



**REPUBLIC OF ALBANIA  
PEOPLE'S ADVOCATE**

**DIGITALIZATION  
OF PUBLIC SERVICES  
AND PROTECTION OF HUMAN  
RIGHTS IN ALBANIA**

**Tirana, September 2024**

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**This report was commissioned by the People's Advocate with the  
support of the European Network of National Human Rights Institutions**

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# I. INTRODUCTION

Among the most significant developments shaping the future of humanity is the digital transformation of daily life, including through the digitalization of public and private services. Access to the internet, technology, digital skills, and digital services are increasingly becoming essential for everyday life and access to public services.

Additionally, the fundamental rights and freedoms enshrined in the Constitution are regarded as foundational values underpinning the entire legal system. This aspect of fundamental rights and freedoms mandates that public authorities take active measures to ensure that these rights are respected and their enjoyment further enhanced (Article 15 of the Constitution).

The digitalization of public services and the integration of Artificial Intelligence (AI) have become a reality in the local context, affecting various sectors and numerous users. This development naturally brings challenges related to the protection and effective exercise of the fundamental rights and freedoms guaranteed by the Constitution.

The benefits of digitizing services are significant. They include increased efficiency in public administration, lower costs, reduced human error, more streamlined and harmo-

nized administrative processes, eliminating unnecessary bureaucracy, as well as promoting sustainability, environmental conservation, and a reduction in corruption.

Over the years, Albania has undertaken policies related to the digitalization of activities across all sectors. This process began with the drafting of a strategic document on Information and Communication Technologies (ICT) in 2003 and was followed by the approval and

implementation of three strategic documents related to the information society and the digital agenda.<sup>1</sup> Based on this approach, as materialized in the relevant strategic documents, the manner of accessing public services in Albania has undergone profound transformation in the last decade.

Albania has transitioned from a system entirely based on physical face-to-face interactions at government offices between the state and citizens/businesses, to a diversified system that combines elements of direct and digital interaction through a unique government platform. For the past two years, this has been fully realized through the digital-only access provided by the “e-Albania” platform.

The beginnings of the digitalization process for public services and the initial effects of using technology to ensure human rights date back to 2014, with the introduction of applications for economic assistance. The process started as a pilot project in three major municipalities (Tirana, Durrës, and Elbasan). Applications were submitted through the National Electronic Registry of Social Services, and beneficiaries were selected using a point-based system according to a statistical formula that included parameters empirically related to the economic situation of the applicant’s family. The process faced several issues, no-

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<sup>1</sup> Strategic documents include: (i) The Intersectoral Strategy for the Information Society 2008-2013, approved by Decision of the Council of Ministers No. 59/2009, which outlined the main directions and development objectives in the field of the information society. See: Intersectoral Strategy “Digital Agenda of Albania 2015-2020”, p. 11; (ii) The Intersectoral Strategy “Digital Agenda of Albania 2015-2020”, which had as Strategic Priority 1: “Formulating policies for the development of e-Governance and providing interactive public services for citizens and businesses.” See: Intersectoral Strategy “Digital Agenda of Albania 2015-2020”, pp. 27-29. [Strategjia Agjenda Digjitale e Shqiperise 2015-2020.pdf](#); (iii) The Intersectoral Strategy “Digital Agenda of Albania 2022-2026”.

tably the exclusion of many families who, despite continuing to be in a difficult economic situation, were not selected by the system. If assessed by the appropriate structures, these families would have been eligible for economic assistance. These problems were also highlighted by the People's Advocate during an administrative investigation addressing complaints about exclusion from the economic assistance scheme.<sup>2</sup> At the end of the investigation, the People's Advocate issued a recommendation, requesting "concrete measures to review the scoring system formula for economic assistance, including revisiting the study conducted for this purpose."<sup>3</sup> Following this recommendation, several indicators in the scoring formula were improved by February 2015. As a result, the number of beneficiaries increased, and the number of rejected families decreased.<sup>4</sup>

However, despite these improvements, the digitalization of the application process for economic aid/assistance throughout Albania was consistently accompanied by challenges, especially for vulnerable groups. These challenges have been identified and addressed by the People's Advocate's institution, both through official communications within administrative investigations as well as through recommendations directed to public administration institutions.

In the People's Advocate's perspective, it is the mission of state organs to address the needs of citizens and not to limit themselves

2 The People's Advocate identified the categories of applicants who were excluded from receiving economic assistance as follows: families that were clearly in difficult economic conditions and lacked basic means of subsistence; female heads of households who were divorced or had lost their spouse; unemployed individuals who were not recipients of any pension or other economic income; families with one or two members; families that were claimed to be self-employed.

3 Recommendation by the People's Advocate, No. Doc. 201401869/4.

4 Commissioner for Protection against Discrimination, Decision No. 190, dated 31.12.2015.

to implementing "results" from digital systems based on automatic decision-making through artificial intelligence algorithms without proper analysis. The People's Advocate issued another recommendation stating: "*The Ministry of Health and Social Protection should take measures to continuously coordinate and evaluate the issues arising from the use of electronic systems based on automatic decision-making. Additionally, the Ministry should implement a policy with a targeted approach aimed at effectively improving electronic systems, considering alternative intervention methods to avoid errors that create inequalities and artificially exacerbate social or economic disparities.*"<sup>5</sup>

Since 2020, the unique governmental platform "e-Albania" serves as a centralized portal through which any interested person can access electronic services offered by public institutions in Albania via the internet. According to official data from "e-Albania," this platform currently offers over 1,237 electronic services,<sup>6</sup> categorized according to the levels of service automation of the United Nations Public Administration Network (UNPAN).

On April 29, 2022, the Council of Ministers approved Decision No. 252, dated April 29, 2022, "*On the procedures for providing online services by service-providing institutions and the methodology for monitoring and controlling the administrative activity of their provision,*"<sup>7</sup> which stipulates that from May 1, 2022, all services of all service-providing institutions are to be conducted exclusively through the "e-Albania" platform and performed only electronically, ensuring the issuance of the final document with an electronic

5 People's Advocate, *Recommendation for taking measures to coordinate and continuously assess the issues arising from the use of electronic systems in providing social services to citizens*, Rec No. Doc. 202300529/10

6 Statistics, November 2023, <https://e-Albania.al/Pages/Statistics/statistika.pdf>

7 Published in the Official Gazette No. 66/2022

seal or electronic signature. One of the main aims of this decision was to eliminate direct interaction and communication between citizens and civil servants or employees at service counters. Such interaction was considered as one of the sources of corruption, creating long queues, dissatisfaction, and complaints from citizens.

On the part of citizens, essential services are those that apply to family life, education, employment, health and social protection, contributions and pensions, judicial status, business, licenses/permits, real estate, etc. A significant portion of the services provided through the platform relates to the group of socio-economic rights, which by nature are positive rights.<sup>8</sup> For this reason, their content should be interpreted closely with the state's obligation to be pro-active and ensure the provision of adequate resources for citizens' essential needs in cases of disasters, illnesses, disability, old age, and involuntary unemployment.

This decision was followed by the approval of Decision of the Council of Ministers (DCM) No. 370, dated June 1, 2022, "*On the approval of the Intersectoral Strategy - Albania Digital Agenda, and Action Plan 2022-2026.*" This Strategy aims to set goals for the coming years, using modern data platforms and digital technologies to understand citizen needs, overcome resource scarcity, and adapt to the new way of remote working, while making further progress with government service digitalization and cybersecurity skills development.<sup>9</sup>

The Strategy considers the training of public employees in the country (Point 5.1.1)<sup>10</sup> as an absolute prerequisite for implementing

<sup>8</sup> Decision of the Constitutional Court, No. 33, dated 24.06.20210

<sup>9</sup> Decision No. 370/2022 "On the Approval of the Intersectoral Strategy - Digital Agenda for Albania and the 2022-2026 Action Plan," p. 3.

<sup>10</sup> Ibid. p. 17

the Digital Agenda and adapting to up-to-date technologies. Simultaneously, its implementation places every citizen of the Republic of Albania before the challenge of interacting within a digital state where accessing services through the platform is the only way to realize their fundamental rights and freedoms provided by the Constitution in Articles 18 (equality before the law and non-discrimination), 20 (rights and freedoms of national minorities), 41 (property rights), 42 (due legal process), 49 (2) (social protection of labour), 52 (right to social security in old age, disability to work, economic assistance), 53 (right to marriage and family), 54 (special protection, children, youth, pregnant women and new mothers), 55 (right to healthcare by the state), 57 (right to education).

The digitalization approach is applied in a geographical, economic, and social landscape that, for many reasons, cannot support its functionalities creating barriers to its complete implementation. Concerning internet usage, according to INSTAT statistics, 99.9% of citizens access the internet via mobile phones (smartphones), while 23.5% use laptops, 20.8% access it from computers (desktops), and only 13.1% use tablets.<sup>11</sup> The same survey on the use of ICT by individuals aged 16-74 found that the activities with the highest increase in internet usage over the "*last three months*" from the time of the interview include accessing health data online ("e-Albania" health section) (up by 18.3 percentage points), internet banking (e-banking) (up by 5.0 percentage points), and communicating via written messages (e.g., WhatsApp) (up by 2.8 percentage points).

<sup>11</sup> INSTAT Survey on the Use of Information and Communication Technologies (ICT) by Households and Individuals 2022, <https://www.instat.gov.al/al/temat/kushtet-sociale/teknologjis%C3%AB-s%C3%AB-informacionit-dhe-komunikimit-tik-n%C3%AB-familje-dhe-nga-individ%C3%AB/publikimet/2023/p%C3%ABrdorimi-i-teknologjis%C3%AB-s%C3%AB-informacionit-dhe-komunikimit-n%C3%AB-familje-2023/>

In 2023, all categories related to electronic interactions via the internet with public authorities and certain public services, such as websites for citizen obligations (e.g., tax declarations, change of address notifications), rights (e.g., social benefits), official documents (e.g., ID cards, birth certificates), public educational services (e.g., public libraries, information on school or university registration), and public health services, experienced growth. The highest increase was recorded in the category of “downloading or printing official forms,” which rose by 2.8 percentage points compared to 2022, followed by the category “obtaining information from websites or internet applications,” which increased by approximately 1.9 percentage points.

Despite the above-mentioned positive developments, the 2023 Progress Report for Albania, Chapter 10: Digital Transformation and Media,<sup>12</sup> notes that: “... regarding online public services, during the reporting period, 95% of applications for 1,217 public services were made online, with 7,833,332 electronically sealed documents downloaded in 2022 by more than 2.8 million registered users on “e-Albania.” Of these, 1.5 million are active users. ... Authorities must ensure and simplify equal access for all citizens and reinforce efforts to harmonize legislation with the Digital Service Act and Digital Market Act.” The same Progress Report, Chapter 23: Judiciary and Human Rights, notes that: “... other barriers such as the lack of digital skills and access to technology continue to limit Roma and Egyptian citizens in fully enjoying their rights and accessing increasingly digital public services. Further efforts and resources are needed to accelerate their inclusion, address anti-Gypsyism, discrimination, and physical segregation, to promote Roma participation

12 European Commission (2023), Albania 2023 Report, Brussels, 8.11.2023, SWD(2023) 690 final, fq.94 [https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD\\_2023\\_690%20Albania%20report.pdf](https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_690%20Albania%20report.pdf)

*and reduce the divide with the rest of the population.”*<sup>13</sup>

This digital divide will continue to deepen as citizens who do not have digital connectivity will be unable to reap the long-term benefits of innovation (information society), modernization, including the Internet of Things (IoT)<sup>14</sup> and interconnecting infrastructure (“smart cities”<sup>15</sup>). Logically, the larger the digital gap, the greater the future effects. This risk is not present only in societies like ours, where the digital divide is significant, but also in EU countries where the digital gap is minimal. The so-called COVID-19 pandemic highlighted the social inequalities associated with the weaknesses of internet networks, which not only struggled to handle the increased interaction flow despite promises of high-speed internet (e.g., connection drops, poor connection quality) but also led to the isolation of various social groups that either lacked internet access or had substandard connectivity. A survey by the Organization for Security and Co-operation in Europe (OSCE), reported a 60% increase in internet usage compared to the period before the pandemic.<sup>16</sup>

13 Ibid, p. 40

14 The Internet of Things (IoT) describes the network of physical objects—“things”—that are embedded with sensors, software, and other technologies for the purpose of connecting and exchanging data with other devices and systems over the internet.

15 “Internet Access as Fundamental Right-Exploring aspects of connectivity”, European Parliamentary Research Service, 2021, fq.2, [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/696170/EPRS\\_STU\(2021\)696170\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/696170/EPRS_STU(2021)696170_EN.pdf)

16 OECD Policy Responses to Coronavirus (COVID-19) “Keeping the Internet up and running in times of crisis”, 2020, <https://www.oecd.org/coronavirus/policy-responses/keeping-the-internet-up-and-running-in-times-of-crisis-4017c4c9/>



## II. ACCRONYMS

PA	People's Advocate
AI	Artificial Intelligence
NISA	National Information Society Agency
SCA	State Cadastre Agency
EU	European Union
FRA	European Union Agency for Fundamental Human Rights
ENNHRI	European Network of National Human Rights Institutions
ECtHR	European Court of Human Rights
ECHR	European Convention of Human Rights
CPD	Commissioner for Protection from Discrimination
LPD	Law on Protection from Discrimination
ICT	Information and Communication Technology
CRIPDP	Commissioner on the Right to Information and Personal Data Protection
UNPAN	United Nations Public Administration Network
INSTAT	Institute of Statistics
EC	European Charter
EA	Economic Aid
ICT	Information and Communication Technology
OSCE	Organization for Security and Cooperation in Europe
ADISA	Agency for Provision of Integrated Public Services
CRPD	Convention on the Rights of Persons with Disabilities
IECD	Institution for the Execution of Criminal Decisions
ADC	Agency for Dialogue and Co-governance
OECD	Organization for Economic Cooperation and Development

### III. METHODOLOGY

This report is prepared in accordance with the methodology designed by the People's Advocate, which includes setting objectives, discussing them, together with related issues and sub-issues, with representatives of the structures under the People's Advocate. The process also involved extensive desk review and research, as well as field discussions with representatives of the Regional Offices of the People's Advocate and other institutions, including non-profit organizations (NPO) at the local level. The aim of this methodology was to ensure an inclusive consultative process, based on an analysis of the existing legal framework and the information available from various sources, including the People's Advocate and other accessible sources.

The approach that was followed combines elements of research work with the qualitative method of in-depth interviews (discussions). This approach is considered optimal for gathering data on attitudes, experiences, and/or perspectives, especially in respect of issues that needed further exploration.

The research work included identification and assessment of the domestic legal framework, including ratified international acts, as well as national strategic documents in the fields of administrative law, digitalization of public services, protection of personal data, and protection from discrimination.

The assessment also included documents of the European Network of National Human Rights Institutions (ENNHRI) on the impact of AI on human rights,<sup>1</sup> studies conducted by the European Union Agency for Fundamental

<sup>1</sup> <https://ennhri.org/wp-content/uploads/2023/11/ENNHRI-Preparatory-Paper-on-Engagement-by-NHRIs-on-AI-Related-Human-Rights-draft-developed-by-consultant.pdf>

Human Rights (FRA),<sup>2</sup> and similar institutions such as the *Défenseur des droits* (People's Advocate in France) on the Dematerialization of Public Services.<sup>3</sup>

Parallel to the research work, meetings were held in eight cities: Kukës, Shkodër, Vlorë, Berat, Sarandë, Pogradec, and Dropull, where the Regional Offices of the People's Advocate operate, as well as in Fier with representatives of the Regional Office of the Commissioner for Protection from Discrimination. These meetings were aimed at gathering and assessing data regarding the approaches and perspectives of citizens and representatives of central and local institutions as well as civil society. They were conducted under the supervision of the representative of the Regional Office of the People's Advocate with the participation of citizens, representatives of the Legal Aid Office, Social Services, local government units, and various NPOs engaged in the protection of the rights of national minorities or persons with disabilities. The discussions were characterized by an inclusive approach and participants were given the opportunity to present their viewpoints and express different perspectives.

Following the findings in the field, it was deemed necessary to hold in-depth meetings and discussions with the Commissioner for the Right to Information and Protection of Personal Data, as well as the Commissioner for Protection from Discrimination. These meetings included discussions on complaints

<sup>2</sup> <https://fra.europa.eu/en/publication/2023/older-people-digital-rights?page=3#read-online>

<sup>3</sup> <https://www.defenseurdesdroits.fr/rapport-dematerialisation-des-services-publics-trois-ans-apres-ou-enest-265#:~:text=La%20d%C3%A9mat%C3%A9rialisation%20offre%20de%20nouveaux,pour%20nombre%20d'entre%20eux.>

submitted by citizens to these institutions and the manner of handling them as required by the applicable legislation.

Based on the objectives of the project, the report was structured on four fundamental themes that constitute its pillars and the discussions also centred on these pillars:

- (i) Access
- (ii) Discrimination
- (iii) Privacy
- (iv) Transparency and Accountability

At the conclusion of this process, the current report was written based on the aforementioned four pillars, including all the legal and factual aspects identified in accordance with the methodology.

The draft report underwent internal consultation with the responsible structures at the People's Advocate. Following careful reflection on these comments, the authors incorporated them accordingly in the draft report, which was then submitted for consultation to still more stakeholders/actors.

Specifically, the findings, conclusions, and recommendations were discussed at a consultation roundtable organized by the People's Advocate on February 29, 2024. This event saw the participation of representatives from the CRIPDP (Commissioner for the Right to Information and Personal Data Protection), CPD (Commissioner for Protection from Discrimination), ADC (Agency for Dialogue and Co-governance), SCA (State Cadastre Agency), NISA (National Information Society Agency), the Ministry of Health and Social Protection, the Directorate of Free Legal Aid in the Ministry of Justice, as well as representatives from various NPOs. Participants had the opportunity to address questions to the experts and engage in extensive discussions on all aspects highlighted in this Report. The comments and suggestions from

institutional representatives and stakeholder groups most affected by the implementation of the digital approach were included into this report.

## IV. EFFECTS OF TECHNOLOGY IN THE SOCIETY

Access to the internet (connectivity), technology, and fundamental rights and freedoms form a trinomial without which our daily lives can no longer be thought of. The circumstances stemming from this trinomial have a tremendous effect on economic development within the country, as well as affecting each individual and society as a whole.

**The concept of digitalization** implies the use of information and communication technologies, including the interconnection and networking of these technologies. Digitalization involves the processing and networking of what is digital; thus, big data, AI, technology platforms, cryptocurrencies, blockchain technologies, the Internet of Things (IoT), and 3D/4D printing are some of the technologies associated with digitalization.

Digitalization, which has spread across all areas of life, carries economic and social opportunities which enable people to save time and money, as well as to facilitate communication and have access to public services. Digitalizing public services brings undeniable advantages, especially for those citizens who find it easy to interact with digital technology. However, not all citizens can benefit equally from this positive and dynamic process, both in Albania and in EU countries, due to the lack of necessary skills required to use digital tools or due to financial constraints to afford them. In this context, across EU countries and beyond, there is an ongoing debate about digital access and inclusion for specific segments of society (the elderly, persons with disabilities, minorities, etc.) and the elimination of the digital divide that exists between different social groups due to lack of internet access.

Legislators and law enforcement agencies may find it difficult to understand the exist-

tence of discriminatory (one-sided) systems, because understanding the effects requires comprehensive analysis, including through statistical data analysis. Such data can be obtained through surveys, periodic assessments, or various polls regarding quality, access, efficiency, user satisfaction, or surveys dedicated to specific elements within a service (information on how the service is obtained, response time, clarity of responses for different groups, etc.). In the local context, a culture of periodic analysis by institutions focusing on service delivery and user satisfaction has not yet been established.

**Internet access** is a prerequisite for interacting through technologies and consequently exercising fundamental rights and freedoms. An individual without the necessary internet connection loses the opportunity to participate in processes and opportunities that are part of daily life.<sup>1</sup> Even though the internet has existed since 1960, today, internet connectivity is as important as access to electricity, water, or healthcare services.<sup>2</sup> This is also why, at the international level, there is a debate among policymakers (within the European Commission structures,<sup>3</sup> UN Special Rapporteur<sup>4</sup>), the European Court of Human Rights (ECtHR), constitutional courts, and the academia about the need to include the right to internet access

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1 P. 1, [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/696170/EPRS\\_STU\(2021\)696170\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/696170/EPRS_STU(2021)696170_EN.pdf)

2 Statement by President von der Leyen at the roundtable 'Internet, a new human right' after the intervention by Sir Berners Lee, 28 October 2020, [https://ec.europa.eu/commission/presscorner/api/files/document/print/en/statement\\_20\\_1999/STATEMENT\\_20\\_1999\\_EN.pdf](https://ec.europa.eu/commission/presscorner/api/files/document/print/en/statement_20_1999/STATEMENT_20_1999_EN.pdf)

3 [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/696170/EPRS\\_STU\(2021\)696170\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/696170/EPRS_STU(2021)696170_EN.pdf)

4 Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue\* [https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf)

in the catalogue of fundamental rights.

