



AVOKATI I POPULLIT

# Raporti Vjetor 2023

## TABLE OF CONTENTS

<b>A WORD FROM THE PEOPLE'S ADVOCATE</b> .....	Error! Bookmark not defined.
<b>CHAPTER I</b> .....	<b>7</b>
<b>LEGAL AND INSTITUTIONAL FRAMEWORK</b> .....	<b>7</b>
<b>CHAPTER II</b> .....	<b>9</b>
<b>IMPLEMENTATION OF THE RESOLUTION OF THE ASSEMBLY OF THE REPUBLIC OF ALBANIA 2022 BY THE INSTITUTION OF THE PEOPLE'S ADVOCATE</b> .....	Error! Bookmark not defined.
2.1 To intensify the institution's response, with increased visibility of actions taken, recommendations not implemented, or failure by public authorities to cooperate, in order to enhance the public's trust in this constitutional institution.....	9
2.2 To expand the geographical reach of information sessions in 9-year and secondary schools nationwide, with the aim of improving students' knowledge of their basic rights and the PA's work in protecting these rights. This is intended to increase the number of complaints/requests received directly from children. ....	10
2.3 To provide internal mechanisms for inspections/monitoring conducted by the Section for Protection and Promotion of Children's Rights, so that it does not operate solely on project basis, while increasing the number of this Section's recommendations to better protect children's rights. ..	11
2.4 To make recommendations on a priority basis to the structures of the Interior Ministry and the State Police due to consistent findings of non-observance of citizens' basic rights.....	12
2.5 To implement the plan of measures designed to increase awareness of and promote mechanisms for protection of human rights and freedoms, with a special focus on members of the vulnerable and marginalized groups. Further meetings should be held to ensure inclusiveness, as well as publishing the action plan online and sending it to the Assembly. ....	13
2.6 To propose to the Assembly the holding of special hearings with public institutions to address specific issues.....	15
2.7 To design measures to strengthen cooperation with local government bodies and administration, as well as develop a mechanism to increase local government responsiveness .....	16
2.8 To design measures to strengthen cooperation with the State Cadastre Agency.....	17
2.9 To draft recommendations in response to the need identified by the EU Progress Report to strengthen citizens' rights to good administration.....	18
2.10 To conduct joint activities with the Parliamentary Group "Friends of Children" to inform, educate and increase citizens' awareness of children's issues. ....	19
<b>CHAPTER III</b> .....	<b>20</b>
<b>ASSESSMENT OF THE PUBLIC ADMINISTRATION'S COMPLIANCE WITH HUMAN RIGHTS</b> .....	<b>20</b>
3.1 Summary of the Activity of PA Sections in 2023.....	20
3.1.1.The activity of the Section on Police, Secret Service, Prisons, Armed Forces and Judiciary....	20
3.1.2. The activity of the National Prevention Mechanism against Torture, Cruel, Inhuman or Degrading Treatment or Punishment .....	22
3.1.3. Activity of the General Section .....	26
3.1.4. Activities of the Section for Central Administration Bodies, Local Government Authorities, and Third Parties Acting on Their Behalf .....	28
3.1.5. Activity of the Children's Section.....	31
3.2 Rights of persons deprived of liberty.....	33
3.3 State police compliance with human rights standards .....	38
3.3.1. The right of citizens to free movement.....	39

3.3.2.	The right to home inviolability and the correct application of the rules provided for in the normative acts .....	40
3.3.3.	Bringing in citizens to State Police premises in compliance with the legal requirements and their rights.....	41
3.3.4.	Ensuring the Right to a Defense Lawyer for Apprehended, Arrested/Detained Persons and Other Rights pertaining to them .....	462
3.3.5.	Applying Administrative Sanctions Against Traffic Offenders in compliance with the Road Code Provisions.....	44
3.3.6.	Constitutional and legal rights of employees in police bodies .....	47
3.4	Prevention of violence and torture.....	48
3.4.1.	Findings from inspections in penitentiary institutions .....	49
3.4.2.	Level of respect for rights of apprehended, detained/arrested persons in police units.....	51
3.4.3.	Some of the main recommendations by the National Prevention Mechanism in 2023.....	54
3.4.4.	Level of respect for people's rights in psychiatric hospitals.....	60
3.4.5.	Level of respect for human rights in Closed Centres for Foreigners, the National Reception Centre for Asylum Seekers, and the National Reception Centre for Victims of Trafficking .....	
3.4.6.	The level of respect for human rights in Elderly Homes in Tirana, Fier, Gjirokastrë, Kavajë, and Shkodër .....	62
3.5	Respect of human rights by the Prosecutor's Office .....	63
3.6	The right to due process in the judicial system.....	67
3.7	Free legal aid.....	71
3.8	The rights of former convicts and politically persecuted by the communist system.....	72
3.9	Execution of civil and administrative court decisions .....	74
3.10	Respect for property rights.....	77
3.11	Regulating labor relations and respecting the right to due process in administrative proceedings .....	87
3.12	Consumer protection.....	89
3.13	Respecting the rights related to the local government .....	90
3.14	Child protection and child rights.....	93
3.14.1.	People's Advocate Recommendations and its Involvement in Law-making, Practice Unification, and Strategy Design in the Field of Child's Protection and Child's Rights .....	95
3.14.2.	Legislative Recommendations.....	98
3.15	Respecting the right to health care.....	101
3.15.1.	Recommendation to the Ministry of Health and Social Protection Regarding the Lack of Healthcare Personnel.....	102
3.15.2.	Recommendation to the Ministry of Health and Social Protection regarding issues encountered by internal medicine and arterial hypertension doctors with recruitment in hospital structures, as well as exclusion of drugs prescribed by them from the List of Reimbursable Drugs .....	103
3.15.3.	Recommendation to the University Trauma Hospital .....	103
3.16	Respecting the right to education.....	103

3.17	Respecting the right to social care .....	106
3.17.1.	Recommendation to Kukës Municipality .....	108
3.17.2.	Recommendation to Divjaka Municipality: .....	108
3.17.3.	Recommendation to the Regional Directorate of the Fier State Social Service .....	109
3.17.4.	Recommendation to Kukës Municipality .....	109
3.17.5.	Recommendation to Shkodër Municipality .....	109
3.17.6.	Recommendation to Këlcyrë Municipality.....	109
3.17.7.	Recommendation to Kukës Municipality .....	110
3.17.8.	Recommendation to the Ministry of Health .....	110
3.18	Respect for the Rights of Persons with Disabilities.....	111
3.19	Gender equality .....	115
3.20	Protection of the rights of the LGBTIQ community .....	120
3.21	Rights of National Minorities .....	122
3.22	Respecting Rights in the field of Social Security .....	125
3.23	The Right to Healthy Environment.....	126
3.23.1.	Recommendation for taking Necessary Measures in compliance with the Obligations stemming from the Bern Convention, addressed to the Ministry of Tourism and Environment, and the Ministry of Infrastructure and Energy.....	128
3.23.2.	Recommendation for taking Immediate Measures to Eliminate Environmental Pollution caused by the Waste Collection Site in the 24 Maji neighbourhood of Vlora.....	128
3.23.4.	Recommendation for Cleaning and Eliminating Waste caused by Illegal Activities, in the Tepe neighbourhood of the city of Shkodra.....	129
3.23.4.	Recommendation for taking Immediate Measures to Protect the Environment from Burnings in the area of Fushë Mamurras, addressed to the Kurbin Municipality .....	129
3.23.5.	Recommendation for taking Immediate Measures to Protect the Environment from Waste in the Theth National Park area, addressed to Shkodër Municipality and the National Agency of Protected Areas. ....	130
3.23.6.	Recommendation for taking Immediate Measures to Ensure a Quiet and Noise-Free Living Environment for Mrs. ST.....	130
3.23.7.	Recommendation for taking Immediate Measures to Adequately Supply Drinking Water within Hygienic and Sanitary Conditions for Residents of the village of Domen, Postriba area ·	131
<b>CHAPTER IV</b>	.....	<b>132</b>
<b>OTHER INSTITUTIONAL ENGAGEMENTS</b>	.....	<b>132</b>
4.1	Procedures for Selecting Candidates for members of the High Judicial Council and members of the High Prosecutorial Council from the ranks of Lawyers and Civil Society .....	132
4.1.1.	Procedures for selecting candidates for members of the High Judicial Council and members of the High Prosecutorial Council from the ranks of lawyers .....	132
4.1.2.	Selection Procedures for Candidates for members of the High Judicial Council and the High Prosecutorial Council from Civil Society .....	136

4.1.3.	“Amicus Curiae” opinion in the Constitutional Court regarding the Agreement for the Administration of Sub-zones of Cultural Heritage and Cultural Landscape, part of Butrint National Park	139
4.1.4.	“Amicus Curiae” opinion in the Constitutional Court regarding the Decision of the Council of Ministers no. 495, dated 21.07.2022 “On the reorganization of the judicial districts and territorial competences of the courts”	142
4.1.5.	“Amicus Curiae” opinion in the Constitutional Court regarding the constitutional case: ‘Review of the constitutionality of Article 377 of Law No. 7850, dated 29.7.1994 “On the Civil Code of the Republic of Albania”	144
4.1.6.	Monitoring the Accessibility of Infrastructure for Persons with Disabilities in Voting Centres	148
4.1.7.	Independent Monitoring of the Rights of Foreign Emigrants	149
4.1.8.	Annual conference	153
<b>CHAPTER V</b>		<b>155</b>
<b>COOPERATION</b>		<b>155</b>
5.1	Cooperation with Public Administration Institutions and the level of Implementation of the recommendations of the People's Advocate	155
5.1.1.	Level of implementation of recommendations	156
5.1.2.	The ratio of Implemented recommendations to Accepted recommendations by institutions	156
5.1.3.	Cooperation within the European Integration process	157
5.2	International Cooperation	158
5.3	Cooperation within Projects	163
5.4	Public Appearances of the People’s Advocate in Exercising the Promotional Mandate	165
5.4.1.	The importance of the public communication of the People’s Advocate	165
5.4.2.	Social Media	166
5.4.3.	Presence and Public Reactions to Current Events in Traditional Media	168
5.4.4.	Official public activities	168
<b>CHAPTER VI</b>		<b>170</b>
<b>SUPPORT SERVICES</b>		<b>170</b>
6.1	Management of Human and Administrative Resources	170
6.2	Overview of Income and Expenses	175
<b>CHAPTER VII</b>		<b>179</b>
<b>THE PEOPLE’S ADVOCATE IN FIGURES 2023</b>		<b>179</b>

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## A WORD FROM THE PEOPLE'S ADVOCATE

The Annual Report is a very important implement for the institution of the People's Advocate to present the state of human rights in Albania and to highlight the relevant findings.

In 2023, two significant jubilees were celebrated: the 75th anniversary of the Universal Declaration of Human Rights and the 25th anniversary of the Constitution of Albania. These milestones remind us of the consistent need to strengthen efforts to protect and uphold fundamental human rights. This Annual Report should be read in the light of the achievements inspired by these landmark documents, aiming to promote the values of freedom, equality, and justice. It emphasizes that the protection of human rights is a shared responsibility, which demands the utmost attention of all levels of government and society.

The Annual Report 2023 provides a detailed analysis of the challenges, progress, and needs in the field of human rights in Albania. It serves as a guide for all stakeholders, including domestic and international institutions, civil society, and citizens, as well as offering a solid base for acquiring a clear perspective on how human rights should and can be guaranteed in Albania.

The People's Advocate focuses on making human rights understandable for citizens while striving for their meaningful implementation. This Report summarizes achievements, stalemates, and drawbacks in various areas, providing a comprehensive analysis of challenges and progress in human rights protection and promotion in Albania. It addresses a wide range of issues, including freedom of expression and information, social justice, minority protection, and gender equality. This analysis helps identify the need for concrete steps in managing current challenges and advancing progress in the field of human rights.

To move towards a fairer and more equal society, it is essential to continue promoting and protecting fundamental human rights, based also on the analysis and recommendations presented in this report. Looking forward, it is important to explore new approaches and take concrete steps to guarantee the respect and promotion of human rights for all citizens. This requires close and mutual cooperation between the government, civil society, and the international community.

Human rights are a vital aspect of every individual's citizenship, and improving them is a collective duty. Continued commitment to respecting and protecting these rights is the only path to a fairer and more equal society for everyone. On this path, human rights will continue to be the cornerstone of the country's future progress and development. Only by placing human rights at the heart of every state policy, can we make progress and achieve the goals enshrined in the Preamble of our Constitution.

Erinda Ballanca

## CHAPTER I

### LEGAL AND INSTITUTIONAL FRAMEWORK

National Human Rights Institutions are structures of precedence for the protection and promotion of fundamental human rights in a given society. As a vital part of the system of protecting these rights, NHRIs are empowered to take independent action not only against ill administration (historically their main function), but also against alleged violations of human rights and fundamental freedoms. Ensuring the independence of NHRIs, primarily from governments, is a prerequisite for their effective role in promoting and protecting human rights. Numerous references to the independence of NHRIs are found in the Paris Principles. Additionally, the Venice Commission of the Council of Europe<sup>1</sup> recognizes independence as a fundamental principle for the functioning of ombudsperson institutions, while the European Union Council Conclusions on the Charter of Fundamental Rights of the EU<sup>2</sup> emphasized that *“independent national human rights institutions, equality bodies, and other human rights mechanisms [...] play a crucial role in protecting and promoting fundamental rights and ensuring compliance with the Charter.”*

The Institution of the People's Advocate plays an important role in ensuring and implementing human rights, acting as a promotional, monitoring, advisory, and mediating mechanism between citizens and state authorities. This is achieved through recommendations to address human rights violations and measures proposed to make sure that these rights are enforced.

Human rights institutions, such as the People's Advocate, are rather a reflection of the state's image. The effectiveness of the soft-power of the People's Advocate is an indicator not only of the effectiveness of the institution itself, but also of the context in which it operates.

The Institution of the People's Advocate is committed to ensuring that all individuals understand and enjoy their fundamental rights and freedoms. At a time when guaranteeing human rights remains a global challenge, the role of National Human Rights Institutions is more important than ever. The Institution of the People's Advocate uses an array of actions, including advocacy for public awareness across all the levels of the society, to address human rights violations, starting from administrative operations to the more complex social challenges.

In Albania, the main actors in the protection and promotion of human rights have been through significant developments in recent years. They have become more alert and proactive in responding to human rights violations, covering areas such as migration, environmental rights, artificial intelligence, freedom of expression, and many other topics with a direct impact on citizens' lives. In some cases, these actors have become the main voices denouncing violations and demanding accountability from the responsible authorities. Additionally, they have played a critical role in raising public awareness and enhancing the culture of respect for human rights in the Albanian society. At a time when concerns about freedom and justice are increasing, National Human Rights Institutions are at the forefront of efforts to ensure that all individuals have equal access to justice and that their rights are respected. NHRIs have turned into a

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<sup>1</sup> Venice Principles

<sup>2</sup> Adopted in September 2019

reference point for protection and support if citizens feel discriminated against or their fundamental rights have been breached.

The Institution of the People's Advocate plays an extraordinary role in promoting a fair, equal, and free society for all, thus being an important voice for the interests of the population and ensuring that justice and respect for human rights are the foundations of a stable and progressive society. The rule of law and the respect for human rights are two inseparable dimensions of a just and sustainable society. In a democratic society, the rule of law is the foundation of the state's functioning and the protection of individual rights. Under the rule of law, everyone should be treated equally before the law and have access to justice without discrimination. Efforts to ensure respect for and implementation of human rights should be consistent over time in order to ensure a fairer, more equal, and freer society for all Albanian citizens.

It is important for public institutions to untiringly strive to become more open, more democratic, more service-oriented, and above all, more empathetic to the citizens, reflecting the fundamental principal that the institutions belong to the citizens and are a result of the citizen's resolve to build a state with institutions. This is a long growth process, a self-emancipating and self-educating progression, with institutions like the People's Advocate assisting or facilitating this arduous job; however, it takes the will of the institutions themselves to undergo this transformation.

The People's Advocate continued to strengthen its international cooperation, including on the broad membership platforms, such as GANHRI, ENNHRI, AOM, AOMF, IOI, etc. Through this cooperation, the People's Advocate has shared and exchanged contributions and best practices, as well as discussed common challenges with People's Advocate institutions at the European level. Continuous cooperation has provided a platform for sharing knowledge and successful experiences, thereby improving the efficiency and capacity of the People's Advocate to serve citizens and protect their rights in a broader international context.

A crucial part of the People's Advocate's strategy to carry out its duties and achieve its goals in protecting and promoting human rights is its cooperation with civil society. The People's Advocate recognizes the importance of close partnership with civil society organizations, given their significant role in uncovering human rights violations and raising important issues for citizens. Through this cooperation, the People's Advocate has access to an open platform for dialogue, interaction, and cooperation in the implementation of policies and measures aimed at guaranteeing the respect and promotion of fundamental human rights in the Albanian society.

In conclusion, National Human Rights Institutions, such as the People's Advocate Institution in Albania, are powerful examples of commitment and dedication to the values of freedom, justice, and respect for human rights. Their role is undisputed in the pursuit of a better and fairer society for all citizens.



## CHAPTER II

### IMPLEMENTATION OF THE RESOLUTION OF THE ASSEMBLY OF THE REPUBLIC OF ALBANIA 2022 BY THE INSTITUTION OF THE PEOPLE'S ADVOCATE

As part of the evaluation of the activity of the institution of the People's Advocate for the year 2022, the Assembly of Albania approved, on 22.6.2023, the relevant resolution whereby recommending to the People's Advocate, among others, a series of measures regarding the conduct of its constitutional and legal functions.

Pursuant to this resolution, the institution of the People's Advocate, based on its mandate as the highest national institution for the promotion, and protection of human rights, as well as prevention of violations thereof, considering the recommendations made by the Assembly in accordance with this mandate and its vision has instituted the measures and actions that are briefly described below.

However, it should be noted that in the period corresponding to the implementation of this resolution (from July onwards), the institution of the People's Advocate, in pursuit of its powers under law no. 115/2016 “On the governing bodies of the justice system”, as amended, was directly involved in the process of selecting the candidates for members to the High Judicial Council and the High Prosecution Council from among lawyers and civil society members. Due to the importance of this process in relation to the justice reform, priority attention has been given to the timely meeting of the needs of these bodies for high quality professionals, without neglecting other institutional duties and commitments. This activity represented a substantial challenge for the institution during the reporting year.

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#### *2.1 To intensify the institution's response, with increased visibility for actions taken, recommendations not implemented, or failure by public authorities to cooperate, in order to enhance the public's trust in this constitutional institution*

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As announced earlier, the rate of recommendation implementation by the public administration has been and remains a constant concern for the institution of the People's Advocate. This is the reason why, on an ongoing basis, the institution of the People's Advocate has monitored the implementation rate of recommendations by the public administration, updating the relevant information and publishing it in periodic or annual reports. Also, the *Progress Report of the European Commission for Albania 2023*, among other things, states that it is necessary to significantly improve the implementation of the recommendations of the People's Advocate in order to ensure the effective implementation of human rights. This is the reason why the institution of the People's Advocate proposed the introduction in the Rule of Law Roadmap of concrete measures on the establishment of mechanisms enhancing the application of its recommendations by public institutions. This proposal was accepted. The proposal involved, among other things, the establishment of contact points in the public administration bodies to coordinate the work for the implementation of PA's recommendations, as well as upgrading the inter-

institutional mechanism for the systematic monitoring of the follow-up to and implementation of recommendations made by independent bodies created by the constitution and law.

In the framework of cooperation with the Minister of State for Relations with the Parliament, the People's Advocate has officially supplied it with information on the unimplemented recommendations and the relevant responsible institutions, asking for its support in improving the rate of recommendation implementation.

Meanwhile, on the institution's official website, there is a continuously updated section on the unimplemented recommendations, the responsible institutions, and the institutions that have not responded to the PA's recommendations. In this way, the People's Advocate ensures accessibility and visibility for citizens or interested entities, as required by the rules of transparency and personal data protection.<sup>3</sup>

Additionally, the People's Advocate has sent a series of recommendations on administrative measures to be imposed on certain employees for failure to cooperate, in some cases putting the issue before the upper hierarchical levels.

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*2.2 To expand the geographical reach of information sessions in 9-year and secondary schools nationwide, with the aim of improving students' knowledge of their basic rights and the PA's work in protecting these rights. This is intended to increase the number of complaints/requests received directly from children.*

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During January-November 2023, in order to improve the knowledge of students, teachers and parents on children's fundamental rights, as well as the PA's work and activity in protecting these rights, various types of promotional activities have been organized:

- distribution of promotional materials (flyers, leaflets with PA's best practices, success stories, special reports, etc.);
- open days;
- informative meetings with students, with in-person attendance;
- online meetings with students;
- participation in and support to the activities designed and organized by the 9-year and high-school students themselves.

Over this period, 42 (forty-two) activities were conducted, with a wide geographic coverage ranging from North to South and from East to West.<sup>4</sup> The outcome was a new approach in addressing

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<sup>3</sup>For more, you can refer to the link:

<https://www.avokatipopullit.gov.al/media/manager/website/media/Regjistri%20i%20insittucione%20qe%20nuk%20kane%20kthyer%20respizje%20si%20dhe%20nuk%20have%20implemented%20the%20recommendations%20of%20AP.pdf> .

<sup>4</sup> Saranda, Vlora, Shkodër, Malësi e Madhe, Durrës, Korçë, Berat, etc.

complaints/requests from children themselves and improving students' awareness of their fundamental rights, as well as PA's work in protecting these rights.

In particular, the People's Advocate (Section for Protection and Promotion of Children's Rights) has produced, in cooperation with UNICEF, an informational brochure for children with disabilities, featuring success stories handled by the People's Advocate. The aim is to give more voice to these children and their rights. This brochure is published on the AP's official website, and on Facebook.<sup>5</sup>

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*2.3 To provide internal mechanisms for inspections/monitoring conducted by the Section for Protection and Promotion of Children's Rights, so that it does not operate solely on project basis, while increasing the number of this Section's recommendations to better protect children's rights.*

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Throughout this period, the Section for Protection and Promotion of Children's Rights, in accordance with the Inspection Plan approved by the People's Advocate, has conducted inspections/monitoring in all the residential social care institutions for children in need.

The objectives of these inspections were:

- To assess the performance of institutions providing residential social services for children in need, reviewing the relevant documentation and examining compliance with relevant procedures;
- To review the quality of work of staff in these institutions;
- To inspect conditions and facilities in the institutions;
- To survey the social, psychological, and health of child beneficiaries in these institutions;
- To assess children's rights, in accordance with the applicable national and international legislation;
- To check whether the budget allocated to children's rights is sufficient.

As a follow up to these 16 inspections/monitoring, among other activities, 29 recommendations and 133 sub-recommendations were made and sent to 69 public administration bodies, the purpose being to improve the treatment of children in these institutions and guarantee children's protection and children's rights, based on the best interest of the child.

In the meantime, it is worth noting that the Section has valuable professional capacities available for these inspections; however, there is a need for additional human resources, which the Assembly will hopefully grant in the coming year.<sup>6</sup>

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<sup>5</sup> For more, go to: <https://smpdf.org/publication/>.

<sup>6</sup> Currently, the Section consists of 4 (four) employees, 1 (one) Commissioner and 3 (three) assistant commissioners.

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#### 2.4 *To make recommendations on a priority basis to the structures of the Interior Ministry and the State Police due to consistent findings of non-observance of citizens' basic rights.*

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In pursuit of its mandate, the People's Advocate has conducted on-site examination of citizens' complaints, initiating ex officio investigations against the structures and officials of the Interior Ministry and State Police for breaching citizens' lawful rights.

Among the issues addressed, the following are mentioned:

- Complaints about procedural violations at the time of arresting, apprehending, or interviewing citizens by police authorities;
- Complaints about illegally apprehending or detaining citizens beyond the legal time limits;
- Complaints about failure to register, manage, or follow up on citizen reports or complaints;
- Complaints about obstruction of the right to free movement for travel abroad;
- Complaints about failure to provide requested information and documents to citizens;
- Complaints about the imposition of administrative measures *in absentia* by traffic police officers and failure to provide due notice thereof;
- Complaints about failure to keep and provide records of actions performed by police officers;
- Complaints by State Police employees about infringements of employment relations, etc.

As part of PA's complaints' review in 2023, 43 (forty-three) on-site verifications were carried out at the State Police structures.<sup>7</sup>

In cases where citizens' complaints and cases initiated on the institution's own initiative were found to be legally grounded, recommendations were made to the State Police and Interior Ministry structures. Some of these recommendations include:

- Recommendation to the Minister of Interior, as the superior body, to exercise his authority over the General Director of State Police in order for the latter to provide information and documentation regarding citizen BL and initiate disciplinary proceedings against the Director of the Vlorë Regional Police Directorate.
- Recommendation to the General Director of State Police to annul Order No. 1657, dated 12.07.2022, regarding the dismissal of former police officer P. B. and reinstate him in the State Police structures.
- Recommendation to the Minister of Interior to exercise his authority over the General Director of State Police in order to annul Order No. 1657, dated 12.07.2022, concerning the dismissal of a former police officer and reinstate him in his duty.
- Recommendation to the General Directorate of State Police and the Ministry of Interior to comply with obligations arising from Article 199 of the Road Code regarding the notification of traffic

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<sup>7</sup>Such as the Local Police Directorate of Tirana, the Local Police Directorate of Durrës, the Local Police Directorate of Fier, the Local Police Directorate of Vlorë, the Local Police Directorate of Shkodër, the Local Border and Migration Directorate of Tirana as well as Police Stations no. 1, 2, 3, 4, 7, Tirana, Tirana Regional Traffic Police Station, Kavajë Police Station, Durrës Police Station, Shijak Police Station, Shkodër Police Station and Pogradec Police Station.

offenders and to take organizational measures to expedite fine payment procedures and promptly establish a citizen address system.

- Recommendation to the Tirana Regional Traffic Police Commissariat and the State Administrative Authority at the Tirana Police Directorate to revoke the administrative fines imposed on citizen IH, owner of the vehicle with license plate AB 415 DD, and to comply with the provisions of Article 199 of the Road Code regarding the notification of traffic offenders identified in absentia.
- Recommendation to the Shkodër Regional Police Directorate and the Malësi e Madhe Police Commissariat to analyze the legal violations committed by judicial police officer A. N. during procedural actions to arrest citizen V. F.
- Recommendation to the Himarë Police Commissariat, Vlorë Regional Police Directorate, and the General Directorate of State Police to take necessary measures to initiate disciplinary proceedings against responsible personnel in the Vlorë Regional Police Directorate structures for failing to comply with the legal obligation to document the action of apprehending citizen V. B. and nine other citizens on 13.05.2023, etc.

Also, the People's Advocate, through the National Prevention Mechanism (NPM), inspected the premises of the State Police, with particular focus on the legality and regular conduct of apprehending, detaining or arresting individuals, the infrastructural conditions and treatment within police stations, physical and material issues, etc.

