prolonged process for the reinstatement of and compensation for private property entitlements for the legitimate owners. In particular, problems have ensued from the lack of registration for property entitlements as stipulated by Article 196 of the Civil Code. A matter of concern relates to the failure to fulfill due procedures for the transfer of property entitlements on real estate properties and surrounding functional premises that have been constructed up to 10.08.1991 in cases where the relevant documentation for acquisition of property is lacking. The situation is also especially problematic with regard to the performance of local property registration offices in providing services to citizens.

PUBLIC SERVICES

Despite the efforts and expressed engagement of state institutions for the improvement of public services for citizens, the situation remains problematic – especially with regard to the abovementioned registration of property entitlements for real estate properties and the justice system at large.

PUBLIC ADMINISTRATION AND WORK DISMISSALS

The reform of the Public Administration comprises a key area for the prospective integration of the country in the European Union. Being ready for accession and becoming a part of the European Union implies, amongst others, that the country have a public administration system delivering services by professional civil servants, upholding the independence, integrity, transparency and the principle of service to the public. Civil servants are entitled to rights foreseen by the legislation regulating work status and relations and they also must be provided with due support in cases where their rights are unjustly curtailed and undermined. During the period September 2013 – May 2015, our institutional findings show a total of 4093 employees that have been placed out of the public administration system. Inappropriate procedures for laying off public administration employees have continued up-to-present, especially in the context of institutional restructuring processes. Court decisions have been issued in favor of the former public administration employees losing their job postings due to reform processes; in this connection, various difficulties have amounted for institutions in cases where court decisions explicitly require the reinstatement of former employees in the public administration.

With regard to the territorial-administrative reform, it is important to underline that restructuring does not constitute valid grounds for the termination of work contractual relations – and that various irregularities have been evidenced. The majority of municipalities have yet to establish the restructuring commissions for civil servants. Furthermore, various cases have been registered including the laying off of employees, including those employees about to reach the retirement age.

HOUSING

The housing social objective remains one of the most pressing social predicaments. The larger share of families that have the homeless status cannot benefit from social aid programs because of their inability to fulfill all requirements stipulated by the current legislation in place. A large part of Municipalities are not able and have not taken due measures to ensure that alternative shelter be provided for categories in urgent need of shelter, including nomadic and other homeless people. Families renting housing in follow-up to the normative act for the evacuation of housing premises to be returned to the legitimate owners have not been able to avail the support from the respective

Municipalities including the purported subsidized loan at 0% interest rate (as a result of the failure to fulfill all conditions set forth for access to such loans) or else access to the social housing.

VULNERABLE CONSUMERS OF THE ELECTRIC ENERGY

Access to electric energy supply has become increasingly more problematic for vulnerable groups. Taking into account the changes to the pricing of electric energy and the inability to afford electricity bills (as a result of the precarious economic standing of the affected categories), a large number of citizens is today facing lack of access to continued electric energy supply – with pronounced bearing on living conditions due to the winter season. As of yet there is no thorough study concerning the establishment of clearly defined schemes for consumers that are currently debtors and are in extreme economic conditions – therefore also unable to fulfill the most basic needs for normal living conditions. There is a lot to be done with regard to reviewing and redefining contractual terms, with a view to avoiding cases of over-charging for electric energy, the factoring of economic damages ensuing from the quality of electric energy supply, as well as the cases of collective disconnection from the energy supply.

EDUCATION

Lack of transparency has been evidenced both in the recruitment of teachers in the pre-university system, as well as the laying off of existing teaching staff. Several cities have registered delays in processing monthly salary payments to teachers. Our institution has from the very start expressed its reservations for the ongoing testing of teachers, including on the grounds that it does not provide for an appropriate approach to gauging the level of skills and aptitudes, while at the same time inducing a high level of job insecurity for hundreds of teachers and instructors nationwide. Many schools throughout the country need investments for the upgrading of existing infrastructure and due budgeting should be allocated by local state structures. The lack of trained teachers for supporting children with disabilities continues to remain problematic for the current academic year.