In some countries, the Constitution itself provides for the right to internet access (Greece and Portugal). The ECtHR in the case of *Yildirim v. Turkey* confirmed that the right to internet access is linked to the right to information and communication as provided in the constitutions of many countries. For this reason, it can be concluded that referring to all general safeguards protecting freedom of expression, the right to quiet internet access should also be recognized.<sup>5</sup>

Earlier, in 2008, the German Federal Constitutional Court concluded that the general right of personality (Article 2, paragraph 1, and Article 1, paragraph 1, of the Basic Law) guarantees the confidentiality and integrity of technical information systems. The focus of this decision was on *status negativus* notably that in view of the freedom to express one's personality peacefully, the individual should expect the state to guarantee the integrity and confidentiality of systems.<sup>6</sup>

Recently, the Belgian Federal Ombudsman recommended to introduce the right to internet access as a fundamental right in the Constitution.<sup>7</sup> In the academia this issue is discussed as either a standalone right or as a right that derives from and is related to the freedom of expression and the right to information, or from the right to equal treatment and human dignity.

The debate on the meaning and constitutional provision of the right to internet access is ongoing, and there is still no clear position

<sup>5</sup> Case of Ahmet Yildirim v. Turkey (Application no. 3111/10) Paragraph 31 of the Decision: "It can therefore be inferred from all the general guarantees protecting freedom of expression that a right to unhindered Internet access should also be recognised."

<sup>6</sup> Decision of the Constitutional Court of Federal Germany, 1 BvR 370/07 - 1 BvR 595/07 [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2008/02/rs20080227\\_1bvr037007.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2008/02/rs20080227_1bvr037007.html)

<sup>7</sup> <https://www.federaalombudsman.be/en/aanbeveling-recht-op-toegang-tot-het-internet>

from the EU structures, or the member states themselves, or from the academia for that matter. In all cases, there is awareness that constitutional codification is not the "magic wand" that will close the digital divide, but merely a step towards achieving that result.

Digitalization and automation of public services are inextricably linked to **fundamental rights and freedoms, especially human dignity**, which, according to the Albanian Constitutional Court, is a constitutional value and the source from which flow all the other rights recognised by the constitution as fundamental rights.<sup>8</sup> In the digital age, the human element should remain part of the systems, not only to avoid automated decisions but also because technology cannot be blindly trusted to be neutral and objective.<sup>9</sup> Guaranteeing human dignity specifically includes respecting individuality, identity, and personal integrity, as well as equality before the law.<sup>10</sup> For this reason, legislators and law enforcement agencies should draft acts and policies using the lens of "human dignity" to develop and implement inclusive approaches that place the "citizen" at the centre and leave no one behind.

Based on the constitutional guarantees analysed, among others, by the Albanian Constitutional Court, citizens have the legitimate expectation that the legal framework will be drafted in accordance with the respect for and protection of human dignity. Therefore, the

<sup>8</sup> Decision No. 65, dated 10.12.1999, and Decision No. 20, dated 20.04.2021, state that: "Dignity has absolute precedence and stands at the core of the entirety of the values expressed by the Constitution. It represents a special constitutional value that takes precedence over others, as it inherently encompasses human rights and plays a decisive role in the interpretation of all principles of the legal system and constitutional order."

<sup>9</sup> David Danks and Alex John London, 'Algorithmic Bias in Autonomous Systems', Proceedings of the 26th International Joint Conference on Artificial Intelligence (AAAI Press 2017); Monika Zalnieriute, Lyria Bennett Moses and George Williams, 'The Rule of Law and Automation of Government Decision-Making' (2019)

<sup>10</sup> Decision of the Federal Constitutional Court of Germany BVerfGE 144, 20-367, dated January 17, 2017

legal framework should be developed with the premise that the individual is capable of making their own decisions and being responsible for their own choices. In this view, it should remain their choice and responsibility to choose access the available public services whether online or offline. Self-guaranteeing human personality establishes as a prerequisite that a person, according to the criteria they set for themselves, have full control over their life and cannot be forced to choose ways of living that are fundamentally incompatible with their own vision and worldview.<sup>11</sup>

### *International Regulatory Framework*

Based on the rapid development of digital technologies and their direct and indirect impact on citizens' lives, there have long been efforts at both national and international levels to create and adopt the necessary framework regulating the use of digital technologies in everyday life. These joint efforts aim to ensure that technological developments and the provision of public services through digital platforms are standardized, secure, and accessible to all citizens while simultaneously protecting their fundamental rights.

The international regulatory framework, which will be discussed for the purpose of this study, includes the field of artificial intelligence (AI) and more specifically the field of public service digitalization. The regulatory framework regarding AI is deeply intertwined with the framework for digitalizing public services, as both areas require clear standards and rules to ensure safety, transparency, and efficiency in the use of technology. Regulations addressing AI aim not only to govern the use of AI in various sectors, but also to

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<sup>11</sup> Decision of the Federal Constitutional Court of Germany 2 BvR 2347/15, 2 BvR 2527/16, 2 BvR 2354/16, 2 BvR 1593/16, 2 BvR 1261/16, 2 BvR 651/16, dated February 26, 2020, p. 225 of Selected Decisions of the Federal Constitutional Court of Germany, Konrad Adenauer Stiftung, 2020

help create a trustworthy environment for integrating AI into public service delivery. In this way, the digitalization of public services benefits from these rules by ensuring that advanced technologies are used responsibly and effectively, guaranteeing personal data protection and improving service quality for citizens. Therefore, the regulatory framework for AI and the one for digitalization of public services are interconnected and reinforce each other in building a safe and sustainable technological ecosystem.

### **Regulatory Framework regarding Artificial Intelligence**

Given the rapid progress of AI technology, efforts to regulate it internationally are still developing. As we will see below, two of the most important initiatives laying the foundation for the necessary regulatory framework regarding the use of artificial intelligence have been recently finalized in 2024. This indicates that there is intensive global effort to address the challenges of modern technology and to create rules and standards that will shape the future use of AI.

In December 2023, European Union legislators reached a political agreement on the draft of the Artificial Intelligence Act, the world's first binding AI Act that provides the legal framework for the use of AI systems in EU countries. AI systems considered to pose a "high risk" to safety, health, and the respect for fundamental human rights will only be allowed after meeting the requirements and obligations to access the European market. In May 2024, the Council of the European Union formally approved the EU Artificial Intelligence Act,<sup>12</sup> marking an important step in the regulation of artificial intelligence. This Act introduces a harmonized regulatory

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<sup>12</sup> <https://www.consilium.europa.eu/en/policies/artificial-intelligence/timeline-artificial-intelligence/>

framework to ensure that AI systems are safe, transparent, and respect fundamental rights. The Act represents a crucial step towards the digitalization of public services, establishing a foundation for a future where advanced technology enhances efficiency, transparency, and accessibility of services. By creating a regulatory framework for artificial intelligence, the Act ensures that AI systems used for public service provision meet strict standards for safety, fairness, and accountability. This regulatory approach not only promotes the responsible use of AI technologies, but also fosters innovation in digital services, enabling public institutions to use AI for tasks, such as automating administrative processes and improving citizen engagement through intelligent virtual assistants. As public services increasingly embrace digital transformation, the EU Artificial Intelligence Act serves as a foundation for building trust in these technologies, ensuring they are used in ways that are both ethical and effective in meeting public needs.

In May 2024, the Committee on Artificial Intelligence in the Council of Europe approved the Framework Convention on Artificial Intelligence and Human Rights, Democracy, and the Rule of Law (“the Convention”).<sup>13</sup> The Convention represents the first international treaty on AI that will be legally binding for its signatories. It aims to ensure that the development and use of AI guarantee the standards for human rights, democracy, and the rule of law.<sup>14</sup>

During the drafting and consultation phase of this convention by the Council of Europe’s Committee on Artificial Intelligence (CAI), the institution of the People’s Advocate in

Albania closely collaborated with the European Network of National Human Rights Institutions (ENNHRI) and participated in the consultative discussions on the draft convention. Furthermore, it proactively engaged in conveying specific suggestions to the Albanian government regarding the chapters of the draft Framework Convention,<sup>15</sup> driven by the primary goal that the convention follows a human rights-based approach.

### Regulatory Framework on the Digitalization of Public Services

At the **community level**, the European Union has adopted a regulatory package aimed at creating a safer and fairer digital environment across Europe, consisting of the Digital Services Act (DSA)<sup>16</sup> and the Digital Markets Act (DMA).<sup>17</sup> The DSA focuses on improving online content moderation, algorithm transparency, and user rights protection, establishing clear obligations for online platforms to manage illegal and harmful content. On the other hand, the DMA aims to regulate the behaviour of very large platforms acting as “gatekeepers” in the digital market, preventing monopolistic practices and ensuring fair competition. This regulatory package, designed to harmonize rules across the EU, contributes to creating an open and fair digital market, protecting users and encouraging in-

<sup>15</sup> Recommendations of the People’s Advocate addressed to the Ministry of the Interior No. 202300183, dated 23.02.2023, dated 13.04.2023, dated 01.06.2023, and dated 14.12.2023.

<sup>16</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA relevance) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R2065>

<sup>17</sup> Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA relevance) <https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ%3AL%3A2022%3A265%3ATOC&uri=uriserv%3AOJ.L.2022.265.01.0001.01.ENG>

<sup>13</sup> Council of Europe adopts first international treaty on artificial intelligence: <https://www.coe.int/en/web/portal/-/council-of-europe-adopts-first-international-treaty-on-artificial-intelligence>

<sup>14</sup> [Artificial Intelligence, Human Rights, Democracy and the Rule of Law Framework Convention - Artificial Intelligence \(coe.int\)](https://www.coe.int/en/web/artificial-intelligence/artificial-intelligence-human-rights-democracy-and-the-rule-of-law-framework-convention)

novation and competition in the digital sector.

Although Albania is not yet part of the European Union, it is important for the country to embrace these acts and their spirit, as the country aspires to integrate into the EU as soon as possible. The European Union's Digital Services Act (DSA) is part of the broader EU strategy to create a safer and more transparent digital space for all users. It includes obligations for content moderation, algorithm transparency and platform decision-making, user rights protection and appeals, accountability of online platforms, cooperation with authorities, protection of minors, and advertising transparency. The DSA also imposes additional obligations on very large online platforms (VLOPs), including managing systemic risks and conducting independent audits.

By adopting the principles of the DSA, Albania can align its national regulations with the European ones, improving the quality and safety of digital services for Albanian citizens, increasing their trust and security in using these platforms, and demonstrating its commitment to European Union values and standards.

Another significant regulation is the EU Regulation on the digitalization of judicial cooperation and access to justice in cross-border civil, commercial, and criminal matters,<sup>18</sup> which aims to improve and modernize judicial cooperation and access to justice in cross-border civil, commercial, and criminal cases through digitalization. It sets out a framework for using digital technologies in communication and information exchange between the judicial authorities of EU member states, en-

hancing the efficiency and speed of judicial

<sup>18</sup> Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation - [https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32023R2844#ntc8-L\\_202302844EN.000101-E0008](https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32023R2844#ntc8-L_202302844EN.000101-E0008)

proceedings. The regulation emphasizes the importance of using secure and reliable systems for data transfer, ensuring the protection of citizens' rights and their personal data.

Specifically, the Regulation addresses the need for common standards and technological tools that enable access to digital documents and evidence, as well as virtual participation in cross-border judicial proceedings. This initiative aims to facilitate citizens' and businesses' access to justice by reducing bureaucratic hurdles and the high costs associated with traditional procedures. In this way, the regulation supports the creation of a digital justice space in the EU, where information can be exchanged quickly and securely between member states.

Albania should pursue an integrated strategy for the digitalization of its judicial system and the improvement of cross-border judicial cooperation in an effort to align its laws and policies with the principles of the aforementioned regulation. This approach will enhance the efficiency and transparency of the judicial system in Albania, bringing it closer to European standards and preparing the country for future integration into the European Union.

Part of the regulatory package on the ethics and rules of providing and using digital public services is also the recommendation adopted in 2014 by the OECD Council<sup>19</sup> regarding the digital governance strategies. This recommendation provides a comprehensive framework for the effective use of technologies and data in the public sector. The document serves as a guide for governments aiming to improve the way they operate and serve citizens through

<sup>19</sup> The OECD is an international organization that includes the most economically developed countries and aims to promote policies that improve economic and social well-being worldwide. Although Albania is not a member of this organization, it has consistently cooperated with the OECD to improve its governance and economic development. Albania can and should follow the OECD's recommendations to enhance its governance and economic development.



making use of digital innovations.<sup>20</sup> The recommendation's goal is to help governments develop and implement strategies that make public administration more open, efficient, and inclusive. The recommendation emphasizes the importance of using digital technologies and data in order to strengthen governance and create sustainable value for society. Key strategies outlined in the recommendation include promoting transparency and engagement, creating clear management and coordination structures, developing capacities and resources, among others. Achieving the recommendation's goals requires governments to commit *to improving governance and public services through the use of technologies and data*. They should foster a data-driven culture, manage digital security and privacy risks, and commit to ensuring that these strategies are effective and sustainable.

**At the national level**, EU member states have adopted the necessary legal framework to regulate the digitalization of public services, addressing this challenge in different ways in accordance with their economic, financial, social, cultural, and geographical development. In all cases, the regulation is based on ensuring equal access and respecting the principle of non-discrimination in the context of digitalization.

In the European Union, the legal regulations follow two main approaches. Some EU countries guarantee equal access to public services through e-government laws that provide for the digitalization of administrative services. This approach has been embraced by 13 EU member states (such as Germany, Italy, Estonia, Finland, Sweden, etc.), as well as regional countries like Serbia.

In other countries, a sectoral approach has

been implemented, regulating specific areas such as healthcare, social services, etc. This approach is found in 18 EU member states (such as Austria, Belgium, Denmark, the Netherlands, etc.), as well as in North Macedonia.

The methods of guaranteeing equal access to public services during the digitalization process follow two directions. In some cases, equal access is guaranteed for everyone as a general principle applied horizontally and complements the principle of good administration guaranteed by Article 41 of the European Charter of Fundamental Rights. Other states have chosen to specifically guarantee the right to equal access to digital services, as usually reflected in e-government laws or sectoral laws.

In cases where states explicitly provide for the guarantee of equal access to digital public services (Estonia,<sup>21</sup> Germany,<sup>22</sup> Finland, Serbia,<sup>23</sup> Sweden,<sup>24</sup> Czech Republic,<sup>25</sup> Bulgaria<sup>26</sup>), the principle of freedom of choice is also defined as a general principle to ensure that all users have free and equal access to digital public services without discrimination.

Only two EU member states, France and Latvia, have a more developed legal framework that guarantees the right to equal access to digital services, both in e-government

21 Estonia, Public Information Act (Avaliku teabe seadus), 15 November 2000, § 32 (1) 6.

22 Act to improve online access to administrative services (Gesetz zur Verbesserung des Onlinezugangs zu Verwaltungsleistungen (Onlinezugangsgesetz – OZG)), 14 August 2017

23 Serbia, Electronic Government Act (Zakonoelektron-skojupravi), 6 April 2018

24 Sweden, Administrative Procedure Act (2017:900) (Förvaltningslag (2017:900)), 28 September 2017; Sweden, Instrument of Government (Kungörelse (1974:152) om beslutad ny regeringsform), 28 February 1974.

25 Czechia, Act No. 12/2020 Coll. on the right to digital services (Zákon č. 12/2020 Sb. o právu na digitální služby), 17 January 2020.

26 Bulgaria, Electronic Government Act (Закон за електронното управление), 12 June 2007, amended on 22 February 2022.

20 OECD - Recommendation of the Council on OECD Legal Instruments Digital Government Strategies: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0406>

laws and specific laws.<sup>27</sup> France is among the states that provide for equal access to digital public services both as a general principle of non-discrimination and access to digital governance. For this purpose, France has adopted the Digital Republic Law, which ensures access for all.<sup>28</sup>

In Spanish legislation, the principle of internet access goes even further, as it is foreseen as a set of principles that must be respected during the design, construction, maintenance, and updating of electronic services to ensure equality and non-discrimination in access for users.

In Austria,<sup>29</sup> where a sectoral approach to the digitalization of services has been followed, it is provided that citizens are free to choose how to contact public authorities, as a measure intended to ensure that the rights of citizens are respected.

Regarding the Western Balkan countries, in the case of North Macedonia, the legal framework for digital governance consists of three laws<sup>30</sup> which are intertwined in their implementation: “The Law on Electronic Documents, Electronic Identification, and Trusted

Services,” “The Law on Electronic Administration and Electronic Services,” and “The Law on the Central Population Register.”

Meanwhile, in Serbia, the Law on Electronic Government explicitly provides that “everyone has the right to use e-government services.”<sup>31</sup>

In addition to the aforementioned provisions, some legislations include special rules that take into account the risk of the digital divide for certain categories of citizens, such as the elderly (Denmark, Greece, etc.) and persons with disabilities (Sweden, Denmark, etc.).

### *Albanian Legal Framework*

In the domestic context, three main laws encompass provisions across different segments within the entire process of delivering public services digitally.<sup>32</sup> The Code of Administrative Procedures<sup>33</sup> establishes the general principles upon which public administration operates. Based on the hierarchy of norms, the Code prevails over the other two laws which are mentioned in the following. The recently adopted Law No. 43/2023, “On Electronic Governance” stipulates the technical provisions regarding electronic governance, including the obligations of public authorities and private entities, as well as providing for the infrastructure of the system. Whereas Law No. 107/2021 “On Co-Governance” sets the rules for citizens’ participation in policy-making, ensuring their participation in administra-

31 Serbia, Electronic Government Act (Zakon o elektronskoj upravi), 6 April 2018.

32 Specific aspects of the provision of public services and the use of data in this context are regulated by specific legislation, such as Law No. 13/2016 “On the Manner of Providing Public Services at the Office Counters in the Republic of Albania,” Law No. 33/2022 “On Open Data and the Reuse of Public Sector Information,” Law No. 9880, dated 25.2.2008 “On Electronic Signatures,” and Law No. 107/2015 “On Electronic Identification and Trusted Services.”

33 Law No. 44/2015, the Administrative Procedures Code.

27 Legal and policy instruments at national level: <https://fra.europa.eu/en/publication/2023/older-people-digital-rights?page=5#read-online>

28 France, Law No. 2016-1321 for a Digital Republic (Loi n° 2016-1321 pour une République numérique), 7 October 2016

29 Austria, eGovernment Act (E-Government-Gesetz), Federal Law Gazette (Bundesgesetzblatt) No.10/2004, 27 February 2004

30 North Macedonia, Law on electronic documents, electronic identification and trusted services (Закон за електронски документи, електронска идентификација и доверливи услуги), Official Gazette of the Republic of North Macedonia (Службен весник на Република Северна Македонија), No. 101/2019, 22 May 2019. North Macedonia, Law on electronic management and electronic services (Закон за електронско управување и електронски услуги), Official Gazette of the Republic of North Macedonia (Службен весник на Република Северна Македонија) No. 101/2019, 22 May 2019. North Macedonia, Law on the central population register (Закон за централен регистар на население), Official Gazette of the Republic of North Macedonia (Службен весник на Република Северна Македонија), No. 98/2019, 21 May 2019.

tive decision-making procedures, and enhancing the accountability and transparency of the state administration.

Other specific laws regulating the provision of services in areas such as social security, healthcare, and education do not contain regulations on how these services are provided (especially regarding the modalities for digitally provided services). This is because some of them are conceptualized as traditionally delivered services (offline), at counters with direct citizen-state interaction.

Since neither the aforementioned laws individually, nor the specific legislation contain regulations on the manner and principles of delivering services tailored to the digital approach, all three laws must be read harmoniously in order to understand the applicable regulatory framework in force.