The findings have been subject to recommendations forwarded to the superior levels of the State Police. The NPM made 94 recommendations and 284 sub-recommendations, complemented by extensive official correspondence, aimed at clarifying numerous instances and issues found during the inspections.<sup>8</sup>

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*2.5 To implement the plan of measures designed to increase awareness of and promote mechanisms for protection of human rights and freedoms, with a special focus on members of the vulnerable and marginalized groups. Further meetings should be held to ensure inclusiveness, as well as publishing the action plan online and sending it to the Assembly.*

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In exercising its constitutional mandate for human rights promotion and protection and prevention of violations of individual legal rights and freedoms, the People's Advocate determined a plan of measures to increase awareness of and promote mechanisms for protection of human rights and freedoms, with a special focus on members of the vulnerable and marginalized groups.<sup>9</sup>

In order to improve citizens' knowledge about their fundamental rights, enhance citizens' access to the institution of the People's Advocate, collect complaints where citizens live, conduct awareness events

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<sup>8</sup> For more, refer to Chapter 3, point 3.4 "Prevention of violence and torture."

<sup>9</sup>This plan of measures is also published on the official website of the institution of the People's Advocate and can be found at the link: [https://www.avokatipoullit.gov.al/media/manager/website/media/Plani%20i%20masave%20p%C3%ABr%20Resoluten%20e%20Assembly\[30\]\[5811\]\[5727\].pdf](https://www.avokatipoullit.gov.al/media/manager/website/media/Plani%20i%20masave%20p%C3%ABr%20Resoluten%20e%20Assembly[30][5811][5727].pdf).

about the role of the institution of the People's Advocate as defender of human rights and freedoms, in particular of groups in need,<sup>10</sup> the institution organized *Open Days* in the Municipality of Sarandë, Pukë, Burrel, Peshkopi, and Tepelenë.

In the framework of cooperation and consolidation of work with civil society organizations for the protection and promotion of human rights, in addition to meetings with citizens and receiving complaints, round tables and meetings were organized in the above-mentioned cities with civil society organizations protecting vulnerable groups.

In these cities, meetings were also held with representatives of state institutions providing services to citizens. The purpose of these meetings was to discuss citizens' concerns, as well as building awareness of the powers of the People's Advocate. Thus, brochures and other information materials were distributed to all participants (citizens, civil society organizations, and state administration employees) about the work of the People's Advocate in protecting and promoting the rights of vulnerable groups in Albania.

Pursuant to the action plan, to ensure compliance with service delivery standards in residential and day care institutions, the following facilities were inspected:

- Emergency Centre for Victims of Domestic Violence, Durrës;
- LGBT Shelter, Tirana;
- Polyvalent Day Centre, Saranda;
- Day Centre for the Elderly, Durrës;
- Centre for handling cases of domestic violence, Gjirokastrë;
- Kamëz Polyvalent Day Centre.

Following these inspections, recommendations were drafted to the Ministry of Health and Social Protection, the Mayors of the Municipalities, the State Social Service, and the State Inspectorate of Labour and Social Services to ensure high-quality services in accordance with social service standards in Social Care Institutions.

Furthermore, representatives of the General Section, led by the Commissioner, held a meeting on 04.12.2023 with the Vice-Rector of "Aleksandër Xhuvani" University in Elbasan, and the teaching staff. The purpose of this meeting was to gain deeper insight into the current issues of higher education and to strengthen cooperation in addressing these issues with relevant bodies, specifically the Ministry of Education and Sports. Additionally, a discussion forum was held in one of the lecture halls with students and lecturers, providing extensive information on the role and functions of the People's Advocate in reviewing citizen complaints, as well as providing instructions on how to access the PA institution regarding violations to rights and freedoms.

As part of the proactive interaction of the People's Advocate with the citizens, a round table was held at the institution's premises<sup>11</sup> with representatives from the "Rromano Kham" NGO and around 15 members of the Roma and Egyptian communities. Participants were informed about the institutions work

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<sup>10</sup> People with disabilities, the elderly, women, the Roma and Egyptian community, etc.

<sup>11</sup> June 2023

in protecting the rights of vulnerable groups and they also raised their concerns, which are being followed up by the relevant structures of the PA institution.

To enhance public understanding of the work and mission of the People's Advocate, a video was produced summarizing the most important annual activities of the General Section. Every activity intended to build knowledge and awareness among citizens on their rights and access to the PA has been posted on social media, specifically on Facebook, at: [Avokati i Popullit-Seksioni i Përgjithshëm](#).

In the context of the 2023 Local Elections, to identify potential problems and take necessary measures to ensure the voting rights of persons with disabilities, the People's Advocate, through the General Section and representatives of Regional Offices in Shkodër, Kukës, Pogradec, Dropull i Poshtëm, Sarandë, Berat, and Vlorë, monitored the voting centres regarding suitability of access for disabled people.<sup>12</sup>

In respect of information and promotion, it should be pointed out that the People's Advocate increased its presence in the media, as detailed in Chapter 5, point 5.4, "Public appearances of the People's Advocate in the exercise of its promotional mandate."

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## *2.6 To propose to the Assembly the holding of special hearings with public institutions to address specific issues.*

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Independent institutions were established, among other things, to support the supervisory role of the Assembly in overseeing the activities of the executive and public administration through specialized staff with clear mandates in specific areas. By doing so, these independent bodies enhance the Assembly's supervisory function, working with it to monitor the government and other public institutions. In accordance with Article 27 of Law no. 8454, dated 04.02.1999, "On the People's Advocate", as amended, the People's Advocate considers the opportunity to present special reports on various issues within its purview to be of paramount importance, especially when they involve violations of citizens' constitutional and legal rights.

In pursuit of this competence, the People's Advocate submitted ten special reports<sup>13</sup> to the Assembly of Albania over 2021-2022:

- Monitoring report on the violation of children's rights during Covid-19;
- The Report on the "Children's Rights Impact Assessment Instrument";
- The report on the "Minimum Living Standard in Albania";
- Report on the situation of domestic violence and violence against women in Albania, January 2020-September 2021;
- Report on protection of children from abuse and sexual exploitation;
- The "Children's Rights Impact Assessment (CRIA)" report;

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<sup>12</sup> For more, see: <https://www.avokatipopullit.gov.al/sq/articles/general-issues/aftesi-kufizuar/informacion-mbi-monitorimi-i-gendrave-t-votimit-pr-aksesin-e-personave-me-aftsi-t-kufizuar-zgjedhje-vendore-2023-951/>.

<sup>13</sup> Available at: <https://www.avokatipopullit.gov.al/sq/list/publications/rraporte-speciale-1/>.

- Assessment report on the impact of climate change on children's rights;
- Report on violence against women in politics;
- Assessment report on family access to and use of family transfers;
- Report on alimony policies and the obligation to provide for children.

To our knowledge, these reports have not been discussed in plenary sessions or relevant parliamentary committees. Consequently, the People's Advocate has not had the opportunity to directly address the issues or concerns raised in these reports, nor has it been able to engage in discussions with public institutions responsible for these matters.

The People's Advocate remains steadfast in its commitment to identifying various problems concerning respect for citizens' rights and bringing them to the attention of the Parliament of Albania, as well as using hearings with public institutions as an effective means to address specific issues.

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## *2.7 To design measures to strengthen cooperation with local government bodies and administration, as well as develop a mechanism to increase local government responsiveness*

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The shifts in Albania's social and economic landscape during this period have prompted the People's Advocate to adopt a more critical stance towards the activities of local governments. The goal is to promote and safeguard human rights while combating inequality. Local government actions play a pivotal role in upholding civic space, ensuring freedom of expression, providing access to essential services, and enhancing urban planning to meet the state's social objectives. This crucial role of local governance is acknowledged in various international agreements, including resolutions by the UN Human Rights Council.

The importance of local government bodies is further underscored as the country pursues the Sustainable Development Goals outlined in the UN 2015-2030 Agenda. The achievement of these goals heavily relies on the ability of local and regional authorities to foster integrated, inclusive, and sustainable territorial development. Many investments aimed at sustainable development are channelled through local initiatives, emphasizing the leading role of these entities. It's noteworthy that while cooperation between the People's Advocate and local governments has generally been positive and beneficial for citizens, occasional shortcomings have been observed. There have been cases of neglect or failure to respond to the People's Advocate's requests, as well as failure to implement its recommendations due to financial constraints or inadequate mobilization by the relevant local government structures. Between January and September 2023 alone, the People's Advocate issued 55 recommendations to local government bodies.

However, despite these challenges, the institution of the People's Advocate considered on priority basis the strengthening of cooperation with local governments, also during the current reporting period. Various outreach activities and community-engagement events have been organized in municipalities



across the country<sup>14</sup> to address local concerns with local government leaders. Special informational materials outlining citizens' rights have been disseminated. Additionally, action plans focusing on specific sectors and legal rights have been developed and endorsed to enhance citizens' awareness of their rights and the available protective mechanisms, with particular attention to vulnerable and marginalized groups.

The People's Advocate remains steadfast in its commitment to further strengthening collaboration with local government bodies in the interest of citizens and the protection and promotion of their rights.

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## *2.8 To design measures to strengthen cooperation with the State Cadastre Agency.*

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The protection of property rights stands as a cornerstone of any democratic society, yet it remains a pressing concern for Albanian society, constituting a violation of one of the most fundamental human rights.

In the discharge of its functional duties, the PA institution has sought not only to be active but also proactive, addressing significant and sensitive issues that affect broad segments of the population. However, inability to meet the legal requirements, often due to factors beyond the control of citizens, results not only in the denial of the requested services but also, in many instances, in a complete lack of response. Consequently, citizens find themselves deprived of the rights guaranteed by the existing legislation on the property.

Another concern is the fact that the relevant institution remains unresponsive to requests by the People's Advocate, thus not only undermining the principles of institutional hierarchy and inter-institutional cooperation but also presenting significant obstacles to fulfilling the constitutional and legal mandate of the People's Advocate to protect citizens' rights, freedoms, and legitimate interests. The fact of the matter is that violations or disregard for property rights lead to a myriad of issues, eroding citizens' trust in public administration bodies and exposing state administration bodies to potential civil lawsuits for damages resulting from such violations. To address and rectify this situation, in pursuit of the recommendation from the Assembly of Albania, the People's Advocate has devised a series of actions aimed at enhancing cooperation with the State Cadastre Agency, as follows:

- Direct meetings with the Agency's head.
- Establishment of contact points between the institutions to foster cooperation and enhance efficiency of operations.
- Periodic discussions to agree on issues arising in the process of work, and regular meetings of the contact points.
- Participation in the analytical meetings of the State Cadastre Agency, both at the central and local levels.

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<sup>14</sup> Sarandë, Pukë, Burrel, Peshkopi, Tepelenë, etc.

On December 13, 2023, the People's Advocate sent a recommendation to the State Cadastre Agency regarding the non-implementation of a previous recommendation and other issues related to legalization procedures. Additionally, a meeting with the Cadastre Director was requested. As of the conclusion of this report, no official response has been received from the State Cadastre Agency.

The People's Advocate remains fully committed to resolving citizens' concerns regarding property rights and further strengthening institutional cooperation with relevant authorities. There is a crucial need to bolster the supervisory role of the Albanian Assembly to ensure the implementation of recommendations made by the People's Advocate to the executive and other public institutions.<sup>15</sup>

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## 2.9 *To draft recommendations in response to the need identified by the EU Progress Report to strengthen citizens' rights to good administration.*

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In addition to the protection of human rights, one of the main aims of the People's Advocate is to develop the culture of good governance. This notion requires the good administration of public property, transparency and accountability of the public administration to the citizens. The creation of a culture of human rights in Albania requires close cooperation with public administration bodies, civil society, international institutions, inside and outside the country, academia and the media, as well as increasing public knowledge and awareness about human rights.

PA recommendations endeavour to set a standard for the operation of Public Administration, aiming to clarify its true role in relation to the citizens, i.e., to make Public Administration realize that the reason for its existence is to serve citizens to materialise their rights. The inherently challenging nature of public administration decisions is yet another hurdle to the effective implementation of good governance principles. In such circumstances, not only the People's Advocate in Albania, but also every Ombudsman office worldwide often faces resistance from public administration bodies.

Furthermore, the function of the People's Advocate involves investigating issues arising from the maladministration by public bodies, i.e., actions or inactions by officials that conflict with the Constitution and applicable laws. By addressing this phenomenon, the People's Advocate promotes good governance and integrity of the public administration. The European Commission's Progress Report 2023 underscores the significance of citizens' right to good administration, noting that *“the rate of implementation of the Ombudsperson's recommendations continues to hover around 50-60%... Parliament must enhance cooperation with the People's Advocate and address the issue of non-response from public administration bodies.”*

From *January to September 2023*, the People's Advocate issued a total of 107 recommendations to public bodies at both central and local levels, spanning various domains of rights, in order to address and uphold citizens' rights, as identified in European Commission's progress reports.

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<sup>15</sup> The People's Advocate expresses the belief that the new mechanism for following up on the implementation of the recommendations will improve outcomes in this respect. The action is scheduled for implementation in 2024.

The opinions and recommendations put forth by the People’s Advocate aim to highlight the most critical issues concerning human rights standards in Albania. Experience has demonstrated that the resolution of individual cases, often exposes systemic issues regarding human rights protection, underscoring the need for accountability by public administration bodies. Given these factors, further enhancing cooperation with the Assembly and improving the inter-institutional mechanism for the systematic monitoring, follow-up and implementation of recommendations issued by independent constitutionally and legally established institutions, are crucial to the consolidation of citizens' right to good administration.

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*2.10 To conduct joint activities with the Parliamentary Group “Friends of Children” in order to inform, educate and increase citizens' awareness of children’s issues.*

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On November 20, 2023, in commemoration of the International Day of Children's Rights, the People's Advocate held at its premises the promotional event, “Together with Children in Protecting Their Rights”. Children were invited to participate, and the event was attended by Mrs. Erisa Xhixho, Vice President of the “Friends of Children” Parliamentary Group.

During the event, students from the “Ardian Klosi” school had the opportunity to showcase their artwork in an exhibition, allowing them to freely express their opinions on children's rights through art. The People’s Advocate will continue to collaborate with the Parliamentary Group “Friends of Children” in other significant activities in the future.

## CHAPTER III

### ASSESSMENT OF HUMAN RIGHTS COMPLIANCE BY THE PUBLIC ADMINISTRATION

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#### 3.1 Summary of the activity of PA Sections in 2023

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##### 3.1.1. The activity of the Section on Police, Secret Service, Prisons, Armed Forces and Judiciary<sup>16</sup>

The focus of the activity of the Section on police, secret service, prisons, armed forces and judiciary has been on several issues, presented below, regarding the guarantee and protection of the fundamental rights and freedoms of the citizens from the actions or inactions of law enforcement bodies.

During the year 2023, out of 279 cases (complaints and ex officio cases) for which an administrative investigation was completed, human rights violations were found in 35 cases. Relevant recommendations were sent to 54 law-enforcement bodies, with a copy for information to 7 additional bodies, totalling 98 sub-recommendations to be implemented by them.<sup>17</sup>

The rights of persons deprived of their freedom have been the focus of staff work, given their separation from the rest of society. Some of the issues in their complaints to the People's Advocate are related to: quality of health care; placement in prison, rather than health facilities where there's is a court decision on "forced treatment"; quality of food; transfer of personal belongings; the right to continue secondary and higher education while serving time; the right to information, etc.

Additionally, the focus has been on investigating complaints by prison administration staff. They are in direct contact with persons deprived of their liberty, they face many difficulties and contribute every day to the management of the penitentiary system.

It should be noted that findings made by the People's Advocate while handling complaints have been received well by the Ministry of Justice and the prison authorities, benefiting mutual cooperation between the institutions.

The scope of complaints received and ex officio cases by the People's Advocate, which involve

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<sup>16</sup> The activity of this Section includes areas related to:

- Rights of persons deprived of liberty;
- Compliance of State Police with Human Rights;
- Human Rights Compliance of the Prosecutor's Office;
- The right to due process in the judicial system;
- Free legal aid;
- The rights of ex-convicts and the politically persecuted by the communist system.

<sup>17</sup> In addition, in the framework of institutional organizational measures, assistant commissioners of this Section have also followed up several complaints passed over by *the Section on central administration, local government and third parties acting on their behalf*. Thus, they designed 4 recommendations, with a total of 10 sub-recommendations, which were addressed to 7 law-enforcement bodies of the public administration.

*structures of the State Police and the Interior Ministry*, ranges widely. Among them, there are cases of non-compliance with the rules of keeping and providing records and minutes on actions by police forces; unlawful detention or detention in excess of legal deadlines; illegal arrests or apprehensions; illegal home searches; failure to record the time of *in flagrante* arrests, or the time of detaining the suspects of a criminal offence; physical or psychological abuse during detention or interrogation; failure to notify the family of the arrested/detained, or denying the right of the detainee to use his mobile to call his family; unethical communication by police officers; poor detention conditions; failure to register, administer or follow up on complaints/requests; failure to provide defence lawyers in the conduct of procedural actions; illegal administrative sanctions by Traffic Police or failure to communicate these measures in accordance with the provisions of the Traffic Code violation of the right to information; unfair dismissal from the State Police; violation of the rights of foreign citizens in Albania, such as withholding residence permits and procrastinating procedures to award Albanian citizenship, etc.

The consequences stemming from unconstitutional and unlawful actions or inactions by police officers should not be overlooked. Such misconduct tarnishes the image and reputation of the State Police and erodes public trust in this public institution.

Concerning *the functioning of the judicial system in 2023*, the People's Advocate closely monitored the process of launching the new judicial map. Complaints received and ex officio cases point to delayed court proceedings, postponed hearings, etc. Fundamental issues have been noted with delaying the reasoning of court decisions, whether civil or criminal. Additionally, significant issues have been created as regards the timeliness of notifying parties, consequently impairing the right to appeal or recourse to the High Court.

Currently, the judicial system has a high number of vacancies for judges, a high backlog of cases particularly in the First Instance Court of General Jurisdiction in Tirana and the two courts of appeal (general jurisdiction and administrative), inadequate infrastructure and working conditions in the existing facilities, and a shortage of new buildings (justice palace), posing extremely challenging conditions.

The People's Advocate has repeatedly raised concerns regarding citizens' access to justice due to the new judicial map, in anticipation of the coming problems. As a result, a series of recommendations have been addressed to the relevant institutions highlighting the need to take necessary measures, in order to deliver timely justice in line with the international standards and domestic legislation.

Further, the Special Section focused on citizens' problems and complaints against prosecution offices, regarding unjustified delays in criminal proceedings; failure or delays in notifying parties of decisions made by the Prosecutor's Office, primarily those who submit criminal complaints, in cases of decisions not to initiate criminal proceedings; failure to provide updated information on the status of the complaint; delays in notifying parties in criminal proceedings; and failure to comply with procedural rules governing the parties' rights in criminal proceedings, specifically failure to provide access to the evidence in the case file upon which criminal charges were based.

Particular attention has been given to the former political prisoners and their heirs. The PA recommendations have repeatedly pointed out that budget allocations for compensating the formerly political persecutees is insufficient for the process to conclude within a reasonable timeframe, hence the

procrastination from year to year and failure to comply with reasonable deadlines. The frequent procedural changes made by the government have complicated the process, and to this day there is no definite deadline for meeting the obligation to finalize compensation for former political prisoners and their heirs.



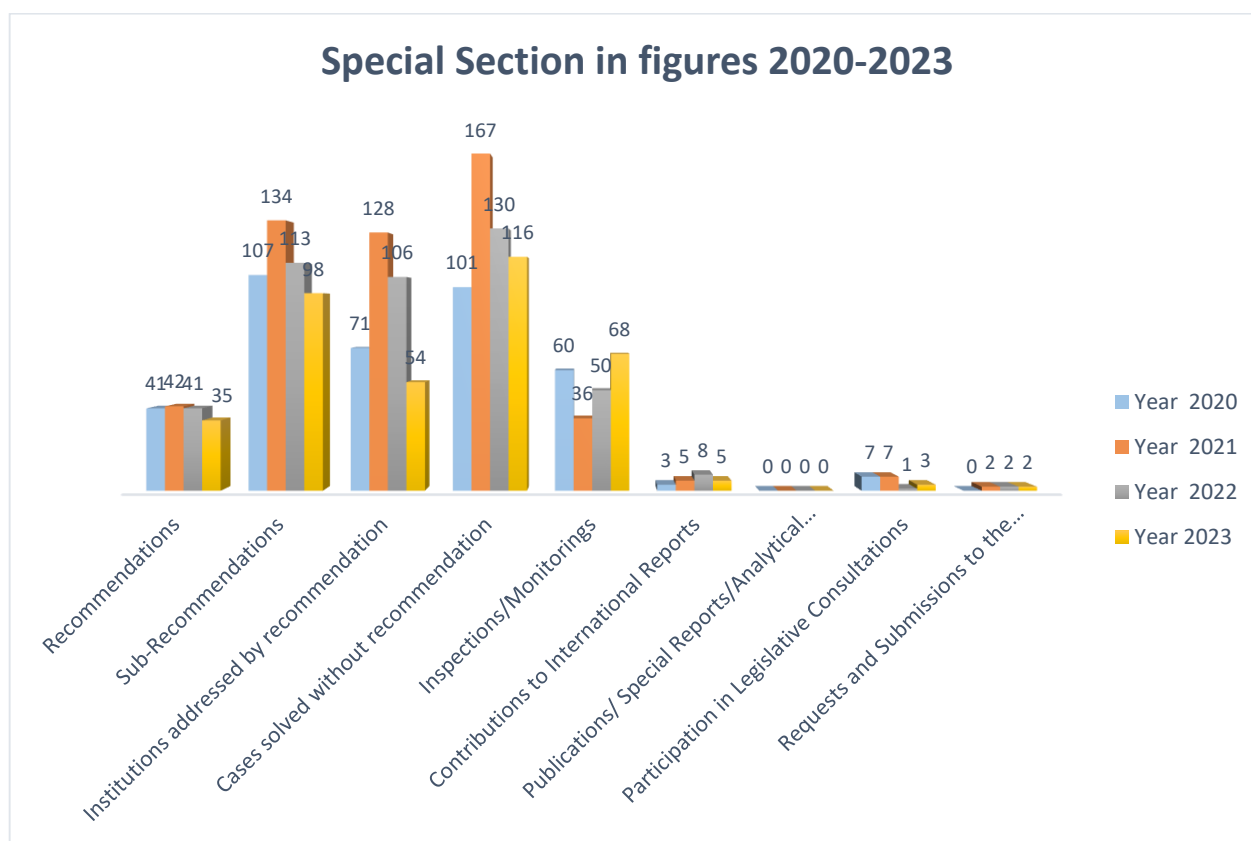
### 3.1.2. *The activity of the National Prevention Mechanism against Torture, Cruel, Inhuman or Degrading Treatment or Punishment*<sup>18</sup>

In 2023, the National Prevention Mechanism (NPM) carried out 96 inspection visits,<sup>19</sup> which were followed by 92 recommendations and 284 sub-recommendations to the responsible authorities to improve the situation of the rights of persons deprived of liberty.

<sup>18</sup>The activity of this Section includes areas related to: Periodic inspections and monitoring for the respect of the human rights of persons deprived of their liberty in the penitentiary system and police units; level of respect for the rights of persons in Psychiatric Hospitals; level of respect for rights in the closed Centres for Foreigners, National Reception Centre for Asylum Seekers and the National Reception Centre for Traffic Victims; level of respect for rights in Homes for the Elderly; Independent monitoring of the rights of foreign immigrants; Monitoring operations for the forced return of Albanian citizens staying illegally in EU countries.

<sup>19</sup>In Institutions for the Execution of Criminal Decisions, Police Units, Centers, Psychiatric Hospitals and Nursing Homes.

## Special Section in figures 2020-2023



Feedback on recommendations indicates that most of them have been accepted and the relevant institutions are working to meet their obligations. Cooperation and constructive dialogue have been ongoing with all the authorities responsible for deprivation of liberty. It is for the future to show whether the recommendations will be implemented, while a response is still pending where institutions have not provided any feedback.

The National Prevention Mechanism in 2023 handled 46 complaints and cases with initiative (32 complaints and 14 cases with initiative), of which 23 complaints concern the prison system (lack of health-care and medications, poor living conditions, overcrowding, etc.) and 9 complaints concern the police (failure to ensure the delivery of medical aid, unlawfully bringing people to the police station, etc.). Five recommendations were made to the relevant institutions. In cooperation with the Department of Border and Migration Police and FRONTEX, the National Prevention Mechanism flew with the flight team *to monitor 2 repatriation operations*.

Inspections in some prisons revealed extremely poor material conditions, making it impossible to guarantee the rights of prisoners. Issues include worn-out premises, humidity, intermittent electricity and water supply, lack of natural lighting and ventilation in the cells, substandard conditions in toilets, kitchens, showers, and fresh-air facilities. *Overcrowding* increased in 2023 in pre-trial detention as well as in prisons.<sup>20</sup>

Healthcare remains dysfunctional, impacted by the absence of a specialized medical institution, a shortage of doctors in the penitentiary system, lack of special facilities for treating individuals with

<sup>20</sup> The phenomenon persists in the prisons of Jordan Misja, Drenovë, Peqin, Fier and Tepelenë

mental health problems or Special Care Sectors (SCS), unsuitable facilities for medical examinations, and obstacles in scheduling specialized examinations, medical consultations, or specific laboratory tests.

During 2023, inspections were conducted in police services, focusing on the handling of citizen apprehensions, the placement of undue items in investigation offices that could exert psychological violence, and the role of the psychologist in treating children and police staff who may exhibit psychological problems. Recommendations were sent to the superior ranks of the State Police where infractions were identified. Notwithstanding the notable improvements in the human rights approach by the State Police, there were several complaints and media reports on alleged breaches of legal procedures in apprehending, arresting, or detaining citizens by police officers. Complaints grounded in facts and law were handled by working groups, and recommendations were subsequently made in respect of sanctions against the individuals concerned.

The People's Advocate has continually drawn attention to the situation in mental care hospitals in Albania. In 2023, mental institutions were inspected by the NPM, requesting central agencies and hospital authorities to implement national legislation and international acts, specifically the package of by-laws issued pursuant to law no. 44/2012 "On Mental Health," as amended.