HEALTH

The greater part of hospitals and health care centers in the country lack appropriate qualified medical staff. The laying off and curtailing of job positions of medium-level health care personnel comprises one of the recent emerging predicaments that the institution is following closely. A higher budget should be allocated to the oncological department at the QSUT Tirana hospital, as well as medical equipment matching should be provided to the trauma department at the Military Hospital in order to match the relevant demand for health services.

CHILDREN

A considerable number of children in Albania are subject to forced labor, including street begging and rummaging trash bins. A high number of youngsters have dropped out of school as a result of poverty, but also due to difficulties in accessing far-away school premises. Our institution emphasizes its concern for the increased number of physical abuse cases, as well as sexual abuse with minors; these grave offenses demand that urgent preventive actions be taken. It is indispensable that investments for children in need be increased. Furthermore there is need for strengthening the Units for the Protection of Children across the country and local governing authorities ought to place children's rights as a priority area of engagement.

WOMEN

Economic empowerment, domestic violence, access to social services and the justice system – comprise particularly problematic issues for women in Albania. Notwithstanding improvements of the legislative domain, our institution deems that women continue to face inequality and discrimination. They face difficulties in accessing economic aid. Importantly, there is a need for an improvement of social services on offer from local governing authorities, with a view to matching the demand for such support services. Domestic violence persists as an unresolved and most disconcerting issue. Resources made available at the central and local levels are wanting and cannot appropriately support women that have been subject to domestic violence; meaningful help should be provided in order to support them in rebuilding their lives, including through the provision of work and housing opportunities. A gender analysis of sectorial strategies would enable the appropriate addressing of needs and rights that women and men are entitled to vis-à-vis the various economic and social sectors.

ELDERLY

The draft law "*On improving the quality of life and meet the needs for the elderly*" has yet to be adopted. The old-age pension is too low and does not guarantee appropriate welfare. There is a need to change the terms of the social pension benefit, pension for persons with disabilities, as well as the family pension. Albania has yet to endorse a minimum living rate or else a subsistence minimum.

ROMA COMMUNITY

The Roma community today comprises a vulnerable group at risk. Our social system (housing, registration of civil status, social aid benefit, education, employment, vocational training, health care and all other benefits that this system ought to provide for the citizens) acknowledges members of this community formally, however in reality excludes them. This community enjoys merely formal equality, but unfortunately no real equality. There have been repeated forced displacements of Roma community from

temporary settlements, without respecting pertinent international principles and standards. Roma children suffer the problem of school dropouts and have yet to enjoy a non-judgmental and accepting environment at school. Roma child labor is a serious problem. There are cases of segregation in schools with a high attendance from Egyptian and Roma students.

PERSONS WITH DISABILITIES

There is still a lack of adaptability on public and private facilities for people with disabilities. The latter have no access to public urban transport; furthermore, legal provisions have not been applied for the reimbursement of fares for urban and interurban transport. There are cases of contraventions to the legal provisions on employment of persons with disabilities. The institution underlines that there is a lack of access of persons with disabilities to the justice system, as well as governmental structures at the central and local levels. Furthermore, children with disabilities lack access to public education. There are no statistics for people with severe mental illness. The terminology of the UN Convention "*On the rights of persons with disabilities*" has feature mistranslations that have generated legal consequences and loss of rights for these persons. Violations have been evidenced regarding the representation for the organizations of persons with disabilities, members of which are from people with disabilities.

LGBT

LGBT community faces difficulties in everyday life and restrictions of fundamental rights, which in principle should be enjoyed by all human beings without distinction. As a primary assessment, challenges remain the change and the improvement of legislation regarding LGBT issues. In Albania, LGBT persons do not enjoy the right to marriage, civil unions, etc. The Albanian State Police does not have a specific plan to address crimes based on homophobia and trans-phobia. There is no procedure for gender change recognition.