Given the way the Code is designed, its regulations apply in the context of providing public services in the traditional manner (offline) with direct interaction between the citizen and the public servant. One reason for this may be related to the timing of its adoption, i.e., years before the advancement of the digital agenda, which, as described in the introductory part, has gained significant momentum since 2020. Nonetheless, the principles outlined in Chapter II (General Principles) are universal principles of public service delivery that should also be applicable to online services in the era of the digital agenda. How this is realized remains at the discretion of the legislator, however, in exercising this discretion, the legislator must consider the principles and elaborations in international documents or EU Directives. In all cases, existing digital systems (or those to be built) must follow the logic, principles, and guarantees of the law. Circumventing the legal guarantees of the Code of Administrative Procedures and relevant legislation, in general, produces acts that do not realize and improve fundamental rights

and freedoms, do not contribute to the measures necessary for their implementation, and do not strengthen the rule of law.

For example, Article 10 (The Principle of Providing Active Assistance) stipulates that the public body should promote the opportunity for the concerned party to access the public authority electronically. However, this opportunity is not associated with any obligation for the party to use the means of electronic communication. The Code envisages offering digital services as an option alongside traditional service delivery, thus recognizing the citizen's right to choose.

Furthermore, Article 17 mentions the obligation of the public body to conduct its activities in accordance with the principle of equality. This provision applies to all public bodies in the Republic of Albania, including those established recently to support the digital agenda.

Law No. 43/2023 "On Electronic Governance" sets out the general principles of electronic governance and specifies the obligations that public authorities and private entities should comply with in the provision of electronic services; the rights of natural persons, private entities, and public authorities to communicate with each other through information technology; the functioning and interaction between public authorities and private entities in the context of electronic governance; the infrastructure of electronic services; the system of management and registry of electronic documents by the state administration institutions at central and local levels (Article 2).

With regard to the general principles on which electronic governance is based, the following apply: a) the security of information systems and related service infrastructure; b) legality; c) the protection of the public interest; ç) submission only once; d) open data; dh)

the construction of the electronic governance infrastructure; e) protection of personal data (Article 5). Some of these principles, specifically a) and e), are also provided for in the Code of Administrative Procedures.

However, the general principles of the Law No. 43/2023, “On Electronic Governance” do not include equal access and the principle of non-discrimination in the context of digitalization. It makes reference to the Code of Administrative Procedure only as regards the time frames for service delivery. Despite the lack of reference to the principles of the Code and lack of specific provisions in this law regarding equal access and non-discrimination, the principle of hierarchy of norms requires that these principles be applied and realised by the public administration bodies offering digital services. The prevailing principles of the Code should be made applicable through the enactment of a diversified approach that allows service delivery with interaction at institutions’ counters, as well as online. Furthermore, this should be reflected in the conceptualization/design of the platforms and the relevant built-in features. Finally, the principle of non-discrimination and equal access should form the basis for building the monitoring mechanisms of these systems to ensure their continuous improvement and the elimination of discrimination or barriers to access, if they are found to exist. These principles should also permeate the analysis of the systems’ effectiveness vis-à-vis specific population groups, assessing their adequacy in ensuring equal treatment or providing barrier-free access.

Law No. 107/2021, “On Co-Governance” sets the rules for co-governance with citizens through their inclusion in policy-making, guaranteeing their participation in administrative decision-making procedures, and increasing the accountability and transparency of the state administration through the platform, “With you for the Albania we want” (Article

1). Co-governance is based on the principle of increasing access to public services, which means that, “*State administration institutions, in accordance with their competencies and adhering to the principle of interinstitutional cooperation, must guarantee the provision of public services to every citizen, regardless of gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic, educational, social status, or parental background, through simple and transparent administrative procedures, which enable greater access to public services through innovative and technological solutions*” (Article 6).

Based on the above, it appears that the legislator intends for *every citizen*<sup>34</sup> to have access to services through innovative and technological solutions. Furthermore, the legislator wills that these innovative and technological solutions improve citizens’ lives, without any distinction between the various social groups, rather than make it difficult.

Article 10, which refers to the principle of equal treatment, states that state administration institutions shall guarantee *every citizen or interest group* equal opportunities and rights in respect of proposing, being informed and consulted, and participating in all stages of the design, drafting, and adoption of initiatives aimed at improving the provision of public services, as well as debureaucratizing and increasing the efficiency of the state administration. By way of its formulation, this article is not related to equal access, or the principle of non-discrimination in the context of accessing digital services. Furthermore, the formulation of this provision contains declarative and insufficiently concrete elements on how citizens’ involvement should occur. Such formulation makes it difficult to create reliable

<sup>34</sup> According to the terminology used in the Constitution, some rights/freedoms are recognized specifically for Albanian citizens; others are recognized for “everyone,” “anyone,” or “nobody.”

and sustainable measurement mechanisms, as well as mechanisms that control effectiveness and transparency of *how* opinions are collected and *how* changes stemming from citizens' will are reflected. According to the People's Advocate, any initiative that offers equal opportunities and improves citizens' access to governance or policy-making is welcome.

However, it is important that these initiatives do not treat citizens merely as consumers of information or as resources for creating the public opinion. On the contrary, they should guarantee and promote citizens' active roles as valued and engaged contributors to democratic processes. This implies that citizens should have real opportunities to participate in decision-making, express their views and concerns, and effectively influence public policies. Mechanisms should be created to empower citizens and give them the responsibility to contribute to building a more just and democratic society. In this way, citizens' role goes beyond a passive role as listeners or recipients of policies set by others. Rather, they assume an active role as co-creators of these policies. Only then will any initiative, aimed at improving access and equity in governance, fully achieve its purpose and contribute to building a sustainable democracy with full civic participation.

Decision No. 252, dated 29.04.2022, "On the procedures for providing online services by service-providing institutions and the methodology for monitoring and controlling the administrative activity for provision thereof,"<sup>35</sup> was adopted based on Article 61, paragraph 3 of this law. This decision aims to regulate: a) the procedure for providing the service electronically by the state institutions in order to issue a final electronic document, complete with an electronic signature or seal, to the requesting subject; ...c) the methodolo-

<sup>35</sup> Cited and explained in the Introductory Section of this Report

gy of monitoring and controlling the administrative activity that is carried out to provide the service electronically.

This decision is the act that determines the manner of providing services (*online*) and the exclusive nature of this approach.

Part of the domestic legal framework is also DCM No. 623, dated 26.10.2018, "On the approval of the Citizen's Rights Charter in obtaining public services," which lists, in the form of a catalogue, 20 rights of citizens and businesses in obtaining public services.<sup>36</sup>

This act was issued in implementation of Law No. 13/2016 "On the manner of providing public services at the counter in the Republic of Albania," which regulates the activi-

<sup>36</sup> The Rights Include: 1. The Right to Information; 2. The Right to Use Public Services; 3. The Right to Withdraw a Request; 4. Avoidance of Burden on Citizens and Businesses; 5. The Right to Equal Treatment in the Provision of Public Services; 6. The Right to Active Assistance During the Service Provision Process; 7. The Right to Effective Resolution; 8. The Right to Have Your Request Processed According to the Order of Application; 9. The Right to Receive Service Within Reasonable Timeframes; 10. The Right to Receive Service Transparently; 11. Alternatives in Request Submission and Service Provision; 12. The Right Not to Be Penalized for Errors/Inaccuracies by State Administration Institutions; 13. The Right to Appeal; 14. Infrastructure in the Provision of Public Services; 15. Accountability to Citizens and Businesses; 16. Protection of Personal Data, Information, or Trade Secrets; 17. The Right to Preliminary counselling; 18. The Right to Quality Service; 19. Participation in the Improvement of Public Services; 20. Publication, Information, and Education

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ty of the Agency for Integrated Public Service Delivery (ADISA). According to point 2 of this act, the rights provided in this charter are applicable to line ministries, other institutions responsible for providing public services, independent institutions, and local self-government units, according to the provisions in the legislation in force regarding the manner of providing public services at the counter. At the end of the act, it is stipulated that the rights recognized and guaranteed in this charter should be communicated in various ways to the civil servants/employees who provide public services, as well as to citizens, with the aim of educating them to respect these rights in the practice of public service provision.

As formulated, this act has a declarative character. Essentially, the act does not create new rights but lists and affirms in a concise and understandable manner the rights that are recognized and provided for by the overall constitutional and legal framework. The act serves as an awareness tool not only for citizens and businesses but also for the employees involved in public service provision.

# V. FINDINGS

## VI. ACCESS

For the purposes of this report, *access* refers to the consequences of the digitalization of public services, focusing on how this affects citizens' rights to access these services and their constitutional right to information. This includes an analysis of *how* closing in-person service counters has affected the ability of people to access public services. The goal of the analysis is to identify measures that could provide alternative options for accessing services, ensuring these are available to everyone, especially those who lack access to technology or the internet. Given the current situation and strategic objectives, the government's role is crucial in ensuring that citizens can exercise their right to access public services. Finally, the analysis also examines the role of civil society and other stakeholders in helping citizens navigate and access these services, considering the support they have offered and *the ways* in which they have done so.

### VI.1 Technological Barriers in Albania

The technological barriers that hinder citizens from fully and easily accessing online services in the local context manifest in various forms.

The rapid pace of digitalization inevitably creates a significant digital divide. Not all citizens in Albania can access computers (especially the latest ones), smartphones, or the necessary quality of internet through broadband networks.<sup>1</sup> In most rural and remote ar-

<sup>1</sup> NGA Broadband networks are: i) access networks based on optical fibre (FTTx); ii) upgraded cable networks; iii) some advanced wireless access networks, capable of providing high speeds to users.

reas, internet connectivity plays a crucial role in reducing the digital divide, compensating for distance, reducing isolation and depopulation, and lowering costs through the use of online services.<sup>2</sup>

A primary barrier in the domestic context is the *quality of internet networks*. Access to high-speed or very high-speed internet is enabled through digital/broadband networks. It's noteworthy that in Albania, the construction of digital networks has been undertaken by electronic communication operators, mainly where demand has been high and where there has been the possibility of return on investment. In rural or remote areas with low development and fewer population, the construction of these networks is minimal or non-existent, creating a digital divide between rural and urban areas. In Chapter 10: Digital Transformation and Media of the 2023 Progress Report, it is noted that the gap between urban and rural areas still persists as regards the availability of fixed broadband networks: *"In 2022, fixed broadband internet reached 585,285 entities (535,049 private subscribers and 50,236 businesses), an increase of 5% from 2021... There is still a gap in penetration between rural and urban areas. Only 20% of all fixed broadband connections are in rural areas, while 40% of*

<sup>2</sup> Given the importance of developing broadband networks for economic development and social cohesion, European Union member states, in addition to private operator investments, have intervened with public funding in the form of state aid to expand these networks. The local legal framework provides a state aid scheme for the expansion of networks. See: Decision of the Council of Ministers No. 434, dated 03.06.2020, On the approval of the National Plan for the sustainable development of digital infrastructure 2020-2025, <https://www.infrastruktura.gov.al/wp-content/uploads/2020/07/VKM-434-date-3.6.2020-Per-miratimin-e-Planit-Kombetar-per-Zhvillimin-e-Qendrueshem-te-Broadband-2020-2025.pdf>, and the Guidelines for State Aid in Broadband, approved by the State Aid Commission Decision No. 92, dated 25.11.2019, based on Law No. 9374, dated 21.04.2005 "On state aid," as amended.

*the population lives in rural areas.*”<sup>3</sup> Moreover, internet costs may not be affordable for every citizen, especially those in need. Given the importance of internet access, which is equated with access to electricity, water, or healthcare services, it is necessary to consider the possibility of including internet payment in the economic aid/assistance basket for needy families.

Another essential barrier is the *economic ability* to afford the necessary devices (smartphones, tablets, computers, etc.) of a quality that allows the use of digital services. Although there are no accurate figures or estimates on what percentage of society cannot afford these types of communication devices, it is however, assessed that such cases are more prevalent in rural areas and among marginalized groups in urban areas.

Another barrier relates to the *knowledge and personal skills* required to use digital services. According to Eurostat, an individual is considered to have basic digital skills if they can perform at least one activity in each of the five different competency areas: the ability to understand information and data (when searching for information online), communication (e.g., sending emails); creating digital content (e.g., programming); security (e.g., protecting personal data); and problem-solving (e.g., installing software).<sup>4</sup> Thus, *the interface of the system or application* may be complicated for citizens who have limited knowledge and skills in navigating the digital world. There are several factors that may prevent a citizen from accessing services, such as a complex format, unclear instructions, or design elements that are not accessible or user-friendly. When citizens lack these digital

skills and encounter difficulties, they often seek assistance, but they do not always receive the information they need. The system may not function properly, there may be no response to calls made to publicly available phone numbers, or there may be a lack of toll-free service lines.

Despite the increasing numbers of electronic contacts with public authorities, according to INSTAT (as mentioned in the introduction), the interaction remains at the level of downloading documents or receiving information, without advancing beyond basic use. In addition to groups that typically lack the necessary knowledge/skills, such as the elderly or people with disabilities, there are also other groups like farmers or citizens aged 40-60 who do not have the digital agility needed to interact with smartphones or the “e-Albania” platform. It is worth noting that there is still no accurate assessment from an authoritative source regarding the number of people in Albania who face difficulties with digital technology and, as a result, are affected by the digital divide and lack access to public services.

Beyond these barriers, which are partly related to the economic-social or geographical situation of the citizen, there are other factors that create technological barriers.

Another important element in the global context is *language adaptation*. Public services often do not offer a language adaptation option, making it difficult for citizens living in Albania who do not speak Albanian, or have limited proficiency, to use and understand these services. This is a critical factor that exacerbates the digital divide for national minorities, especially when they are also elderly or migrants.

Many citizens are also hesitant to use online services *due to concerns about the security and confidentiality of their personal information*. This is primarily related to concerns

<sup>3</sup> European Commission (2023), Albania 2023 Report, Brussels, 8.11.2023, SWD(2023) 690 final, fq.94, [https://neighbourhood-enlargement.ec.europa.eu/system/files/2023/11/SWD\\_2023\\_690%20Albania%20report.pdf](https://neighbourhood-enlargement.ec.europa.eu/system/files/2023/11/SWD_2023_690%20Albania%20report.pdf).

<sup>4</sup> <https://ec.europa.eu/eurostat/web/interactive-publications/digitalisation-2023>



about *'identity theft'* or data breaches. It is a known fact that on December 22, 2021, various media outlets published a report titled, "Scandal with the private data: the salaries of over 637 thousand Albanians made public." It was revealed that a database containing the personal data of over 637 thousand subjects, both public and private sector employees, was circulating on the WhatsApp application (for more information see *Privacy* below).<sup>5</sup> A few months later, on July 15-16, 2022, many government systems hosted by the National Information Society Agency were subjected to a cyber-attack aimed at completely erasing them.<sup>6</sup> Other cases related to leakage of political-patronage information, or misuse of identities of the elderly in transactions concerning the incinerator affair, validate citizens' concerns and scepticism regarding the use of digitalized systems.

Another major issue is the lack of *technical support* when citizens run into problems accessing online services. This problem arises when there are no help channels available in cases of system failures or service interruptions, which can make it difficult for certain groups of people to use these services. According to Albania's Digital Agenda, there have been improvements to the platform that aim to make it more user-friendly for everyone. Examples include the Virtual Assistant 1.0 and other similar applications in development. However, this process of making the platform more accessible is ongoing and requires continuous updates and refinements.

Another challenge relates to the process of *digital authentication and identification* needed to use services on the "e-Albania" portal. Although biometric verification is not required, users must log in with personal cre-

dentials sent to their phone (now including a 6-digit code) and sometimes use a digital signature to access services. This can create an additional hurdle for citizens who don't have access to this technology or lack the necessary documents. Obtaining a digital signature requires a separate procedure, which must be completed before accessing services and usually comes with a fee and renewal requirements.

A further challenge that may not be obvious at first is *device compatibility*. Not all websites or applications are optimized to work properly on all types of devices. Often, people encounter problems because certain applications or websites are not compatible with older smartphones, tablets, or computers.

Additionally, *people with disabilities* face significant challenges when trying to use these platforms. This implies that those with visual or hearing impairments may not be able to access services due to the way the platform is designed. The People's Advocate highlighted this issue in its 2022 Annual Report, noting that many websites are not accessible to people with disabilities.<sup>7</sup> Point 40 of the Digital Agenda Action Plan sets forth a measure with respect to adapting the Government Portal and official websites for persons with disabilities. This measure must be completed by 2025.

Another category affected by access adversities are *the beneficiaries of economic assistance*. Economic assistance is one of 23 services provided by the Ministry of Health and Social Protection on "*e-Albania*." In this case, the electronic service helps citizens who have applied for economic aid to check the status of their application online, as well as accessing information about the assistance

5 <https://www.idp.al/wp-content/uploads/2022/11/Vendim-TATIME.pdf>

6 See for more details: Detailed analysis of the cyber-attack published by the National Information Society Agency, <https://akshi.gov.al/raporte-vjetore/>

7 Annual Report, p. 120 2022 fq.120 <https://www.avokatipopullit.gov.al/media/manager/website/reports/Raporti%20vjetor%20i%20veprimtarise%20se%20institucionit%20te%20Avokati%20te%20Popullit%20per%20vitin%202022.pdf>

they received over the past 12 months.<sup>8</sup> Given the population group that is the target of this program (families in need, orphans not in institutions, families with more than 2 children born at the same time categorised as families in need, victims of trafficking, victims of domestic violence under protection order or immediate protection order, who are not treated in social care institutions), belonging to this group inherently creates a barrier to accessing the internet and the services offered online.

### **V12 The Need for a Diversified Approach and Provision of Alternative Services**

In recent years, the digital approach to public service delivery in Albania has been widely regarded as a positive development by citizens, institutional representatives, and NPOs. This digitalization facilitates interactions along the axes of government-business-government and government-citizen-government. However, there is a consensus that digital access should be part of a *diversified approach*,<sup>9</sup> where services of high social and economic importance are tailored as much as possible to meet the needs on the ground (considering geographic location and social or cultural context). Implementing a diversified approach to public services (both online and offline) is essentially the materialization of the principle of proportionality (Article 17 of the Constitution). At its core, this principle involves balancing interests fairly, evaluating them objectively, and avoiding conflicts by choosing appropriate methods to achieve the desired outcomes.<sup>10</sup>

8 [https://e-Albania.al/eAlbaniaServices/ServiceList.aspx?service\\_filter=INS&institution\\_id=47&service\\_type=Y](https://e-Albania.al/eAlbaniaServices/ServiceList.aspx?service_filter=INS&institution_id=47&service_type=Y)

9 According to the Code of Administrative Procedures of the Republic of Albania, Article 10, point 2, which stipulates: "The public body promotes the opportunity for the party to access the public authority electronically. This opportunity is not connected with any obligation for the party to use electronic means of communication."

10 Decision no. 52, dated 05.12.2012; or no. 1, dated

In a broader context, Additional Protocol 26 of the European Union Agreement emphasizes that EU member states implementing a digital agenda in public service provision should adopt a diversified approach.<sup>11</sup> Similarly, other EU structures, such as the Fundamental Rights Agency (FRA), stress that regardless of how member states choose to deliver services, they must ensure high quality, security, financial accessibility, equal treatment, the promotion of universal access, and the protection of users' rights. From the perspective of fundamental rights, this means that those (citizens) who cannot or do not wish to access public services digitally should have offline access, ensuring no one is left behind.<sup>12</sup>

In France, within the framework of implementing the digital agenda undertaken by the government and facing challenges similar to those experienced by the Albanian citizens, the institution of the *Défenseur des droits* in the Report on the Dematerialization of Public Services<sup>13</sup> emphasized that no one should be compelled to seek dematerialized services in interactions with the administration. For this reason, this institution recommends that users of public services, upon request, should be able to visit administrative offices to complete administrative procedures within a reasonable time, within the two-month deadline set for this purpose. The existence of digitalized services does not imply an obligation to submit

06.02.2013, of the Constitutional Court.

11 Treaty on European Union - Protocol (No 26) on services of general interest, Official Journal 115, 09/05/2008 P. 0308 – 0308, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008M/PRO/26>

12 Main finding from FRA Report, 'Fundamental rights of older people: ensuring access to public services in digital societies', dated 13.09.2023. <https://fra.europa.eu/en/publication/2023/older-people-digital-rights?page=1#read-online>

13 The Defender of Rights (2022), *Report Dematerialisation of Public Services: three years later where are we?* fq. 68. <https://www.defenseurdesdroits.fr/rapport-dematerialisation-des-services-publics-trois-ans-apres-ou-en-est-265#:~:text=La%20d%C3%A9mat%C3%A9rialisation%20offre%20de%20nouveaux.pour%20nombre%20d'entre%20eux.>

applications electronically to the administration.