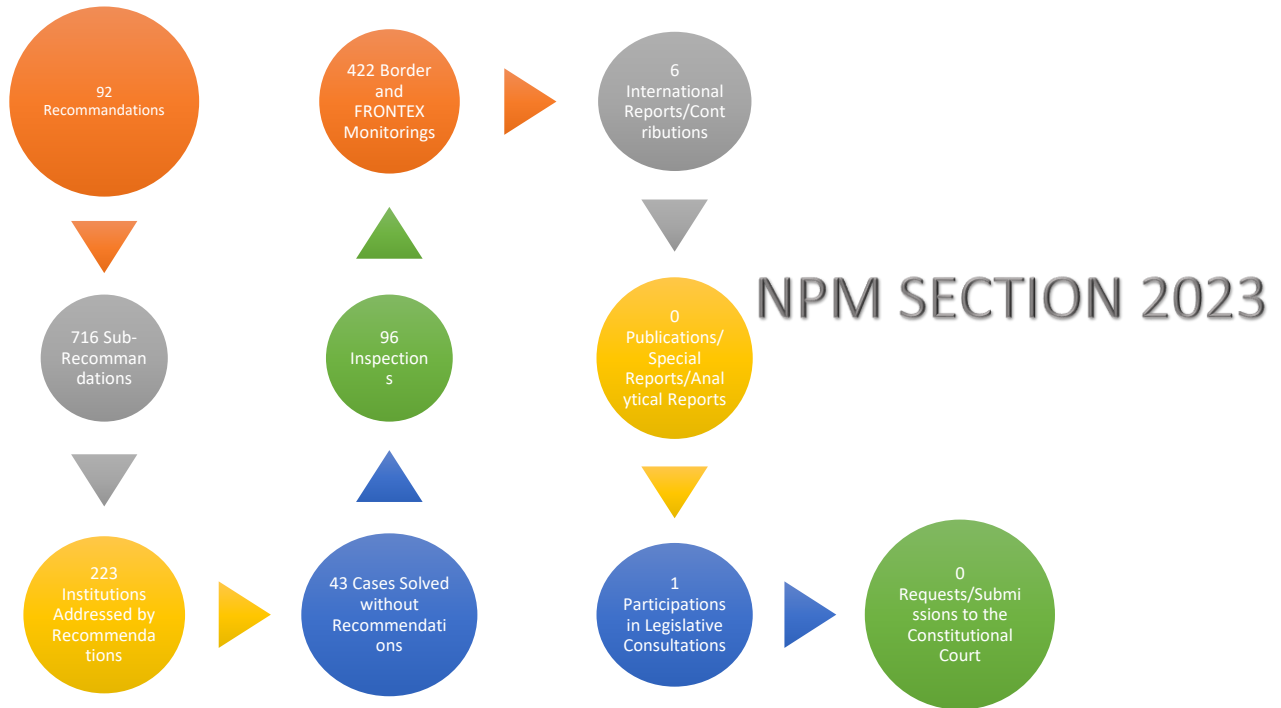
The National Mechanism for the Prevention of Torture also inspected nursing homes, finding insufficient human resources for service delivery according to social care standards. This shortfall makes it difficult to provide standard care for beneficiaries and staff alike.

Regarding the rights of foreign citizens, the National Mechanism for the Prevention of Torture conducted several inspections in the centres for asylum seekers, including the Closed Centre for Foreigners in Karreç, the National Reception Centre for Asylum Seekers in Babrru, Tirana, and the National Shelter for Trafficked Victims in Linzë. Following these inspections, relevant recommendations were sent to authorities at central and local levels.

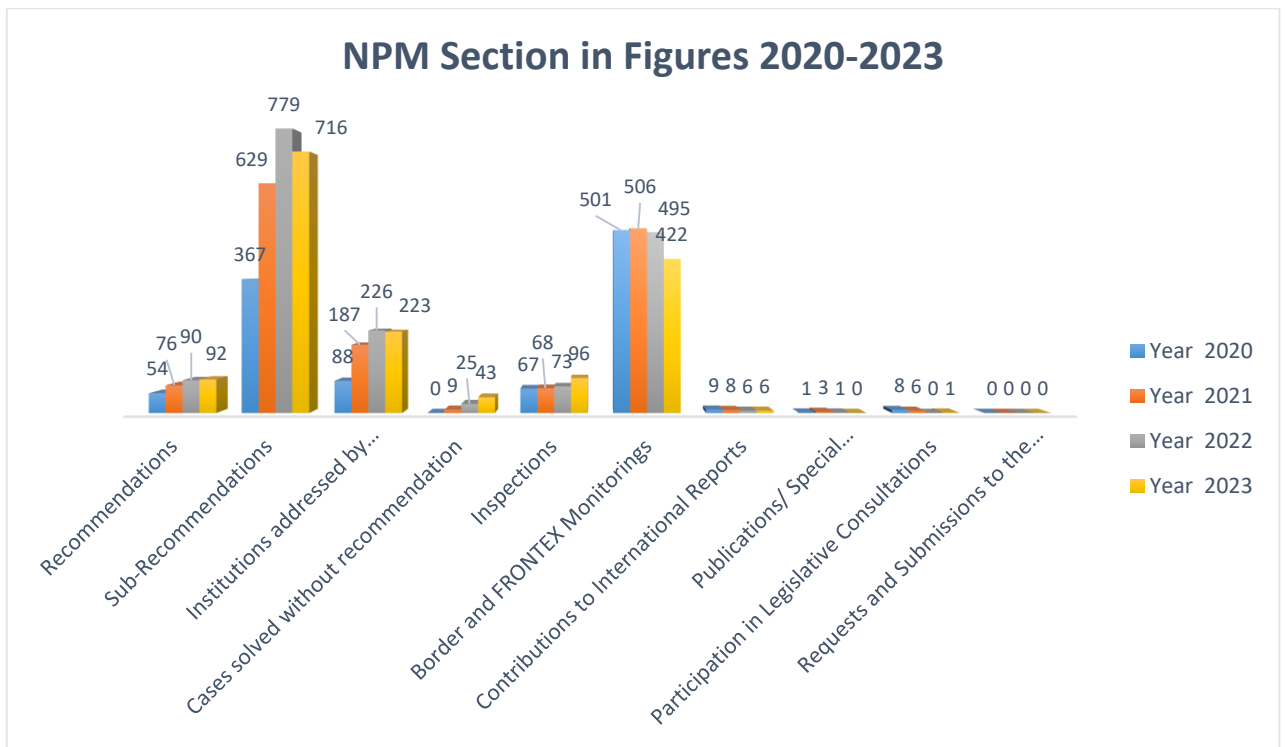
In 2023, the National Mechanism for the Prevention of Torture continued its cooperation with UNHCR under the joint Project, "Refugees and Asylum Seekers in Southeast European Countries," focusing on border control and the protection of refugees in southern Albania (Gjirokastër, Sarandë, Përmet) and south-eastern Albania (Korçë, Devoll, Bilisht). The People's Advocate institution, acting as the NPM, in meetings and joint monitorings with FRONTEX and the Border and Migration Police, suggested measures to ensure humane treatment during returns, in observance of fundamental rights of immigrants, whether Albanian or foreign, and strict compliance with EU standards and Albanian law.

In 2023, the National Mechanism for the Prevention of Torture closely collaborated with the Network of NPMs in South-East Europe, the United Nations Subcommittee for the Prevention of Torture (SPT), the Association for the Prevention of Torture (APT), UNHCR, the Council of Europe, and various national and international NPOs. These collaborations involved joint meetings, conferences, and direct contacts aimed at exchanging experiences and assessing needs and identifying the tools required to protect the rights of people deprived of liberty.





### NPM Section in Figures 2020-2023



### 3.1.3. Activity of the General Section<sup>21</sup>

The General Section intensified efforts to ensure the dignified treatment of vulnerable or at-risk groups, communities, and individuals who are the most vulnerable and unprotected. The focus has been on addressing identified problems through systemic recommendations in areas such as the right to education and healthcare, the rights of persons with disabilities, the rights of national minorities, the rights of women and the LGBTI community, the right to economic assistance and social protection, as well as the right to a healthy environment.

In 2023, the General Section issued a total of 55 recommendations with 200 sub-recommendations to public administration bodies across 51 cases where it was necessary to address violated rights or systemic problems.

As regards *the right to education*, a systemic recommendation was made to the Ministry of Education and Sports on the approval of a new support package for students during crises.

In respect of *the right to healthcare*, three recommendations were made to the Ministry of Health to address the lack of health personnel in remote areas, to provide due recognition and protection to the rights of resident medical students in Albania's healthcare system, and to streamline the rights of unidentified patients receiving health services.

As concerns *the rights of persons with disabilities*, through recommendations and other institutional interventions the PA has been calling for the rigorous implementation of the relevant legislation in order to achieve their full integration into society.

Regarding *social security benefits*, problems similar to previous years persist, including unanswered requests for verification of individuals' work periods and low old-age pensions, indicating ongoing challenges in the system's operation.

Relative to *national minorities*, the focus in 2023 was on the Egyptian and Roma communities. The People's Advocate highlighted the need for a proactive and cooperative approach by public institutions to integrate and protect these minorities' rights. Recommendations were made at both local and central levels to improve their housing and education conditions, as well as their cultural identity. Additionally, it is necessary to complete the full set of implementing by-laws in order to guarantee these rights as required by the applicable legislation.

In terms of *women's rights and gender equality*, despite the measures taken, women and girls continue to sustain violence, inequality, and discrimination. The identified issues have been the subject of continuous recommendations. A notable initiative is the establishment of the Femicide Observatory, which analyses relevant data and causes of the femicide, the actions taken by institutions, as well as compiling periodic reports with findings and recommendations for the institutions.

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<sup>21</sup>The activity of this Section includes areas related to: The right to education; The right to health care; Rights of persons with disabilities; Rights of national minorities; Rights of women and the LGBTI community; Economic assistance and social protection; The right to a healthy environment.

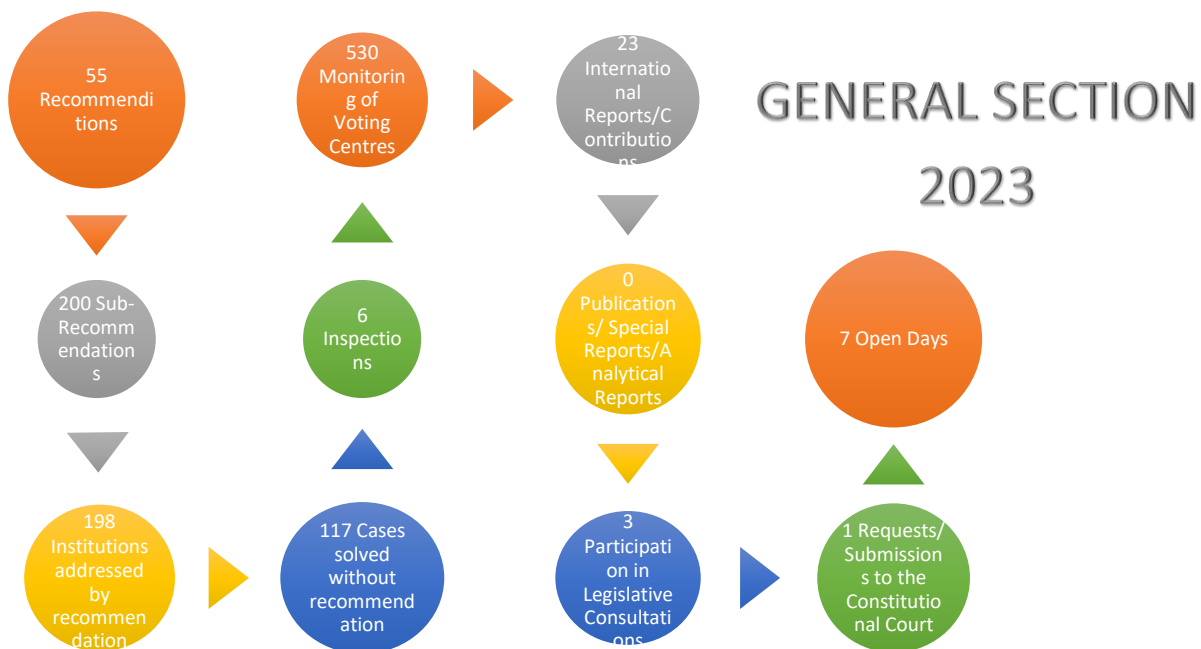
The *LGBTI community continues to face challenges with their rights*. In 2023, the People’s Advocate focused on protecting LGBTIQ rights by providing staff training and inspecting the STREHA centre for LGBTI+ youth. Following the inspection, recommendations were made on improving conditions and promoting awareness and equality standards. The People’s Advocate emphasized the need to implement the objectives in the National Action Plan for LGBTI+, including gender identification and recognition of same sex marriages, without delay.

Regarding social care, *the amount of economic assistance* remains insufficient, compared to the basic monthly expenses required for survival. Based on complaints by citizens, the PA has issued continuous recommendations to improve the situation.

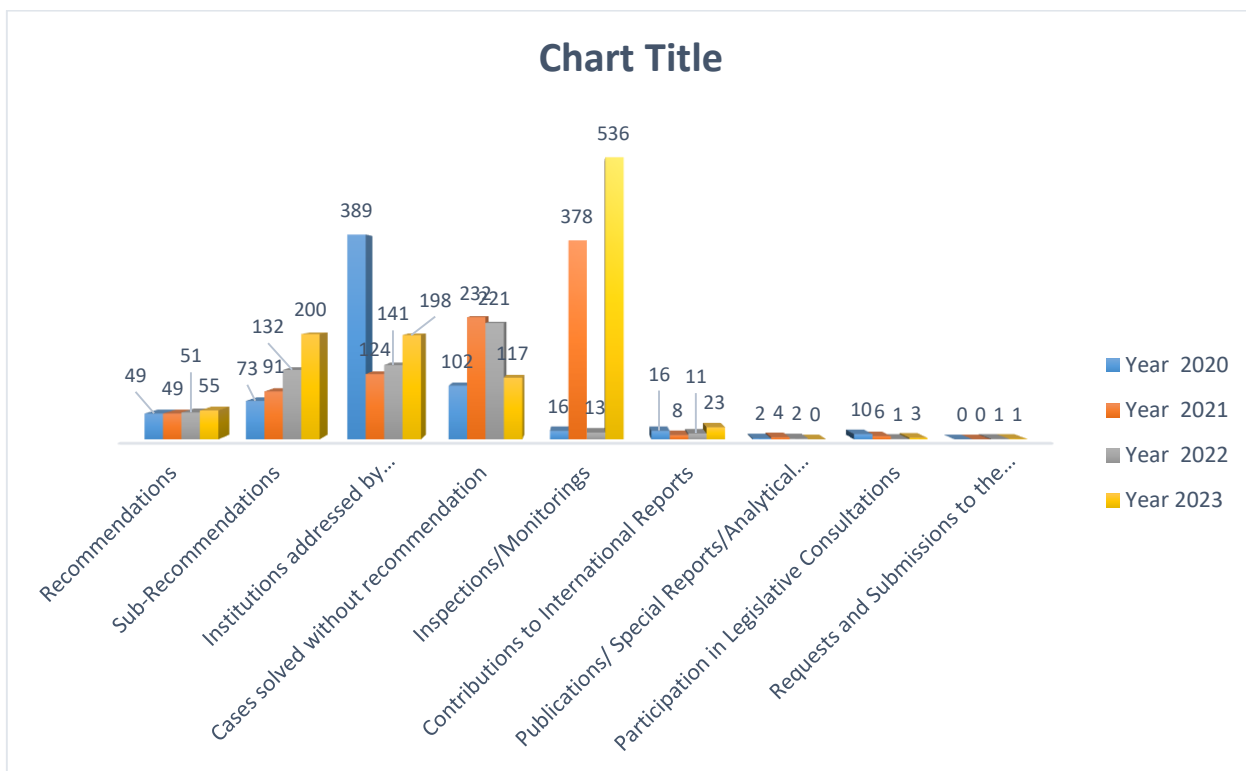
In terms of the *right to a healthy environment*, in 2023 the PA evidenced the persistence of environmental issues such as air, water, and land pollution, as well as noise pollution. There has been a lack of cooperation and coordination among responsible institutions in implementing environmental protection legislation. Recommendations have emphasized the importance of law enforcement and institutional cooperation for a clean, healthy, and sustainable environment in Albania.

In conclusion, despite joint efforts, problems in these areas continued and were the subject of several recommendations. There is a need for stronger commitment and closer cooperation among public institutions to guarantee the rights of individuals and vulnerable communities to a healthy and safe environment.

GENERAL SECTION 2023



General Section in Figures 2020-2023



### 3.1.4. Activities of the Section for Central Administration Bodies, Local Government Authorities, and Third Parties Acting on Their Behalf<sup>22</sup>

Throughout 2023, the Section for Central Administration Bodies, Local Government Authorities, and third parties acting on their behalf focused on monitoring fundamental human rights guaranteed by the Constitution of the Republic of Albania and the European Convention on Human Rights together with its Additional Protocols. From the cases handled, including both complaints and proactive investigations, 54 recommendations were issued based on the 445 cases handled in total by this Section.<sup>23</sup>

The primary focus of this section has been on property rights, which encompass ownership issues and other related matters such as the execution of decisions by administrative bodies, final judicial decisions, due process of law, and re-settlement procedures for residents affected by natural disasters.

Ownership issues continue to be a major concern for Albania's economic development. Despite the People's Advocate's efforts to address property rights with special care also in 2023, various state institutions unjustifiably delayed their proceedings, exceeding reasonable timeframes. Thus, citizens' requests remain unresolved for years.

The process of financial compensation by the Property Handling Agency (PHA) remains slow. Given the legal deadline for completing this process, i.e., making relevant payments for recognized property

<sup>22</sup>The activity of this Section includes areas related to: Execution of civil and administrative court decisions; respecting property rights and legalizing constructions without permits; regulating labour relations and respecting the right to a legal due process in the administrative procedure; consumer protection and respecting the rights related to the local government.

<sup>23</sup>During this reporting year, 72 cases falling under the areas covered by this Section were handled by assistant commissioners from other sections due to the high number of cases and the fact that the Section has been without a Commissioner since September 2022.

rights<sup>24</sup>, and in view of the current pace of clearance, there is reasonable doubt that this process will not be completed within the legal deadline.

A significant number of complaints received by the People's Advocate were against the Local Directories of the State cadastre Agency, ranging from simple issues such as failure to issue property registration papers within the timeframes, to prolonging legalization processes for indefinite periods.

In several aspects, property rights have been standardized and are subject to streamlined transitional processes defined in the applicable legislation. These transitional processes apply to the division of the agricultural land, the restitution and compensation of property to former owners, and the legalization of illegal buildings. However, these processes have led to issues such as lack of harmonization and conflicting legal practices, impeding their progress. Moreover, the application of the regulatory legislation for these processes has resulted in legal instability surrounding this fundamental right.

Monitoring the implementation of *territorial development* laws by public bodies revealed a lack of effectiveness of their operations. This administrative public activity is hindered by ambiguity and legal instability in the relevant regulatory legislation.

*The right to a fair trial*, guaranteed by Article 42 of the Constitution and Article 6 of the European Convention on Human Rights, includes the execution of final court decisions. The state is obligated to organize an effective system for implementing decisions without unnecessary delays.

In 2023, *housing* and the *right to housing* remained a critical social issue and a focus of the People's Advocate. Identified problems include a lack of transparency in legal procedures, followed by local government units' failure to implement social policies related to inadequate living conditions, as well as the urgent need for reconstruction.

The Section also addressed cases related to *public infrastructure and public services*, such as the construction, rehabilitation, and maintenance of local roads; road signage; public lighting; local public transport; waste collection, disposal, and treatment; construction, rehabilitation and maintenance of housing facilities; drinking water supply; and the management of polluted waters and rainwater.

*Labour relations* and *due process in administrative proceedings* were also key issues, with the Section reviewing complaints and requests concerning removals, dismissals, transfers, and appointments in the state administration from individuals with or without civil servant status.

*Consumer protection* was another area of focus, with issues related primarily to drinking water and electricity supply.

## **PUBLIC ADMINISTRATION SECTION 2023**

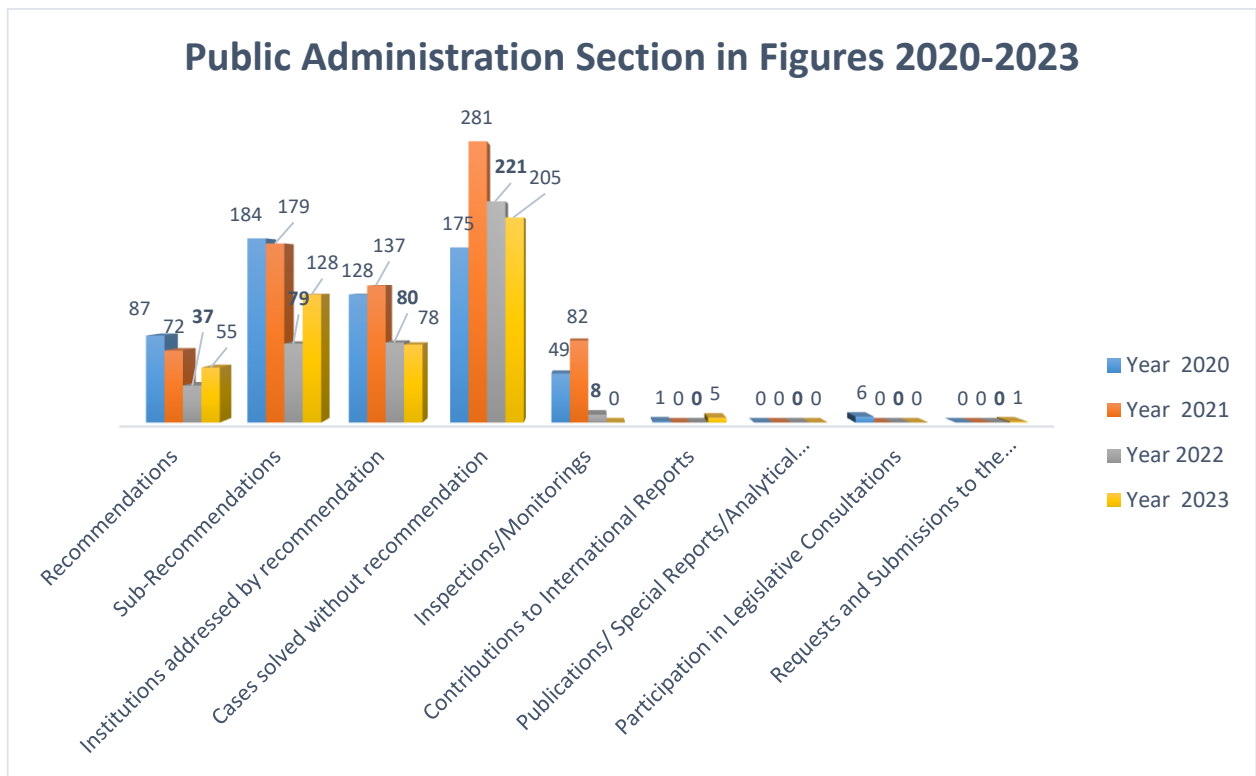
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<sup>24</sup> According to Law No. 133/2015 "On Property Treatment and Completion of the Property Compensation Process," the compensation must be completed within 10 years from the date the law came into effect.

PUBLIC  
ADMINISTRATION  
SECTION  
2023



PA Section in Figures 2020-2023



### 3.1.5. *Activity of the Children's Section*<sup>25</sup>

This report on children's rights focuses on various issues with great importance for their rights and protection. It details the work of the institution of the People's Advocate, specifically in handling complaints/requests/ex officio cases, conducting administrative investigations and inspections in social care institutions for children in need, as well as informing children about their rights through the various promotional activities in educational institutions. This approach provides a clear picture of the PA's efforts to ensure the rights of the child in cyberspace, health, education and justice system; the right of the child to a dignified life and full protection, from the perspective of an oversight body, as required by domestic law.

This report also shows how the People's Advocate encourages children's participation and listens to their concerns. The inclusion of children has provided positive results, and hopefully other public administration bodies at the central and local level will see the added value of children's participation, especially around decisions that affect them.

During the year 2023, the Section for the Protection and Promotion of Children's Rights, after conducting inspections in Children's Foster Homes and following independent administrative investigations, made 29 recommendations to 70 public administration institutions at the central and local level, with a total of 133 sub-recommendations to be implemented by them, as well as publishing best practices for the protection of children with disabilities.

In 2023 a significant number of children complained directly to the People's Advocate.<sup>26</sup> This is also a positive outcome of the increased promotional activities conducted on site in educational institutions, with shared benefits for both the children and the PA institution.

Regardless of recent improvements, the amount of economic aid/assistance awarded to families with children is insufficient to ensure a dignified living for family members, children included. The rate of increase has been below the level that guarantees a dignified life for children and their families. The serious concern of the declining ratio of children to the general population from year to year calls for a profound reform based on children's best interest. The reform should aim to enhance the budget allocation for social protection and improve social protection policies, with children at the centre. The application of the bio-psycho-social model undertaken by the government for disabled people is a new and positive approach. However, this model should be expanded and better financed not only for the early identification of developmental issues, but also to create comprehensive social services, based in the community and schools, for children with disabilities, as one of the most vulnerable categories of society.

Children with disabilities must be evaluated with the new bio-psycho-social model through by multidisciplinary teams, based on the child's health and social needs, with the aim of preventing institutionalization. The provision of social services for them is a necessary element to enable them to have a life and educational journey as productive and fulfilling as possible.

Inspections in residential care institutions for children in need revealed that certain measures on the deinstitutionalization action plan were not implemented within the prescribed timeframes. Such measures

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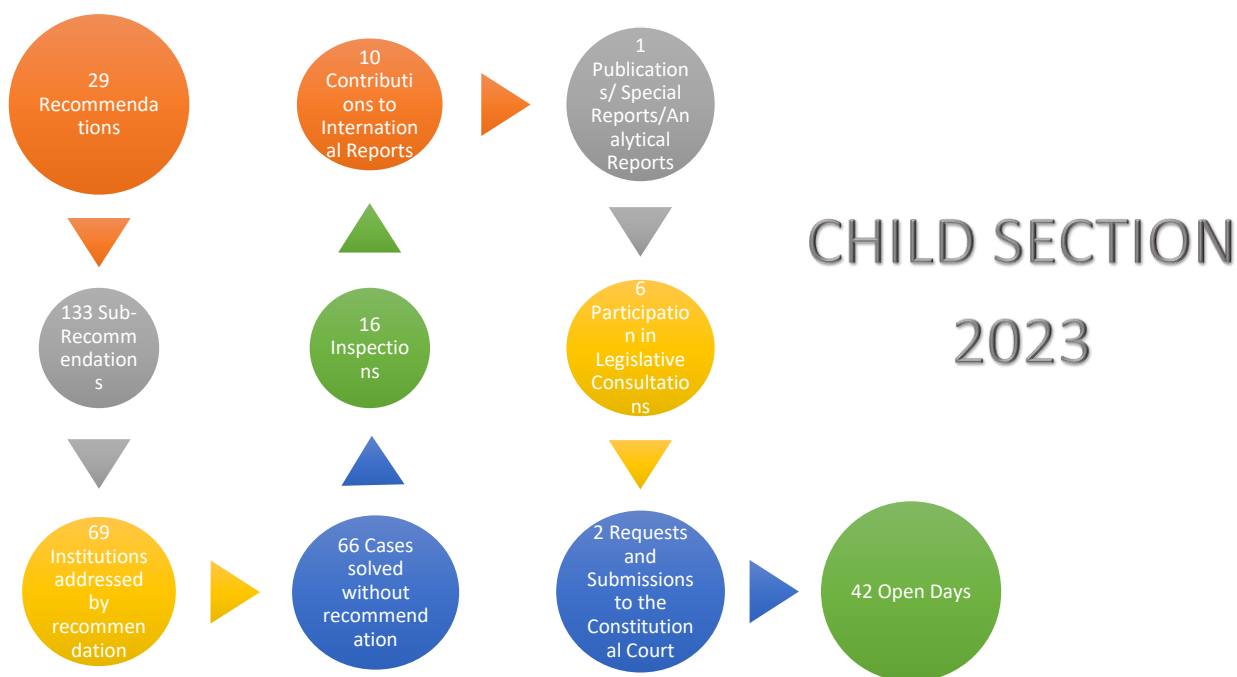
<sup>25</sup>The scope of activity of this Section is the protection and guarantee of children's rights.