MINORITIES

The Law "*On protection against discrimination*" must be amended, with a view to complementing the grounds on which discrimination is prohibited, including: nationality, declared aim to discriminate, inciting discrimination, as well as assisting and encouraging discrimination. There is a need for approval of a law specifying the definition and recognition criteria "de jure" of the minority status, in accordance with the provisions of the Framework Convention of the Council of Europe "*On the Protection of Minorities*".

POLITICALLY PERSECUTED PERSONS

A persisting challenge is that of endorsing a legal deadline for the completion of the process of compensation to former politically persecuted persons during the communist regime. The Council of Ministers has not yet adopted a pension scheme for the financial compensation of persons deported or expelled during the communist regime. There are no bylaws adopted for the treatment of exiles from the communist regime. The law "*On opening the files of the former state security*" should start to be implemented, with the establishment of the authority that will administer this process and start the concrete activity in this domain. It is necessary that a legal basis be adopted on the horizontal level, with a view to effectively enabling the process of lustration.

ABANDONMENT OF THE COUNTRY

People's Advocate expresses concern that this year a large number of citizens have fled from Albania to Western European countries, seeking asylum and a better life. This disturbing and painful phenomenon for the Albanian society has not undergone an informed and conscious public debate on the reasons that push Albanian citizens to leave the country – instead, the issue continues to be treated in politicized terms. Our institutions has warned the Albanian political leadership, as well as the society at large, with due advance several years ago, at the time when this phenomenon was simply a concern and had not reaching the current daunting proportions. Numerous citizens who are not guaranteed a clear perspective of life and prosperity, as people with disabilities, Roma, Egyptians, LGBT, abused women, and unemployed – all these categories have resolved to escape Albania as the only way forward. We urge citizens not to abandon the country and, in turn, urge state institutions to take all appropriate measures for their reception and reintegration upon repatriation.

ASYLUM SEEKERS, REFUGEES, BORDER POINTS AND RECEPTION CENTERS

As to the existing and potential fluxes of migrants and refugees, Albania continues to remain inadequately prepared. As of yet, no concrete steps have been taken on the ground with a view to proper registration, accommodation in reception centers or for transit passing. A greater transparency is needed so as to allow the public and society to be informed, also with a view to reducing any xenophobic sentiments and discourse. It is a must that access without discrimination to the asylum procedure be provided to people in need of international protection – and that equal rights are guaranteed to any refugee or asylum seeker.

INSTITUTIONS ENFORCING CRIMINAL DECISIONS

During inspections conducted in 2015, our institution registered the continued problem of overcrowding and of the unlawful treatment of persons who have received court

rulings for "compulsory medication" and "temporary treatment" in institutions enforcing criminal decisions due to the lack of establishment of a Specialized Medical Institution.

The institutions continues to receive complaints from convicted detainees that claim to be subject to physical and psychological violence. Persisting problems include the provision of compulsory education, the failure to award bonuses for work performed while serving sentences, as well as the provision of basic personal hygiene products. In terms of infrastructure, the majority of penitentiary institutions pose problems pertaining to depreciation, humidity, irregular supply with electricity and water, inadequate natural lighting and complete ventilation of cells, the presence of insects; furthermore conditions of facilities fail to meet standards, including the ventilation of facilities and isolation rooms, the availability of educational resources and facilities for practicing religious rites, sport events. These mounting problems pose serious difficulties for the process of psycho-social rehabilitation of prisoners/detainees.

POLICE AUTHORITIES

The People's Advocate institution has administered a significant number of cases concerning physical violence perpetrated by police officers against citizens; based on these cases, recommendations have been issued with a view to initiating investigations and taking appropriate remedy measures from authorities supervising the police bodies that have committed the violations. Our institution has evidenced the failure of police and health care personnel to abide by legal provision obliging them to report cases of violence and maltreatment against arrested or detained citizens. Some premises of state police bodies are used to hold and treat detainees, who have received from respective courts rulings stipulating security measures "detention in jail". Many police stations have not adapted or customized their escorting and security facilities/premises so as to provide for a dignified treatment of detained citizens in keeping with acknowledged standards in this domain.