In line with the above, domestic institutions that protect fundamental rights and freedoms have also stated that the communication of subjects/citizens with the “*e-Albania*” portal, for the purpose of receiving electronic services, should not be limited to this portal alone. This communication method should be an alternative option for provision of such services by public institutions.<sup>14</sup>

The difficulties in access have been acknowledged by the executive itself, as evidenced by correspondence between the Prime Minister’s Office and the Commissioner for Protection from Discrimination (CPD) during a complaint review<sup>15</sup> regarding issues with the provision of online services through the “*e-Albania*” platform. Within this investigation, a letter dated June 22, 2022 by the Prime Minister’s Office informed the Commissioner about the implementation of DCM No. 252/2022, stating that “...among the issues identified are the difficulties faced by some citizens in accessing online services due to old age and/or lack of appropriate electronic devices. In response to this issue, each institution responsible for providing online services has appointed one or more employees to assist any citizen who, for various reasons, encounters difficulties in obtaining online services independently.” This measure taken by the executive contains elements of a diversified approach that, if implemented consistently (systematically), uniformly, and indiscriminately by all central institutions (offices/directorates/local branches) that provide services, will facilitate citi-

zens’ access to those services.

The need for a diversified approach through other alternative offline mechanisms was also emphasized during field meetings. Within the discretion that the legislator enjoys, it is essential to design a diversified approach (with offline mechanisms) addressing current and future challenges in accordance with the political digital agenda (strategic documents), ensuring systematic and uniform implementation. The existence of these offline mechanisms does not undermine the digital approach applied by public bodies offering the respective services according to the law.

Finally, the need for a diversified approach through alternative offline mechanisms is also driven by situations where the digital system may be out of service for various reasons (as in the case of the cyber-attack mentioned in the section on technology barriers, or due to system upgrades/maintenance, such as what happened in early February 2024 when “*e-Albania*” was non-functional for two days). These situations infringe on the rights of citizens who, even temporarily, are unable to access public services online.

### **V.13 The Digital Approach and Its Impact on the Exercise of the Right of Access to Public Services**

The exercise of the right of access to public services is intrinsically linked to the realization of the fundamental rights and freedoms of citizens as enshrined in the Constitution (Articles 18, 20, 41, 42, 49(2), 52, 53, 54, 55, and 57). The Constitutional Court, in its jurisprudence, emphasized that the enshrining of human rights and freedoms in the Constitution, along with measures to realize them, should aim at improving and enhancing the standards of rights, as well as strengthening the rule of law. If the measures taken unreasonably worsen the legal situation of other persons, deny

<sup>14</sup> Opinion by the Commissioner for the Right to Information and Personal Data Protection on the draft law “On electronic governance,” p. 6. <https://www.idp.al/wp-content/uploads/2022/01/Dhenie-mendimi-1.pdf>

<sup>15</sup> COMMISSIONER FOR PROTECTION FROM DISCRIMINATION, Decision No. 179, dated 12.09.2023, p. 6, <https://www.kmd.al/wp-content/uploads/2023/09/Vendim-nr.-179-date-12.09.2023-R.G-kunder-Agjencise-Shteterore-te-Kadastres-Diskriminim-ndersektorial-dhe-te-terthorte.pdf>

their acquired rights, or ignore their legitimate interests, then the constitutional principle of equality of rights will be violated, and the overarching goal of building a state based on the rule of law will be at risk.<sup>16</sup>

Restricting government-citizen-government communication solely through the “*e-Albania*” portal affects citizens’ access on two levels, which, although seemingly independent at first glance, are organically interconnected. The first level involves the technical skills required to independently access and navigate the platform, including obtaining necessary codes/passwords and understanding the required technology. The second level pertains to the legal knowledge and personal skills needed to independently benefit from the services offered. When citizens cannot independently undertake these actions, questions arise about *who* can assist them—*family members, state structures* (local/central), or *various private operators*. Assistance from private operators comes with additional costs for the citizens.

Field meetings revealed that citizens have sought answers to these dilemmas from various sources available in their locality. Beyond traditional sources, such as help from family members, citizens have turned to state structures like the Legal Aid Offices,<sup>17</sup> local

<sup>16</sup> Decision of the Constitutional Court No. 9, dated 26.02.2007.

<sup>17</sup> Legal Aid Offices exist in only 20 cities in the country, covering just one-third of all municipalities in the territory. According to Law No. 111/2017, these offices can provide primary legal assistance, which, according to Article 3(b), includes: i) providing information about the legal system in the Republic of Albania, current normative acts, the rights and obligations of legal subjects, and methods for exercising these rights in judicial and extrajudicial processes; ii) providing advice; iii) providing counselling on mediation procedures and alternative dispute resolution; iv) assisting in drafting and preparing the necessary documents to address state administration, or to seek secondary legal aid; v) representing individuals before administrative bodies; and vi) providing all other forms of necessary legal support that do not constitute secondary legal aid.

structures such as the Social Service Offices,<sup>18</sup> Regional Offices of the People’s Advocate,<sup>19</sup> or the Commissioner for Protection from Discrimination, as well as private entities such as NPOs, law offices, notaries, or internet centres.<sup>20</sup> However, these sources may not always operate within a suitable and responsible legal framework, or they may not always guarantee professionalism in the information provided, as seen with internet centres. The assistance provided by notaries or law offices, in a principled manner and in accordance with legal provisions on personal data protection, meets legal conditions for helping both with access to the platform, and legal advice for using and obtaining the respective services.

Citizens have had to pay extra fees for services received from law offices, notaries, or internet centres, such as “*help with access*” and “*legal advice on the application process*.” These fees are on top of the standard application fee (in cases where a fee is legally required to obtain the service, such as with the State Cadastre Agency (SCA)). This means that, in addition to the application fee, citizens living in urban areas with easy access to public or private transportation face extra costs for accessing these services.

The free assistance provided by the Legal Aid Office, representatives of the Municipality, and the Social Services Office has been a positive development, helping ease the implementation of the new approach and reducing the additional financial burden on citizens.

<sup>18</sup> Most of the assistance provided involves downloading personal and family certificates, which are legally required to receive assistance. In these cases, the officials access the portal using the citizen’s credentials, as they do not have integrated access to these documents.

<sup>19</sup> Seven offices across the territory, specifically in Kukës, Shkodër, Vlorë, Berat, Sarandë, Pogradec, and Dropull.

<sup>20</sup> The same finding is mentioned in Decision No. 179, dated 12.09.2023, by the Commissioner for Protection from Discrimination, p.7 <https://www.kmd.al/wp-content/uploads/2023/09/Vendim-nr.-179-date-12.09.2023-R.G-kunder-Agjencise-Shteterore-te-Kadastres-Diskriminim-ndersektorial-dhe-te-terthorte.pdf>

However, this type of help, offered during this period, should not become a systematic practice. The assistance provided, although well-intentioned, has at times exceeded the respective authorities' legal powers. These structures cannot and should not be given responsibilities that go beyond their legal mandates. Continuing these activities could not only distort their functions but also undermine the intent of the lawmakers. Providing assistance and support *before, during, and after* applying for a public service should remain the responsibility of the institution legally mandated to provide that service. This should be done through help desks or information offices. Only the legally competent institution has the expertise and technical know-how to assist and guide citizens when they apply, provide updates on their application's status, complete documentation, and handle related administrative appeals.

The obligation of institutions to provide information/documentation through innovative solutions or other suitable means, without requiring citizens and businesses to present documents already available to the state administration, thus eliminating the burden on citizens and businesses, is also enshrined in the Citizen's Rights Charter under point 4, "Eliminating the burden on citizens and businesses."

This commitment remains largely declarative and has not been effectively implemented in the day-to-day practices of the public administration, nor is it effectively reflected in the relevant administrative procedures.

It is worth noting that, in the absence of fully integrated systems, officials access the platform using the citizen's credentials in their presence and with their explicit or implied consent, but without a formal written consent as required by law. Frequently, citizens request assistance with opening a personal account on "e-Albania," changing passwords, and down-

loading documents such as personal/family certificates or criminal record certificates. However, as mentioned before, the assistance provided by officials is subject to limitations related to their functional duties, professional knowledge (expertise) on the type/application elements, and the responsibility they assume.

The right to active assistance during the service delivery process, as provided in the Citizen's Charter, means that citizens have the right to be supported by institution staff throughout the entire process of obtaining a service—from the initial request to every stage of the service delivery. The Charter states that: "*civil servants responsible for delivering the service must provide information and take active steps in your favour, with the aim of facilitating the administrative process and ensuring the final realization and delivery of the services you have requested.*" It is, therefore, unrealistic to achieve this level of support solely through digital means, without the possibility of in-person interaction at service counters.

In terms of the role NPOs have played in reducing the impact of the new approach, it's been noted that in cities like Fier,<sup>21</sup> Berat, and Kukës, where these organizations have been active, they have provided practical, free-of-charge assistance to citizens. For example, in Berat, NPOs have supported citizens from national minorities by helping them apply for home renovations or register their children for school. In particular, Berat stands out for fostering a positive collaboration between various stakeholders, including the Regional Office of the People's Advocate, the Legal Aid Office, the Social Services Office, NPOs, and the Roma and Egyptian communities. This cooperation has made it easier for these vulnerable groups to access services related to

<sup>21</sup> Local NPOs have provided training to the farmers on access to the platform regarding the services available to farmers.

housing, pensions, and education.

Overall, their engagement in implementing the approach is not yet at the desired levels, considering the limited possibilities for them to secure funding from donors in this field.

In any case, ensuring citizens' access to services is the primary responsibility of the state administration. However, it's worth noting that the "e-Albania" platform does not provide clear instructions on where citizens can seek help if they face issues with accessing a service. Other avenues, such as filing complaints under Law no. 107/2021 "On Co-Governance" or filing complaints with institutions that protect fundamental rights and freedoms, are meant to correct administrative violations and restore citizens' rights. These complaint mechanisms are intended to fix problems caused by the administration but should not be confused with the process of applying for a service.

Despite improvements on the ground,<sup>22</sup> awareness and understanding on certain elements of access to services remain low, including the importance of the account as a personal archive that stores personal data (password retention, logging out after receiving the service), and interaction within the portal. To illustrate the situation on the ground, reference is made to the case of farmers in the Kukës area, who have been assisted by an NPO operating in that city to obtain services through the "e-Albania" platform. One of the findings of the NPO was that farmers had been using the same password as an easier way to remember how to access the system for services.

In less than two years since the digital approach was introduced, and given the different levels of services available (such as

<sup>22</sup> Thanks to the awareness policies implemented by the executive to educate citizens regarding the new approach, and the improvement of the platform's features that make it more user-friendly for all categories of users, such as Virtual Assistant 1.0 or similar applications that are in development.

downloading documents or handling applications of low, medium,<sup>23</sup> and high complexity), it seems that citizens are starting to rely on specific types of entities for certain services, even though there is limited official data on this trend.<sup>24</sup>

There is a trend where services related to property rights are obtained for a fee from notarial offices (applications with the State Cadastre Agency pose a high level of difficulty as they are technical and time-consuming). Other services with a medium level of difficulty, such as applying for a pension, which requires simple data entry, are provided by law offices. Internet centres are primarily used for downloading various documents such as family certificates, criminal record certificates, etc. It should be noted that despite this type of interaction, state structures like the Free Legal Aid Offices, Social Protection Offices, or the Regional Offices of the People's Advocate, and the Commissioner for Protection from Discrimination have also provided assistance to citizens.<sup>25</sup>

Officials from the aforementioned institutions (such as the Legal Aid Offices), who have been willing to help citizens access services on the platform, have not always been able to do so, due to lack of the necessary knowledge for applying in a specific field, e.g., property issues (applications with the State Cadastre

<sup>23</sup> Applications for credit extension, retirement pension arrangements, or others that involve entering data into the system, based on which the institution recognizes any given right.

<sup>24</sup> The number of official complaints submitted to the Commissioner for the Right to Information and Protection of Personal Data, as well as the Commissioner for Protection from Discrimination, is extremely low.

<sup>25</sup> According to the 2023 Annual Report of the Commissioner for the Right to Information and Protection of Personal Data (KMD), it appears that the Regional Office in Shkodër has informed/advised and referred 29 (twenty-nine) citizens to the appropriate offices regarding issues with the provision of online services, such as the method of online application for reporting the loss of identification documents and online application through "e-Albania" for obtaining retirement pensions.

Agency), or in cases where the required assistance entailed taking on the responsibility of entering accurate data such as those related to acquiring the right to a pension. Concerns have been raised that assistance to citizens, in fact, exposes the officials to a responsibility<sup>26</sup> that is not part of their functional duties. Officials have provided this service prompted by the desire to help the citizen, but they acknowledge the lack of training (skills/knowledge) for the full range of 1237 electronic services offered on the platform. They often find themselves unable to assist the citizen, as each service has its own specific application methods and service modalities.

## V2 NON-DISCRIMINATION

From the perspective of this report, *discrimination* is closely linked to the effects that the digitalization process has had on the ability of certain groups to access the public services guaranteed to them by the Constitution and legislation. *In accordance with the above*, it is important to analyse discrimination not only as direct unfavourable treatment but also as a consequence of laws or policies that apply equally to all citizens yet affect some groups negatively. During field meetings, all stakeholders emphasized the role the government must play, as well as the impact civil society has had in mitigating the negative effects of digitalization, ensuring that every citizen's rights to online public services are respected.

Equal treatment and enjoyment of fundamental human rights without discrimination as a principle is enshrined in Article 18 of the

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<sup>26</sup> Article 15 of the Code of Administrative Procedure stipulates that public bodies and their officials, when conducting an administrative procedure, are responsible for the damages they cause to the parties, in accordance with the relevant legislation.

Constitution. The Constitution stipulates that all citizens are equal before the law and cannot be discriminated against based on a closed list of grounds, except where there is reasonable and objective justification.<sup>27</sup> The Constitution provides special protection for national minorities aimed at ensuring they enjoy their rights and freedoms on an equal footing before the law.<sup>28</sup>

In line with this constitutional principle, the legislator has enacted specific legislation, namely the Law "On Protection from Discrimination" (LPD), which aims, among other things, to ensure equal opportunities for all individuals to exercise their rights as recognized by the Constitution, laws, and the ratified international acts (Article 2).

The Law on Protection from Discrimination specifically protects every citizen from discriminatory behaviour in accessing services provided by public and private entities. In a dedicated chapter (Chapter IV), the LPD prohibits discrimination in the field of goods and services, stipulating that anyone offering services to the public (whether for a fee or free-of-charge) cannot discriminate against any person by refusing to provide the service on the protected grounds under this law, or by offering the service in a manner, conditions, or quality that is different from those offered to the public in general.<sup>29</sup> This legal provision should be interpreted alongside the jurisprudential understanding of discrimination, not only as unequal treatment of persons in similar conditions (formal equality) but also as equal treatment of persons in different condi-

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<sup>27</sup> Article 18, point 2 of the Constitution expressly provides for the following as protected grounds: gender, race, religion, ethnicity, language, political, religious, or philosophical beliefs, economic status, educational status, social status, or parental affiliation.

<sup>28</sup> Article 20 of the Constitution of the Republic of Albania

<sup>29</sup> Law on Protection from Discrimination, Article 20, point 1.

tions (substantial equality).<sup>30</sup> Although it does not explicitly address cyberspace, the Law on Protection from Discrimination is applicable to violations occurring in any environment and by any means, including cyberspace.<sup>31</sup>

The Government's Digital Agenda for 2022-2026, although it does not explicitly mention non-discrimination as a guiding principle of the process, is implemented in line with constitutional provisions, which obligate the public administration to respect this principle. The Digital Agenda aims to improve citizens' lives and leverage digital technology as a social equalizer, enabling citizens to engage and contribute to society regardless of age, gender, education, economic status, sexual orientation, or ethnic background.<sup>32</sup>

While the legal framework seeks to regulate relations in a specific area, the outcome (result) of its implementation does not always align with the legislator's intent. This can occur because legislation, even if well-intentioned and designed to improve a specific field, may have unforeseen or unintended effects in practice. The legal consequences of implementing the law can vary for different people and groups, placing some in unfavourable conditions. In the case of legislation on the digitalization of public services, its implementation has had different effects on various groups of citizens. While some citizens have been able to benefit from the new services with ease and efficiency, others have faced

significant difficulties in accessing and using these services. This happens due to factors including a lack of technological skills, lack of internet access or digital devices, and lack of knowledge about using new digital platforms. This indicates the need for a more inclusive and supportive approach to ensure that all citizens have equal opportunities to benefit from digitalized public services.

By way of formulation, the Law on Protection from Discrimination outlines two forms of discrimination: direct and indirect. *Indirect discrimination* is closely related to the implementation of legislation or seemingly neutral practices that result in less favourable treatment of a person or group of persons on the protected grounds under the LPD.<sup>33</sup>

In an effort to ensure that all citizens can access public services, institutional mechanisms for the protection of human rights have reacted immediately following the decision to implement the digital-only approach. The People's Advocate has sought information from NISA regarding the possibilities for people with disabilities to access public services on "e-Albania."<sup>34</sup> Meanwhile, the Commissioner for Protection from Discrimination has addressed issues through individual or group complaints, as well as those submitted by NPOs. Although the number of reported cases remains low, the general approach has been to consider such issues as a structural violation of human rights. Information from field meetings with municipal authorities indicates that the efforts of various actors have focused on supporting access to services, rather than taking a complaint-based approach aimed at restoring the violated right.

#### The Law on Protection from Discrimina-

<sup>30</sup> European Court of Human Rights (ECHR), Application no. 34369/97, Judgment dated 06/04/2000, paragraphs 46 and 47.

<sup>31</sup> Geneva Centre for Security Sector Governance (DCAF) and Institute for Democracy and Mediation (IDM) (2022), Bridging the Gap between Cybersecurity and Rights, p. 12.

<sup>32</sup> This objective is outlined in Objective 2 (Citizen Preparedness for Future Challenges) of Goal 3 (Digital Citizens: Citizens and Privacy, Data Transparency, and Services to Citizens) of the Digital Agenda 2022-2026. See: Council of Ministers Decision No. 370/2022, for the approval of the Inter-Sectoral Strategy "Digital Agenda of Albania" and the Action Plan 2022-2026, p. 26.

<sup>33</sup> Law on Protection from Discrimination, Article 3, point 7

<sup>34</sup> People's Advocate, Annual Report – Activity of the People's Advocate institution, Year 2022, p. 120. [Annual report of the activity the institution of the People's Advocate for the year 2022.pdf](#) (avokatipopullit.gov.al)



tion provides protection against discrimination in the field of services for an open list of protected grounds<sup>35</sup> which were identified during the drafting of this report as factors that hinder or complicate efforts by certain groups of citizens to enjoy their rights to access the services provided by public authorities through the digitalization of administrative procedures. Some of the supposed reasons for discrimination in accessing online public services include race, ethnicity, colour, language, economic and educational status, age, family background, marital status, residence, health condition, disability, and membership in a specific group.<sup>36</sup> As noted in the analysis of Access, some issues were also highlighted during an inspection by the Prime Minister's Office in May 2022, which noted "*difficulties faced by some citizens in accessing online services due to old age and/or lack of appropriate electronic devices.*"<sup>37</sup>

The right to equal treatment and non-discrimination in accessing public services is also stipulated in the "Citizen's Charter for Accessing Public Services," which prohibits the use of discriminatory criteria in providing

services for an open list of grounds.<sup>38</sup>

In analysing the information gathered from the meetings, it appears that certain groups face discrimination based on more than one reason when accessing public services, and these reasons interact with one another. For example, older individuals are discriminated against not only based on "age" but also due to "educational status" or "digital skills" (the last two considered as "other reasons" since digital skills are not explicitly mentioned in the Law on Protection from Discrimination). Accordingly, the LPD identifies severe forms of discrimination, where discrimination is based on more than one reason, is repetitive, occurs over a long period, or has particularly harmful consequences for the victim.<sup>39</sup> Additionally, the LPD considers the denial of reasonable accommodation as a specific form of discrimination.<sup>40</sup>

In this context, the following is a case handled by the CPD involving discrimination based on educational status and age. The complainant, due to her old age and low educational level, as well as her economic condition, lacked the skills, knowledge, and means to independently access a cadastral service

35 The Law on Protection from Discrimination, Article 1 stipulates that: This law regulates the implementation and respect for the principle of equality and non-discrimination in relation to race, ethnicity, colour, language, nationality, political, religious or philosophical beliefs, economic, educational or social status, gender, gender identity, sexual orientation, sex characteristics, living with HIV/AIDS, pregnancy, parental affiliation, parental responsibility, age, family or marital status, civil status, residence, health status, genetic predispositions, physical appearance, disability, affiliation with a special group, or any other reason.

36 This information is gathered from all meetings at the regional offices of the People's Advocate and the Regional Office of the Commissioner for Protection from Discrimination in Fier.