<sup>26</sup>In 2023, 36 complaints were sent directly from children. 31

include the establishment of the professional foster service, the implementation of individual plans for children in social care institutions, the transformation of the current Social Care Institutions into centres for child and family support services as well as capacity building for social care administrators in local self-government units. In order to accelerate deinstitutionalization, resources should be shifted from institutional settings to alternative, community-and family-based care services.

The People’s Advocate participated in the activities organized by the European Network of Ombudsmen for Children (ENOC), making a contribution in respect of the topic, “Strengthening Independent Children's Rights Institutions and recognizing their unique role.”<sup>27</sup>

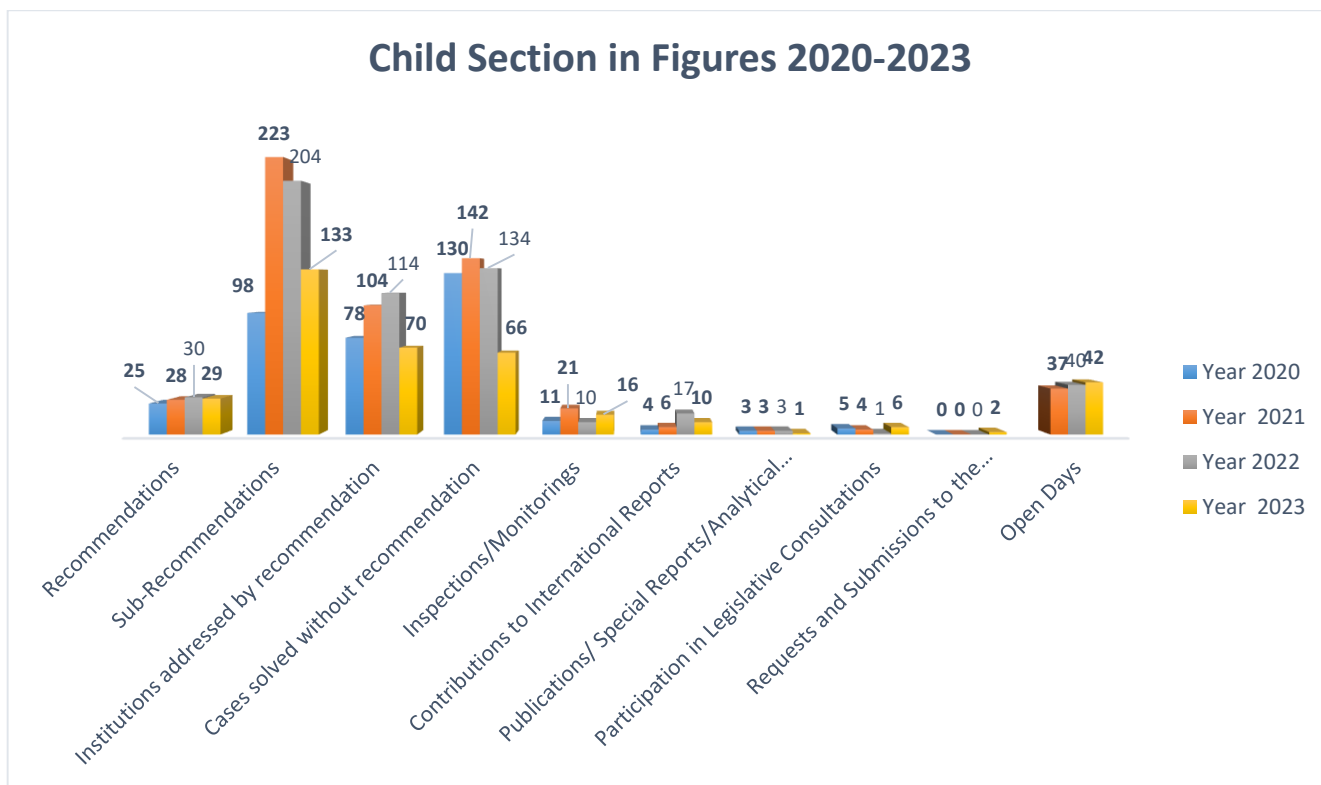
### CHILD SECTION 2023



<sup>27</sup> [ENOC-2023-Statement-on-Strengthening-ICRIs-FV.pdf](#) 32



## Child Section in Figures 2020-2023



### 3.2 Rights of persons deprived of liberty<sup>28</sup>

In 2023, the People's Advocate handled 92 complaints and ex officio cases related to violation of prisoner rights in the penitentiary institutions. The complaints were submitted by prisoners or their family members.

Regarding *the right to education*, an administrative investigation was initiated in 2022 regarding a prisoner's complaint about the lack of opportunity to pursue higher education while serving a sentence at the Institution for the Execution of Criminal Decisions (IECD) Korçë. The investigation found that this specific case had been resolved, but no implementing regulations have been established to govern the provision of secondary and higher education in such institutions, as stipulated in Article 45, point 9 of law no. 81/2020 on the rights and treatment of prisoners and pre-trial detainees. As per this provision, guidelines for secondary and higher education in prisons are to be determined through a joint instruction of the Minister of Justice and the Minister responsible for education and professional training within 3 months from the entry into force of law no. 81/2020.

<sup>28</sup>This area of law is covered by the Section for the police, secret service, prisons, the Armed Forces and the judiciary in the institution of the People's Advocate.

The People's Advocate has continuously inquired with the Ministry of Justice whether the implementing rules were drafted in respect of the provision of secondary and higher education in institutions for the execution of criminal decisions (IECD). In its last response, October 2023, the Ministry of Justice informed the PA that the instruction in question was drawn up, and the feedback of the Ministry of Finance and Economy was pending. The latter is yet to provide its feedback, despite the repeated requests of the People's Advocate.

A significant number of cases handled by the People's Advocate institution are related to *the health care for prisoners*. Prisoners with mental health disorders have been under the constant attention of the People's Advocate, as a special category with limited freedom in the institutions for execution of criminal decisions.<sup>29</sup>

RB citizen complained of non-enforcement of the Decision of the First Instance Court of General Jurisdiction in Fier which sentenced his son to “*forced hospital treatment*” in a specialized medical institution (outside the IECD system), according to the practice of the European Court of Human Rights. The Prosecutor's Office with this court had made a decision that all persons with mental health disorders be treated in IECD Lezhë, as a transitory measure, in the absence of a specialized medical institution for this category of inmates. According to the prosecutor's office, the citizen in question, is suspected of a criminal offense, therefore he cannot be treated in medical institutions, outside the IECD system.

The position of the People's Advocate has always been that people with mental health disorders, regardless of the criminal offense, whenever on a court measure of “*forced medical treatment*” or “*forced hospitalization,*” should be placed in a special medical institution that is part of the health system, not the penitentiary system. This would be the appropriate solution for providing the necessary health care to these persons, complete with assessment, treatment and rehabilitation.

Non-enforcement of the final judicial decision, according to its determinations, by the Prosecutor's Office at the Court of First Instance of General Jurisdiction in Fier, is considered contrary to the Albanian legislation.<sup>30</sup> Therefore, the PA recommended to the relevant Prosecutor's Office<sup>31</sup> to take measures for citizen IB to receive “*forced hospital treatment*” in a specialized medical institution (outside the penitentiary system).

Several complaints were received by the PA regarding lack of food variety.<sup>32</sup> These complaints were sent through mail, as well as given to the NPM members inspecting prisons across the country.

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<sup>29</sup>The Albanian legislation provides that this category of prisoners will be treated according to the health standards that apply to the categories of persons with mental health disorders, occurring outside the institutions of execution of criminal decisions. On the other hand, service to them must be provided respecting physical integrity and human dignity.

<sup>30</sup>Specifically, with Article 142/3 of the Constitution of the Republic of Albania; articles 24/1, 462/1, 463/1 and 464 of the Criminal Procedure Code; articles 8; 11/1; 23/4/5 and 56 of Law No. 79/2020 “On the execution of criminal decisions.”

<sup>31</sup>For more information, down the recommendation at:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Recommendation%20per%20execution%20e%20judicial%20vendiment%20per%20te%20prisoners%20me%20mase%20mjekesore.pdf>

<sup>32</sup>According to the legal framework that regulates *the food treatment of prisoners*, point 4 of article 36 of law no. 81/2020 “On the rights and treatment of those sentenced to imprisonment and pre-trial detention,” provides that: “*The food provided by the institution must be varied, rich in nutritional value, changed at least once every two weeks and must be adjusted to the climatic conditions*”.

Administrative investigation of a prisoner's complaint indicated that prisoners were not provided with a variety of food, according to Joint Instruction No. 1, dated 22.02.2022 "On the approval of the daily food rate for prisoners," signed by the Minister of Justice and the Minister of Health and Social Protection.<sup>33</sup> Based on the findings, relevant recommendations were sent to the General Directorate of Prisons.<sup>34</sup> The People's Advocate has consistently underlined the necessity of reviewing the food menu over many years. However, even the Instruction of 2022 did not produce the improvements required for decent living in the penitentiary system. Despite the efforts in this direction, there is room to improve food variety in general, and quality of food in some cases.

Additionally, the PA has previously dealt with cases where prison officers used handcuffs and helmets to restrain to bed the prisoners who attempted to harm themselves or their inmates. Thus, in 2017, the PA investigated the complaints of two convicts in Fier, alleging they were attached to the bed in the isolation room for three days with plastic bands, handcuffs and helmets on their heads. Following the investigation, the PA recommended, inter alia, to purchase special restraint means in sufficient quantities for all prisons, and at least one bed and one restraining chair for each IECD.<sup>35</sup>

Law "On the Prison Police"<sup>36</sup> and law "On the rights and treatment of detainees and pre-detainees,"<sup>37</sup> provide for physical restraint in cases of self-harm, but do not specify the means of restraint.<sup>38</sup> Although article 123, point 4 of the General Prison Regulations allows the use of handcuffs to prevent violent behaviour, the mental health legislation<sup>39</sup> and the guideline of the General Directorate of Prisons, "On the use of restraint means, use of isolation, and forced medical care", requires that special means of restraint be used in order to ensure the safety of the inmate.

In 2020, the Berat Judicial District Court reviewed the case of a prisoner who was physically restrained with handcuffs and a helmet on his head to prevent him from self-harming. The court assessed that the rules relative to the physical restraint of the prisoners had not been respected as regards proportionality, duration, conditions of the isolation room, provision of medical care, ventilation and record keeping.

In 2023, the People's Advocate was in direct communication with the General Directorate of Prisons to check whether the special means of restraint were procured for all IECDs to use in cases of prisoners threatening to harm themselves.

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<sup>33</sup>This Instruction was registered at the Ministry of Health and Social Protection by no. 995/1 Prot., dated 07.03.2022 and the Ministry of Justice by no. 1126 prot., dated 22.02.2022.

<sup>34</sup> The recommendation may be downloaded at:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Recommendation%20per%20security%20e%20shumellojs%20hmerise%20food%20per%20te%20incargosurit.pdf>

<sup>35</sup>This recommendation was issued following inspections in all IECDs in the country, which showed that none of them had an isolation room for prisoners who exhibit self-harming behaviour, nor did they have special means of restraint, except for the institution in Krujë, which had one such set only.

<sup>36</sup>Law no. 80/2020 (Articles 9, 13 and 14).

<sup>37</sup>Law no. 81/2020 (Articles 70 and 71).

<sup>38</sup> Article 14/4 of Law No. 80/2020 "On Prison Police" stipulates that the use of chains and irons and any other means that subjects the person to conditions of torture, inhuman or degrading treatment or punishment is prohibited.

<sup>39</sup>Law no. 44/2012 and Order of the Ministry of Health no. 586, dated 30.10.2013 "Standards of physical restraint in specialized mental health services with beds".

In the last response of January 2024, the General Directorate of Prisons informed that the special means of restraint for prisoners exhibiting self-harming behaviour had been provided and were already being distributed to the IECs. It remains to check the use of these tools, the manner of their use, and whether the quantities are adequate to ensure humane treatment of prisoners in all IECs in accordance with the above-mentioned acts.

The prisoner is allowed to keep clothing and items of personal use while serving the sentence. In case of transfer from one prison to another, the inmate is allowed to take his personal belongings with him. *The procedure* for the transfer of personal belongings requires that records are kept on the receipt and return of these belongings, signed by the accompanying personnel, the delivering personnel, the receiving personnel and the prisoner. This places a heavy load on the logistic capacities of the General Directorate of Prisons, taking into account the number of personal belongings prisoners collect during their stay in the system, and consequently there may be issues in the course of the procedure.

Thus, two prisoners who were transferred from one facility to another, complained that they were not given their personal belongings after the transfer. Following a review of the accompanying documentation, it was found that the legal requirements for keeping records of the handover and return of personal belongings had not been complied with. The findings and relevant recommendation were sent to the General Directorate of Prisons,<sup>40</sup> which responded that they were planning to add clarity to the procedure for the transfer of prisoners and their personal belongings.

Further, the PA attached great importance to complaints from prison staff, not only because their rights are under the purview of PA's responsibility, but also because the way they are treated is reflected in the service they provide to prisoners.

The primary responsibility for addressing the challenges posed by the spread of the Covid-19 virus fell on the health and support staff in hospitals, including those in the IECs. The Prison Hospital centre dedicated two wards specifically for Covid-19 patients. To acknowledge the dedication of this segment of the administration, the Council of Ministers approved Decision No. 207, dated 10.03.2020, "On awarding remuneration for personnel, doctors, nurses, and other employees." This decision provided financial compensation for medical and support staff involved in the diagnosis and medical treatment of individuals affected by Covid-19.<sup>41</sup>

The General Directorate of Prisons sent a list of health and support personnel who treated prisoners affected by Covid-19 to the Ministry of Health and Social Protection and the Ministry of Justice, requesting the initiation of the procedure of awarding the compensation mentioned in the aforementioned by-law. However, the Ministry of Health and Social Protection rejected this request, stating that it only

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<sup>40</sup>For more information, see the recommendation at:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Recommendation%20per%20keeping%20of%20the%20record%20of%20handover%20of%20personal%20items%20to%20to%20prisoners%20that%20are%20transferred.pdf>

<sup>41</sup> This by-law assigns the implementation responsibility to the Ministry of Health and Social Protection and the Ministry of Finance and Economy. The fund for awarding the remuneration would be covered by the state budget's reserve fund for the year 2020.

has the authority to approve financial compensation for the medical staff in institutions under its jurisdiction.

In response, the Ministry of Justice sent a letter to the Ministry of Health and Social Protection, requesting a reconsideration of its position, whereon the Justice Ministry presented its side of the interpretation of the act. Despite this written communication, the Ministry of Health and Social Protection maintained its stance.

Having received a complaint from several medical staff employees, the PA assessed that the arguments put forth by the Ministry of Justice were valid and in accordance with the spirit and interpretation of Decision No. 207, dated 10.03.2020. This act does not discriminate between personnel under the Ministry of Health and Social Protection and those from other institutions.

For these reasons, the People's Advocate recommended to the Ministry of Health and Social Protection<sup>42</sup> to take immediate measures to start the procedure for financially compensating the health and support staff of the IECs involved in the diagnosis and medical treatment of people affected by Covid-19. *The Ministry of Health and Social Protection has not responded in respect of this recommendation.*

The incomplete staffing of police personnel in the IECs remains a persistent concern due to frequent staff departures and the difficulty of finding replacements. Inadequate financial treatment exacerbates this issue. The contribution of Prison Police employees is essential for ensuring security in Institutions for the Execution of Criminal Decisions. Despite salary increases based on ranks for Prison Police employees, other measures to prevent setbacks are crucial, as the prison system is already struggling to maintain stable and professional staff.

During the administrative investigation regarding transportation expenses for some staff members of the Lezhë prison, who were seconded to the “Jordan Misja” facility, the legislation providing for the financial treatment of prison police officers in these cases was taken into consideration. According to point II/1, 2 of DCM No. 920, dated 23.11.2020, “On payment of salary and supplemental salary and on the procedure of financial compensation for time spent on the job by prison police,” when a prison police is transferred or assigned outside their area of residence, and if transportation from the place of residence to the place of work is not provided by the institution, they are entitled to compensation in respect of travel expenses.<sup>43</sup>

On the other hand, DCM no. 722, dated 13.12.2023, “On some rights of staff of the Police Oversight Agency”, provides for compensation of travel expenses for this category of staff, when they are appointed or transferred to another position. Compensation is set at a fixed rate depending on the distance between the employee's residence and the workplace. However, while the distance for compensation is the same for both staff categories, the amount of compensation is higher for staff of the Police Oversight Agency.

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<sup>42</sup>For more information, download the relevant recommendation at:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandim%20per%20sperblimin%20e%20stafit%20shendetesor%20te%20IEVP%20per%20trajtimin%20e%20Covid.pdf>

<sup>43</sup> This compensation amount is determined *depending on the distance in km between the place of work and the residence of the employee*. Compensation is provided in accordance with the table attached to the DCM no. 920, dated 23.11.2020.

The People's Advocate assess that such different treatment between public administration staff constitutes unequal treatment before the law. Thus, it recommended to the Ministry of Justice<sup>44</sup> to take the initiative for amending DCM no. 920, dated 23.11.2020, in order to enable prison police to receive the same amount of transport compensation as the staff members of the Police Oversight Agency. *The recommendation was welcomed and accepted.*

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### 3.3 State police compliance with human rights standards<sup>45</sup>

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During 2023, the People's Advocate institution handled 64 cases, consisting of 52 complaints and 12 *ex officio* cases against the structures and employees of the State Police and the Ministry of Internal Affairs. These cases covered a broad range of issues, including: failure to keep and provide access to records of actions performed by police officers; illegal detentions or holding individuals in custody beyond the legal timeframe; unlawful arrests or detentions; illegal searches of homes; failure to record the actual time of the arrest of individuals suspected of committing a criminal offense; physical or psychological mistreatment during detention or questioning by police; failure to notify the families of those detained or not allowing them to use their own phones to communicate with their families; unethical communication by police officers; unsuitable conditions in detention facilities; failure to receive, manage, or follow up on complaints, or reports made by individuals; failure to provide legal protection during detention or procedural actions; imposition of unlawful administrative measures by Traffic Police officers, or failure to notify individuals of these measures in accordance with the Road Code provisions; violations of the right to information; infringement of citizens' right applying for admission to the Guard of the Republic by issuing biased references; wrongful dismissal from the State Police; violations of the rights of foreign citizens in Albania, such as refusal to issue residence permits and delays in the procedures for obtaining Albanian citizenship, etc.

The consequences of the violation of citizens' constitutional and legal rights due to the unlawful actions or inactions of police officers should not be overlooked. These violations damage the image and reputation of the State Police and erode public trust in this public institution. Conversely, it is important to emphasize that increasing public trust in the State Police is directly linked to enhancing its performance in fulfilling its legal mission as outlined in Article 2 of Law No. 108/2014 “On the State Police.” This mission includes maintaining *public order and security, ensuring enforcement of the law in accordance with the Constitution and international acts, and respecting human rights and freedoms.*

Some of the violations of constitutional and legal rights for which recommendations were made during 2023 include:

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<sup>44</sup>For more information, download the recommendation at: <https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandim%20legjisativ%20per%20dryshimin%20e%20vkm%20per%20kompensimin%20financiar%20te%20policise%20se%20prigjeve.pdf>

<sup>45</sup>This area of law is covered by the Section for the police, secret service, prisons, the armed forces and the judiciary in the institution of the People's Advocate.

### 3.3.1. *The right of citizens to free movement*

The right of every person to move freely within their country and to leave and return from any country, including his own country, is one of the basic universal human rights.<sup>46</sup> The People's Advocate handled several complaints by various citizens alleging that they were prevented by the Border and Migration Police to leave the territory of the Republic of Albania, and by foreign citizens claiming that they were prevented from entering the Albanian territory. Review of these complaints showed that the complainants were not allowed to leave Albania due to failure to meet the relevant criteria provided for in law no. 71/2016 “On border control”, as amended. However, there have also been cases where State Police members violated the citizens' right to move freely, allegedly on grounds of incompliance with the rules, which was not the case.

A case of resolution in favour of the complainant, is the one involving citizen AK, born in Burrel, resident in England and with English citizenship. In 2021, he was fined by the Rinas Border Police Commissariat, for having breached the mandatory quarantine of 14 days, but he had not paid the fine.<sup>47</sup>

According to the complainant, pursuant to the law on administrative offences, which stipulates that fines not executed within two years, are written off, on 04.01.2023, AK had sent a request to the Local Border and Migration Directorate in Tirana to erase it on the TIMS system. He claimed he had had no response, despite the expiry of the deadline, and the fine was still on the system. AK further claimed that he had called the local authorities in Tirana, and was told fines to foreign citizens do not expire and are not erased from the TIMS system. Following an administrative investigation, the PA concluded that the fine imposed to AK citizen was grounded in law. However, given it was not executed within the two-year period, it was subject to expiration and the complaining was no longer bound to pay it.<sup>48</sup> It is worth noting that the People's Advocate has found practices of erroneous implementation of the law.

In order to reinstate the violated rights to the complainant, a recommendation was sent to the Local Border and Migration Directorate in Tirana<sup>49</sup> and the Department for Borders and Migration:

- To take immediate measures to issue a decision on establishing the expiry of the fine given to AK and erase it from the TIMS system;
- To analyse in depth, objectively and professionally, the causes of non-observance of the law in respect of expiry of the fine to the citizen;
- To provide ongoing training to Border and Migration Police staff, enabling them to understand the normative acts guaranteeing respect for citizens' legal rights; and
- To share the outcome of this case with the local directorates across the country in order to prevent future violations of citizens' rights by police officers.

*The recommendation was welcomed and accepted.*

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<sup>46</sup>Guaranteed by article 38 of the Constitution of the Republic of Albania, article 13 of the Universal Declaration of Human Rights and article 2 of Protocol no. 4 of the ECHR.

<sup>47</sup>The fine was in the amount of 700,000 (seven hundred thousand) ALL, based on Normative Act no. 3, dated 15.03.2020 “On taking special administrative measures during the extension of the period of infection caused by Covid-19”, as amended.

<sup>48</sup>Provided in Article 46 of Law no. 10279, dated 20.05.2010 “On administrative offences.”

<sup>49</sup> For more information, download the relevant recommendation at:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandimi%20per%20Altin%20Koka.pdf>

3.3.2. *The right to home inviolability and the correct application of the rules provided for in the normative acts*

The fundamental right to the inviolability of the home and equivalent premises is guaranteed by Article 37 of the Constitution of the Republic of Albania, Article 8 of the ECHR and Article 12 of the Universal Declaration of Human Rights. Home searches may only be conducted in the instances and manners provided by the law.<sup>50</sup> According to the provisions of the Criminal Procedure Code and Article 117 of Law no. 108/2014 “On the State Police,” judicial police officers are obliged to correctly implement the relevant procedure and document the actions performed as required by the law.<sup>51</sup>

At its own initiative, the PA<sup>52</sup> started an investigation on the case reported by “Vizion Plus” TV, on 02.03.2023.<sup>53</sup> It involved search of the living premises of the citizen AGj in the village of Dajç in Lezha. According to his wife, several police officers showed in the early hours of the morning. Three of them, without giving any explanation or showing any documents, entered and searched both floors of the building.

The documentation sent by the Local Police Directorate in Shkodër showed that they had received letter no. 257/1 prot., dated 27.08.2022 of the Prosecutor's Office at the First Instance Court in Shkodër, warranting the execution of criminal decision no. 511 (3279), dated 27.08.2022, of the Court of First Instance Shkodër.<sup>54</sup>

Based on the high social risk posed by the person declared wanted by the police and on the basis of the information collected by the crime investigation specialists at the Shkodër Police Directorate, an operational plan was designed to enable the capture of this person who was evading justice. It appeared that the wanted person was hiding in the village of Dajç, in Lezha, namely in one of the floors of the building. Under these conditions, with the help of special police, the building was surrounded in advance, in order to prevent the possible exit of people, and the whole building was searched, including the apartment of citizen AGj.

Following the administrative investigation of this case, the AP found that the actions carried out in the residences of citizens AGJ, LN and PN by the structures of Shkodër Police to capture the wanted citizen, were in compliance with the normative acts applicable.<sup>55</sup> The police were in special emergency circumstances that did not allow for obtaining a search warrant. Police actions in this case entered the

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<sup>50</sup>The Code of Criminal Procedure, in some provisions, provides for home search and search of equivalent premises, the competent body, the time of search, the rules applicable and records to be kept in such cases. Home search may only be conducted upon a court warrant or ex officio by judicial police in flagrante delicto cases.

<sup>51</sup>In cases of ex officio search by judicial police, they must send the relevant records immediately, but not later than forty-eight hours, to the prosecutor of the jurisdiction where the search was carried out.

<sup>52</sup>In accordance with Article 13 of Law no. 8454, dated 04.02.1999 “On the People’s Advocate”, as amended,

<sup>53</sup>Vizion Plus TV - [https:// www.youtube.com/watch](https://www.youtube.com/watch)

<sup>54</sup>Warranting “prison arrest” in absentia, for the suspect AP for committing the criminal offense of “Premeditated murder” and “Unauthorized production and possession of weapons and ammunition”, provided for by articles 78 and 278/1 of the Criminal Code.

<sup>55</sup> Notably, the Instruction of the Minister of Interior no. 684, dated 25.11.2019 “On the rules for carrying out the search and arrest of persons, as well as the finding of searched items”, Chapter I, points 10, 11 and 12 and point 2 of Article 298 of the Code of Criminal Procedure, which apply to the legal mission and duties of the State Police.



homes of citizens mentioned above, actually conducting home searches. It is clear and evident that the search and capture of a person who is hiding from justice may be done by conducting searches in various dwelling places.

However, the procedural actions of the judicial police officer ZM following the search were not in accordance with points 2 and 4 of article 298 of the Code of Criminal Procedure, as well as point 4 of article 117<sup>56</sup> of law no. 108/2014 “On the State Police.” Given these factual and legal circumstances, the judicial police officer ZM should also have kept the records of the search of the three citizens' homes in accordance with point 4 of article 117 of law no. 108/2014 “On the State Police” and Article 303<sup>57</sup> of the Code of Criminal Procedure. As he had not kept the records, the police officer ZM did not send them to the prosecutor's office for validation within the legal deadline of 48 hours from the moment of the search.

Relative to the above, the People's Advocate sent the relevant recommendations<sup>58</sup> to the Shkodër Local Police Directorate and the General Directorate of the State Police.

*The recommendation was welcomed and accepted.*

### *3.3.3. Bringing in citizens to State Police premises in compliance with the legal requirements and their rights.*

Bringing in citizens to police premises is a legal power of the State Police in fulfilling the duties under their mission.<sup>59</sup> Since apprehension constitutes a restriction of the freedom of the apprehended individual, it should only be used where the provisions of the law are met and only as stipulated by the Standard Operating Procedure, “*Rules for treating citizens who are kept in police facilities.*”<sup>60</sup> Additionally, police structures have the legal obligation to create suitable and dignified facilities for the stay and accommodation of the apprehended persons, correctly implement the procedures for their registration and treatment, as well as respecting their rights as prescribed by the applicable normative acts.