NOTIFICATION OF THE OMBUDSMAN INSTITUTION ON DRAFT LAWS AND REGULATIONS

The Ombudsman Institution ought to be notified on all amendments with a bearing on human rights and ought to be invited to participate in meetings of committees and consultative bodies that are tasked with reviewing proposed legislation – albeit this is not the standards in all cases.

POLICIES ON CRIMINAL OFFENSES

Over the last few years, a number of citizens have been arrested and imprisoned for committing various offenses, including those on grounds of "stealing electricity or telephone impulses", "carrying out illegal constructions", "driving drunk or without license", etc. The People's Advocate institutions underlines that detention in prison

should be imposed only when all other alternative measures are considered inadequate, due to the high level of danger as a result of the nature of the offense committed and the alleged perpetrator of the offense. Therefore detention in prison should be applied as an exceptional case and as a last resort. Importantly, this type of measure should be applied in accordance with the level of security concerns and ought to be proportionate to the gravity of offense and the penal sanctions foreseen for the particular type of offenses. Furthermore, the application of this measure should take into account the economic costs for the society and the individual, as well as the social and psychological consequences affecting relevant family members and the wider social standing of the arrested person. It is also in place not to overlook the important fact of overcrowding security facilities. For these reasons, our institution has recommended that criminal offenses such as "theft of electricity or telephone impulses " and "illegal constructions" should be investigated while alleged perpetrators are not held in prison but rather are in free standing or on personal security measures that are softer than "arrest to prison".

COOPERATION OF THE PUBLIC ADMINISTRATION AND THE OMBUDSMAN INSTITUTION

The People's Advocate continues to face a lack of cooperation from many institutions of the Public Administration, which in many cases has a direct bearing on the work carried out and impedes the gathering of concrete data and pertinent information. An especially disturbing issue remains the existence of a high number of recommendations for which no responses have been submitted by respective state authorities – notwithstanding the continued persistence and requests by the People's Advocate institution. Yet another disconcerting issue relates to the lack of responses from official requests submitted to public administration institutions, which are bound by the law to make accessible and available documents and explanations regarding ongoing investigations carried out by the People's Advocate. Currently there are 194 unanswered requests for information from Public Administration institutions. In many cases, the People's Advocate was prevented from state institutions to carry out administrative investigations, including by not providing necessary information and documentation. Furthermore, it is in place to underline the worrisome fact that the People's Advocate is not duly notified and engaged in reviewing of draft-laws and draft-by-laws. However, it is worth mentioning that there are also positive cases, which have brought to fruition various engagements of the People's Advocate institution, including the adoption of by the Albanian Parliament of the resolution regarding the prevention of blood feud and the resolution regarding the rights of LGBT community in follow-up to the discussion of the Special Reports that the People's Advocate submitted to the pertinent parliamentary committees. Importantly, the Albanian Parliament has also included suggestions made by the People's Advocate institution concerning the labor code and specifically regarding moral harassment at work.

JUSTICE REFORM

In connection to the justice reform, the People's Advocate would like to emphasize from the start that an independent Judiciary System, which is efficient and fair, is intimately linked to fundamental human rights and freedoms. Indeed one of the major issues bringing citizens to knock on the doors of the People's Advocate institution is the failure of the justice system in Albania to guarantee the protection and respect for human rights. Citizens demand an independent judiciary that is efficient and free from corruption. Based on this civic sensibility, I avail of the opportunity to express the strong support for efforts by the European Union and the United States to support the implementation of the judicial reform and to consider it as an immediate need that is of vital importance for all citizens. The People's Advocate commends the generous assistance of the international community and encourages all political parties to show willingness to meet and follow through with the judicial reform. Without an independent judiciary that is efficient and fair, Albania shall not be able to build a competitive economy, a genuinely democratic political life, a living environment that is safe and secure for its citizens, for domestic and foreign investments. So that the country be able to enjoy the rule of law and all benefits ensuing from the rule of law, the justice system ought to be radically reformed.

The People's Advocate hereby reaffirms its willingness and earnest commitment to pursue collaboration with institutions of the public administration so as to ensure the protection and promotion of human rights for all citizens.