37 This information was sent by the Prime Minister's Office to the Commissioner for Protection from Discrimination during the process of reviewing a complaint related to the provision of online services through the 'e-Albania' platform. See: Commissioner for Protection from Discrimination, Decision No. 133 dated 5.7.2022. [Decision-no-133-date-05.07.2022-Vendim-nr.-133-date-05.07.2022-R.G-kunder-Keshillit-te-Ministrave-Arritje-efektiviteti.pdf \(kmd.al\)](#)

38 Point 5 of the Charter links discriminatory criteria to: gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, educational or social status, pregnancy, parental status, parental responsibility, age, family or marital status, civil status, residence, health status, genetic predisposition, disability, belonging to a specific group or any other reason.

39 Article 3/1 of the Law on Protection from Discrimination provides: Any discriminatory behaviour that is motivated by more than one cause, when committed more than once, when it has lasted for a long period, or when it has caused particularly harmful consequences for the victim constitutes a severe form of discrimination

40 Article 3/9 of the Law on Protection from Discrimination provides: Denial of reasonable accommodation is a form of discrimination that occurs whenever there is a refusal or opposition to making necessary and appropriate changes or adjustments required in a particular case, which do not impose an undue burden, in order to ensure the enjoyment and exercise of fundamental rights and freedoms, recognized within the national legal framework, on an equal basis for persons with disabilities or those in other conditions mentioned in Article 1 of this law.

provided by the State Cadastre Agency solely through the “e-Albania” platform. Consequently, she had to seek this service at an internet centre for a fee. The CPD found that the complainant, due to her advanced age, low educational level, and economic condition, was unable to independently access the cadastral service offered by the State Cadastre Agency solely through “e-Albania.” The CPD concluded that the complainant was placed in a less favourable position and was negatively impacted by this method of service delivery, even though services were offered in the same manner to everyone. The CPD further assessed that having to access cadastral services online through e-Albania, with the help of third parties, incurs additional costs for this category of people compared with other people who can access online services independently. The Commissioner stated that the State Cadastre Agency’s failure to treat the complainant differently - whereby providing an alternative method of service delivery, which she could have accessed independently despite her old age, educational level, and economic condition - was not objectively justified. Therefore, the practice followed by the State Cadastre Agency in offering online cadastral services, seemingly equal for all, was found to be in violation of the Law on Protection from Discrimination and constituted “intersectional discrimination,” where multiple grounds interact to produce unique forms of discrimination.<sup>41</sup>

Despite being one of the few complaints submitted and handled according to the law, this case fundamentally illustrates the barriers faced by this segment of society.

Parallel to the desk review of provisions on protection from discrimination in the legal framework, information was gathered in

<sup>41</sup> Commissioner for Protection from Discrimination, Decision No. 179, dated 12.09.2023. [Vendim-nr.-179-date-12.09.2023-R.G-kunder-Agjencise-Shteterore-te-Kadastres-Diskriminim-ndersektorial-dhe-te-terthorte.pdf \(kmd.al\)](#)

meetings with leaders of human rights institutions and a broad range of participants. It appeared that certain groups of people are more likely to be ‘victims’ of discrimination in accessing online public services, as indicated below. There is an awareness among participants that certain groups cannot access these services online due to a lack of practical and digital skills (mainly the elderly); others due to economic reasons (lack of financial means to buy appropriate technological devices to access the service portal); and still more people due to low educational levels (unable to fully understand the process and digital tools). The results of a 2022 survey on “Trust in Governance” show that while 82.9% of citizens claim to have used online services through the “e-Albania” portal, less than half (47.9%) did so independently, without outside assistance.<sup>42</sup>

## V21 The Elderly

The elderly are considered at higher risk of having their rights violated or disregarded, notwithstanding the ratification of the relevant international acts and enactment of domestic legislation on such rights. According to the national policy document on aging, the elderly are among the most excluded groups of the population.<sup>43</sup> Regardless of the form of public service delivery, elderly individuals in European countries, similarly to those in Albania, face barriers in accessing public services independently. They often require assistance from family members, administration employees, or various community-based organizations. During discussions, the elderly were identified as the most affected group, unable to access public services independently due to lack of education or digital skills. The

<sup>42</sup> Friedrich Ebert Stiftung (2023), *Political trends & dynamics- Cyber security in Southeast Europe: past, present, and future*, Volume 2, p. 15.

<sup>43</sup> Council of Ministers Decision No. 864/2019, on the approval of the national political document on aging, 2020–2024, and the action plan for its implementation, p.3

European Union Fundamental Rights Agency (FRA) notes that the elderly enjoy certain fundamental rights guaranteed by law, hence excluding them from access may violate the law and increase dependency, social isolation, and powerlessness among older adults.<sup>44</sup>

Both the elderly and NPOs regard the digitalization of public services as a positive process that could assist them, provided certain conditions are met to facilitate its implementation. The inability to access online services is closely tied to a lack of financial resources, which restricts access to these services (such as the inability to afford internet access or suitable electronic devices). According to an INSTAT survey, in 2023, 83.1% of the population aged 16-74 used the internet, of whom 96.2% used it multiple times a day. However, 32.3% of individuals aged 65-74 reported to never have used the internet, indicating a significant gap, even though this figure decreased by 4.6 percentage points compared to 2022.<sup>45</sup> The FRA study emphasizes that *while some groups of older adults may see the use of digital public services as a positive opportunity, the process can exacerbate difficulties in accessing these services solely online, especially for those without internet access, digital skills, or supportive individuals.*<sup>46</sup> The Commissioner for Protection from Discrimination also highlights that, despite the elderly relying on relatives or friends for assistance, institutions must take measures to support those living alone and without available assistance.<sup>47</sup>

44 European Union Fundamental Rights Agency, 2023, *Fundamental Rights of older persons- Ensuring access to public services in digital societies*, p. 7.

45 INSTAT (2023), *Use of Information and Communication Technology in Households*, 2023, pp. 1 and 5. Downloaded on 18.01.2024 from the link: [Përdorimi i Teknologjisë së Informacionit dhe Komunikimit në Familje, 2023 | Instat](#)

46 European Union Agency for Fundamental Rights, 2023, *Fundamental Rights of older persons- Ensuring access to public services in digital societies*, p. 19. [Fundamental rights of older people: ensuring access to public services in digital societies | European Union Agency for Fundamental Rights \(europa.eu\)](#)

47 Meeting with the Commissioner for Protection from

The 2020 EU Council Conclusions emphasize that *“the digital divide between generations is significant and increases with age,”*<sup>48</sup> while the FRA stresses that the elderly are not a homogeneous group, and this heterogeneity may affect how they exercise their rights.<sup>49</sup>

Key services used by the elderly include applications for pensions or social and healthcare services. Regardless of the form of delivery, the government considers these services to be critical and essential for the elderly.<sup>50</sup> In the meetings, several issues were highlighted, such as applying for admission into residential services through “e-Albania,”<sup>51</sup> requesting healthcare services online, and the provision of online public services in national minority areas predominantly populated by older individuals who lack the appropriate digital skills, as well as facing difficulties understanding the portal’s terminology in the Albanian language.<sup>52</sup>

Institutions in the country have recognised that Albania is beginning to experience the ef-

Discrimination, held on 27.12.2023 as part of the project.

48 EU Council (2020), *Human Rights, Participation and Well-Being of Older Persons in the Era of Digitalisation- Council Conclusions*, Brussels, fq. 5. Improving the well-being of older persons in the era of digitalisation: Council adopts conclusions - Consilium (europa.eu)

49 According to the FRA study, older adults reflect the same heterogeneity in demographic and socio-economic characteristics such as: gender, education, income, health status, race, and migration history. See: European Union Agency for Fundamental Rights, 2023, *Fundamental Rights of Older Persons - Ensuring Access to Public Services in Digital Societies*, p. 9.

50 Council of Ministers Decision No. 864/2019, on the approval of the national policy document on aging, 2020–2024, and the action plan for its implementation, p. 2.

51 Registration of the elderly in nursing homes is done online, and often this system does not work, hindering the placement of the elderly. The information was obtained from a meeting with representatives from institutions and NGOs, organized by the Office of the People’s Advocate, Shkodër.

52 Information from the meeting with representatives from institutions and NGOs, organized by the Office of the People’s Advocate, Dropull. Additionally, from the meeting at the Local Office of the People’s Advocate, Sarandë, it was pointed out that the Municipality of Finiq has 58 villages, and the majority of their inhabitants are elderly.

fects of population aging due to demographic changes. The number of elderly individuals is increasing, while the number of children and young people is declining. INSTAT reports that on January 1, 2023, compared to January 1, 2022, the old-age dependency ratio (the ratio of the population aged 65+ to the population aged 15-64) increased from 23.1% to 24.4%.<sup>53</sup> Additionally, average life expectancy has been steadily rising, with more people able and expected to continue participating actively in society even after retirement age.<sup>54</sup>

Despite these data, in formulating policies related to the digitalization of public services, the government considers that Albania still has a relatively young population compared to other European countries and believes that the use of artificial intelligence (AI) as part of digital transformation will gain full support from the population.<sup>55</sup>

Nevertheless, the government is aware that the elderly face difficulties in accessing public services online. For this reason, the Digital Agenda 2022-2026 aims to prepare citizens of all ages for a digital society by providing training programs for all ages, social groups, and professionals from various sectors, through a lifelong learning approach.<sup>56</sup>

*In conclusion, implementing policies for public service digitalization must be accompanied by specific supportive measures for the elderly, who are among the most affected by the technological changes. Continuous training and support, ensuring access to technology and the internet, is crucial for the elderly to equally benefit from public services. The People's Advocate emphasizes the importance of*

<sup>53</sup> INSTAT (2023), Population of Albania - 1 January 2023, p. 2. Downloaded on 18.01.2014

<sup>54</sup> Council of Ministers Decision No. 864/2019, on the approval of the national policy document on aging, 2020–2024, and the action plan for its implementation, p. 1.

<sup>55</sup> Council of Ministers Decision No. 370/2022, on the approval of the Intersectoral Strategy “Digital Agenda of Albania” and the Action Plan 2022–2026, p. 26

<sup>56</sup> Ibid, p.26-27.

*engagement, transparency, and ongoing monitoring in implementing training programs tailored to specific age groups. Focus should be placed on the elderly as the group facing the most challenges when applying to benefit from public services provided online.*

## V22 Persons With Disabilities

Albania has ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which addresses the accessibility of services and communication for people with disabilities in two key articles.<sup>57</sup>

Article 9 of the Convention, which is dedicated to *accessibility*, requires governments to ensure that people with disabilities have equal access to all aspects of life, including information and communication technologies. Similarly, Article 21 of the Convention calls on the State parties to take measures to provide people with disabilities with access to public information in formats and technologies that meet their needs, without any extra costs.

In Albania’s national policies regarding persons with disabilities, access to information and digital technology plays a significant role. Under Policy Goal 1 of the National Action Plan for People with Disabilities 2021-2025, Specific Objective 3 aims *to achieve accessibility to information and communication for persons with disabilities*. To fulfil this objective, public institutions are obligated to ensure that information is available in formats that meet the diverse needs of people with disabilities. They must also ensure that persons with disabilities can use information and communication systems on an equal basis with all other citizens.<sup>58</sup>

<sup>57</sup> Albania ratified the Convention on the Rights of Persons with Disabilities in 2012 through Law No. 108, dated 15.11.2012.

<sup>58</sup> Council of Ministers Decision No. 276/2021, on the approval of the National Plan for Persons with Disabilities, 2021–2025, p. 46.

An activity outlined to achieve this specific objective is ensuring accessibility to public services, including ICT services.<sup>59</sup> The government has recognized the need to develop a culture and practice of ICT accessibility for people with disabilities. The main goals focus on reviewing the legal framework to include accessibility elements for persons with disabilities in information and communication and adapting international standards for ICT accessibility in government portals.<sup>60</sup>

The National Disability Plan 2021-2025 anticipates the gradual implementation of accessibility standards on the “e-Albania” portal and other portals interacting with the public, particularly those related to emergencies or extraordinary situations such as earthquakes, pandemics, or other natural disasters. The plan emphasizes the importance of informing, raising awareness, and training persons with disabilities on using ICT in accessible formats.

The obligations that the Albanian state has undertaken through the ratification of the CRPD are integrated into Law No. 93/2014 “*On the Inclusion and Accessibility of Persons with Disabilities.*” This law aims to guarantee autonomous, independent, full, and effective participation of persons with disabilities in all spheres of life in an equal footing with all other citizens. This goal also extends to the provision of public services online.<sup>61</sup>

Non-discrimination is a fundamental principle of this law, reinforced by ensuring accessibility through the elimination of barriers of all kinds. Accessibility should be a progressive process, along which the government

takes measures to guarantee inclusion of and accessibility for all persons with disabilities to the maximum extent possible.<sup>62</sup>

The law provides a definition of *barriers* which includes communication difficulties for people with sensory impairments, particularly those with vision and hearing impairments, those with limited or without verbal communication, and those who require information in easy-to-read and understand formats. Furthermore, the law considers institutional barriers, including issues in legislation and policies (Article 3, point 3). These definitions should guide the government policies on the digitalization of public services. The law mandates state, central, and local institutions to gradually ensure funding for accessibility, in order to remove environmental and infrastructural barriers in public service provision (Article 12, point 2). It also establishes advisory mechanisms to make sure government policies guarantee accessibility and inclusion of persons with disabilities in all areas.<sup>63</sup> Furthermore, it sets up monitoring systems to ensure that the government meets its obligations under the CRPD.<sup>64</sup>

The Citizen’s Rights Charter for Access to Public Services stipulates the right of persons with disabilities to be given priority in public service delivery, including assistance from the staff providing these services. The charter requires that this process be based on the standards of physical accessibility and access to information. Furthermore, the communication methods, means, and formats used in delivering public services must meet the requirements for effective and appropriate communication.

<sup>59</sup> The measures outlined in the National Plan for Persons with Disabilities 2021-2025 assess the needs of different categories of persons with disabilities, specifically addressing the requirement that public facilities and services be accessible to people with visual impairments, hearing problems, and mobility difficulties.

<sup>60</sup> Council of Ministers Decision No. 276/2021, on the approval of the National Plan for Persons with Disabilities, 2021–2025, p. 47

<sup>61</sup> Law No. 93/2014, Article 2.

<sup>62</sup> Law No. 94/2014, Article 4, item a, ç and ë.

<sup>63</sup> National Council for Disability. See: Law 94/2013, Article 13.

<sup>64</sup> The People’s Advocate monitors the rights and treatment of prisoners and pre-detainees, while Commissioner for Protection from Discrimination focuses on protection against discrimination. See: Law 94/2013, Article 16.

Meetings have revealed that persons with disabilities face difficulties accessing digitalized public services. These difficulties vary depending on the type of disability. Individuals with disabilities may apply for critical services such as disability status (once a year or every six months), electricity reimbursement, or retirement. Most individuals in this group have only basic education and cannot independently complete online applications to access the services they are entitled to. Organizations advocating for the rights of persons with disabilities emphasize the need to establish digital accessibility standards and certify them.<sup>65</sup> The digital approach has yet to achieve the necessary compliance level according to disability categories, in line with international commitments and the aforementioned national legislation. Notably, achieving compliance is part of Objective 1 of the Digital Agenda 2022-2026, dedicated to “Digital Governance,” where it is anticipated that adapting the “e-Albania” government platform and official websites for access by persons with different abilities will be completed by 2025.<sup>66</sup>

In 2022, the People’s Advocate raised with NISA the issue of lack of access for persons with disabilities to online platforms, requesting the adaptation of online platforms to provide information to this group. In response, NISA states:

*“...NISA is working intensively with the World Bank to improve the ‘e-Albania’ plat-*

*form and its supporting infrastructures in order to adapt it for persons with special needs and add new functions for citizens and businesses easing their access to public services. Additionally, investments will be made to in-*

<sup>65</sup> The lack of standards was identified during the consultative meeting organized by the People’s Advocate with representatives from civil society and institutions, dated 29.02.2024.

<sup>66</sup> Council of Ministers Decision No. 370/2022, on the approval of the Intersectoral Strategy ‘Digital Agenda of Albania’ and the Action Plan 2022–2026, p. 20.

*crease basic and advanced digital skills for the population... This will also be subject to regulation by relevant legal acts according to the EU Directive on the accessibility of public sector bodies’ websites and mobile applications, planned for approval by 2024.”<sup>67</sup>*

According to NISA, the improvement of the platform to meet accessibility requirements began in 2022 and is currently underway.<sup>68</sup>

Adapting online platforms for persons with disabilities has been a concern for human rights institutions in other countries, too. The *Défenseur des droits* emphasized the importance of “enabling persons under guardianship to exercise their rights independently whenever possible.”<sup>69</sup>

*In conclusion, it is clear that fulfilling the obligations of the Albanian state to ensure accessibility and inclusion for persons with disabilities requires ongoing and sustained efforts. While some progress has been made towards improving access to online public services, significant challenges remain. Efforts to develop an accessible digital infrastructure must be supported by clear policies, adequate funding, and continuous monitoring to ensure that these efforts translate into real benefits for all citizens, especially those with disabilities. Only a comprehensive and coordinated approach may guarantee in full the rights of persons with disabilities in Albania.*

<sup>67</sup> People’s Advocate, Annual Report - On the activities of the People’s Advocate institution for the year 2022, p. 120. [Annual activity report of the People’s Advocate institution for the year 2022.pdf \(avokatipopullit.gov.al\)](#)

<sup>68</sup> Council of Ministers and National Information Society Agency, Monitoring Report 2022 - Digital Agenda of Albania 2022–2026, March 2023, p. 7. [Monitoring plan for the Digital Agenda for 2022.pdf \(akshi.gov.al\)](#) and [Monitoring Report for the period January - June 2023 - Digital Agenda of Albania 2022–2026, July 2023.](#)

<sup>69</sup> This is an obligation that is also emphasized by the Defender of Rights in France (*Défenseur des droits*). See: *The Defender of Rights (2022), Dematerialisation of public services: three years later, where are we?* p. 44.

### V23 National Minorities

National minorities in Albania which include the Greek, Macedonian, Aromanian, Roma, Egyptian, Montenegrin, Bosnian, Serbian, and Bulgarian communities are recognized by specific legislation.<sup>70</sup> In the meetings, representatives from NPOs and local institutions identified members of the Roma and Egyptian communities as some of the most marginalized groups as regards access to public services. The National Action Plan for Equality, Inclusion, and Participation of Roma and Egyptians 2021–2025 aims for 100% of Roma and Egyptian citizens to benefit from various public services, such as civil registry, primary legal aid, quality health and healthcare preventive services, increasing the number of children who complete pre-university education, as well as housing programs.<sup>71</sup> In addition to providing online services, the government has planned continuous monitoring of the implementation of the Action Plan through the electronic system “ROMALB,” which is designed to manage information on relevant interventions, beneficiaries, and outcomes.<sup>72</sup>

However, beyond government policy goals, digitalization of public services has impacted the realization of rights for these communities. Part of the Roma and Egyptian members are not registered in the civil registry, which prevents them from accessing public services, including online services.<sup>73</sup>

70 Law 96/2017, “On the protection of national minorities in the Republic of Albania,” Article 3, paragraph 2.

71 Council of Ministers Decision No. 701/2021, on the approval of the National Action Plan for equality, inclusion, and participation of Roma and Egyptians, 2021–2025, p. 36.

72 Council of Ministers Decision No. 701/2021, on the approval of the National Action Plan for equality, inclusion, and participation of Roma and Egyptians, 2021–2025, p. 63. [PLANI-KOMBËTAR-I-VEPRIMIT-PËR-BARAZI.pdf](https://shendetesia.gov.al/PLANI-KOMBËTAR-I-VEPRIMIT-PËR-BARAZI.pdf) (shendetesia.gov.al)

73 Referring to the issues raised by the civil society organizations themselves at the consultative roundtable for the presentation of the draft report, as well as in the recommendations and cases investigated by the institution of the People’s Advocate.

Even for those registered with the public offices, significant challenges persist, particularly in accessing social housing and legalization programs. To apply for these programs, a certificate from the cadastre office is required indicating that the applicant does not own any property. This is a complicated procedure with financial costs. Although their difficult economic situation does not allow them to secure housing independently urging these individuals to seek help from such programs, they often encounter barriers. The government has considered an innovation the recently introduced electronic system for online housing applications.<sup>74</sup> However, it is essential to continuously monitor this system’s functionality and the impact of this mode of service delivery on service uptake levels.