Over the years, the People's Advocate has handled many complaints and quite often it has found legal violations related to non-compliance with the legal requirements on apprehension, as well as violation of the rights of the apprehended person in the conduct of this action, or during detention and interrogation in the police premises. Notwithstanding the numerous recommendations to the central and local police structures, regrettably such violations persist.

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<sup>56</sup>Article 117 “Interference in the environment” provides that:

*“4. In all cases of entry and search, according to this article, the police officer shall draw up a report in accordance with the rules defined in the Code of Criminal Procedure, stating among other things, the reasons for the entry, and search and relevant results. A copy of this report is provided, upon request, to the interested person or the persons authorized by him.”*

<sup>57</sup>“1. The judicial police, shall document, even in summary form, all the actions performed.

2. Judicial police shall keep minutes on:

ç) inspections, recognitions, searches and seizures;

3. Evidence of judicial police actions, material proof and items related to the criminal offense are made available to the prosecutor”.

<sup>58</sup> For more information, download relevant recommendation at.

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandime%20per%20Artan%20Gjinaj.pdf>

<sup>59</sup>Provided for in articles 109 and 122, point 1 of law no. 108/2014 “On the State Police”.

<sup>60</sup>Approved by Order no. 894, dated 19.07.2022 of the General Director of the State Police.

Even in 2023, there were instances of police officers breaching the legal provisions related to the apprehension of citizens. This is evidence that there are gaps as regards understanding and application of the normative legal and sublegal acts regulating the activity of the State Police in bringing-in citizens to police premises. The PA also assesses that such gaps are due to police leaders not exercising appropriate supervision of their subordinates.

Mention can be made of the case of VB in Himara. Following a publication on the social media on 14.05.2023 by this citizen, the PA started an ex officio investigation, and subsequently sent a recommendation to the relevant Police structures.<sup>61</sup> According to her, police officers went to her apartment, asking her and her 18-year-old son to go with them to the police station at 02:00 on 13.05.2023. She and her son were taken to the Vlora Police Commissariat, where they were questioned about the issue of vote-buying by FB, candidate for Himara Municipality of the coalition, “Together we win.” After their statements were taken, the police officers let them free, without offering to drive them back home.

It appeared that based on the order of the Local Police Directorate of Vlora, police officers of the Himara Police Station apprehended several citizens, including VB, to be questioned by the crime investigation structures in Vlorë as part of the proactive investigations on the criminal offense, “Active electoral corruption,” to establish the facts and circumstances of this crime.

The PA found that police members of the Vlora Directorate did not behave professionally and did not conduct their actions in a humane and dignified manner. Having been driven from home in the night hours, having experienced the procedural and investigative actions by the police, as well as having been in police custody for about 10 hours, they should have been given a ride in police cars, to save them time and money.

Additionally, police officers of all the structures of the Vlorë Directorate had not complied with the provisions of the applicable normative acts regulating the action of bringing in citizens to police premises. No administrative action had been taken to document such process, such as fill in the relevant apprehension form by the Himarë police officers after sending the individuals to the premises of the Vlorë Police Directorate; enter the data of the apprehended individuals in the electronic system and in the registry of apprehended persons upon their arrival at the premises of the Vlorë Directorate by the information officer in the Vlora Police Commissariat; draft the minutes documenting the actions performed with the apprehended individuals and providing a copy of these minutes to the apprehended individuals by the police officers who conducted the actions, etc.<sup>62</sup>

*This recommendation has been accepted by the relevant structures.*

### *3.3.4. Ensuring the Right to a Defense Lawyer for Apprehended, Arrested/Detained Persons and Other Rights pertaining to them*

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<sup>61</sup> For more information, download the recommendation at:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandim%20i%20per%20Valbona%20Bala.pdf>.

<sup>62</sup>This procedure is clearly provided for in Articles 6/25, 109 and 122/1 of Law no. 108/2014, “On the State Police”, as amended, as well as in the standard operating procedure, “Rules for treating citizens who are taken to police premises”, approved by Order no. 894, dated 19.07.2022, of the General Director of the State Police.

The right to a defense lawyer is enshrined in article 28, point 1 of article 31/ç of the Constitution of the Republic of Albania, Article 6, point 3/c of the European Convention on Human Rights, Articles 48/1/2 and 255/1 of the Code of Criminal Procedure, Law no. 55/2018 “On the Profession of Lawyer in the Republic of Albania,” Article 6/2 and Article 11/a, c, ç, d, as well as other legal and secondary acts applicable in Albania. Despite these legal protections, violations of this fundamental right by State Police officers occur frequently. Contributing factors include a lack of awareness of these normative acts, inadequate supervision by senior judicial police officers, and insufficient oversight by the prosecuting body, which is responsible for leading and controlling criminal investigations.

A notable case highlighting this issue involves the complaint of citizen VF. According to VF, he was taken to the Malësi e Madhe Police Commissariat on 01.09.2023 at 07:00. After approximately 12 hours of questioning and investigative actions by the police, he was arrested for the criminal offense of attempted “Violent robbery.” VF claimed that during these procedural actions, several legal rights were violated, including the denial of his right to be assisted by a defence lawyer.

Upon conducting an administrative investigation and reviewing the relevant documentation, it appeared that following a report by citizen RH, VF was apprehended and taken to the Malësi e Madhe Police Commissariat. He was held in custody for 8 hours and 30 minutes, during which several procedural actions were carried out. Subsequently, he was arrested by the judicial police officer A.N. for the criminal offense of attempted “Violent robbery.”<sup>63</sup> According to the police, initially the citizen NF was questioned in the capacity of the person who has knowledge of the case under investigation. This procedure does not require the presence of a defence lawyer.

This attitude contradicts article 109, point 3, of law no. 108/2014, “On the State Police” and letter “e”, of point 1, of Chapter VI, of the standard operating procedure, “Rules for treating citizens taken to police premises”. Referring to the provisions of these acts, it appears that the police officers have the obligation to inform the apprehended person of his legal rights from the first moment of entering the police premises. Regardless of the apprehension reason and the capacity of their questioning, if the apprehended person wishes to communicate with a trusted person, lawyer or legal defender, the police officers are legally bound to grant this right, as guaranteed by law.

The report on VF’s arrest showed as arrest time the time of report compilation, i.e., 17:00, not the time of his actual arrest (08:30) when he was actually deprived of his freedom.<sup>64</sup>

Additionally, the report on the actions performed by the police officer with the apprehended person was completed but not signed by either the police officer, or the apprehended person. It is therefore assessed that the report was not written immediately after the end of the procedural actions. This omission openly conflicts with Article 109/5 of the Law “On the State Police” and with Chapter VII, point 1, letter “a.3” of the Standard Operating Procedure, quoted above. Failure to write this report and provide a copy to the apprehended person is a serious violation subject to punishment.

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<sup>63</sup> Provided for by articles 139 and 22 of the Criminal Code.

<sup>64</sup>Based on articles 144, 250 of the Code of Criminal Procedure, the recording of the time of arrest in flagrante delicto, or time of detention is an important element on the basis of which the effects of detention begin to be calculated. Also, based on Article 258 of the Criminal Code, the 48-hour period starts from the time of arrest/detention, within which the prosecutor requests the validation of the security measure in the jurisdictional court where the arrest or detention took place.

A recommendation<sup>65</sup> was made to the Malësi e Madhe Police Commissariat and the Shkodra Local Police Directorate to take the necessary measures to address the violations found by the PA.

*This recommendation has been accepted by the relevant structures.*

### 3.3.5. *Applying Administrative Sanctions against Traffic Offenders in compliance with the Road Code Provisions*

In the course of their daily activities to uphold order and public safety, State Police employees (Traffic Police and Public Order Police), issue fines to drivers who violate the provisions of the Traffic Code. The imposition of these administrative fines aims to maintain order and discipline among drivers, ensuring free, fast, and safe movement on the roads for both drivers and pedestrians. However, there have been instances of administrative measures by State Police being imposed in the absence of drivers. This competence is provided for in Article 199<sup>66</sup> of the Road Code. However, this provision of the Road Code sanctions also the obligation of the police to notify the offender of the violation they have committed. The People's Advocate holds that the correct application of the Code and the guarantee of citizens' rights should be at the centre of the work of these structures.

In 2022 and 2023, the institution of the People's Advocate received numerous complaints from citizens, owning and using vehicles, concerning the imposition of administrative fines by State Police employees in their absence. The complaining raised yet another issue related to the fines. According to them, in many cases although they were unaware of the administrative fines imposed in absentia, they were stopped by Road Police, who then prevented them from driving within the country or leaving the Republic of Albania until the fines were paid. To ensure payment of the fines, Road Police confiscated traffic permits or stored vehicles in parking places dedicated to the State Police.

In response to these complaints, as well as media reports, the People's Advocate conducted inspections at several State Administrative Bodies (SAB) within Local Police Directorates and various police stations nationwide. The objectives of these inspections were to ensure compliance with legal procedures for fines imposed in absentia, to make sure that administrative measures related to road traffic were documented as required; to assess the operation of SABs; to guarantee respect that relevant State Police structures observe the rights of traffic offenders, etc.

The inspections and verifications revealed that the number of fines imposed in absentia by Traffic Police and Public Order Police was considerably higher than the number of fines imposed in the presence of drivers.<sup>67</sup>

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<sup>65</sup> For more information, download the relevant recommendation:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandi%20per%20Visar%20Fsharri.pdf>

<sup>66</sup> Article 199 "Notification of violations", provides that:

1. When the author of the violation cannot be determined immediately, the minutes with the correct and detailed data of the violation and the reasons that made the immediate determination impossible, must, within 30 days from the verification of the violation, the relevant offender is notified.

5. The subject, whose notification is not carried out within the defined time period, is no longer obliged to pay the administrative fine.

<sup>67</sup> In LPD Fier in July 2023, the Traffic Police and the Public Order Police imposed a total of 12,085 fines, of which 4,390 or about 36% were imposed in absentia.

The police structures failed to correctly apply the provisions of article 199 of the Road Code and the Instruction of the Interior Minister Nr. 155, dated 05.08.2022, on the obligation to notify the traffic offender within 30 days of the offence identified in their absence. In practice, the notification of the offenders about the fines imposed in absence was formally made in writing and sent to the State Police in the jurisdiction of the offenders' residence, in order for the state police to provide notice to the offender, as well as publishing the fine in the system electronic e-fines, whenever this is operational.

In most of the cases, about 90% of notifications, there were no responses to the notification structure. In the rest of the cases, around 10%, the state police informed the notification structure that the offenders had not been found, because they had changed their place of residence, had left the country, etc. According to police officers, this method of notification was taken for granted and regularly conducted. Only LPD Shkodër in two cases and LPD Vlorë in one case were found to have transmitted the notification and received the confirmation of the offender.<sup>68</sup>

Failure to follow the legal way for notifying offenders was justified by lack of the necessary infrastructure, such as the address register, the change of address by drivers and failure to report changes to the relevant bodies; failure by both the traffic police and public order police to clearly assign this task, despite its significance, especially in Tirana; lack of budget allocations for postal services, etc.

Referring to point 5 of article 199 of the Road Code, it results that *“the subject (the driver of the vehicle who committed the violation) who is not notified within the specified time (30 days), is no longer obliged to pay the administrative fine”*. But, in practice, these fines were collected in violation of the law, with the methods described above, because the system continued to show the subjects as liable for the fines.

For cases of fines imposed in the absence of drivers, if their notification was not made within the 30-day period, they were not “deleted” from the system. They continued to remain active and the offenders were required to pay in violation of the legal provision.

In cases where the payment of fines by drivers was made in cash at the offices of the Albanian Post, an automatic report was sent to the e-fines system and the fines were subsequently “erased” from the system. For fines paid through Second Level Banks, cash or online (via mobile phone or computer), the removal of the fine from the e-fine system was only effected following reconciliation of the bank with the finance office of the police body. The delay in reporting payment of fines in the system creates the premise for

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In LPD Durrës, in the month of September 2023, the Traffic Police imposed a total of 5,014 fines, of which 2,286 or about 46% were imposed in absence.

In the Tirana Regional Traffic Police Commisariat, during the month of August 2023, Traffic Police imposed 28,406 fines in total, of which 20,084 or about 71% were imposed in the absence of drivers.

In LPD Shkodër in the month of September 2023, the Traffic Police imposed a total of 4,275 fines, of which 2,461 or about 58% were imposed in absence.

In LPD Vlora in the month of September 2023, the Traffic Police imposed a total of 6,536 fines, of which 4,929 or about 75% were imposed in absence.

<sup>68</sup>The Traffic Code has determined not only the obligation of the police body to notify the offender in such cases, but at the same time it has also provided for the method of notification, such as through the bodies indicated in Article 12, or by couriers, with the methods provided by Civil Procedure Code, or by post, according to the norms for notifications through the postal service. In addition, the Traffic Code has also provided for the subject to whom the verification and notification costs will be charged in these cases, which is the offender

offenders not to enjoy the benefits of Article 203 of the Road Code in respect of up to 50% reduction of the fine and no interest payment where fines are cleared within 15 days of their imposition.

The report of the violation, in both the manual format (appendix no. 1) and the electronic one (appendix no. 2), did not mention the right of the offender to file an appeal against the administrative sanction, the body for lodging the appeal, as well as the timeframe and manner of fine calculation. This shortcoming is contrary to Article 99 of the Code of Administrative Procedures.<sup>69</sup>

The equipment used by police officers to evidence and prove violations were inadequate in relation to the number of police officers.

To address the concerns of the drivers/users of vehicles, the PA send a recommendation to the General Directorate of the State Police and the Ministry of the Interior<sup>70</sup> to take immediate organizational and technical measures in implementing the relevant recommendations.

*The recommendation has been accepted by the General Directorate of the State Police. However, no response has been received from the Ministry of Interior regarding the establishment of the citizens' address system.*

Regarding failure to notify offenders of the fines imposed in absentia, the PA institution also handled several complaints against the Regional Commissariat of the Tirana Traffic Police, as well as the Tirana Municipal Police. In the case of citizen IH, a recommendation<sup>71</sup> was made and sent the Regional Commissariat of the Tirana Traffic Police and the SAB with the Local Police Directorate of Tirana on taking measures to discontinue the practice of not notifying drivers about sanction imposed in absentia, which runs contrary to the provisions of the Road Code; as well as revoking the four fines imposed on the complainant.

*The recommendation was welcomed and accepted.*

Whereas in the cases of citizens ES and MH, recommendations were made to the Tirana Municipal Police on the revocation of administrative fines due to failure to comply with the legal provisions of Article 199/i of the Traffic Code regarding notification, but our recommendations were not accepted.

### 3.3.6. Constitutional and legal rights of employees in police bodies

The institution of the People's Advocate in 2023 year has also handled and reviewed several complaints related to the violation of the employment rights of employees of the State Police<sup>72</sup>. In the activity of the People's Advocate institution, State Police employees have not only been subject to complaints, but also subjects who enjoy the legal right to address the PA where their legal rights and interests are violated by public administration bodies, including the General Directorate of the State Police itself. The People's

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<sup>69</sup> Respectively point 2, letter "c"/iii.

<sup>70</sup> For more information, download the recommendation:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandimi%20per%20zbatimin%20e%20nenit%20199%20te%20K.%20Rrugor.pdf>

<sup>71</sup> For more information, download the relevant recommendation:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandim%20per%20Mois%20Hoxha.pdf>

<sup>72</sup> Guaranteed by Article 49/2 of the Constitution and Law no. 108/2014 "On the State Police", as amended

Advocate assesses that the fulfilment of the state's obligations as an employer to protect and respect the constitutional right to social protection in labour relations, and the legal rights of State Police employees under the labour Code and its implementing by-laws that regulate labour relations in this particular structure will further motivate police staff in their dedication to achieving the legal mission of the State Police.

Among the complaints received and reviewed by the PA is the one submitted by citizen PB. The complainant was an employee of the State Police with the rank of “Deputy Commissar” and his functional duty was “Specialist at the Command Room” with the Kavajë Police Commissariat. On 04.05.2022, around 19:10, the arrested citizen IM committed suicide by hanging himself in the detention facility of the Kavajë Commissariat. Following this event, the complainant was arrested in flagrante delicto by the Regional Directorate of the Police Oversight Agency for Durrës-Kavajë, suspected of the criminal offense “Abuse of duty”, provided for by article 248 of the Criminal Code. After the arrest, a disciplinary procedure was initiated against him. The General Directorate of the State Police by decision no. 203, dated 10.05.2022, suspended him from office. Subsequently, the Department of Public Safety decided to expel him from the police. Hence, the General Director of the State Police issued order no. 1657, dated 12.07.2022, dismissing him from the State Police.<sup>73</sup>

After the completion of the criminal investigations, the case was sent for trial to the Kavaja First Instance Court.<sup>74</sup> After the court's decision became final, the complainant made a request to the General Directorate of the State Police to reinstate him to his position, but his request was not accepted.

The administrative investigation of this complaint by the AP revealed that during the disciplinary process against the complainant PB, some legal rights provided for in the State Police Regulation were violated, such as, the rights guaranteed by Article 221 of the Regulation, which provides for the right to written information regarding the suspected violation; the right to be heard; to defend oneself; to be consulted, to be notified of the decision taken; the right to appeal, etc. The structures of the Directorate of Professional Standards failed to implement the stipulated obligation that, in case of employee on precautionary measures, where not possible to notify him, the procedure of notification, verification and review of the violation is done with the participation of a representative appointed by the Police Syndicate. Furthermore, Article 225/1/a of the Regulation has not been respected, which stipulates that disciplinary investigation for serious disciplinary violations is suspended by the Director of Professional Standards, in the case where a decision-notification is pending from another enforcement body, etc.

The People's Advocate assessed that the procedure followed by the competent structures of the State Police for expelling PB from police ranks, contradicts also with the provisions of the Code of Administrative Procedure. For these reasons, the PA concluded that the administrative acts issued against the complainant PB are illegal in the sense of the provisions of Article 109 of the Code of Administrative Procedure.<sup>75</sup> It was also found that because of these acts, serious professional, financial and moral

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<sup>73</sup>Based on Article 205 of the State Police Regulation “Serious discrediting behavior” and Article 209 “Serious violation of police attributes/competencies”.

<sup>74</sup> The Court, by decision no. 220, dated 28.12.2022, among other things, decided to: “... *Dismiss the case against the citizen Petrit Berhamaj, suspected of committing the criminal offense “Abuse of duty”, provided for by Article 248 of the Criminal Code...*” This decision took final form on 13.01.2023.

<sup>75</sup> Illegality of the administrative act

consequences have been caused to the complainant, violating the right to social protection in labour relations sanctioned by Article 49 of the Constitution. Based on these findings, by letter no. K2/P4-4 prot., dated 08.09.2023, a recommendation<sup>76</sup> was sent to the General Directorate of the State Police, which subsequently informed us that the recommendation was not accepted.

Given these circumstances, we recommended to the Minister of Interior, in his capacity as the superior body of the General Director of the State Police, to enable the acceptance and implementation of our recommendation and the return of the citizen PB to the structures of the State Police.

*This recommendation was not accepted*

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### 3.4 Prevention of violence and torture<sup>77</sup>

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The People's Advocate through the National Mechanism for the Prevention of Torture, cruel, inhuman or degrading treatment or punishment, hereafter the National Prevention Mechanism<sup>78</sup> (NPM) continued to fulfil its functional tasks enshrined in national legislation, as well as in international standards during 2023.

More specifically, the National Mechanism for the Prevention of Torture conducted 96 periodic and thematic inspections, participated in 2 operations as a monitor for the forced return of Albanian citizens who were illegally residing in EU countries. Additionally, it carried out inspection visits in all other institutions of deprivation of liberty and handled complaints, resulting in numerous recommendations. This activity led to the issuance of 92 recommendations and 284 sub-recommendations.

The purpose of these visits and inspections was to assess the progress made by competent authorities in implementing NMP's recommendations in order to ensure the protection of the rights of prisoners and individuals deprived of their liberty, as guaranteed by the Constitution of the Republic of Albania and relevant laws and by-laws applicable. Furthermore, the NMP paid equal attention to promotion of human rights activities in collaboration with the Prison Administration and the State Police Directorate.

In 2023, the NMP handled 32 complaints and 14 cases on its own initiatives. Among these, 23 complaints pertained to the prison system (failure to provide medical treatment and medicine, poor living conditions, and overcrowding), while 9 complaints were related to police conduct (failure to provide medical

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*An administrative act is illegal if:*

- a) the public body that issued it acted in the absence of competence;*
- b) is the result of the violation of the provisions related to the administrative procedure; .....*
- d) is contrary to the material law;*
- dh) is the result of discretion exercised in an illegal manner; or .....*

<sup>76</sup> For more information, see the relevant recommendation at:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandimi%20nr.%201%20per%20Petrit%20Berhamaj.pdf>

<sup>77</sup> This area of legal responsibility is covered by the NPM Section at the People's Advocate institution

<sup>78</sup> Article 81 of the law no. 81/2020 "On the rights and treatment of those sentenced to imprisonment and pre-trial detention", as well as article 30 and 30/1 of the law no. 8454, dated 04.02.1999, "On the People's Advocate," as amended.



assistance and unjust detention). After reviewing these complaints and cases, the People's Advocate issued appropriate recommendations to the respective institutions in 5 instances.

### *3.4.1. Findings from inspections in penitentiary institutions*

The findings from inspections in penitentiary institutions are presented below:

#### **1. Inadequate infrastructural conditions in prison facilities**

Inadequate infrastructural conditions have been observed in many of the facilities where sentences are being served. Despite some improvements and investments, the infrastructural conditions of the buildings require continuous maintenance and possibly a different budget allocation for infrastructural improvements. All institutions present problems, however, in some cases, the situation can be deemed as degrading treatment. The People's Advocate has recommended to the Minister of Justice and the General Directorate of Prisons that the “Ali Demi” Institution for the Execution of Penal Decisions be closed in 2023, and that women detainees and convicts be relocated to an alternative correctional facility.

The People's Advocate believes that the current living conditions in this institution are entirely unsuitable and constitute undignified and degrading treatment. For this reason, the People's Advocate calls for the immediate closure of this IECD and the transfer of convicts to an alternative institution. Recognizing the state of the penitentiary system's infrastructure, the People's Advocate suggests that the newly constructed IECD in the city of Pogradec is the most suitable facility to quickly meet the accommodation needs of detained and convicted women. This IECD offers the best infrastructural conditions and is suitable for ensuring dignified treatment for women in the short term.

Keeping women detainees and pre-detainees in this facility remains undignified and does not meet the conditions enshrined in the European Human Rights Convention<sup>79</sup>. For this reason, the Ministry of Justice and the General Directorate of Prisons must duly and diligently assess the recommendation of the People's Advocate and address on a priority basis the living conditions for this vulnerable category. Conversations with women inmates during the NPM's inspection visits show that this prison's population is mostly from among people with wretched backgrounds, almost all of them belonging to the most vulnerable category within the women's community in our society.

#### **2. Degraded Infrastructure**

The infrastructure of residential buildings and common areas continues to present problems such as degradation, dampness, disruptions of electricity and water supply, inadequate natural lighting, and insufficient ventilation of cells. Additionally, there is a presence of insects, substandard conditions in toilets, kitchens, showers, airing areas, isolation rooms, etc. Institutions with urgent infrastructural issues include IECD 325 “Ali Demi,” IECD Durrës, IECD 302 Tiranë, IECD Rrogzhinë, IECD Tepelenë, and IECD Burrel.

#### **3. Overcrowding in Pre-detention Sectors**

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<sup>79</sup> Article 3 of the ECHR

Overcrowding has increased in the pre-detention sectors during 2023 in several IECDs, including IECD Jordan Misja, IECDP Drenovë, IECD Peqin, IECD Fier, and IECD Tepelenë. During their visits, the inspection teams found 4 to 6 persons accommodated in a single cell, breaching the standard of 4m<sup>2</sup> for prisoner.<sup>80</sup>

#### **4. Malfunction of heating/cooling systems**

The central heating/cooling systems, in almost all IECDs with such systems, did not work as a result of technical faults or lack of fuel. In most cases, heating is not ensured to the convicts/detainees, as required by the legal provisions.

#### **5. Lack of quality and variety of food**

Inadequate food quality and lack of nutritional variety remains a concern in almost all IECDs.

#### **6. Shortage of basic hygiene products**

Short supply of basic personal hygiene products (toothpaste, toothbrush, shampoo, etc.) and detergents needed to clean the cells, as well as the lack of uniforms and gloves during food distribution were found in the majority of IECDs.

#### **7. Lack of basic furniture**

It was found that the convicts/detainees kept their personal clothes in plastic bags or sacks, mostly under their beds.

#### **8. Lack of social-cultural activities and vocational courses**

During the inspections, the NPM found considerable constraints in providing prisoners with opportunities for social-cultural activities, as well as a lack of vocational courses that play an essential role in their reintegration.

### **9. Lack of Healthcare Staff, Healthcare Facilities, and Appropriate Infrastructural Conditions**

- *The absence of a Special Medical Institution*, as sanctioned by law no. 44/2012, dated 08.05.2012 “On Mental Health,” as amended, remains the biggest shortcoming of the closed institutional system in our country. This issue has been and continues to be the central theme of the structural deficiencies in our healthcare/penitentiary system. Currently, individuals subject to “compulsory treatment” or those declared irresponsible for committing a criminal offense are kept within the penitentiary system, although they should not. Despite the improvement of infrastructural conditions in 2021 in the facility these prisoners are held, the lack of medical staff and extreme overcrowding has brought the situation in this institution close to inhumane and degrading treatment. The agreement between the Ministry of Justice and the Ministry of Health for the establishment of a Special Medical Institution, as stipulated by law, has not been implemented.
- *The shortage of doctors in the Institutions for the Execution of Penal Decisions* continues to be a concerning issue in Albania’s penitentiary system. During 2023, the People’s Advocate

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<sup>80</sup>Annex 1, Table of the population in the IECDs

recommended to take measures to fill the full-time doctor positions as provided for in the institution's staffing structure for the inspected IECs across the country. The lack of doctors in many IECs is covered by part-time doctors, who only work 4 hours a day.

- In several penitentiary institutions, *Special Care Sectors (SCS) have not been established*, contrary to legal provisions and the recommendation of the People's Advocate.<sup>81</sup>
- *The lack of a stable arrangement for psychiatric examinations* in the penitentiary system is a persisting problem.
- During 2023 there was a *higher number of deaths* in prisons compared to previous years. The People's Advocate initiated administrative investigations in the case of persons who died in institutions of deprivation of liberty, due to addiction or health problems, in order to assess whether loss of life was attributable to failure to provide timely healthcare. Of the 10 handled, 2 were subject to recommendations by the People's Advocate asking for added attention to medical treatment, as well as providing special care for people with suicidal ideation.
- There is a need for improving *facilities where medical examinations are conducted*, as they are generally not equipped with the necessary tools and auxiliary materials.
- Of importance is *to address difficulties in arranging medical consultations, special examinations and laboratory tests* encountered by some IECs due to the lack of full-time doctors in their staff table or the lack of ambulances, as well as the reluctance of regional hospitals to treat prisoners due to the lack of security conditions in these hospitals.
- *The provision of dental services in the IECs is problematic* due to shortages of equipment and materials. Attention should be paid to the improvement of dental services, given that with the exception of tooth extractions, access to other medical services is difficult, provided mainly by public poly-ambulances or private dental clinics at the expense of the convicts themselves.

The People's Advocate acknowledges the ongoing efforts made within the penitentiary system to reform and transform it into a modern system that ensures the well-being of detainees and convicts. However, the People's Advocate assesses that the aforementioned issues need to be addressed with decisive action by the higher state authorities, as in most cases they result from the tightening of penal policies, lack of funds, and the absence of alternative sentences.

#### 3.4.2. *Level of respect for rights of apprehended, detained/arrested persons in police units*

In 2023, the National Mechanism for the Prevention of Torture continued to inspect the premises of the State Police, focusing particularly on the legality and regularity of detention, arrest, or apprehension of individuals, the conditions and treatment of detainees within police stations, infrastructural and material issues therein, among other issues. All the findings were subject to the relevant observations included in the recommendations sent to the higher authorities of the State Police.

The inspections carried out in police units aimed to examine the facilities and collect and assess the relevant information on whether the actions and practices followed by the State Police were in

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<sup>81</sup> In IECs in Burrel, Vlorë, Berat, Rrogozhinë, Lushnjë, and Kukës.

compliance with the standards set out in the relevant legislation,<sup>82</sup> as well as to verify the implementation of the PA recommendations from previous inspections. These inspections have been both regular and thematic. In total, 47 regular inspections were made, covering 93% of all police stations in the country.

Findings from these inspections are described below.

### **1. Lack of separate rooms for interviewing/interrogating persons deprived of their liberty in the premises of the State Police**

The People's Advocate in the role of the National Mechanism for the Prevention of Torture (NPM), based on its periodic inspections in the premises for deprivation of freedom (walk-in rooms and security room), as well as the significant number of complaints received, determined that in a large number of cases the basic rights of citizens were not respected.<sup>83</sup> Subsequently, the PA sent recommendations to the local police as well as the General Directorate of the State Police. At the end of each inspection, review of complaints and ex officio investigations, the NPM drafts the relevant report, highlighting illegal apprehension of people; detaining citizens beyond the legal timeframes; physical or psychological abuse at the time of arrest, apprehension or interrogation of citizens in the police units; illegal arrests or detentions; substandard conditions in walk-in room, etc.

### **2. Inadequate Adherence by the State Police to Legal Guidelines for Detaining/Arresting Individuals on Methadone, Using Narcotic Substances, or Experiencing Health Issues, and Ensuring Their Dignified Treatment in Accordance with Applicable Normative Acts**

From handling complaints and ex officio investigations, the People's Advocate became aware that in many cases police officers do not adequately assist people who experience health problems, or take them immediately to the nearest healthcare facility where citizen's actions appear erratic and inconsistent.

### **3. Violation of rules and procedures for handling material evidence.**

In Police Stations, material evidence<sup>84</sup> seized during criminal proceedings<sup>84</sup> are kept in the offices of judicial police officers unpacked/unpackaged, in violation of work rules and procedures for handling material evidence. The law provides for special rooms to store material evidence as a preventative measure to avoid possible acts of psychological/physical violence by police officers during suspect interrogations. The People's Advocate found non-compliance with this legal obligation, which would have prevented citizens from sustaining certain consequences, as evidenced by continuous complaints.<sup>85</sup>

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<sup>82</sup> Law no. 108/2014 "On the State Police" as amended, Order of the General Director of the State Police no. 925, dated 18.07.2019, "On the approval of the Standard Procedure regarding the "Treatment and security of persons arrested/detained in premises of the State Police, the identification and resolution of their requests/complaints", Order of the General Director of the State Police no. 938, dated 24.07.2019, "On the approval of the standard procedure, "Technical rules of ing persons to the premises of the State Police".

<sup>83</sup> Guaranteed by the Constitution of the Republic of Albania, International Conventions ratified by the Parliament of Albania, as well as a number of laws and by-laws

<sup>84</sup> The Code of Criminal Procedure of the Republic of Albania: July 2017, *Section VII, "Material Evidence", Article 187 "Meaning of material evidence" (Amended by Law 9085, dated 19.6.2003)*. "Material evidence is the items that served as tools for the realization of the criminal offense or on which there are traces or that were the object of the actions of the defendant, the products of the criminal offense and any other type of property, subject to confiscation, according to Article 36 of the Criminal Code, as well as any other item that can help to clarify the circumstances of the case".

<sup>85</sup> <https://www.coe.int/sq/web/cpt/albania>, pg. 3.

#### **4. Violation of legal procedures by police officers in apprehending, arresting or detaining citizens**

Despite improvements made by the State Police in respecting human rights, yet citizens and the media have been reporting recurrent violations. These complaints and reports have been reviewed and, where grounded in evidence, the People's Advocate initiated investigations, following which concrete recommendations were made to address the issues and to initiate disciplinary action against the perpetrators.<sup>86</sup>

#### **5. Failure to comply with the legal requirement to construct or adjust space for walk-in apprehensions in accordance with the relevant standards (3 apprehension rooms, 1 for adults, 1 for women and 1 for children)**

Inspections have revealed that most police stations' walk-in rooms do not meet the standards for dignified treatment of apprehended people. The rooms are often insufficient in number and fail to provide suitable, dignified space equipped with the necessary furnishings. Additionally, they are not properly segregated for women, adults, and minors.

#### **6. Issues in Providing Timely Healthcare Services and Adequate Examination Rooms**

Inspections have uncovered problems in the provision of timely healthcare services by some Local Police Directorates (LPDs), particularly as regards the accurate filling-in of medical records and registers, as well as in providing appropriate space for medical examinations. In some institutions, medical visits are conducted beyond the 12-hour limit set by the State Police's standard procedures, and some Directorates lack medical staff.

#### **7. Issues with the Installation of Surveillance Camera Systems**

Problems have been identified with the installation of surveillance camera systems in the corridors of apprehension rooms, security rooms, and interrogation rooms in several police stations. Nevertheless, it is noteworthy that the behaviour of state police officers towards citizens has significantly improved.

#### **8. Issues with filling-in the necessary records**

The People's Advocate has consistently stressed the importance of properly documenting cases of apprehensions (apprehension minutes, registers, etc.) and arrests as a legal obligation.<sup>87</sup> Inspection teams have found cases of failure to write apprehension reports by the apprehending police officer, which is a serious disciplinary violation.

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<sup>86</sup> For more, refer to the link: <https://www.avokatipoullit.gov.al/sq/articles/mechanisms-against-torture/jails/rekomandime-drejtuar-sistemit-t-burgjeve-dhe-paraburgimit-2023-939/>

<sup>87</sup> Point VIII of the standard procedure "*Technical rules of taking people to the premises of the State Police*", stipulates that: "The act/action of apprehending people must be evidenced and documented in the electronic system, in registers, in the relevant forms as well as writing the apprehension reports."<sup>53</sup>

### 3.4.3. *Some of the main recommendations by the National Prevention Mechanism in 2023*

#### ***Recommendation to the IEC D Shënkoll-Lezhë***

On 07.09.2023, the media reported that in the Shënkoll Lezhë Institution for the Execution of Criminal Decisions, a prisoner ended his life by hanging himself in the prison premises. According to reports, the victim was the QH prisoner, 38 years old, and had committed the offense of “domestic violence.” He was punished with “forced treatment” at the medical institution of IEC D Shënkoll, Lezhë. The media reported that the victim suffered from a psychotic disorder and was put on forced medication.<sup>88</sup> The Institution of the People's Advocate launched an administrative investigation into this case. Review of the relevant documentation in the victim’s medical file showed that he suffered from a psychiatric disorder. The multidisciplinary team failed to closely monitor the inmate’s behaviour, consequently not providing him with the necessary healthcare services, a suitable social environment for these persons and not applying the relevant preventive policies on mental health.

The inspection of the scene of the crime showed that showers’ installation was done in such a way that allowed QH to hang himself and the IEC D staff had not raised any concern that inmates with suicide ideation could take advantage of this situation.

Incomplete staffing obstructs the provision of adequate healthcare services for prisoners, thus failing to guarantee a healthy wellbeing for persons in the prison regime. The Institution of the People's Advocate has underlined that the absence of a cardiologist, laboratory doctor and a part-time physician has a direct impact on the quality and coverage of the healthcare delivery. Therefore, it has asked for immediate measures to fill in the staff vacancies in the Shënkoll Lezhë IEC D.<sup>89</sup>

Convicts and pre-trial prisoners are not accommodated in suitable facilities, which is the minimum condition for their continued health and subsequent recovery following illness and disease.

The People's Advocate assesses vacancies in the psycho-social positions should be filled as required by the applicable laws and by-laws. In addition, such services may be provided by education workers on a daily basis for 4 hours. They should talk and conduct activities with inmates on “forced medical treatment” in order to create a safe atmosphere that fosters mutual trust, creates a sense of commitment by both parties in communication, offers them more freedom of choice and, as a result, improves their social skills.

Recommendations by the People's Advocate relative to this category of inmates were as follows:

- To take immediate measures to inspect and remove all elements that may create premises for these patients to harm themselves, in particular replace shower installations and other risk elements as appropriate;
- To conduct a thorough administrative review of the case by the competent structures of the General Directorate of Prisons, with the Prison Police staff, the psycho-social and health sector in the IEC D Lezhë, with the aim of identifying the relevant responsibilities. Subsequent measures should be taken to upgrade the quality of services to prisoners on the medical measure of “forced

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<sup>88</sup> <https://top-channel.tv/2023/09/07/vetëvaret-i-burgosuri-n-shenkoll-të-lezhës/>.

<sup>89</sup> The new organic structure has been approved for 189 people, while on the day of the event there were 428 patients on “Forced treatment,” which made it impossible to handle such a large number of these people.

medical treatment,” paying special attention to their mood and behaviour. As necessary, the medical, social and education staff should alert the police sector staff to monitor these prisoners’ actions in places not covered by camera surveillance;

- To take immediate measures to fully staff the health sector as regards the needs of patients on “forced medical treatment,” and take special care of the standards of rooms for these patients, their personal hygiene and the atmosphere around them as these people need special attention, especially from the institution's multidisciplinary team, as provided for in point 4 of article 3 of Law 44/2012, “On Mental Health”, as amended;
- To take immediate measures to improve the hygiene and sanitary conditions of accommodation for these people, respecting the minimum standards of space per person, i.e., 6m<sup>2</sup> for single-person rooms and 4m<sup>2</sup> per person in multi-person rooms, in accordance with the legal and sublegal acts in force and the CPT recommendations.

By letter no. 15357 prot, 28.12.2023 IECD Lezhë informed the PA that in-depth analysis was made to identify the responsibilities of each police officer and civilian staff who violated service rules, following which some of them have been asked to appear before a disciplinary commission.

#### ***Recommendation to the IECD Jordan Misja Tirana***

On 01.04.2023, the media reported that detainee RT with the Institution for the Execution of Criminal Decisions “Jordan Misja,” Tirana, died in the hospital due cardiac arrest. The victim was 37 years old and was detained under charges for the criminal offenses of “Theft” and “Production and sale of narcotics.” He was arrested on 27.03.2023 by the Local Police Directorate of Tirana and brought to IECD “Jordan Misja”, Tirana, on 31.03.2023.<sup>90</sup>

The administrative investigation at the IECD “Jordan Misja,” Tirana, and review of the relevant documentation, notably the admission registry, showed that RT was not in good health, experiencing physical weakness. The Admissions Commission admitted the pre-detainee without consideration for his health condition.<sup>91</sup> Moreover, the health-care staff failed to immediately refer him to the Prison Hospital centre for diagnosis, examination, and/or hospital treatment, in accordance with the rule of the referral system.

The Admission Commission and the doctor failed to ensure adequate medical treatment to the pre-detainee who complained of serious ailments.<sup>92</sup> However, the admission commission neglected his condition, regardless of the indications. This case should be reviewed comprehensively and the totality of the factors evaluated in respect of the poor health condition, the limitation of freedom, the substandard conditions of inmates’ premises, which has long been now and ultimately in respect of the state’s obligation to provide for healthcare services to people in the custody of its authorities.

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<sup>90</sup> <https://dosja.al/aktualitet/i-riju-vdiq-ne-qeli-reagon-pas-6-ditesh-drejtoria-e-burgjeve-konsumont-i291227>

<sup>91</sup> In article 15, point 1 of the General Regulation of Prisons, it is stated that: “Immediately after being admitted to the institution, the prisoner is subject to an examination visit and a medical interview by a doctor and a psychologist, in order to prevent the spread of infectious diseases in the institution or suicides.

<sup>92</sup> Law no. 81/2020, dated 25.06.2020 “On the rights and treatment of those sentenced to imprisonment and pre-trial detainees”, in article 41, point 14, it is determined that in “emergency cases, when the prisoner's life is at risk, he is transferred for treatment to the Prison Hospital Center or to the Regional Health Care institutions”.

The information and documentation reviewed at Mother Teresa Hospital centre in Tirana and the University Trauma Hospital reveal that RT was not taken to the hospital for medical assistance, where he could have received specialized treatment and his life could be saved.

Inspection showed that RT's cell had inhuman and degrading conditions with humidity levels above the allowed norms and this contributed to the worsening of his condition. This shows that the IECD staff did not care to assign him to a room with acceptable conditions, in view of his ailments. In some sectors overcrowding has been persistent.

In relation to this case, the People's Advocate recommended to:

- Implement measures to ensure that correct and lawful procedures are followed for assessing the health condition of detainees. Provide continuous care and supervision by medical personnel, and transfer detainees to hospitals for specialized treatment, as necessary, to serve them and save lives.
- Conduct a detailed analysis of the case by the competent police authorities involved in this administrative investigation, identifying the relevant responsibilities to ensure proper conduct by the Reception and Admission Commission at IECD "Jordan Misja" in Tirana, and ensuring that detainees are treated according to the law.
- Share the findings within the General Directorate of Prisons to prevent future violations of prisoners' rights regarding their health treatment, in accordance with the law and applicable regulations, with a primary focus on preserving prisoners' lives and health.
- Take immediate steps to improve hygienic and sanitary conditions, eliminate humidity, and ensure suitable living conditions for convicts and pre-trial detainees. This includes adhering to minimum space standards per person, which are 6m<sup>2</sup> for single-person rooms and 4m<sup>2</sup> per person in multi-occupancy rooms, according to applicable legal standards and CPT recommendations.
- Provide necessary training for medical staff and the Reception and Admission Commission to properly assess prisoners' conditions and diagnose them promptly and effectively.
- Analyse the reasons behind the failure of staff at IECD "Jordan Misja" in Tirana to provide accurate statements regarding the actions and omissions in the case of R.T. leading to his death, as well as identify the legal liabilities of people concerned.

The General Directorate of Prisons accepted this recommendation. By letter no. 5262, dated 28.12.2023, they inform the People's Advocate of the measures taken to ensure that the standard procedures governing the operations of the Admission Commission are strictly followed.

#### ***Recommendation addressing the lack of interview rooms in the country's police stations***

The People's Advocate, in its capacity as the National Prevention Mechanism (NPM), inspected the Tirana Local Police Directorate as well as the police stations under its subordination.<sup>93</sup> The inspections were prompted from citizens' complaints about psychological abuse, in certain cases also physical maltreatment, during the interrogation of citizens in the police units.<sup>94</sup>

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<sup>93</sup> Inspections carried out on November 20, 21 and 22, 2023

<sup>94</sup> Including the findings identified within the visit of the Delegation of the Committee for the Prevention of Torture and Inhuman and Degrading Treatments (CPT) of the KIE, held on May 4-15, 2023, where there is a constant finding that they have not been respected the basic rights of citizens guaranteed by national and international acts.



One of the identified issues, which has also been previously addressed by the NPM, is the lack of interview/interrogation rooms for individuals detained, arrested, or in custody within the premises of the State Police. In the police stations in Tirana, there is a lack of separate rooms for interviewing/interrogating detained, arrested, or in-custody individuals. Also, no audio-visual security equipment is installed to record the interrogation process, or other procedural investigative actions with the detainees/arrested, or persons in custody. Additionally, in violation of the rules and procedures for administration of material evidence collected/seized during criminal proceedings, such evidence is kept in the offices of judicial police officers, unpackaged/unwrapped.<sup>95</sup> These offices are the same rooms where the above-mentioned persons are interrogated.

To address this situation, the People's Advocate recommended to:

- Implement the necessary measures to establish dedicated rooms for the storage of material evidence, ensuring they are administered and stored separately according to standard procedures and regulations.
- Conduct regular inspections in the offices of crime specialists and community policing assistants to prevent the presence of items that could incite violence.
- Prohibit and remove items and tools not included in the inventory, such as firearms, sticks, crowbars, baseball bats, chains, or metal gloves, from the offices of community policing assistants/specialists.
- Urgently construct separate interview or interrogation rooms within the custody and security facilities of the LPD in Tirana and its subordinated police stations, equipped with necessary furnishings and monitored by audio-visual camera systems. These rooms serve as a vital safeguard for human rights and freedoms, deterring violent and punishable acts by both detainees and law enforcement personnel.
- Ensure that all new infrastructural projects in police stations include designated interview rooms and temporary storage space for evidence obtained during criminal proceedings.
- Continuously educate police officers on the impacts of physical and psychological violence on the detainees/arrested people, or those in temporary custody, emphasizing the absolute prohibition of violence in any circumstance. Organize training sessions to promote understanding and respect for the rights of apprehended/detained/arrested individuals.

In response to this recommendation, the LPD Tirana and its subordinate commissariats affirm their acceptance and commitment to educating police officers about the effects of violence. Ongoing efforts include specialized training sessions aimed at recognizing and upholding the rights of individuals under police custody.

### ***Recommendation on the death of citizen JR***

On 02.05.2023, the PA registered on its own initiative the case reported in the media, “The young man in a coma after the arrest.” According to the report, JR, 27 years old, fell into a coma in the Mother

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<sup>95</sup> Criminal Procedure Code of the Republic of Albania: July 2017, *Section VII, “Material Evidence”, Article 187 “Meaning of material evidence” (Amended by Law 9085, dated 19.6.2003), “Material evidence are the items that have served as tools for the execution of the criminal offense or on which there are traces or which were the object of the actions of the defendant, the products of the criminal offense and any other type of property, which is allowed to be confiscated, according to Article 36 of the Criminal Code, as well as any other item that can help to clarify the circumstances of the case”.*

Theresa University Hospital centre after being arrested by the police in Tirana on April 12, 2023. His arrest was carried out by Tirana Police Station No. 2. The young man was arrested for the theft of a carpet and a pair of sneakers, but 5 days later on April 17, JR was sent to the Emergency Department of the University Hospital centre in serious condition. On 20.05.2023, citizen JR, passed away at the “Mother Teresa” University Hospital centre in Tirana. The young man's mother denounced the incident on the Uniko show on Klan Plus, claiming that the police did not inform her about her son’s health issues for 5 days and she had no idea whatsoever. The case received extensive media coverage.

The People's Advocate conducted an in-depth investigation into this case. The conclusion of this investigation was that JR was not given adequate medical care while being under custody in the Police Commissariat no. 2 in Tirana. Officers on duty did recognize JR’s agitation and his abnormal behaviour,<sup>96</sup> however, medical help was not provided immediately. The People’s Advocate assessed that the behaviour of the doctor in the security block bordered on negligence when it came to treating JR and consulting with specialists to determine the appropriate type and dosage of medication (Methadone) for the arrested/detained individual, as well as to establish the timing of taking their dose.

Whatever examinations done, they failed to determine the last time this individual had received his dose before the arrest. Only after these examinations were completed, did the doctor contact the CSO “Aksion-Plus” and, following the recommendation of the toxicologist, the facility doctor asked for the appropriate dosage to be delivered to the individual.

The People's Advocate repeatedly addressed these concerns in several recommendations to the local and central structures of the State Police, calling for improved practices. Unfortunately, such cases continue to occur in daily police operations, indicating a lack of adequate understanding and adherence to the legal and regulatory acts that govern the activities of the State Police and the obligations of its officers to uphold and respect the rights of citizens detained and arrested in State Police custody.

In this particular case, the People's Advocate recommended to:

- Implement effective measures to ensure the legal guarantees of citizens regarding the preservation of their health and well-being by State Police officers whilst in police custody.
- Take necessary steps to thoroughly review the case and establish the relevant administrative responsibilities for actions contributing to this particular case.
- Ensure ongoing training for police officers in the State Police structures to familiarize them with the laws and regulations governing their activities, the criteria for arrest/detention, and the legal rights of arrested/detained individuals, with particular emphasis on the treatment of individuals who use narcotics.
- Apply the lessons learned from this case to all local structures of the State Police to prevent similar violations in the future.

In response, the General Directorate of State Police accepted this recommendation, reviewed and assigned the responsibilities and shared the information for increased awareness with all local and central structures of the State Police.<sup>97</sup>

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<sup>96</sup> Service report on 12.04.2023 by the police officer of the police commissariat No. 2 Tirana.

<sup>97</sup> Letter no. 11174/1 prot., dated 08.02.2024

***Recommendation on the case of citizen SI raised by the Preliminary Investigations Judge at the Court of Sarandë***

The Institution of the People's Advocate, upon being informed of the decision of the Preliminary Investigations Judge at the Sarandë court, registered the case and immediately started an administrative investigation regarding the allegations raised by citizen SI on the “Use of violence by police officers with the Sarandë Police Commissariat”, while he was in police custody. SI raised these allegations in court hearing while his security measure was being assessed.

The First Instance General Jurisdiction Court of Sarandë sent to the People's Advocate <sup>98</sup> the report, “Allegations of SI on use of violence at the Sarandë Police Commissariat.” According to the report, the Preliminary Investigations Judge, at the opening of the court hearing of 16.11.2023, regarding the validation of the measure of prison custody imposed on SI for “Theft committed in collusion,” having determined the presence of the parties in the court session, asked the detainee whether his legal rights were respected while in police custody. In response, the aforementioned citizen stated, “They used violence against me as indicated by the blue spots on my face. Subsequently, the Preliminary Investigations Judge decided, to *“Engage the People's Advocate to review the case.”*”

The expert group who conducted the relevant administrative investigation found several breaches as regards the making and filling-in of paperwork by police officers due to their negligence in performing their duties.

Specifically, the register for entering information on people in police custody, which is normally kept in the information room or the room of the officer responsible for custody cells, under the heading of “Description of external appearance” simply featured “Normal.” It lacked a detailed description of SI's appearance and his special marks, even though he had had a facial wound at the time of admission at the Saranda Police Commissariat. This heading in the register is specifically for entering any particulars in looks, such as “missing hand or eye, burn marks or wounds, tattoos, moles, etc.”

This negligence gave the arrested person and his lawyer the opportunity to use it in favour of the defence in the court hearing. The People's Advocate assesses that the sections and headings in the registers and forms intended to enter information on the persons taken in police custody are clear and feed into each-other. This ensures that all personal details, including external appearance and special marks, are accurately recorded for every person admitted in police custody.

Before the arrangement/accommodation in the security rooms, police officers at enforcement level, <sup>99</sup> conduct the interview and external examination of the arrested/detained for signs of violence, mistreatment, various diseases and whether they need medical help or have other complaints of this nature. At the end of this process, the group set up to interview and inspect the appearance of the arrested/detainee, reflects everything in a report of findings, which is signed by all the police officers involved and placed in the file of the detained/arrested person.

The review of the file showed that no entry was made of any special sign in the description of SI's appearance. According to standard procedures, the name of every individual admitted in police custody is entered in the relevant register and a file is immediately created on his behalf. The “Medical file” of

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<sup>98</sup> No. 61005-01017-23-23/246 Reg.Them., dated 16.11.2023.

<sup>99</sup> Composed of the service specialist, the assistant information specialist and the police doctor

the arrested SI noted that he was a drug user, but the doctor had not evidenced any special signs on his external appearance. The people taken in police custody should be examined by the doctor or assistant doctor of the police station. In their absence, they should be examined by doctors from the regional hospital centres approved by the head of the police station.<sup>100</sup> In cases of physical harm, wounds or bleeding, etc., the doctor/assistant doctor of the police unit and the law enforcement officer, in addition to making the necessary entries in the medical records and the police books, must take immediate measures to send him to the nearest hospital centre for necessary medical help. Review of the evidentiary paperwork established that the actions provided for in the standard operating procedure were not recorded either by the police staff, or the doctor. Thus, the obligation of keeping and making accurate records was not complied with.

In relation to this incident, the People’s Advocate recommended to:

- take immediate measures for the strict implementation of the legal requirements for the correct filling-in of the sections in the register of people taken in police custody, in particular the section on “description of external appearance and special signs” from the very moment of their admission into State Police premises;
- take immediate measures to train staff and police officers who serve in the custody facilities of the LPD/police commissariats, to guarantee the freedoms and rights of individuals placed on police custody, in accordance with the provisions in the legislation, and national and international standards;
- take the necessary measures for the installation of a security camera system in the detention rooms and security cells of the LPDs/police commissariats, as well as issuing a special by-law regarding the scheme for placing cameras in the walk-in and detention rooms, as well as establishing a reasonable timeframe for retaining film footage.

In response, the General Directorate of State Police informed the PA that *the recommendation has been accepted*. Letter no. 567, dated 16.01.2024 regarding, “Meeting the responsibilities and duties by State Police structures in accordance with the Constitution, international acts and domestic legislation, respecting and guaranteeing the rights and freedoms of individuals” has been sent to all police structures.<sup>101</sup>

#### 3.4.4. *Level of respect for rights of persons in psychiatric hospitals*

During 2023, the National Prevention Mechanism inspected several mental health institutions, including Vlora Psychiatric Hospital, Shkodër Psychiatric Hospital, Elbasan Psychiatric Hospital, IECD Lezhë, Special Health Institute of Prisoners, and “Xhavit Gjata” Psychiatric Hospital in Tirana.

These inspections evidenced the main issues below:

- Inadequate structural conditions for patients’ treatment and recovery at “Ali Mihali” Psychiatric Hospital in Vlora, “Sadik Dinçi” Psychiatric Hospital in Elbasan, “Xhavit Gjata” Psychiatric Hospital in Tirana, and the Shkodër Hospital with beds for mental health patients.

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<sup>100</sup> As in the case of the Police Commissariat in Saranda.

<sup>101</sup> Letter no. 11/1 prot., date 26.01.2024.