Furthermore, these communities face difficulties accessing public services in education, such as registering children in pre-school education. This process is regulated by specific laws governing the activities of local self-government bodies<sup>75</sup> and pre-university education.<sup>76</sup> Although there is no fee for this service or registration, the application requires documents that are available online.<sup>77</sup> Since children in this age group are a constitutionally and legally protected category, their parents must have guaranteed institutional support granted to facilitate online applications for these services.

#### Obtaining certificates online, including

74 Council of Ministers Decision No. 701/2021, on the approval of the National Action Plan for equality, inclusion, and participation of Roma and Egyptians, 2021–2025, p. 49.

75 Law No. 139/2015, “On local self Governance.”

76 Law No. 69/2012, “On the Pre-University Education System in the Republic of Albania.”

77 The documents required for registration in pre-school education institutions (nurseries and kindergartens) are: a personal certificate of the child with a recent photograph (from the last 3 months); a family certificate; proof of residence; a health certificate from the family doctor showing that the child has received the mandatory vaccinations; the paediatrician’s report; and stool culture analysis (faeces) if applying to a nursery.

birth certificates, is another service requiring digital access. Members of these communities lack internet access, digital skills, and appropriate technological devices to use the “e-Albania” portal and often resort to alternative ways (as mentioned earlier in the section on Access), which come with extra costs for the families.

*In conclusion, significant challenges remain in order to make sure that national minorities, particularly the Roma and Egyptian communities, benefit from digital services equitably. The lack of registration in the Civil Registry and difficulties in obtaining the necessary documentation via the online platform present significant barriers. The government must ensure institutional support and continuous monitoring to provide these communities with full and effective access to public services. This includes addressing their specific needs and reducing the costs and bureaucratic obstacles they face. An inclusive approach will enhance their quality of life and promote full integration into the Albanian society.*

## **V24 Low-Income People**

Albania’s social protection policies are anchored in the social objectives recognized by the Constitution of the Republic of Albania, which mandates the State to ensure every citizen a dignified life and quality public services, including adequate food, housing, health, and education. The 2020-2023 Social Protection Strategy and its respective Action Plan address poverty in an integrated manner, with the primary strategic goal of mitigating and alleviating poverty.

Vulnerable individuals, particularly those in difficult economic conditions or with low educational levels, face significant challenges in exercising their rights amidst the digitalization of public services. The CPD in its Annual Report 2023 notes that complaints in the

field of goods and services<sup>78</sup> (regardless of the form in which they are offered) are affiliated with various communities, mainly vulnerable groups, and are grounded on reasons such as disability, race, and economic status.<sup>79</sup>

Difficulties in accessing online services, not only in Albania but also globally, are linked to financial inability to establish internet connections and secure appropriate technological devices, or lack of skills in using technological tools or understanding the administrative language used on online service portals.<sup>80</sup> Meetings with stakeholders revealed that vulnerable groups face greater difficulties in accessing public services online.

Digitalization seems to complicate the delivery of services guaranteed to citizens by the legislation and designed to ensure the social protection of vulnerable groups.<sup>81</sup> The law on social assistance aims to alleviate poverty and social exclusion for individuals and families.<sup>82</sup> It would be counterproductive for individuals who receive essential living necessities through social assistance schemes to be forced to seek third-party assistance to apply for various public services online due to financial constraints that prevent them from having a fixed internet installation or appropriate technological devices. In the absence of administrative assistance, citizens often turn to private legal consulting offices, or internet centres, thus incurring additional service cost.

Applications for economic assistance are

<sup>78</sup> Issues in the field of goods and services accounted for 56.1% of the total issues addressed by the Commissioner for Protection from Discrimination in 2023, marking an increase of 7.8% compared to 2022.

<sup>79</sup> Commissioner for Protection from Discrimination (2024), Annual Report 2023, p. 41

<sup>80</sup> The Defender of Rights (2022), Dematerialisation of public services: three years later, where are we? p. 39.

<sup>81</sup> Social protection encompasses all interventions by state and private entities aimed at easing the burden on families or individuals for a range of needs and specific functions. See: Social Protection | InStat

<sup>82</sup> Law No. 57/2019, On Social Assistance in the Republic of Albania, Article 2, paragraph b



made by the head of the family, who shows up in person to the offices of social assistance and service delivery at the relevant municipality. The application is in the form of a self-declaration and is electronically completed by the office employee. The economic assistance scoring system integrates responses from several institutions (Employment Office, Tax Office, Social Security Office, Property Registration Office, Vehicle Registration Office, etc.), meaning that the family member is not required to physically visit the relevant institutions or electronically access the “e-Albania” platform for documentation. Family documents (e.g., family certificates) for those applying for economic assistance are generated by the administration employee who accesses the “e-Albania” portal. It should be noted that in the meetings, local self-government employees were concerned that, following the cyber-attack on the National Information Society Agency (NISA), they could no longer access the civil registry system as employees, but only through the applicant’s credentials.

Issues have been identified in the cases where women with three or more children apply for economic assistance. Since the government pays social security contributions for these women, the system records them as employed, barring them from applying for economic assistance.<sup>83</sup> Civil society organizations engaged in protecting and supporting victims of gender-based violence and domestic violence have expressed concerns about accessing the various services to which these women are entitled to by law. The digitalization of public services has complicated the procedures for victims to benefit from social

housing programs or the economic assistance scheme.

Meetings have identified as a barrier to accessing online services the lack of information on the procedures to be followed, particularly regarding the changes to be made in the civil registry prior to applying for economic assistance.

Due to low educational levels and the technical terminology used by the systems, domestic violence victims often do not fully understand the procedures they need to follow or the documents they need to upload.

In light of the need to mitigate the impact of digitalization on the rights of vulnerable groups, the People’s Advocate has emphasized the role of local self-government institutions and the approach they should take in this process, particularly as regards the need to control potential errors generated by the scoring formula.<sup>84</sup>

*In conclusion, the digitalization of public services in Albania comes with significant challenges for low-income individuals, hindering the effective realization of their social and economic rights. While national strategies aim to alleviate poverty and social exclusion, it is crucial that these policies are accessible to all citizens, especially the vulnerable groups. Financial and technological limitations, along with an inability to navigate digital systems, have made it difficult for individuals to access essential services. To address these challenges, it is essential for the government and local institutions to provide adequate support, ensure technical assistance, and offer clear and comprehensive information to all citizens, ensuring that no one is left out of the system due to digitalization. This inclusive approach will contribute to improving the lives of vulnerable*

<sup>83</sup> Information from the meeting at the local office of the People’s Advocate, Shkodër. This concern has been raised by NGOs working on women’s rights. According to them, the government pays social insurance for women with three or more children, even though they are unemployed. Since they are recorded as paying social insurance, the system, evidences them as employed and does not give them access to apply for economic aid/assistance, as they appear as having a job.

<sup>84</sup> People’s Advocate, Recommendation No. Doc. 202300529/8.

*groups and achieving a fairer and more equitable society.*

## V25 Children and Youth

Children and youth may be regarded in two perspectives: both as recipients of various online services and potential contributors to reducing the digital divide, particularly for their family members.

*In the first aspect*, children and young people access online services either independently or through their parents/guardians. These services span various areas such as health, education, vocational training, and professional development courses. Common online services include registration in nurseries/kindergartens, enrolment in the first grade, and obtaining certificates.

During *Open Day* activities, the Section for Children's Rights Protection at institution of the People's Advocate has identified issues related to parents' concerns about lack of access to the "e-Albania" portal as regard educational institutions outside their place of residence. Parents seek to enrol their children in schools close to their workplaces or close to relatives, where the latter offer to help with commuting the child to school.

The first encounter with discrimination in the field of education (considered as one of the most important public services for children and youth) is associated with online teaching and learning during the COVID-19 pandemic. *Défenseur des Droits* emphasizes that this period highlighted how social and educational inequalities are exacerbated by digital tools available to most children but not to everyone, and not always under satisfactory conditions. This led to medium and long-term consequences that are still difficult to address.<sup>85</sup>

In Albania, depending on their place of residence or family income levels, children struggled to obtain appropriate computer tools for online learning. The People's Advocate has been addressing this issue for two years.

In 2020, the COVID-19 pandemic necessitated the closure of educational institutions. The People's Advocate found that children from low-income families, those living in rural areas with poor infrastructure, children from ethnic and linguistic minorities, children with disabilities, and children in conflict with the law faced significant barriers due to the lack of access to online learning, resulting in lower-quality education. Both students and teachers encountered challenges due to insufficient training for online teaching and learning. *In response to the new approach to teaching and learning, the institution addressed several aspects of this process: prioritizing teacher training and capacity building, adapting textbooks, and finding the most accessible technologies for both rural and urban students.*<sup>86</sup> In 2020, the People's Advocate issued a legislative recommendation to "*improve legislation in the field of communication, technology, and innovation in order to guarantee children's rights in the digital environment.*"<sup>87</sup>

In the 2021 Annual Report, the People's Advocate also highlighted "major issues related to gaps and deficiencies in equipping students with the necessary knowledge due to the shift to online teaching."<sup>88</sup>

In collaboration with UNICEF, the People's Advocate prepared a 2021 Report (CRIA) on the impact of COVID-19 measures on children's rights. This report analysed children's access to technology and digital platforms during COVID-19, noting that "*data indicate 17.8% of respondents could not follow online*

<sup>85</sup> The Defender of Rights (2022), *Dematerialisation of public services: Three years later, where are we?* p. 50

<sup>86</sup> People's Advocate (2021), *Annual Report 2020*, p.28

<sup>87</sup> Ibid, p. 142

<sup>88</sup> People's Advocate (2022), *Annual Report 2021*, p. 107

*classes, with 13.4% lacking the necessary tools or being part of large families where not everyone had the opportunity to attend online classes. Meanwhile, 4.1% had no internet service, insufficient service, or intermittent connectivity. This situation underscored the existing inequality in access to technology and digital devices among children. With the extension of school closures, several digital learning platforms in the Albanian language were introduced. The choice of the primary communication platform was made at the level of the educational institution.”<sup>89</sup>*

Regarding the second aspect, young people are considered to have the necessary digital skills, particularly when it comes to using smartphones, social networks, or various online games. However, their skills for handling online administrative procedures are not adequate. According to a study by the *Défenseur des Droits*, young people under 25 face difficulties in this respect, because online administrative procedures require completing forms with complex concepts, terms, and codes, necessitating that young people be equipped with administrative knowledge.<sup>90</sup>

The need for comprehensive training on digital literacy extends beyond basic skills acquired in school. Young people require practical training in everyday digital tasks, such as creating an email, scanning documents, attaching files, and understanding administrative portals, as well as learning the administrative terminology used in official documents, etc.<sup>91</sup> During discussions with various interest groups at the People’s Advocate’s office in Kukës, they pointed to the need for school curricula to include topics on digital skills, especially navigating public service portals (*e-Albania*), in order to prepare students for

the newly created reality of accessing public services online.

Under the Digital Agenda, NISA reports that projects aimed at enhancing digital skills are being implemented, such as:

- Introducing “ICT and Coding” courses and reformulating ICT teaching in pre-university education; equipping all pre-university schools with smart laboratories accessible to all students; preparing ICT teachers to deliver interactive lessons aligned with modern curricula, platforms and devices.
- Establishing a network of smart labs to support ICT education in pre-university education.

Since these projects span over long time horizons, careful monitoring of their implementation is required.

*In conclusion, it is evident that children and youth in Albania are significant players in the context of public service digitalisation. As recipients of digital public services through the on-line platforms such as e-Albania, they may contribute to reducing the digital divide for their relatives. To improve access to and enhance benefits from the ICT technology, it is necessary to address the current drawbacks, such as lack of suitable means for online teaching/learning and the need for youth-tailored training on how to use the administrative platforms. Current governmental efforts, such as incorporating the subject of “ICT and Coding” into the curriculum and establishing smart labs in the schools, are positive steps. However, sustained follow-up is needed for these projects to be successful and reach their objective for an inclusive and effective digital education.*

## **V26 People Deprived of Liberty**

The category of persons deprived of liberty should be treated in the manner enshrined

<sup>89</sup> People’s Advocate (2021), *Child rights impact assessment (CRIA)*, p. 26.

<sup>90</sup> The Defender of Rights (2022), *Dematerialisation of public services: Three years later, where are we?* p.47

<sup>91</sup> Ibid, p. 48

in important principles set out in the relevant legislation, according to which “*the prisoner shall be treated with dignity and respect for his/her human rights.*” This means that prisoners’ rights may not be removed or restricted, save by court sentence or by way of pre-trial prison arrest. Such deprivation must be kept to the minimum necessary and only as necessitated by the pursuit of a legitimate aim.<sup>92</sup>

European countries have different experiences: some northern European countries (and many more) allow limited and controlled internet access for persons deprived of liberty. There are certain examples of new developments on the smart prison concept that combines a wide range of electronic services and possibilities for study, rehabilitation, and communication in prison, designed to support the reintegration of prisoners into society after release. These examples come from various countries, such as Belgium,<sup>93</sup> where the digital platform *Belgium PrisonCloud* is applied, and Finland, where the development of digital services for prisons focused on creating a smart women’s prison, which opened in the fall of 2020.<sup>94</sup> However, in France according to the report of the Human Rights Defender, access to technological tools and the internet is not allowed.

The report of the *Défenseur des droits* holds that denial of internet access to prisoners has no legal basis; although certain rights

92 Law No. 81/2020, On the Rights and Treatment of Convicted Prisoners and Detainees, Article 5; Law No. 81, dated 25.6.2020 “On the Rights and Treatment of Convicted Prisoners and Detainees” ([dpbsh.gov.al](http://dpbsh.gov.al)); Decision of the Council of Ministers No. 209/2022, On the Approval of the General Regulation of Prisons, Article 2, Points 1, 2, and 7; Decision No. 209 dated 06.04.2022 “On the Approval of the General Regulation of Prisons”. ([dpbsh.gov.al](http://dpbsh.gov.al))

93 The Defender of Rights (2022), *Dematerialisation of public services: three years later, where are we?* p.37.

94 Hämeenlinna Smart Prison was the first prison established in 2020, followed by Pyhäselkä Prison in 2022 and Kylmäkoski Prison in 2023.

<https://www.rikosseuraamus.fi/en/index/topical/pressreleasesandnews/2023/smartprisonsolutionadoptedintwomoreprisonsinfinland.html>

are restricted to prisoners in accordance with the judicial decision and the security measures applied by the penal institutions (mainly the right to movement), they retain the other rights.<sup>95</sup> Law no. 81/2020 “*On the rights and treatment of sentenced and pre-trial detained persons*” (hereinafter Law no. 81/2020) enshrines the obligation of the institution’s personnel to provide the necessary means to the prisoner to maintain written correspondence; in the case of prisoners without financial means, the institution’s personnel should provide pre-paid telephone cards, or enable online meetings (Article 49, point 7). Digitalization increases the opportunities for contact with relatives. A good example was established in Albania (and other countries) during the Covid-19 pandemic, namely that due to the restriction of physical meetings, prisoners were given the opportunity to communicate via online platforms with their families. This right remains available to those prisoners who choose to use it.

On the other hand, this law provides that, in addition to newspapers, magazines, and books, prisoners should be allowed to use other means of information (Article 49, point 10). However, neither Law no. 81/2020, nor the General Prison Regulation<sup>96</sup> provide for internet access, in general, or access to the “e-Albania” portal in particular. On the contrary, transmission and communication devices, including the necessary means of accessing the internet, such as mobile phones, are explicitly prohibited to prisoners in the premises of the Institution for the Execution of Criminal Decisions (IECD).<sup>97</sup> Therefore, it would be a positive measure to ensure controlled internet access and the necessary devices to enable contacts with relatives or authorities

95 The Defender of Rights (2022), *Dematerialisation of public services: three years later, where are we?* p. 36.

96 Decision No. 209, dated 6.4.2022 of the Council of Ministers “On the Approval of the General Regulation of Prisons”

97 Ibid, Article 26, point 1/c.

through video visits and video conferences. This is something that is already being used in practice. According to the regular report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), published in January 2024, once a month, prisoners had the opportunity for one of their short visits to be replaced with a free video call via online platforms like Skype.<sup>98</sup>

One of the aims enshrined in the Albanian legislation is to provide support for prisoners to reintegrate into society, with a special focus on minors and prisoners from marginalized categories. The individual treatment plan is drawn up in cooperation with the structures responsible for education services, vocational training, and employment, as well as non-profit organizations.<sup>99</sup>

DCM no. 602, dated 13.10.2021, “*On the determination of specific rules for the employment of prisoners, relevant working conditions, duration, and remuneration*,”<sup>100</sup> among other things, determines the payment for prisoners working for the prison administration or private entities. According to complaints handled by the institution of the People’s Advocate, in some cases, prisoners did not receive payment on time because they could not afford to pay the relevant fee for an ID card, and subsequently were not able to open a bank account. In some cases, they had to wait long-time before being able to complete these procedures. Technical assistance by the prison administration with access to digital services would help this category of prisoners to carry out the procedures electronically much faster. On the other hand, it would be an opportuni-

ty for prisoners to obtain services/documents related to their working period and social security payments, which would come in useful for retirement and job-experience purposes after release from prison.

According to the Albanian legal framework on the treatment and rights of prisoners, it is noteworthy that one of the positive developments of Law No. 81/2020 is the guarantee of the right of prisoners to continue secondary and higher education during their stay in the penitentiary institutions. The Code of Criminal Justice for Minors also provides for the obligation to ensure that the accused/sentenced minor/youth receive compulsory basic education and, as appropriate, secondary or higher education. Furthermore, education in pre-detention and imprisonment facilities for minors must comply with the educational standards in the Republic of Albania.<sup>101</sup>

The rights of minors should be subject to special attention in terms of both the law and its correct enforcement in real life. Treatment should be based on the principle of the best interest of the child, their social integration, education, and prevention of reoffending.<sup>102</sup> Therefore, it would be important for prisoners to have limited and controlled access to portals with educational content, as well as those providing teaching/learning services.

The People’s Advocate delivered a recommendation *aiming to guarantee the right to education and life skills for minor XX in conflict with the law who was serving a sentence in the IECD of Kavajë*. A student in the 12th grade, the minor XX requested that he be given the opportunity to attend/complete the remaining part of the school year, coinciding with the completion of secondary education. In the 2020-2021 academic year, in the best

98 CPT (2024), Report to the Albanian government on the periodic visit to Albania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), p.33.

99 Law 81/2020, Article 5, Points 3, 9, and 12.

100 Decision of the Council of Ministers No. 602/2021 implementing Article 43, Point 12, and Article 44, Point 1 of Law No. 81/2020.

101 Law No. 37/2017, “Criminal Justice Code for Minors,” Article 117, Points 1 and 2.

102 Decision of the Council of Ministers No. 209/2022, *On the Approval of the General Regulation of Prisons*, Article 43, Points 6, 10, and 11.

interest of the minor in conflict with the law and deprived of liberty, the People's Advocate recommended using alternative online teaching/learning approaches, as appropriate, to allow the minor XX to complete his education. The recommendation was titled, "*Taking immediate and necessary measures by the Ministry of Education, Sports and Youth, the Ministry of Justice and the General Directorate of Prisons, to ensure that the pre-detained minor XX in the Institute for Minors in the city of Kavajë, attends/completes the academic year 2020-2021, even after his transfer to another institution for the execution of criminal decisions.*"

In 2022, the People's Advocate reviewed the complaint of a sentenced person who claimed that he had not been given the opportunity to complete higher education. Before imprisonment, the prisoner was studying at a public university in Tirana. Following his sentencing, the convict expressed the desire to carry on with his studies and requested the General Directorate of Prisons accordingly, but was not guaranteed the right to education. An administrative investigation into this case revealed that the prisoner was granted the opportunity to continue his studies through the online platform in the academic year 2022-2023. However, the General Directorate of Prisons and the relevant prison unit encountered difficulties in ensuring that he could practically attend online lectures every day for 3-4 hours due to incomplete infrastructure capacities and the schedule of activities in the IECD. Given that the opportunity to pursue higher education was offered solely online, the difficulties encountered resulted in the failure to guarantee the sentenced person's right to education. Additionally, *the People's Advocate found that the implementing by-law on the rules of the actual conduct of the educational process was not issued, although it should have been issued within three months*

*from the entry into force of Law no. 81/2020.*<sup>103</sup>

The People's Advocate in France (*Défenseur des droits*) also emphasizes the importance of digitalizing the daily activities of prisoners and the possibility for them, through technological means and internal portals, to complete some actions such as tracking the status of their requests, registering for activities, etc., while ensuring they follow the prison's internal procedures.<sup>104</sup>

The Albanian government is engaged in digitalizing activities within the IECDs. One aspect of this process relates to the management of visits and entries/exits in the prisons. December 2022 saw the implementation of the electronic system for managing visits and entries/exits in the institutions for the execution of criminal decisions. The system consists of an integrated electronic platform for managing and tracking visitors, administration members, and inmates' entries and exits. The implementation consists of several activities, including integration with third-party systems and a dedicated service to "*e-Albania.*"<sup>105</sup> This means that the prison units can now provide inmates the opportunity to access controlled online services through this portal. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) welcomed the initiative to introduce an online visit reservation system for families in order to avoid long queues outside the prison facility.<sup>106</sup>

Another initiative in this direction is the project enabling online purchases for persons

<sup>103</sup> People's Advocate, Annual Report - On the Activities of the People's Advocate Institution, 2022, page 33.

<sup>104</sup> The Defender of Rights (2022), Dematerialisation of public services: Three years later, where are we? p. 37.

<sup>105</sup> Council of Ministers and NISA (2023), Monitoring Report for the Period January - June 2023 - Digital Agenda of Albania 2022-2026.

<sup>106</sup> CPT (2024), Report to the Albanian government on the periodic visit to Albania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), p.32.

deprived of liberty, which started in mid-2022 and was fully implemented in January 2023. As of this January, all prisons in the country no longer have stores within their territory. However, sentenced and pre-detained persons will not be deprived of the opportunity to purchase food or industrial products. To enable the new purchasing approach, a bank account number has been opened for each inmate with a second-level bank. In each of these accounts, the prisoners' families and relatives can deposit money, which may then be used by inmates to buy things. The purpose is not only to protect the prisoners from the abusively high prices of the former prison stores, but also to avoid abuse and arbitrariness with prices, which were subject to no checking standard previously. Secondly, to provide a better, more cultured service for prisoners and ease the burden of relatives and families. Thirdly, to enhance security in the prison. According to the agreement between the Prisons and the private operator providing this service, the product prices cannot be higher than the market price. For online purchases, prisoners will use a tablet device handled by co-inmates who are specifically trained and employed for this purpose. At the same time, inmates are provided with a unique code and password to identify themselves on the device. The project also provides for the moment of release from prison, with the prisoner being given a check to withdraw the unspent balance in their account.

The commercial unit operates normally as required by the project approved by the General Directorate of Prisons. The People's Advocate institution assesses that this solution has enabled detainees to choose from a wider range of products, as well as reducing price abuse. Additionally, this method creates employment opportunities for convicts and pre-detainees.

*In conclusion, the digitalization and improvement of the conditions for the treatment*

*of persons deprived of liberty represent an important step toward respecting their rights and facilitating their reintegration process into society after release. Initiatives such as controlled internet access, opportunities for education and vocational training, electronic management of visits and purchases, and support through online platforms are measures that help in both preserving the dignity of prisoners and improving security in penal institutions. The commitment to expand and implement these policies in line with international standards and best practices must continue to be a key element in treating this category of persons.*

### V3. PRIVACY

To gain access to digital public services, citizens are required to provide information that is primarily related to their identity or "personal data." For this to function, they must be assured that their information will be processed solely for the purpose specified in their application and that it will be handled in accordance with the law. *The above* affects both the impact (consequences) of processing personal data per the legal provisions, and the surveillance technology. The main challenge today lies in striking the delicate balance between preserving individual freedom in self-representation and addressing the security and privacy implications associated with various forms of identity in virtual spaces.<sup>107</sup>

In Albania, personal data is constitutional-ly and legally protected.<sup>108</sup> The Constitution,

<sup>107</sup> Speech by the CRIPDP at the Conference organized by the People's Advocate with the theme: 25th Anniversary of the Constitution of Albania – The Need for Constitutional Interpretation and Steps for Legislative Improvements, dated 15.12.2023.

<sup>108</sup> Article 35 of the Constitution and Law No. 9887, dated 10.03.2008, On the Protection of Personal Data, as amended.

in Article 35, guarantees the individual's right to privacy; the right to information on the data collected about them, as well as the right to request correction or deletion of false, incomplete, or unlawfully collected data. Furthermore, the constitutional regulation extends to the individual's consent, as a condition for the collection, use, and publication of their data.

Albania has ratified the ECHR, which is self-executing and part of the internal legal system. The Albanian state has thus assumed the obligations arising from Article 8 of the ECHR concerning *the right to respect for private and family life*. This means that everyone has the right to respect for their private and family life, home, and correspondence, and any restriction of this right must be to the extent provided by law and as necessary in a democratic society.

In 2022, Albania ratified Convention 108+ of the Council of Europe "*For the protection of individuals with regard to automatic processing of personal data*," which addresses privacy challenges arising from the use of new information and communication technologies.<sup>109</sup> The Convention introduces several innovations in data protection, such as the expansion of sensitive data types, which now include genetic and biometric data, union membership, and ethnic origin; the obligation to report data breaches; new rights for individuals in the context of algorithmic decision-making, particularly concerning the development of artificial intelligence, etc.<sup>110</sup>

Furthermore, privacy is foreseen under Goal 3 of the Digital Agenda 2022-2026, where the specific aim relates to building trust and protecting citizens' data through privacy and

cybersecurity policies. To achieve reliable and secure digital access to public services, it is a necessary condition to create an infrastructure that will serve all institutions through a closed and secure government fibre network.<sup>111</sup> According to the monitoring report on the Digital Agenda 2022-2026 for the first half of 2023, a feasibility study for the establishment of the National Cybersecurity Centre (Gov-SOC) is underway. In the meantime, the National Information Society Agency has established the Government Security Operations Centre (SOC) in February 2023. The centres will provide full visibility of the cyber environment; monitor, among other things, vulnerabilities, updates (patches), and controls for possible indicators of compromise, as well as enabling real-time incident reporting with the government Security Operations Centre.<sup>112</sup>

The Citizen's Rights Charter for Access to Public Services, in point 16, guarantees the protection of personal data, information, or trade secrets during the provision of public services. Specifically, the Charter stipulates that citizens' data during this process will be protected and not disseminated without authorisation and without legal cause, including personal, judicial, sensitive data, and any other data that cannot be published in origin or during processing.

Legislation classifies *personal data* into two categories: personal data and sensitive data, defining them accordingly. According to the special law, *personal data* is considered any information about a physical person (identified or identifiable). The elements through which the person is directly identified include the identity number, physical, psychological,

<sup>109</sup> Convention 108+ was approved by Law No. 49/2022, On the Ratification of the Amending Protocol to the Convention "On the Protection of Individuals with regard to Automatic Processing of Personal Data."

<sup>110</sup> [Albania Signs Protocols of Conventions 108+ and 205 of the Council of Europe - Office of the Council of Europe in Tirana \(coe.int\)](#)

<sup>111</sup> Decision of the Council of Ministers No. 370/2022, On the Approval of the Intersectoral Strategy "Digital Agenda of Albania" and the Action Plan 2022–2026, Page 14.

<sup>112</sup> Council of Ministers and the NISA (2023), Monitoring Report for the Period January - June 2023 - Digital Agenda of Albania 2022 – 2026, Pages 14-15.



economic, social, cultural factors, etc.<sup>113</sup> Some identification elements form a special category and are considered *sensitive data*, including information related to racial or ethnic origin, political opinions, union membership, religious or philosophical beliefs, criminal convictions, and health and sexual life.<sup>114</sup>

The processing of the personal data during online applications for public services must be a just, fair and lawful process, which is automatically executed and respects several principles, such as the right of the data subject to know what happens with their data, or the collection of data to the minimum sufficient for the service required and for the specified processing purpose.

Data processing includes several types of actions such as collection, recording, storage, sorting, adaptation, correction, consultation, exploitation, use, blocking, deletion, or destruction and transfer of data. The legislator has designed an open list of actions that data controllers may conduct, thereby creating uncertainty about what action may be considered lawful processing of personal data.<sup>115</sup> The data subject has the right to complain or notify the Commissioner for the Right to Information and Personal Data Protection (CRIPDP), requesting action to restore the violated right.

The consent of the subject is one of the essential criteria that must be respected, whatever action is taken during the processing of personal data. In the case of online public services, the subject's consent is obtained at the start of the procedure as a condition for accessing the "e-Albania" portal. Despite the guarantees embedded in the platform itself, when it comes to providing assistance for accessing "e-Albania" or during the legal consultation phase for applications (as mentioned

earlier), the use of credentials by those assisting citizens often fails to meet the legal requirements. This is because very few citizens sign the consent forms, largely due to their lack of awareness of its importance.

CRIPDP urges greater attention to the serious risks to personal data protection in an environment where digitalization has been nearly fully integrated into the delivery of public services for citizens and businesses. The organization emphasizes the importance of raising awareness about the responsibilities related to security and the protection of personal data.<sup>116</sup>

All meetings held during the preparation of this report revealed that a major concern among participants is the protection of privacy by data controllers and processors. Individuals who are unable to apply for public services online often seek help from law offices (in the best case) or use public internet facilities, thus significantly increasing the risk of personal data breaches. A striking example of this risk is the case of farmers in Kukës (as mentioned earlier), where a local NPO found that all the farmers were using the same access code as a convenient way to enter the system.

The first major breach of personal data occurred in 2021, when the personal information of 910,000 Albanian citizens was leaked. This database included updated personal details submitted by citizens through "e-Albania," along with sensitive data related to health, family status, political views, religious beliefs, or ethnic background.<sup>117</sup> Although the National Information Society Agency claimed that "e-Albania" does not store, manage, or process any data but only serves as a government gateway for users to interact with public institutions, CRIPDP recommended that NISA implement protocols to cover all data process-

<sup>113</sup> Article 3, Point 1 of Law No. 9887/2008, *On the Protection of Personal Data*, as amended.

<sup>114</sup> Ibid, Article 3, point 4.

<sup>115</sup> Ibid, Article 3, point 12 of the law.

<sup>116</sup> CRIPDP (2023) Annual Report 2022, p. 18.

<sup>117</sup> Geneva Centre for Security Sector Governance (DCAF) and Institute for Democracy and Mediation (IDM) (2022), *Bridging the Gap Between Cybersecurity and Rights*, p. 14

ing procedures to ensure privacy. In its 2020 report, CRIPDP also found that NISA had outsourced the physical storage of data to a private company through an agreement that did not adequately address data protection regulations, legal requirements, or provisions under the Law “On Personal Data Protection.”<sup>118</sup>

This incident was reflected in a 2022 survey on public trust in government. While 90.3% of respondents considered personal data protection to be important, 59.8% felt that public authorities were not managing their personal data properly.<sup>119</sup>

As emphasized in the section dedicated to *Access*, services related to exercising property rights are primarily handled by notaries. The “e-Albania” portal does not provide users the option to give electronic consent before a notary accesses their information. Additionally, citizens report that notaries do not request written authorizations from their clients before accessing their online data.<sup>120</sup>

During 2022, based on individual complaints, the Commissioner for the Right to Information and Protection of Personal Data conducted administrative investigations at several notary offices. In conclusion, a *unifying recommendation* was sent to the National Chamber of Notaries to regulate this practice.<sup>121</sup>

CRIPDP identified several issues related to personal data protection in notarial services:

- The state databases where notaries are authorized to access data, and the specific types of personal data they can access in each database, are not clearly identified.

<sup>118</sup> Ibid, p. 15

<sup>119</sup> Institute for Democracy and Mediation (2023), *Public Opinion Survey 2022: Trust in Governance*, Page 10.

<sup>120</sup> Geneva Centre for Security Sector Governance (DCAF) and Institute for Democracy and Mediation (IDM) (2022), *Bridging the Gap between Cybersecurity and Rights*, Page 18.

<sup>121</sup> CRIPDP (2023), Annual Report 2022, p. 24.

- Data access on the “e-Albania” portal often exceeds the principle of minimum data possible.

- Notarial service staff do not fully inform data subjects about the processing of their data on the “e-Albania” portal.

- The rights and obligations of the parties involved in the agreement between the National Chamber of Notaries and NISA are not clearly defined, taking into account the provisions and limitations of personal data protection legislation.

- The notarial service sector has not developed or used a ‘consent declaration’ form before processing personal data for individuals receiving these services.

Following the cyber-attack on “e-Albania,” public administration employees no longer have the partial data access they previously had. Consequently, they are now assisting citizens using citizens’ own credentials, which exposes them to potential claims of personal data breaches.

In December 2021, the CRIPDP conducted administrative investigations into the publication of databases containing citizens’ salary information and vehicle registration data. Investigations were also carried out on private entities providing engineering services for the National Information Society Agency, focusing on the operation of databases managed by such entities, specifically the General Directorate of Road Transport Services – GDRTS - and General Directorate of Transport - GDT.<sup>122</sup> Among other things, CRIPDP found that:

- Controllers do not clearly specify which databases they are authorized to access or the types of data they should access in each database, leading to violations of the data minimization principle.

- There are also no adequate technical

<sup>122</sup> CRIPDP (2023), Annual Report 2022, p. 20.

and organizational measures in place to ensure the security and confidentiality of personal data.

- Additionally, there is a lack of tracking and continuous monitoring of processing activities in electronic systems, which is essential for data security and confidentiality.

At the end of the investigations, the institution imposed fines on two entities<sup>123</sup> and required the controller, among other things, to clearly define the databases they are authorized to access and the types of data they should access in each database, as well as implement immediate measures to prevent unauthorized access and ensure compliance with the data minimization principle.<sup>124</sup>

In respect of the above situation, the 2023 EU Progress Report for Albania expressed concern and called on Albania to “take urgent measures to prevent the recurrence of massive personal data breaches and improve their handling.”<sup>125</sup>

The Digital Agenda 2022-2023 explicitly outlines the public administration’s obligation to comply with the General Data Protection Regulation (GDPR) in the process of personal data processing. In 2021, CRIPDP drafted a new law, “On the protection of personal data” and 13 bylaws for its implementation, aimed at aligning it with the GDPR.<sup>126</sup>

Although it has been more than two years since the draft law was prepared, it has not yet been included in the legislative agenda and remains among the work objectives of CRIPDP to cooperate with responsible structures until the finalization of procedures for the approval of the new law and its implementing by-

laws.<sup>127</sup> The 2023 Progress Report for Albania emphasizes that in respect of data protection, Albania should “... improve data protection, in particular by adopting the revised law on personal data protection that is in full compliance with the EU acquis”<sup>128</sup>

The near-complete digitalization of public services must be accompanied by same level efforts to ensure the privacy and protection of citizens’ personal data.

*In conclusion, to ensure secure and reliable access to digital public services, it is essential to establish a strong infrastructure and a clear legal framework for the protection of personal data. Albania has taken significant steps towards improving privacy and data protection through legislation and ratification of international conventions. However, challenges remain, especially regarding public awareness, regulation of data processing practices, and cybersecurity. Close cooperation between state institutions, adherence to international standards, and increased transparency must be key to improving citizens’ trust in public administration and effectively protecting their personal data.*

#### VA TRANSPARENCY AND ACCOUNTABILITY

For the purpose of this Report, transparency and accountability relate to the measures taken by the Albanian government to ensure transparency and accountability in the digitalization of public services. Another important element is the extent of citizen involvement in access to information and decision-making

<sup>123</sup> Controllers, GDRTS and GDT

<sup>124</sup> Decision No.51 and 52, dated 24.11.2022 [Ven- dim- DPSHTRR.pdf \(idp.al\)](#)

[Vendim-TATIME.pdf \(idp.al\)](#)

<sup>125</sup> European Commission (2023), Albania 2023 Report, Brussels, 8.11.20233, SWD (2023) 690 final, p. 28.

<sup>126</sup> CRIPDP (2022), Annual Report 2021, p. 28

<sup>127</sup> CRIPDP, Work Program of the Office of the Commissioner for the Right to Information and Personal Data Protection, January – December 2024, Page 6.

<sup>128</sup> European Commission (2023), Albania 2023 Report, Brussels, 8.11.2023, SWD (2023) 690 final, p. 28.

on the digitalization of public services. The analysis also includes the legal accountability mechanisms the government has put in place to address cases that infringe upon citizens' fundamental rights.

Transparency and accountability are part of good governance. Good governance, which is intrinsically linked with good administration, encompasses a range of elements such as accountability, transparency, responsiveness to citizens' needs, efficiency, effectiveness, open access, participation, predictability, the rule of law, coherence, equality, ethical behaviour, anti-corruption, timely completion of administrative processes, protection of human rights, and simplification of procedures.<sup>129</sup>

#### V41 Transparency

From a doctrinal perspective, transparency is addressed from different viewpoints: it is both a principle which the public administration should pursue and a goal it should meet. Without a doubt, it is a tool that the administration must use to fulfil its functions.

Transparency in the digitalization of services is an 'evolving aspect' that the executive, based on available resources, should continuously work to improve. As an element that encompasses the entire activity of public bodies,<sup>130</sup> transparency relates directly to the rule of law and the effective protection of human rights. Transparency is not just an ethical consideration but a prerequisite for accountability in safeguarding human rights and respecting the autonomy of every individual subject to

the law.<sup>131</sup>

"Transparency" implies specific legal regulations related to the inclusion, facilitation of participation, and engagement of individuals whose rights are affected by a particular legal initiative. Since the adoption of digital approaches, it has been observed that transparency has not always characterized decision-making and implementation in digital approaches; moreover, transparency has not served as a tool that the administration itself uses to carry out its functions digitally. Digital technology should be designed to offer more transparency than traditional (offline) methods of providing public services; technology should not reduce the level of transparency. From the citizens' perspective, beyond the undeniable advantages of digital services, it remains unclear whether there has been an assessment of system operations since the launching of digital services (such as the case of the economic aid mentioned above) and what findings have influenced the further evolution of service provision to date. Additionally, it is unclear how findings (e.g., surveys, polls, institution analyses on access, complaints, various requests) have been addressed, how barriers to access have been considered, and how these findings have impacted subsequent regulations.

The adoption of Law No. 107/2021, "On Co-Governance" is an initiative aimed at increasing transparency and accountability. One of the responsibilities of the Agency for Dialogue and Co-Governance is to continuously inform the public about efforts to enhance citizen involvement in improving public services. This includes undertaking joint initiatives, projects, or programs that involve citizens in co-governance and determining how they can participate (Article 12, letter c).<sup>132</sup>

<sup>129</sup> Venice Commission CDL-AD(2011)009, Study no. 470 / 2008, para.68, p.17, "Stocktaking on the notions of "good governance" and "good administration." [https://www.venice.coe.int/webforms/documents/default.aspx?pdf-file=CDL-AD\(2011\)009-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdf-file=CDL-AD(2011)009-e)

<sup>130</sup> Article 5 of the Administrative Procedure Code states: "Public bodies carry out administrative activities transparently and in close cooperation with the natural and legal persons involved."

<sup>131</sup> Jeremy Waldron, 'The Rule of Law in Contemporary Liberal Theory\*' (1989) 2 Ratio Juris 79

<sup>132</sup> According to a survey conducted in 2022, only 9.5% of citizens had used the online co-governance platform [www.](http://www.)

The right to receive services transparently is also explicitly provided for in DCM No. 623, dated October 26, 2018, “On the Approval of the Citizens’ Rights Charter for Accessing Public Services.” The Charter stipulates that, “... *we must inform you about how your requests are handled, to eliminate legal obstacles or inappropriate influences. We must establish a responsible structure for handling cases of corruption and abuse, and put in place internal procedures on [staff] training and reporting these cases. We will publish all information regarding access to the service in visible places, at the counters where the service is applied for, as well as on the website of each institution. You have the right to be provided with identification numbers for your applications, in order to track the status of your request.*”

Additionally, there are other initiatives such as the National Consultation,<sup>133</sup> where citizens are invited to express their opinions on aspects of political decision-making in general.