- Lack of rehabilitation activities or facilities for developing occupational skills at “Xhavit Gjata” Psychiatric Hospital in Tirana, “Sadik Dinçi” Psychiatric Hospital in Elbasan, and the Shkodër Hospital with beds for mental health patients.
- Insufficient capacity to accommodate people in the recovery phase also noted in Shën Koll (foster care arrangement with residential lodges for monitored self-sufficiency).
- Urgent need for investments to reconstruct the Psychiatry Service at “Mother Teresa” QSUT in Tirana, as required by the People’s Advocate’s recommendations and the standards set by the CPT and the Council of Europe for high-quality and humane treatment of those with mental health issues.
- Repeated calls for rehabilitation investment and complete reconstruction of the building of “Sadik Dinçi” Psychiatric Hospital in Elbasan, as recommended repeatedly over the years by the People’s Advocate.
- The need to increase the number of psychiatrists, “guardian/task force” nurses, security staff, janitors, and barbers to provide suitable services for patients in this specialized mental health-care facility. The People’s Advocate continues to emphasize the immediate and ongoing need to increase admission numbers for psychiatry students, as well as reform employment criteria for clinical roles to include nursing education, psychiatric rehabilitation knowledge, and appropriate age and physical skills for managing high-risk situations, as well as training current employees.
- The need to install a monitoring system with surveillance cameras in areas for common use in the psychiatric hospitals.
- Establish special wards for substance abusers exhibiting behavioural and/or psychotic disorders.
- Create or reconstruct isolation rooms in accordance with 4.6 “Isolation Infrastructure” for the “Physical Restraint Standards in Specialized Mental Health Services with Beds.”
- Equip hospitals with mechanical restraint devices.
- Separate acute patient in relevant dedicated wards.
- Improve infrastructural conditions in wards, including heating, showers, and toilets, to provide dignified services to patients, and ensure the necessary material base for psycho-social staff.

Many of these findings and recommendations are repetitive and require ongoing attention and budgeting. The People’s Advocate has sent relevant recommendations for improving the situation in mental health care hospitals in Albania.

#### *3.4.5. Level of respect for human rights in Closed Centres for Foreigners, the National Reception centre for Asylum Seekers, and the National Reception centre for Victims of Trafficking*

In 2023, the National Preventive Mechanism (NPM) conducted inspections to assess the level of respect for rights in immigrant reception centres.

##### **1. Closed centre for Foreigners, in Karreç**

On February 17, 2023, the People’s Advocate, in its capacity as the NPM, inspected the Closed Centre for Foreigners in Karreç. The following issues were found to persist:

- Staff shortages, including translators, doctors, lawyers, and dentists, which directly impact the rights of irregular foreign nationals in Albania.

- The centre lacked telephone stands that use pre-paid telephone cards, essential for foreigners to communicate with their families.
- An urgent need for translators, as communication must be in English or the dominant language of the foreign nationals accommodated in this centre. This shortage consistently hampers communication between residents and staff.
- Lack of cultural, entertainment, and sports activities.
- Absence of posters displaying the legal rights of illegal foreign nationals throughout the centre.
- No dental services were provided.
- The centre had only one nurse to meet medical needs.
- No emergency bells in the bedrooms.
- Humidity issues in nearly all premises, with buckets used on rainy days to collect water from damaged roofs.
- Wardrobes and doors in all rooms needed repairs.

## **2. Babrru National Reception centre for Asylum Seekers, in Tirana**

On September 6, 2023, the People’s Advocate, in its capacity as the NPM, inspected the Babrru National Reception centre for Asylum Seekers. Several shortcomings were found, which were addressed in a special recommendation. Among the findings, the following can be mentioned:

- Need to increase food rations and fill in staff vacancies.
- The necessity to increase the amount of per diem for food for asylum seekers due to rising prices for essential food items, as indicated by annual reviews.
- A review of the Centre’s organization to accommodate migratory trends, and the need for additional doctors, nurses, night care-takers, janitors, maintenance, and sanitation workers.

## **3. National Reception centre for Victims of Trafficking, in Linzë**

The National Reception centre for Victims of Trafficking in Linzë was visited by NPM on September 8, 2023. The inspection revealed that previously identified issues remained unresolved:

- The position of the doctor remained vacant.
- Improved vocational training courses are needed to empower beneficiaries. For more details, refer to the full recommendation on the People’s Advocate’s website.<sup>102</sup>

The People's Advocate commends the fact that the three-story building underwent reconstruction in February 2023 and is expected to be completed in December 2023.

### *3.4.6. The level of respect for human rights in Elderly Homes in Tirana, Fier, Gjirokaštër, Kavajë, and Shkodër*

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<sup>102</sup> <https://www.avokatipoullit.gov.al/sq/articles/mechanisms-against-torture/asylum-center/rekomandime-pr-shtpit-et-moshuarve-2023-978/>

In 2023, the People's Advocate, in its capacity as the National Prevention Mechanism, established a multidisciplinary team to inspect the elderly homes in Tirana, Fier, Gjirokastër, Kavajë, and Shkodër. The inspections revealed an insufficiency of essential staff such as doctors, psychologists, physiotherapists, and caregivers necessary to meet social care standards.

Additionally, insufficient financial support from central government was found, leading to a need for essential repairs, new furniture, and personal care items like wheelchairs. This lack of support has created difficulties and concrete problems in providing care and improving the living and infrastructural conditions. Given the lack of training for the staff in these centres, in order for the quality of service provided by the relevant staff to comply with the requirements of the Law, “On social Service Delivery,”<sup>103</sup> The People’s Advocate recommended that the training focuses on topics related to adequate treatment of the elderly. It should enable staff to assess and meet the needs of the elderly, enhance care, promote a more active life, and ensure that violence is prevented, thereby providing a safer life for the elderly residents.

The People's Advocate urges state institutions to pay increased attention to Shelter Homes for the Elderly, with a focus on increasing budget allocations and simultaneously enhancing human capacities. Essential investments are needed for elderly individuals with serious health problems, as well as an increase in the number of social activities for the residents and better working conditions for the staff serving this category of citizens.

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### *3.5 Respect of human rights by the Prosecutor's Office<sup>104</sup>*

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During 2023, the People's Advocate registered and handled 32 cases involving citizens' claims of rights violations by the prosecution bodies.

As the sole authority for exercising criminal prosecution and representing the state in court, the prosecution body has a constitutional obligation to conduct thorough and comprehensive investigations within procedural deadlines, present well-founded charges that are based on evidence and facts, execute criminal court decisions promptly, and continuously supervise the serving of sentences.

Upon reviewing citizens' complaints against the prosecution body, it has been noted that, in some instances, the prosecution fails to notify or inform the parties of relevant decisions in cases of suspension of investigations, non-initiation of proceedings, or requests to the court for dismissal of criminal suits.

The year 2023 was particularly demanding for the justice system. The transitional re-evaluation process created vacancies, increasing the workload for each magistrate. The implementation of the new judicial

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<sup>103</sup> Law nr. 121/2016.

<sup>104</sup>This area of responsibility is covered by the Section for the police, secret service, prisons, the Armed Forces and the judiciary in the institution of the People's Advocate.

map also brought challenges in reorganizing work within prosecution offices. These difficulties have been reflected in citizens' complaints about various aspects of procedural investigative actions, *such as delays in investigations, failure make due notifications, frequent changes of the prosecutor handling the case, non-notification of decisions in cases of non-initiation or termination of criminal proceedings, and other related issues.*

Despite the increased workload, the prosecution body is constitutionally obligated to exercise criminal prosecution diligently. This includes respecting criminal procedures, conducting investigations professionally and within a reasonable time frame, and fairly assessing investigation materials to reach well-founded conclusions about whether to initiate criminal proceedings, or not. It is important to note that the People's Advocate, during the analysis and review of cases related to the activities of the prosecution bodies, never sought to evaluate prosecutors' performance or influence their decision-making. The courts are the competent authorities for reviewing and assessing the legal basis of these decisions. However, in cases where prosecutors fail to meet their legal obligations regarding the rights of complainants and victims in the criminal process, as guaranteed by the Code of Criminal Procedure, the People's Advocate cannot remain indifferent.<sup>105</sup>

Over the years, the People's Advocate has recommended respecting citizens' right to be informed of the final decisions of the Prosecutor's Office, aiming to guarantee individuals' right to appeal at each stage of the investigation and to respect the right to information, which increases citizens' access to justice.

The People's Advocate believes that these issues directly impact public trust in the prosecution body and the perception that the law is applied equally to everyone. Therefore, addressing these concerns is crucial. Access to justice and the rigorous application of the basic principles of a fair legal process should guide the work and activities of the justice system, particularly the Prosecutor's Office. Based on the gravity of rights violations in the criminal process, citizens' complaints present as follows:

*First, there are unjustified delays in criminal investigations.* Citizens' complaints about delays in criminal investigations make up the majority of cases handled by the People's Advocate against the prosecution body. According to prosecutors, the main reasons for these delays include the reduced number of prosecutors due to the rigorous implementation of justice reform and the dismissal of many prosecutors from the system; high caseloads for each prosecutor; reorganization of prosecution offices under the new judicial map; complexity of cases, especially those involving domestic violence, sexual relations with minors, or other serious offenses; delays in receiving responses to rogatory letters sent to foreign law enforcement authorities; non-compliance with deadlines by court assigned experts in turning in relevant reports; assignment of prosecutors to other offices to cover vacancies. Despite these factors, investigations by the People's Advocate have revealed cases of unjustified delays in criminal proceedings spanning over several years.

In one such case, the complainant HÇ reported that her daughter was left disabled due to negligent medical treatment. Criminal proceedings No. 1039 of 2014 were initiated against the doctor for

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<sup>105</sup>Article 58, 356, point 3, and 329/a of the Code of Criminal Procedure.



“negligent medical treatment.” On July 30, 2018, she was notified of the end of the investigations, but received no further updates for four years.

After an administrative investigation, the People's Advocate found that the investigation had been extended beyond reasonable deadlines, from June 28, 2017, until 2023 (nearly six years). The investigation file remained in the prosecution at the First Instance Court of Elbasan and was not sent to court as required by law.

With the People's Advocate's intervention, the case was eventually sent to court, but the investigation spanned nearly nine years, violating legal deadlines. The People's Advocate sent a recommendation<sup>106</sup> to the High Council of Prosecution, the High Inspector of Justice, the Prosecutor General, and the Prosecutor's Office at the Court of First Instance of Elbasan, requesting verification of the PA findings and considering a disciplinary investigation against the case prosecutor.

*Secondly, issues with implementing procedural provisions regarding the rights of the parties in criminal proceedings, such as failure to provide access to the party concerned to acts and evidence forming the basis of criminal charges; delays in notifying the parties of prosecution decisions, especially in cases of non-initiation of proceedings; long periods of procedural inaction by prosecutors; failure to inform parties about the status of their criminal complaints, or changes in the prosecutor handling their case; unfair seizure of vehicles, property, personal belongings, etc. Delays have been found even in cases of notifying parties of case dismissals.*

Even though complainants provide their contact details, they often do not receive notifications from the prosecution by any means (post, email, or phone). Documentation in the file sometimes shows that notifications were part of the criminal file, albeit without proof of actual communication. In these cases, notifications appear to be formalities to complete the file, failing to effectively ensure the rights of complainants and victims, as provided by the Code of Criminal Procedure.<sup>107</sup>

This issue concerns complainants who request information from the prosecutor's office about the procedural actions that have been carried out in relation to their complaints, in accordance with the provisions of the Code of Criminal Procedure, or about the stage of relevant investigations, but they are not given any answer at all.<sup>108</sup>

In one case, the People's Advocate handled a complaint against the General Jurisdiction Prosecution at the Durrës Judicial District Court. The complainant, AK, a victim of a criminal offense, had repeatedly requested information about the progress of the investigations as well as a copy of the investigative file. Despite verbal and written requests to the prosecution, he received no response. An administrative

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<sup>106</sup> For more, go to: <https://www.avokatipopullit.gov.al/media/manager/ëbsite/media/Rekomandim%20per%20botim.pdf>

<sup>107</sup> Article 9/a, Article 58, Article 326 point 3 and Article 329/a point 4.

<sup>108</sup> The request of the complainants when they are both the accuser and the victim of the criminal offense is provided for in articles 58/1/e, 326 point 3 and 329/a point 4 of the Code of Criminal Procedure. In other cases when they are the accusers of a criminal offense committed not against them, of which they have become aware, the right to request information is based on article 326 point 3 and article 329/a point 4 of the Code of Criminal Procedure. Also, this right is based on article 23, point 1 of the Constitution of the Republic of Albania, amended, in article 10, point 1 of the European Convention on Human Rights, as well as in law no. 119/2014 “On the right to information”, respectively in articles 1, 2/1/a, 3.

investigation revealed delays in investigative actions and a lack of communication to the complainant. AK was not informed that he needed to appear in person and pay a fee approved by the General Prosecutor in order to be able to receive the requested documents. The PA's intervention prompted the prosecution to notify the complainant and, in collaboration with the Institute of Forensic Medicine, procured the forensic expertise, which had been pending for over a year.

A recurring issue in our work with prosecution bodies is the delay or non-return of responses to our inquiries and their failure to provide complete information to the People's Advocate in order for the latter to conduct the relevant administrative investigations on citizens' complaints. This has been particularly problematic with the General Jurisdiction Prosecution at the Judicial District Courts of Tirana and Shkodra. The right to information and timely access to requested information is guaranteed by the Constitution and specific laws, such as Law No. 119/2014 "On the Right to Information" and Law No. 8454, dated 04.02.1999 "On the People's Advocate," as amended. Adherence to this right is not only a legal obligation for every public institution but it also directly impacts public perception of transparency and corruption within the justice system.

Lack of institutions' cooperation and failure to send information to the People's Advocate hinders its ability to perform the duties and powers assigned by the Constitution and the law, hence damaging the reputation of the People's Advocate among the public.

*Thirdly, delays in criminal proceedings are often due to the fact that forensic experts assigned by the prosecution delay their reports* and so does the Institute of Forensic Medicine. In 2023, there was an increase in citizens' complaints and cases initiated by the People's Advocate related to delays in investigative procedural actions in respect of the criminal offenses or perpetrators. These delays, often caused by exceeding legal deadlines in drafting medical forensic reports, significantly impact the progress and development of investigations. It is important to note that forensic expertise requested by criminal investigation bodies in cases of criminal offenses with severe consequences on the victim's life is considered crucial evidence for the investigation.<sup>109</sup> The act of medical-forensic expertise is considered by the prosecutor to be decisive proof for building the dynamics of the event, defining the criminal offense and determining the consequence of the criminal offense, or the security measure for the suspected perpetrator.

In cases of complex criminal cases with many perpetrators and victims, criminal offenses related to domestic violence, sexual relations with minors, or other serious offenses such as the production and trafficking of narcotics, report by specialized experts assigned by the prosecutor, constitute decisive evidence for the case under investigation.<sup>110</sup>

Complaints reviewed by the People's Advocate show that for over a year from the moment the prosecutor ordered the submission of forensic expertise by experts of the Institute of Forensic Medicine, the report was not submitted. There were also cases of late appearances by experts to perform the expertise, a lack of experts in the field, particularly for criminal offenses related to the production and sale of narcotics

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<sup>109</sup>Based on the provisions of Article 178 of the CPC "Object of expertise" as well as in its Article 185 "Act of expertise", we understand the importance of this act as evidence in the investigative process as well as the defined deadlines.

<sup>110</sup>During the year 2023, an increase in the cases of criminal offenses with such a typology was found, which require a close cooperation of the prosecutor's office with experts in the field of forensic medicine for their investigation.

(needed to identify and determine the doses of narcotic and psychotropic substances for personal use by suspects), and issues in determining violence against individuals or violent sexual relations.

Effective coordination between the Prosecution and the Institute of Forensic Medicine, along with continuous training of experts, is crucial and often decisive in criminal proceedings, in order to ensure timely and quality justice for citizens. To guarantee the correctness, impartiality, and professionalism of procedural rules and principles during criminal investigations, and to enable timely and quality justice for citizens, we made the following recommendations<sup>111</sup> in one of the reviewed cases to the Institute of Forensic Medicine and the Prosecution at the General Jurisdiction Court of First Instance in Durrës:

- Take concrete measures to ensure the timely submission of forensic expertise reports by the Institute of Forensic Medicine to the Prosecution.
- Review the staffing and organizational structure of local forensic teams to prevent recurring issues.
- Ensure the prosecutor fulfils the legal obligation deriving from Article 186 of the Code of Criminal Procedure (CPC).

*This recommendation was accepted by both institutions.*

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### *3.6 The right to due process in the judicial system<sup>112</sup>*

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In exercising its constitutional and legal powers, the People's Advocate has paid increased attention to the implementation of justice reform and the establishment of new judicial bodies. The progress of these reforms is crucial for the reformation and re-establishment of the judiciary, as well as for restoring citizens' trust in the judicial system. We commend the creation of new judicial bodies and emphasize that establishing a qualitative and functional judiciary is an obligation to the Albanian citizens. This is essential to create a balance with other branches of government and to strengthen the rule of law.

The People's Advocate closely followed the process of drafting and approval of the new judicial map as well as its implementation throughout the year 2023. Both from the complaints received by the institution, as well as the cases reviewed on our own initiative,<sup>113</sup> the PA found procrastinations of hearings, in particular in the First Instance Court of General Jurisdiction in Tirana, but also in Shkodër, Elbasan, etc., where the number of judges is much lower than it should be.

Likewise, essential problems have been identified in terms of delays in the reasoning of court decisions, whether civil or criminal, leading to delays in notifying the parties and obstructing the right to appeal to higher courts or to appeal to the Supreme Court. Delays in the reasoning of criminal decisions, especially

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<sup>111</sup> For more information, download the recommendation at:

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20%20%20Prok.%20Rr.%20Durrës%20%20dhe%20Instituti%20t%20C3%AB%20Mjek%20C3%ABsis%20C3%AB%20Ligjore.pdf>.

<sup>112</sup>This area of law is covered by the Section for the police, secret service, prisons, the Armed Forces and the judiciary in the institution of the People's Advocate.

<sup>113</sup>For 2023, the number of initiative cases and administered complaints is 60.

by the Courts of Appeal (currently the Court of Appeal of General Jurisdiction), have had a significant impact on pre-detainees. Due to failure to issue timely execution orders implementing judicial decisions, pre-detainees continued to stay in pre-detention facilities. As a consequence, certain rights granted to convicted persons have been breached, as well as overcrowding the pre-detention units. The problem of overcrowding in prisons is underlined by the findings of the CPT Report published on 12.01.2024, following their visits to several institutions of deprivation of liberty in Albania, from 04 to 15 May 2023.<sup>114</sup> According to the CPT, major efforts should be made to limit the use of pre-trial detention) and to reduce the time spent by prisoners in pre-trial detention facilities, with the aim of halting the continuous increase in the population of detainees and to reverse the trend.

Today, the justice system faces pronounced vacancies in the number of judges, a high backlog of cases in the First Instance Court of General Jurisdiction in Tirana and the two courts of appeal, a lack of proper buildings and the risk of fines imposed on the Albanian state by the Strasbourg Court due to delays experienced by the parties.

Pursuant to DCM no. 495, dated 21.07.2022, “On the reorganization of judicial districts and territorial powers of the courts,” the High Judicial Council approved decision no. 505, dated 21.11.2022, “On the start of the operation of the Court of Appeal of General Jurisdiction,” which reorganized the appeal courts into a single court of general jurisdiction. This court began functioning on February 1, 2023, leading to the cessation of activities for the other five appeal courts on January 31, 2023.

Additionally, through sub-legal normative acts, the High Judicial Council determined the start of operation for 13 general jurisdiction courts of first instance on May 1, 2023, as well as two administrative courts of first instance on July 1, 2023.

The Court of Appeal of General Jurisdiction was approved to have 78 judges, however by the end of December 2023, only 25 were in place. These judges are handling cases accumulated from the five now-closed appellate courts, as well as new cases that are completed in the first instance and appealed by the parties. This situation inevitably affects the timely and quality delivery of justice. The People's Advocate notes that the situation has not improved since the start of the justice reform in 2017.

The People's Advocate assesses that sensitive and delicate issues have been delayed, such as:

- Marriage dissolutions and regulation of consequences thereof, such as the assignment of custody and children's means of living;
- Issues related to labour relations, determination of working years, and the authenticity or falsity of documents with legal consequences for pension benefits; and
- Issues related to pre-trial detention, among others.

The People's Advocate has repeatedly raised concerns about citizens' access to justice following the implementation of the judicial map, anticipating the problems to come. Based on specific findings, the AP made a series of recommendations to the competent institutions, stressing the urgent need for action

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<sup>114</sup>For more information, see the full CPT report:

<https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-cpt-publishes-report-on-albania.-1>

to take necessary measures to provide justice without delay, according to the standards defined in international acts and the domestic legislation.

Recommendations for speeding up the processes on dissolution of marriage<sup>115</sup> and ensuing consequences have been addressed respectively to the First Instance Court of General Jurisdiction in Tirana and to the First Instance Court of General Jurisdiction in Shkodër. In these recommendations, we suggested taking measures to respect reasonable deadlines in the adjudication of family matters, with an impact on the well-being of children and/or women.

Also, the PA's recommendations underline the importance of respecting the principle according to which the court must carry out a fair, independent and impartial trial within a reasonable period of time, in order to guarantee the rights of citizens. It is the duty of courts to take measures to respect the deadlines set in the procedural legislation regarding the completion of case review, in particular the priority review of cases related to children's rights, or cases that have an impact on minors, notwithstanding the effects of the vetting process or transfer of judges within the judicial system.

This is an opportunity to point out that the PA proactively communicated with the Court of Appeal of General Jurisdiction in respect of the fast review of cases involving marriage dissolution and assigning child custody. In this context, the PA commends the cooperation of this court in resolving these cases.

Regarding delays in the reasoning of court decisions, several recommendations have also been made, based on PA's investigations. In one case, the PA found an unreasoned decision from 2012 (11 years) in the Elbasan Judicial District Court.<sup>116</sup> The relevant judge was dismissed by the High Council of Justice, precisely for reasons related to delays of court hearings, including the reasoning of court decisions that took years to complete. The applicant had only been given the abbreviated decision and not the reasoned decision of the court. Since 2012, this decision had not been written by the court, in order to allow the citizen to use the procedural recourse to appeal to the Appellate Court. This citizen was denied the right to have a reasoned court decision. In addition, for 11 years, he was deprived of his right to appeal this decision with the Appellate Court, meaning that his right to due legal process was infringed.

The People's Advocate holds that the right to trial within a reasonable time is one of the fundamental rights of citizens. For this reason, the right to trial within a reasonable time is not and should not remain a declaratory right or guarantee, since it is a constitutional standard, guaranteed and sanctioned in the acts that define basic human rights and freedoms, both at international level (Article 6 of the European Convention on Human Rights), and in domestic law (Article 42 of the Constitution of the Republic of Albania.<sup>117</sup>) An excessively long time, from the last hearing to a written reasoned decision may violate

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<sup>115</sup>For more information, go to the institution's official website where you will find the relevant recommendations.

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandim%20gjykates%20L.M.pdf> ;  
<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandim%20gjykates%20Shkoder%20K.R.pdf> .

<sup>116</sup>For more information, go to the institution's official website where you will find the relevant recommendation.

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandim%20drejtuar%20KLGJ-LKpdf>

<sup>117</sup>Article 42 of the Constitution provides that:

1. Freedom, property and rights recognized by the Constitution and by law cannot be violated without due process of law.
2. Everyone, for the protection of his constitutional and legal rights, freedoms and interests, or in the case of accusations brought against him, has the right to a fair and public trial within a reasonable time by an independent and impartial court established by law.

the right to a trial without delay and may hinder the possibility of the parties to effectively exercise the right of appeal. As mentioned above, as an integral part of due legal process, this principle guarantees the protection of all parties in the judicial process against “excessive procedural delays,” which endangers the rights of the parties and the rule of law, as well.

In compliance with the ECtHR case law,<sup>118</sup> local courts have the obligation to respect the important principle “*of completing the trial within a reasonable time.*” A delayed decision may undo the very reason for which the decision was given, for late delivery can make it completely invalid for the interested party.

We acknowledge that timely adjudication of cases, thorough reasoning of decisions, and adherence to procedural deadlines are crucial issues that need to be addressed. In this context, we find that the right to due process has been violated. Furthermore, the Judicial District Court of Elbasan should have taken appropriate organizational measures to resolve the issue raised by the complainant, ensuring the timely administration of justice and upholding the right to due process. Additionally, mechanisms must be established to document and control the management of situations where judges leave their office, whether for objective or subjective reasons (such as dismissals or resignations). These mechanisms should ensure that appropriate measures are taken to fulfil judicial obligations, including reasoning court decisions and lodging them with the clerk’s office.

The People's Advocate believes that substantial investment is necessary to achieve meaningful reform. Specifically, there is a need to increase human resources to avoid putting undue pressure on the remaining judges in the system, who have already been under constant strain for many years. Addressing potential overload situations is essential to prevent exacerbating an already difficult situation.

Two additional recommendations concerning the reasoning of court decisions have been directed to the Court of Appeal of General Jurisdiction.<sup>119</sup> One recommendation pertains to the reasoning behind court decision no. 148, dated March 28, 2022, by the former Shkodër Court of Appeal in a civil case, and the other addresses the reasoning behind a criminal court decision.

The civil case was judged by the former Shkodër Court of Appeal<sup>120</sup> and the court decision was announced on 28.03.2022. The rapporteur judge who is currently a judge in the First Instance Court of General Jurisdiction in Shkodër violated the procedural deadline for the reasoning of the decision, as determined by Article 308 of the Code of Civil Procedure. Despite 19 months passing, the complainant had not been given a reasoned copy of the court's decision. Failure to reason the decision and lodge it with the clerk’s office of the former Shkodër Court of Appeal, and subsequently to the General Jurisdiction Court of Appeal in Tirana, have unjustifiably delayed the overall proceedings at all levels of

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<sup>118</sup> PGV v. Italy, ECtHR decision, dated 7.11.2000; Vocaturo v. Italy; Cappello v Italy; Darvan v. Turkey, 2009; Zimmermann and Steinner v. Switzerland, dated 13.06.1983; Decision K. Klitshe de la Grande v. Italy, 27.10.1994; Poiss v. Austria, dated 23.04.1097. “Hadjianastassiou v. Greece” 16.12.1992.

<sup>119</sup> For the full text of the recommendation, go to:

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20drejtuar%20Gjykates%20se%20Apelit.pdf>

<sup>120</sup> Pursuant to the Decision of the Council of Ministers no. 495, dated 21.07.2022 “On the reorganization of judicial districts and judicial powers of courts”, 6 Courts of Appeal have been reorganized into the Court of Appeal of General Jurisdiction Tirana on 01.02.2023.

the courts. This has resulted in delays in the retrial of cases by higher courts when appeals are made, or in the execution of decisions when no appeal is filed, as is the case under consideration.

Additionally, a recommendation has been addressed to the High Judicial Council and the High Justice Inspector to initiate verification procedures based on our institution's findings regarding the complaint of citizen A.A. This is to assess whether there are sufficient grounds to commence disciplinary investigations against the former Shkodër Court of Appeal judge, T.S. The People's Advocate has called on the competent structures evaluating magistrates' performance to analyse the legal violation committed by the judge in question and take appropriate legal actions against him for failure to reason the judicial decision.

*The recommendation has been accepted by the High Justice Inspector, who has started a review of the case forwarded by the PA.*

It is important to note that the deadlines for writing judicial decisions now range between 4 and 6 months, which represents a significant deterioration from the 30-day average that was the norm before the beginning of the judicial reform. Moreover, it has been observed that judges, who fail the vetting, often do not turn in case files or write the relevant decisions. We believe that this situation may necessitate specific regulatory adjustments through normative acts, as not only are citizens' rights being violated, but the image of the judiciary is also being compromised, hindering the achievement of the reform's objectives.