*Despite these inherently positive initiatives, there is a fragmented implementation of transparency policies, which hinders coherence and a meaningful analysis of the level of transparency. Furthermore, mechanisms to measure the overall level of transparency in the digitalization of services have not yet been established. Nor has there been an evaluation of the effectiveness of existing transparency tools in upholding citizens’ fundamental freedoms and rights.*

[shqiperialq.com](https://shqiperialq.com) to file a complaint. 31.8% of those who filed a complaint on this platform said that the complaint was resolved. See the Public Opinion Survey 2022 “Trust in Governance,” organized by IDM and Austrian Development Cooperation and UNDP, Page 9, <https://idmalbania.org/sq/publikimi-i-edicionit-te-10-te-te-besimi-ne-qeverisje-son-dazh-vjeter-i-opinionit-publik-ne-shqiperi/>

<sup>133</sup> For more information, refer to: <https://mia.gov.al/konference-per-shtyp-e-kryeministrit-edi-rama-per-prezantimin-e-rezultateve-te-mbledhjes-se-opinioneve-te-563-195-qtetareve-mbi-keshillimin-kombetar/>

In the Digital Agenda 2022-2026, Objective 3, “Digital Citizens: Citizens and Privacy, Transparency of Data and Services for Citizens,” it is noted that citizens are positively drawn to receiving public services digitally; however, there is a need to strengthen trust in the use of personal data. The Agenda views empowerment as a crucial factor for its implementation. Empowerment means enhancing the ability of citizens, businesses, and other organizations to be proactive in society through the use of new technological tools. Public services benefit from increased efficiency, and the users experience satisfaction with the services when they meet their expectations and are designed in accordance with their needs, as appropriate. Empowerment also means that governments should provide easy access to public information, improve transparency, and enable effective participation of citizens and businesses in policymaking processes.”<sup>134</sup> These statements should be read in harmony with the indicator passport and the measures in the Action Plan. It is noted that the current indicator framework and action plan do not address the specific actions necessary for enhancing transparency.

Institutions offering services through “e-Albania” have not necessarily improved transparency towards citizens. These institutions, which are required by law to maintain and enhance transparency, should do more than just publish annual reports. They need to take additional steps to ensure transparency and effective communication with citizens, especially when there are communication issues with the systems. Information counters provide a direct and transparent way for citizens to interact with public service providers, focusing on the process, rather than relying

<sup>134</sup> Decision of the Council of Ministers No. 370, dated 01.06.2022 “On the Approval of the Intersectoral Strategy - Digital Agenda of Albania, and the Action Plan 2022-2026,” Page 25.

solely on the system. Each institution offering public services should regularly analyse its transparency, the manner it interacts with citizens, and other related factors such as rate of complaint handling and compliance with deadlines. This analysis should also consider recommendations from the People's Advocate, the Commissioner for Information and Personal Data Protection, and the Commissioner for Protection from Discrimination. This approach aligns with the constitutional principles and Code of Administrative Procedures.

Transparency in the digitalisation of public services remains both a challenge and an opportunity for the public administration. Despite some progress and positive initiatives, including the new laws and the charter on citizens' rights, significant improvements are still needed. To ensure an effective and accountable administration, transparency should be more than just a theoretical principle; it must be a practical, everyday practice within the public institutions. Moreover, digital technology should enhance transparency and citizen involvement, addressing any barriers to access and ensuring that the mechanisms in place effectively protect and promote human rights. This will help citizens feel more empowered and involved in decision-making, contributing to a stronger and more reliable rule-of-law State.

*In conclusion, achieving the desired levels of transparency remains a challenge for the government, legislators, and public institutions.*<sup>135</sup>

<sup>135</sup> By Order of the Prime Minister an inter-institutional working group has been set up to deregulate public services, reduce waiting times for citizens, and increase transparency of public service delivery. The results of this analysis have not yet been made public. This development was confirmed by the representative of the Agency for Dialogue and Co-Governance at the consultative meeting organized by the People's Advocate on February 29, 2024.

## V42 Accountability

Accountability is a crucial component of good governance, and it cannot be effectively achieved without transparency and adherence to the rule of law. Even with advanced digital systems for public services, the legal framework must establish and improve the mechanisms for accountability and responsibility of those involved. In all cases, accountability of the responsible official cannot be hidden behind the system. Legislators need to understand the significance of these systems in the context of the services provided to citizens. Systems should not become tools that force citizens to pay simply because "*the system is designed this way.*" System design must align with constitutional principles such as human dignity, proportionality, and non-discrimination, and must be regularly assessed for compliance with these principles.

In a broader context, the entire accountability system is made up of the executive institutions, independent constitutional institutions and criminal prosecution bodies. Evaluating the effectiveness of this accountability system is challenging. It requires assessing all actors within the system and their responsibilities over a specific timespan (for example, since the implementation of new approaches or even earlier). The system's parts come into play in situations where accountability mechanisms break down.

Regarding digital access, the current legal framework provides for various channels for citizens to access services without facing infrastructure or financial barriers. The Digital Agenda outlines the following tools for accountability: (i) Public Consultation (For project drafts and strategic documents); (ii) Complaint Reporting Channels established for interaction with citizens such as "Shqipëria që Duam," which allows citizens to report corruption and file complaints against public institutions; (iii) Opendata.gov.al for publishing

open government data in editable formats; and (iv) the portal of the Centre for Official Publications for publishing Albanian legal acts in line with European Union standards.<sup>136</sup>

These administrative accountability channels, in principle, partially create the foundation for citizen participation and open access, which includes both the process of drafting legislation and the issues related to its implementation.

The complaint system available on the “Shqipëria që Duam” portal is designed to provide citizens with a way to address concerns and delays in accessing digital services. This mechanism is part of the executive branch and aims to bring “citizen cases” to the attention of relevant authorities, focusing on their concerns. According to Law No. 107/2021 “On Co-Governance,” interacting through this platform is a priority. However, issues can also be submitted in writing via postal mail in accordance with the rules of the Administrative Procedures Code. This provision aims to facilitate access to accountability mechanisms for citizens who may not have the ability to use the online platform. It combines both online and offline approaches, allowing citizens to access accountability mechanisms through different methods.

DCM No. 623, dated October 26, 2018, “On the Approval of the Citizen’s Charter for Access to Public Services,” guarantees citizens and businesses the right to participate in the improvement of public services. They are entitled to provide feedback, assessments, and/or suggestions to help enhance public service delivery. The Charter also commits that *“When we decide to change the way public services are delivered, we shall consider your feedback during the service provision process.”*

Accountability also involves providing reasons for decisions, which are sometimes communicated through platforms and determined by them (e.g., the economic aid scoring system mentioned earlier). Citizens may find it unclear how these decisions are made, how their legality and accuracy are verified within the system, and how they are reasoned. The reasoning of decisions is closely related to the principle of due legal process and the exercise of the right to appeal as per constitutional provisions. Additionally, there is concern about notifying decisions solely through online means on the platform, especially when decisions involve the rejection of applications or impose financial obligations. This approach “keeps the citizen tied to the system,” constantly monitoring and interacting with the system to check for responses, which could become a barrier for certain groups (those receiving economic aid or individuals with disabilities). In this context, incorporating SMS notifications to inform citizens about processes and decisions could be considered beneficial.

The Digital Agenda’s indicator passport lists all institutions responsible for measuring the indicators related to its objectives. NISA periodically publishes reports on the implementation of this Agenda.<sup>137</sup> Periodic monitoring is an essential element to measure the progress of the Agenda and the efficiency of the institutions involved in its implementation.

Despite the above, the executive should establish efficiency measurement mechanisms within its institutions to understand how they interact with each other, how they respond to the emerging challenges over time, and to the citizens’ needs. This evaluation should also include how well online accountability mech-

<sup>136</sup> DCM Nr. 370, dated 01.06.2022, “On the Approval of the Intersectoral Strategy - Digital Agenda for Albania, and the Action Plan 2022-2026,” page 6.

<sup>137</sup> Monitoring Report January-June 2023: <https://akshi.gov.al/wp-content/uploads/2024/01/Plani-i-monitorimit-te-AD-per-vitin-2023..pdf>

anisms have responded to the reality on the ground, as well as assessing the possibilities for expanding diversified access (offline) for other accountability mechanisms (existing or necessary to be created).

Part of the system that guarantees accountability for adherence to fundamental rights and freedoms are the independent institutions responsible for their protection, such as the People's Advocate, the Commissioner for the Right to Information and Personal Data Protection, and the Commissioner for Protection from Discrimination. As a rule, these institutions are engaged by citizen complaints, which can be submitted in various forms, but they may also act *on their own initiative*. In recent years, these institutions have demonstrated an increasingly proactive approach, not only in addressing individual cases but also in taking positions with broader bases and effects.

For instance, the People's Advocate has identified several cases of violations of citizens' fundamental rights and freedoms, recommending appropriate measures to address these violations. For instance, in early 2020,<sup>138</sup> following a citizen's complaint about issues observed in communication with the National Cadastre Agency and the way services were offered by the SCA employees, the People's Advocate identified that *"Point 6 of DCM No. 389/2020 is incorrectly interpreted and implemented by the State Cadastre Agency as evidenced by its providing services solely through electronic systems. This understanding and application of point 6 of the above mentioned DCM conflicts with the provision of Article 10/2 of the Code of Administrative Procedure... as well as with the principle of legality, provision of active assistance"*

<sup>138</sup> Identified as a problem also in the Annual Report 2019 and 2020, p. 67

<https://www.avokatipopullit.gov.al/media/manager/website/reports/Raporti%20Vjetor%20i%20veprimtarise%20se%20institucionit%20te%20Avokatit%20te%20Popullit%20-%20viti%202020.pdf>

According to the People's Advocate, forcing citizens to seek services in manners not favoured by them, exacerbates the rights and interests that applicants enjoy under the current legislation. These positions of the People's Advocate, although directed at a specific structure (based on the relevant complaint), should form the basis for interpretation and application by other state institutions that provide digital services.

Furthermore, issues have been identified in the relationships between citizens and local State Cadastre Agency directorates regarding citizens' inability to communicate via telephone lines, even though the lines are available, meaning this access method is not functional for citizens.<sup>139</sup>

According to current legislation,<sup>140</sup> The Commissioner for Protection from Discrimination has the authority to conduct administrative investigations into cases, determine whether discrimination occurred, and require institutions to take immediate measures to prevent discriminatory behaviour through their structures (both central and local). According to the law, the Commissioner can mandate actions that should be implemented not just in the individual case under investigation, but more broadly. If discriminatory practices are identified, they should not be addressed only in the specific case but should lead to a comprehensive and enforceable approach within the institution found in violation. In the discrimination complaint, the Commissioner asked the institution to assist the complainant by providing an employee to help her obtain the online service through "e-Albania."

<sup>139</sup> People's Advocate, Annual Report 2021, p.83. <https://www.avokatipopullit.gov.al/media/manager/website/reports/Raporti%20vjetor%20i%20veprimtaris%C3%AB%20s%C3%AB%20institucionit%20t%C3%AB%20AP%20p%C3%ABr%20viti%202021.pdf>

<sup>140</sup> Article 33, points 10, 11, 12, and 13, of Law No. 10221/2010 "On Protection from Discrimination," as amended



Similarly, the CRIPDP operates according to the legal framework in cases of personal data breaches. The CRIPDP's positions on the amendments to the law, "On Electronic Governance" provide an analysis of the need for a diversified approach. Additionally, the *Unifying Recommendation* for the National Chamber of Notaries (mentioned earlier) was developed after administrative investigations were carried out at several notarial offices based on individual complaints. This recommendation aims to regulate practices within the notarial service. Concerning the implementation of the new digital approach, it should be mentioned that all these institutions have reviewed a small number of complaints submitted to them in accordance with the law.

All the aforementioned institutions regularly publish annual reports detailing their overall activities and specific administrative investigations. Furthermore, according to their official websites, these institutions regularly engage in awareness-raising activities related to their areas of operation as outlined by the Constitution and the law.

In addition to constitutional and administrative accountability, the current criminal legal framework provides effective recourse in cases where the violation of rights and freedoms constitutes a criminal offense under the law.

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The People's Advocate assesses that, despite the efforts made so far, achieving the desired and required levels of transparency and accountability remains a challenge.

Although there have been initiatives to enhance transparency and accountability through the digitalisation of public services, the reality shows that existing mechanisms are insufficient and often fragmented. Without

clear, effective, and coordinated mechanisms, the goals of transparency and accountability cannot be fully achieved, leaving citizens in a state of uncertainty and lack of trust in digital public services.

Despite the undeniable advantages of digital services, it remains unclear whether there has been a comprehensive and ongoing evaluation of these services since their initial application. Institutions providing these services should conduct periodic analyses of transparency levels and publish their findings. However, this practice has not yet been established.

The People's Advocate also notes that the functions of the Agency for Dialogue and Co-Governance overlap with those of the People's Advocate as an independent institution with a consolidated mandate to protect citizens' rights and freedoms. The People's Advocate acts as a constitutional mechanism in overseeing and monitoring potential human rights violations by public administration bodies. The creation and operation of mechanism with similar objectives leads to institutional confusion and fragmentation of efforts to protect citizens' rights, as well as weakening existing transparency and accountability mechanisms.

## VI. CONCLUSIONS AND RECOMMENDATIONS

### CONCLUSIONS

Digital access to public services has already become an irreversible reality, constituting a reform with positive economic and social effects in Albania. Despite the undeniable advantages, we are all aware that this approach brings with it significant challenges. These challenges relate to the realization of fundamental rights and freedoms for certain social groups, as well as risks associated with the use of technology and the corresponding protective mechanisms.

Analysis of Albanian legislation and comparative review with the laws of other European and Western Balkans countries shows that lawmakers generally aim to provide equal opportunities for all citizens in digitalized public services. In some cases, this includes specifically addressing non-discrimination as a principle in accessing online public services or addressing the digital divide through legal provisions for certain categories of citizens (the elderly, persons with disabilities).

However, Albanian legislation reflects a lack of harmonization among the various legal and sub-legal acts that clearly regulate the provision of online public services in the country. Although the Code of Administrative Procedures primarily adopts a traditional approach regarding service provision, it sets forth general principles for the public administration activity (principles of active assistance or non-discrimination), which should have been considered when special laws, such as those on electronic governance, were adopted or when the initiative to *fully transition to digital* public services was undertaken. Thus, documents with wet stamps are still required in order to obtain certain services, even though these documents can

only be obtained through online applications on “e-Albania.”

The implementation of a *fully* digital approach to public services for less than two years has revealed the existence of various barriers. These include technological barriers (closely related to the digital divide/quality of the internet, or internet access), economic barriers (the inability to secure appropriate devices for applications), and those related to the lack of digital skills.

Despite positive developments, improvements, and ongoing efforts by the executive during the implementation of the approaches required by the Digital Agenda, the provision of online public services has had varying effects on the citizens. While the majority of citizens and businesses have transitioned smoothly, other segments have inevitably faced difficulties in accessing these services due to the aforementioned barriers. The elderly, people with disabilities, children (or their parents/guardians), members of the Roma and Egyptian communities, and individuals with low income have found it difficult to complete applications on their own in a timely manner, and without incurring extra costs.

Without an alternative option for receiving services through other mechanisms, such as in-person assistance from public administration staff at the relevant institution, citizens have had to rely on law offices or internet points (both of which are paid services). This has increased the cost of accessing public services. The involvement of Legal Aid Offices, Social Service Offices, regional offices of the People’s Advocate, the Commissioner for Protection from Discrimination, and local NPOs (which protect women victims of domestic violence, support people with dis-

abilities, as well as the Roma and Egyptian communities, and farmers) has been valuable in implementing the new approach and has helped reduce the additional financial burden on citizens where possible. However, this assistance cannot and should not become a regular practice. Providing support and assistance *before, during, and after* applying for a public service should remain the responsibility of the institution mandated according to the law. Any other measures that do not align with legal competencies could distort their powers and the legislative intent.

Digital systems must undergo continuous evaluations to ensure they operate with a focus on placing the “*citizen at the centre*” and protecting their fundamental rights and freedoms. For this reason, it is essential to establish sustainable and effective mechanisms for transparency and accountability. These mechanisms should be built based on real-world conditions, experiences, and the expectations of citizens regarding public services.

The process of digitalizing public services has inevitably increased the risk of privacy breaches and violations of personal data protection rights. Albanian legislation in this area needs updates in order to align it with EU directives.

## RECOMMENDATIONS

Despite the positive impacts of digitalizing public services on citizens and public institutions, this report identifies the need for various interventions at different levels through *short-term* and *medium-term* measures. These measures aim to improve online service delivery and create conditions for alternative (offline) methods. Such measures could include legislative changes, policy adjustments, law enforcement actions, and capacity building. They should also involve raising awareness,

enhancing transparency, and ensuring accountability within both the executive (some of the institutions within it) and legislative branches.

### *Short-Term Measures*

**Review the policy approach to introduce *alternative methods*** for delivering public services (diversified approach) is crucial. This includes providing direct interaction at service counters of the relevant institutions, especially for citizens who are less able to access services independently, such as the elderly, persons with disabilities, members of the Roma and Egyptian communities, low-income individuals, or those with low levels of education. The legislator has the discretion to develop a clear procedure for these groups, based on approaches followed in EU countries (either in specific legislation or within the broader legal framework).

**Accelerate the implementation of activities outlined in Albania Digital Agenda 2022-2026**, with the aim of ensuring access to public services for all citizens without discrimination due to age, place of residence, educational and economic status, disability, or affiliation with a specific group. In this regard, the following are prioritized:

- Accelerating the implementation of the agenda and state policies regarding the *quality of broadband networks* to improve internet quality in rural areas, ensuring that citizens in these areas do not have to travel to urban centers to access public services due to lack of connection/internet quality.
- Accelerating the *integration of systems to enhance efficiency within the public administration in assessing applications*. Accelerating the implementation of improvements for interaction with the “e-Albania” platform and supporting infrastructure, making it suitable

for individuals with special needs, simplifying forms to be user-friendly, simplifying the language of instructions, localizing the language, and including design elements that generally make it more user-friendly.

Public administration institutions, both central and local, providing all services through “e-Albania” (including, but not limited to, the State Cadastre Agency, the Regional Directorate of Health Insurance, etc.), *should organize work processes in such a way as to provide dedicated staff to offer assistance (guidance) at the counters for individuals who cannot apply for public services online independently*

**Enhance transparency and accountability** by involving citizens and marginalized groups in decision-making about digital access to services, with the goal of making these services more accessible to these groups. Public administration institutions providing services through “e-Albania” must strictly follow the requirements of the law “On Co-Governance,” improving citizens’ access to public services through technology and innovation. The Agency for Dialogue and Co-Governance should ensure that state institutions are held accountable for delivering public services through alternative (offline) methods that are fast, efficient, transparent, and of high quality.

It is also crucial to **raise citizens’ awareness** of the importance of accessibility on “e-Albania” and the benefits it offers, particularly for those living in rural areas. There is a need for focused support programs and training for vulnerable groups, which can be provided in partnership with non-governmental organizations and educational institutions. These programs should aim to improve their understanding of technology and online applications. Additionally, it’s important to educate them about the risks to personal data when using services from unauthorized providers.

**Mechanisms should be created in order to measure and evaluate citizens’ satisfaction** with digitalized services. These mechanisms should be designed inclusively and transparently. Findings should be part of a comprehensive analysis of the legislative interventions aimed to be approved. In this aspect, the policymaking of the executive and legislative branches should be based on objective criteria, such as evidence, facts, periodic surveys, investigations, local level access (involving municipalities), as well as the development of detailed statistics for specific groups and the use of services by them.

**The continuous enhancement of public administration staff capacities** related to “e-Albania” services and the completion of applications so that they can better support citizens in accessing more services. On the other hand, public administration employees, in collaboration with the Commissioner for the Protection of Personal Data and the Right to Information, should be trained to address the challenges that digital access to public services brings in terms of ensuring privacy and protecting personal data, while promoting the collection and processing of this data in accordance with the law.

**Establishing bridges of cooperation and dialogue** between local authorities (municipalities) and other entities (Law Clinics at Faculties of Law or NGOs) through effective policies, strategies, and measures for the creation and operation of the social fund, among other initiatives. These efforts aim to provide on-the-ground assistance for specific categories and to narrow the digital divide among different groups of citizens.

#### *Medium-term measures*

Implementing a digital approach in the provision of public services in accordance with fundamental rights and freedoms also requires

the adoption of long-term measures, realized through institutional cooperation, such as:

- Assessing the need to review the legal framework to harmonize legislation regarding the methods (alternatives) of providing public services across all areas (taking into account the specificities of each service), with a clear provision for the digital delivery of services. In this context, the legislator should evaluate the potential for including the right to internet access as a fundamental utility service and ensuring its availability in rural areas.
- Developing policies that ensure equal access and respect for the principle of non-discrimination in the context of digitalization, especially for individuals who are subject to special protection (such as women or children) and vulnerable groups like the elderly, people with disabilities, minorities, or those with insufficient income.
- Assessing the need to review the economic assistance scheme to include the costs of internet connection, as well as reimbursing certain groups for costs incurred in obtaining public services that require payment (such as applications with the State Cadastre Agency) or services provided through notaries or law offices.
- Integrating lessons into school curricula to teach students how to use digital portals like “e-Albania,” preparing them for the reality of accessing public services online.
- Establishing methods for verifying citizens’ identities, as well as providing various mechanisms to file complaints, including options available at the local level.
- Carrying out regular surveys to gather feedback and assess the effectiveness of digital services.

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