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### 3.7 Free legal aid<sup>121</sup>

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The institution of the People's Advocate continued to deal with complaints/requests regarding the criteria and procedures to be followed in order to benefit free legal aid pursuant to law no. 111/2017 “On legal aid guaranteed by the state,” and its implementing by-laws.<sup>122</sup>

Access to justice is a fundamental right that must be guaranteed by the state. It is the obligation of the Albanian state to ensure access to justice, including the right to free legal services for individuals that are specified in the relevant law, thereby protecting their basic constitutional rights. This service is provided to low-income citizens, socially excluded individuals, marginalized groups, and those who find themselves in difficult economic situations and are unable to afford legal representation to protect their rights and freedoms guaranteed by national legislation and international standards. The right to free legal aid stems from the principle of equality before the Constitution and the law, ensuring that all citizens can actualize and enjoy their freedoms and rights.

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<sup>121</sup>This area of law is covered by the Section for the police, secret service, prisons, the Armed Forces and the judiciary in the institution of the People's Advocate.

<sup>122</sup>For the year 2023, 3065 cases were handled, providing counseling and guidance on the legal avenues to be followed

Complaints and requests related to the provision of free legal aid, administered by the institution, are handled either by providing direct advice to the complainants, or through cooperation and consultation with primary legal aid service centres. The People's Advocate, along with its regional offices, maintains continuous cooperation with these centres in informing citizens about their legal rights and obligations, the ways to exercise them, and providing legal assistance in filling out forms and requests for secondary legal aid for those who seek it.

In 2023, several primary legal aid service centres were established in various cities across the country, funded both by the state budget and in cooperation with UNDP within the project “Expanding Primary Legal Aid Services for Women and Men in Albania.”

Moreover, the Ministry of Justice (Directorate of Free Legal Aid) has entered into new cooperation agreements with higher education institutions. These institutions have made available suitable office space for client reception, which are also accessible to persons with disabilities. Under the cooperation agreement, these clinics will provide primary legal aid services according to the standards set by the Minister of Justice. Together with primary legal aid service centres and authorized non-profit organizations, they will offer free primary legal aid to all eligible beneficiaries as stipulated by law no. 111/2017.

Given that the number of consultations provided by law clinics remains low compared to authorized centres and NGOs, increasing the capacity of law clinics and actively engaging law faculty students should be a key objective of the Directorate of Free Legal Aid. This will strengthen the legal aid mechanism guaranteed by the state.

A look at the data<sup>123</sup> shows that most of the cases handled by law clinics have an administrative nature, followed by civil cases and less criminal cases. Also, the dedicated state budget allocated for legal aid has increased from year to year. However, it needs to be further scaled up to fully operationalize the legal clinics. What remains important to improve is the collection, analysis and reporting of statistical data on free legal aid.<sup>124</sup> It is worth noting that legal offices have also been helping citizens to access e-Albania, which is outside the scope of the creation of these offices and not efficient, in our assessment.

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### 3.8 *The rights of former convicts and politically persecuted by the communist system*<sup>125</sup>

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In 2023, the institution of the People's Advocate continued to handle various complaints/requests by former politically persecuted individuals.<sup>126</sup> To resolve their issues, The People's Advocate has cooperated with the line ministries, the Ministry of Justice and the Ministry of Finance. While the

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<sup>123</sup> See also:

<https://ndihmajuridike.gov.al/wp-content/uploads/2024/01/12.-Analiza-Statistikore-Dzhjetor-2023..pdf>

<sup>124</sup>In addition, see on page 39, at the link:

[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>125</sup>This area of law is covered by the Section for the police, secret service, prisons, the Armed Forces and the judiciary in the institution of the People's Advocate.

<sup>126</sup>8 (eight) complaints and 1 (one) initiative case.



Ministry of Justice has adhered to legal provisions in its responses regarding the fulfilment of criteria for the benefit of complainants, the Ministry of Finance has exhibited delays both in responding and in resolving issues related to paying the instalments of compensation for former political prisoners and their heirs.

In reviewing complaints as provided for by law no. 8454, dated 04.02.1999, “On the People’s Advocate,” as amended, the PA observed excessive bureaucratic procedures requiring the repeated resubmission of documentation by interested parties, such as photocopies of identity documents or passports and bank certificates, which do not contribute to the process in any meaningful way.

For instance, in a response from the Ministry of Finance on a specific case, it was noted that the number of the file of a former political prisoner, MP, was published on the official website of the Ministry of Finance and Economy on 14.09.2022, as a beneficiary of the fourth instalment payment, bearing payment number 75. However, upon verification of the registry and the physical file documentation, it was found that the required documents (updated identity documents and bank account confirmation) were not present.

In another case, despite more than a year having passed since the publication of the complainant's name on the Ministry of Finance's official website, the elderly complainant had not been notified by the ministry's structures as required by the first paragraph of Article 14 of the law. This article explicitly states that: “*The structure responsible for the payment of compensation for former political prisoners in the Ministry of Finance periodically publishes on the official website the lists of files ready for payment and makes announcements for all beneficiaries on the list through postal service, electronic communication (e-mail), and public media.*” It is imperative to raise awareness and enhance the responsibility of the Ministry of Finance's structures to review the submitted documentation and notify beneficiaries in real-time.

After being notified by our office, the complainant promptly re-submitted the requested documents by mail. It is important to note that the beneficiaries are often of advanced age and cannot afford to wait for payment instalments through additional phases, especially when their files have already been scheduled for payment. Therefore, it is essential for the competent structures of the Ministry of Finance to fulfil their obligation as defined in the second paragraph of the aforementioned Article 14. For the case under review and for all other cases handled by the PA<sup>127</sup> for which concern was raised with the structures of the Ministry of Finance, *the latter did not inform us* that the beneficiaries were notified by them in any of the ways provided for in the law. We believe that the situation and difficulties faced by these elderly individuals should be evaluated with sensitivity. This category faces barriers and lacks the access provided by digitization, necessitating alternative methods of notification to be used by responsible persons who should make sure that the most effective means of communication is offered to them.

Following the issuance of relevant recommendations, it is necessary to enhance and improve cooperation between the People's Advocate and the Ministry of Finance in order for these recommendations to be

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<sup>127</sup>For more information, go to the institution's official website to download the recommendations.

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandim%20Ministrise%20se%20Financave%20A.G.pdf>

<https://www.avokatipoullit.gov.al/media/manager/website/media/Rekomandim%20Ministrise%20se%20Financave%20D.P.pdf>.

implemented effectively. Mention should also be made to our previous recommendation to the Council of Ministers, urging that necessary measures be taken for the timely and effective realization of the rights of former political prisoners as a means to improve the quality of their lives. This recommendation has not yet received a response.

Despite more than 33 years having passed since the fall of the communist regime, the rights of former political prisoners have not been fully restored. If our society does not confront the past and adequately compensate these individuals for the damages they suffered, it will be unable to build a sustainable future. Addressing the past with objectivity, transparency, and justice is crucial for the rehabilitation, integration, and full compensation of the politically persecuted. History teaches us that if the tragedies of the past are forgotten, they are destined to reoccur in some form.

Law no. 9831, dated 12.11.2007, “On the Compensation of Former Political Prisoners of the Communist Regime,” as amended, designates the Ministry of Finance as the authority responsible for distributing compensation, approved by the decision of the Council of Ministers, in eight equal instalments until the full compensation amount is distributed. In our recommendations and annual reports, we have repeatedly highlighted that the budget allocated annually for compensating former political prisoners is insufficient to complete this process within an optimal timeframe, hence causing prolonged delays. Initiatives by the executive to alter procedures have often complicated the process, and there is still no final deadline for fulfilling the obligation to compensate the former political prisoners, the politically persecuted, and their heirs. Oftentimes, these procedures and measures are not readily understood.

The failure to establish an exact deadline for the completion of the compensation process, coupled with indefinite delays in rehabilitating them, is detrimental to all parties and undermines a democratic society. Such a society must effectively realize the rights of its citizens and not merely declare them in legal acts or by-laws that remain unimplemented in practice.

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### 3.9 *Execution of civil and administrative court decisions*<sup>128</sup>

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During 2023, the People's Advocate Institution handled 18 complaints: 8 against the State Judicial Enforcement Service, 6 against the Private Judicial Enforcement Service, and 4 against debtor bodies/institutions. In these complaints, the winning/creditor parties claimed violations of the principle of a fair legal process due to the non-execution of executive titles within a reasonable time by the authorities responsible for their enforcement.

The execution process of civil court decisions, notarial acts containing monetary obligations, and administrative acts considered executive titles, as an integral part of the judicial process, faces similar issues, as reflected in past reports of the People's Advocate. The non-execution of final judicial decisions issued by Albanian courts or the European Court of Human Rights remains a critical issue for the

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<sup>128</sup>This area of law is handled by the Section for central administration bodies, local governments and third parties acting on their behalf.

Albanian state, as it pertains to the strengthening and development of a respected judicial system. Prolonged execution and the “questioning” of judicial decisions primarily erode public trust in the state.

In examining the cases administered in 2023, concerning the public administration bodies' obligation to pay monetary sums, the People's Advocate finds that the reason for the non-execution of executive titles—thus violating the right to a lawful process—continues to be embedded in Instruction No. 1, dated 04.06.2014, of the Council of Ministers.<sup>129</sup> To improve the situation, as reported before, the People's Advocate sent a recommendation to the Council of Ministers, the Ministry of Justice and the Ministry of Finance and Economy, but this recommendation was not accepted by the relevant institutions. Despite this, the People's Advocate, case by case, intervened and will continue to intervene with the relevant bodies to address this issue.

Although the Government has made the prevention of new debts one of its objectives,<sup>130</sup> it appears that it has not been achieved. The debtor bodies or institutions, once they authorize the payment, where there is a court decision to this effect, they do not follow up with the procedures defined in Instruction no. 2, dated 02.06.2012, of the Minister of Finance “*On standard procedures for the implementation of the budget,*”<sup>131</sup> or Instruction no. 1, dated 13.06.1997, of the Minister of Finance, according to which the head of the debtor institution has the obligation to audit of the entire process leading to the damage, as well as to take administrative measures and start civil proceedings against the persons who caused the damage.

Failure to comply with the aforementioned acts constitutes a violation of the pecuniary interests of every taxpayer in the Republic of Albania. Violation of the principle of due legal process through failure to execute final civil court decisions within a reasonable time is due to a number of reasons, such as:

- certain bailiffs sometimes lack the professional qualities and knowledge required, leading to the issuance of acts that are not in accordance with the legislation. This issue is partly due to the ambiguities in the disposition of the executive titles.
- there is a lack of willingness from public administration authorities to fulfil obligations established by court decisions or the law, even when funds are available.
- bailiffs sometimes perform enforcement actions outside the scope of the law or misinterpret the disposition of civil or administrative judicial decisions.
- bailiffs often unjustifiably hesitate to impose sanctions on debtor entities or individuals who refuse or irregularly comply with obligations, do not respect deadlines, or act contrary to court decisions.
- authorities responsible for the execution of executive titles often fail to perform appropriate actions to force the state institutions to pay the monetary obligations imposed on them by final court decisions.
- there is no joint regulatory act between the Minister of Justice and the Minister of Internal Affairs defining detailed rules for the State Police to cooperate and support private bailiffs.
- failure to determine the “protected amount” has made Article 533 of the Code of Civil Procedure unenforceable by the Judicial Enforcement Service. Requests by bailiffs to the court to determine

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<sup>129</sup> “On the method of execution of the monetary obligations of the general government units in the treasury accounts”.

<sup>130</sup> VKM no. 50, dated 05.02.2014, “*On the approval of the strategy for the prevention and settlement of arrears and action plan*”.

<sup>131</sup> Article 62.

the “protected amount”<sup>132</sup> in cases of wage garnishment represent an added bureaucracy hampering the execution process.

- the National Inspectorate of Territory Protection and local inspectorates often do not cooperate with the Judicial Enforcement Service in cases involving mandatory execution of titles for demolitions.
- many enforcement files exceed the “*reasonable period*” for execution as stipulated in Article 399/1 et seq. of the Code of Civil Procedure.

The issues highlighted in the 2022 Annual Report regarding the execution of decisions rendered by the European Court of Human Rights (ECtHR) against the Albanian State remain unresolved. These issues continue to persist and include:

- the Consultative Council on ECtHR decisions has failed to inform the public and media about the execution of ECtHR decisions against the Albanian State.<sup>133</sup>
- annual reports on the execution of ECtHR decisions and measures taken thereon are not published on the official websites of the State Bar or the Assembly of the Republic of Albania.
- many ECtHR decisions have not been executed within a reasonable time or as provided by law no. 10018, dated 13.11.2008 “On the State Bar,” as amended.
- no disciplinary processes have been initiated against the structures responsible for the non-implementation of ECtHR decisions.
- actions for the execution of decisions involving monetary obligations up to 10,000 Euros have not been given priority over the earlier decisions involving higher amounts.
- there has been no preliminary audit to determine the responsible person for the damages subject to execution.
- debtor bodies/institutions do not carry out the procedure for making the responsible individuals pay the damages caused by their action/inaction.
- the principle of a fair legal process is violated by the responsible structures for implementing ECtHR final decisions, much in the same way as they do in the case of local judicial decisions.
- general preventive measures related to changes in legislation, or practices to be followed to avoid financial damages due to Convention violations are not effective.
- the legislation for executing ECtHR decisions in Albania does not provide for mandatory execution measures, nor sanctions against entities obstructing the process.
- In tasking the State’s Bar as follows, the relevant legislation appears to be inopportune, inefficient and conflicting due to very nature of these tasks:
  - initiating procedures for executing ECtHR decisions,
  - representing the state and defending its property interests at the ECtHR,
  - coordinating the execution process,
  - drawing up action plans and reports,
  - representing the Albanian Government before the Committee of Ministers, and
  - monitoring the execution process by national authorities of the ECtHR.

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<sup>132</sup> Provided for by articles 122 and 123 of the Labor Code.

<sup>133</sup> Provided for by article 19/8 of the Law no. 10018/2008, as amended. Additionally, the Council’s mandate has expired and this is a problems to be addressed.

Regarding the cases handled during 2023, the People's Advocate addressed 2 (two) recommendations to public administration bodies,<sup>134</sup> providing 6 (six) different approaches which, if implemented, restore the rights of the complaining subjects.

The European Court of Human Rights, in its case law, underscores the state's duty to ensure that parties involved in legal proceedings have genuine opportunities to enforce final judicial decisions. It asserts that the right to access the courts would be meaningless if the legal system allowed final court judgments to remain ineffective and unenforced for extended periods. During the execution stage of a final court decision, which represents the culmination of realizing a right obtained through the judicial process, the debtor must actively engage in fulfilling their obligations.

The People's Advocate emphasizes the significance of Albanian Constitutional Court's jurisprudence, which has recognized that, "*... constitutional principles related to due process, as outlined in Article 42/2 of the Constitution and Article 6 of the European Convention on Human Rights (ECHR), along with the obligation to enforce court decisions as provided in Article 142/3 of the Constitution, highlight that every citizen seeking to assert a right through the courts cannot be indefinitely delayed in its realization.*"

Furthermore, it is stressed that, "*...the execution of court decisions is a fundamental aspect of the rule of law and the very concept of a fair trial. No governmental body can question the justice of final court decisions, and every governmental entity is obligated to take appropriate measures for their implementation.*"

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### 3.10 *Respect for property rights*<sup>135</sup>

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The institution of the People's Advocate continues to pay special attention to the respect of the right to property, recognizing it as a crucial fundamental right in a democratic state, but also because of the persistent problems in this field. The failure to respect and protect this right has been the focus of a significant number of complaints (158 complaints/cases) submitted to the People's Advocate institution, even in 2023, highlighting an ongoing disturbing phenomenon in Albanian society.

The scope of administered complaints continues to be primarily directed towards the Local Directorates of the State cadastre Agency (LDSCA) and local government bodies, such as the Territory Protection Inspectorates at the Municipalities (TPIM).

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<sup>134</sup>These recommendations are available at the link:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Anton%20Vasili%20DREK.pdf>

<https://www.avokatipoullit.gov.al/media/manager/website/media/Durim%20Grabova%20DREK.pdf>

<sup>135</sup> This area of law is handled by the Section for central administration bodies, local governments and third parties acting on their behalf.

The activity of the Local Directories of the State cadastre Agency, which should be in full harmony with national and international legislation,<sup>136</sup> has been challenged by various complaining individuals, throughout 2023, regarding:

- non-compliance with legal deadlines in handling individual requests/applications, leading to delays or failure to provide prepaid services to citizens.
- retaining the service fee by the Local Directorates of the State cadastre Agency despite incorrect addressing of service requests, or non-provision of services by these local directorates.
- restricting the right to seek LDSCA services exclusively through the e-Albania platform.
- failure to provide active assistance to individuals seeking services.
- requiring individuals to submit zero-fee (av0) applications so that officials may continue processing requests/applications after long delays in provision of services by LDSCAs.
- failure to complete the registration of ownership titles, especially AMTPs for agricultural lands granted in ownership or use.
- failure to issue ownership deeds for assets lacking a title, or the “yards in use” by households.
- failure to review self-declarations made by builders/owners of informal constructions from 2005-2006 onwards.
- failure of LDSCAs to fulfil the obligation, on their own initiative or upon request, to correct cadastral data regarding asset surface areas, boundaries, and location on the ground.
- disregard for the right to due process for individuals seeking various cadastral services from LDSCAs.
- Irregular issuance of ownership documentation to owner entities in accordance with the implementing by-laws.

Additional issues related to LDSCA's non-compliance with legal obligations as provided for in the legislation include:

- failure to publish basic information on the cadastral map, property addresses, owner names, Council of Ministers' decisions, court decisions, or property market information without a request.
- impossibility of owner entities with non-Albanian citizenship to register on the e-Albania platform.
- unjustified delays by the local directorates of the State cadastre Agency in responding to the People's Advocate's requests or recommendations.
- intermittent suspension of LDSCA's activities due to electronic system failures.
- failure to provide services to applicants in alternative forms.<sup>137</sup>
- non-compliance by the Albanian State cadastre and failure to exercise the authority to impose sanctions on employees of local directorates, even when the conditions outlined in Article 64 of Law No. 111/2018 “On cadastre” are met.
- impossibility of direct communication with employees of the local directorates of the State cadastre Agency.
- failure to fulfil and exercise legal duties efficiently, economically, fairly, and appropriately, as well as in a timely manner.

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<sup>136</sup> Articles 41 and 42/2 of the Constitution of the Republic of Albania, Article 1 of Protocol No. 1 and Article 6/1 of the European Convention on Human Rights, Law No. 111/2018 “*On the State Cadastre*”, Law No. 20/2020 “*On the termination of transitional ownership processes in the Republic of Albania*”, as well as other legal acts and by-laws in force.

<sup>137</sup>As provided by article 10/2 of Code of Administrative Procedure.

- incomplete achievement of legal certainty and clarity of ownership titles, despite ongoing efforts.
- persistent issues of conflict, legal fragmentation, gaps in the registration system, and its implementation in this area.

The People's Advocate emphasizes that the right to property must be protected and guaranteed not only in the texts of laws and by-laws but also as a foundational principle in the work of state administration bodies responsible for ensuring the effective implementation of this right. Therefore, the primary objectives of these state administration bodies should include implementing the requirements of the rule of law, ensuring legal procedures that guarantee the impartial and uniform application of the law, promoting the participation of interested parties, maintaining transparency in decision-making processes, and combating corruption.

The failure to fulfil and exercise legal duties efficiently, fairly, appropriately, and within legal deadlines is evident in the administrative activities of certain public bodies. Such findings indicate that the effective realization of public administrative functions has not been achieved. The creation of a single institution, the State cadastre Agency, with the aim of centralizing all the activities of the previous institutions,<sup>138</sup> was formally realized, but without a clear approach to solving the problems that these institutions had encountered when operating independently. Due to unclarities in the formalization of this institution, the expected results have not been delivered vis-à-vis the needs of citizens and entities alike. This is due to the persisting fragmentation of functions, indeed neglect of the very function for which it was established: the timely response to citizens' needs and resolution of problems found in property matters.

Thus, for example, in relation to the entry in the real estate register by the State cadastre Agency of 26,000 decisions rendered over the years by the Property Handling Agency, regarding the recognition of ownership titles over property that could not be returned, but otherwise compensated,<sup>139</sup> these decisions have not yet been entered. Non-completion of the process of compensating owners for recognized property that could not be returned in one of the forms provided for in law no. 133/2015 "On the treatment of the property and the completion of the property compensation process", remains a very acute issue, since the new owners,<sup>140</sup> have been possessing the properties of the former owners, in the conditions where the compensation process is still not finished.

The handling of complaints against the Property Handling Agency, in accordance with law no. 133/2015 "On the treatment of property and the completion of the property compensation process," shows that the financial compensation process continues to be quite slow. This process has not been carried out in all its elements, above all, the compensated entities are not able to receive the financial compensation. Referring to the provision of Article 16, point 6 of the aforementioned law, the payment deadline for all final decisions recognizing the right to compensation must expire within 10 years from the law's entry into force.<sup>141</sup> The number of decisions for which compensation was paid over 2018-2022 is a total of 398. This number is very low in comparison with the total number of decisions pending enforcement over the

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<sup>138</sup> Former ZVRPP, former AITPPP and former ALUIZNI.

<sup>139</sup> This obligation is provided for both in articles 193/h and 196 of the Civil Code, as well as in article 24 of law no. 111/2018 "On Cadastre".

<sup>140</sup> Mainly according to law 7501/1991 "On land", as amended, or even other special laws.

<sup>141</sup> Referring to ATP data, the total number of decisions assessed for compensation is 18,735, with a total value of ALL 101,134,108,990.

10-year period, through financial or in-kind compensation. The current rate of compensation does not appear capable of bringing the process to an end within the stipulated legal timeframe.<sup>142</sup>

Review of cases, ex officio or based on citizens' complaints, in respect of the right to property that is expropriated for public interest points to a number of issues. During expropriations for public interest, state administration bodies often act arbitrarily towards right holders/owners. These individuals are deprived of their ownership rights without prior compensation, or fair recompense within legal deadlines. The institution of the People's Advocate maintains that the state, through its administration bodies, should safeguard the property interests of citizens in cases of expropriations. This involves ensuring a regular legal process and taking into account the socio-economic needs of the affected individuals. These are cases where, despite the decisions of the European Court of Human Rights (ECtHR)<sup>143</sup> regarding expropriation practices, there have been no measures of a general nature to address the structural violations of human rights on account of public works.

From the complaints filed with the institution of the People's Advocate, it is established that the compensation is awarded only where the property is registered. In the case initiated on its own, regarding the concern of the residents of the village of Fushë-Prezë, Bërxulë, in Tirana, for being stripped of possession of real estate in order to enable the implementation of the public works project for the construction of the Thumanë-Vorë–Kashar road segment, the People's Advocate found that the expropriation procedure had not even started, whereas the activity for the construction of the road had begun for quite some time. In connection with these cases, the People's Advocate holds that the expropriation of private property for public interest should be handled with due care and be brought to the attention of state institutions, respecting the ownership right as guaranteed by the Constitution and other relevant laws and by-laws.<sup>144</sup>

Following the findings presented in the final report of the institution of the People's Advocate in the Assembly for the year 2022, it should be noted that the situation regarding the examination of self-declarations made over the years by the builders/owners of informal constructions continues to remain problematic. It appears that the extension of these procedures, especially without a definite timeframe, violates the principle of legal certainty. The credibility of the state in the eyes of citizens may suffer. To reverse the situation, it takes not only the immutability of the legislation for regulated relations, but also legal safeguards to actions performed by the state, giving citizens the legal certainty that they are subjects of lawful actions and that state institutions guarantee them basic rights and freedoms.

Another issue in the activity of the State cadastre Agency concerns the meaning and extent of the legal effects of the administrative act "Order to Impose Restrictions," which is issued case by case by the heads of the Local Directorates of the State cadastre Agency. This restriction/prohibition of cadastral actions

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<sup>142</sup>In accordance with the law no. 133/2015 "On the treatment of property and the completion of the process of property compensation", the deadline for the completion of the process is considered to be 2025.

<sup>143</sup> Sharxhi and others against Albania.

<sup>144</sup> State institutions during the expropriation procedures should also take into account the decisions of the European Court of Human Rights, with scope of examining cases involving compensation; the Court has made it clear that the right to housing applies to premises built illegally, or that no ownership title may be produced. Over the years, non-compliance with these principles has placed an extra burden on the state budget, i.e. the Albanian taxpayers.



on a property registered in LDSCA, imposed by the head as prescribed by law, has three main characteristics:

*First, the restriction is effected through an administrative act, which, once in force, prohibits any actions on any card, map, or cadastral area by the State cadastre employees with regard to the respective property.*

*Secondly, the restriction is temporary and is applied for a legally defined term. After this term, the administrative act of limitation loses its force and no longer carries legal consequences.*

*Thirdly, the term of validity of the administrative act of limitation serves as an auxiliary legal aid for the public body. In the conduct of an administrative procedure, the public body may assess that the prohibition of cadastral actions is necessary for protecting the public interest. This term also serves as a guarantee and a tool for the parties directly interested in the administrative procedure, allowing them time to reflect and address the issue through all possible administrative and legal avenues. According to Article 67 of the Code of Administrative Procedures, the administrative act imposing temporary restrictions, issued by either the General Director or the head of the Local Directorate of the State cadastre Agency, constitutes an intermediate decision made in the course of an administrative procedure.<sup>145</sup>*

Current legislation stipulates that an order to halt cadastral actions remains in effect for a legal term of 30 days. However, if a court decides to secure the lawsuit, the order can extend beyond this period and continue to have legal consequences. Despite this clear legal framework, it has been observed that certain local directors of the State cadastre Agency justify their refusal to carry out required cadastral actions for already registered assets by citing these orders. This occurs even when these administrative acts no longer have legal force and no court measures have been imposed to secure the lawsuit in such cases. Furthermore, citizens are not informed about these decisions, which constitutes a serious violation of administrative procedure principles. The People's Advocate believes this situation requires an urgent change in both the law and the current approach.

### ***The transitory process of legalizing unpermitted constructions***

The normative legislation on the legalization process has undergone frequent changes over the years, as a result legalization has become a preferential mode of winning property titles. This title provides beneficiaries with easier opportunities to gain ownership of property (both the building and the land)

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<sup>145</sup> This provision expressly states that:

*“1. The public body, which is competent for taking the final decision, can also take intermediate decisions, when it is judged that not taking certain measures would cause serious and irreparable damage to the public interest, or the rights or legal interests of parties.*

*2. Intermediate decisions can be taken at the initiative of the public body or at the request of interested parties.*

*3. The decision to take interim measures must be reasoned, with a defined deadline and notified to the parties”.*

In a logical line with the aforementioned provision, Article 68 of the Code of Administrative Procedures further determines that:

*“1. Interim decisions are automatically terminated in the following cases:*

*a) the administrative procedure ends or the deadline expires, within which the final decision should have been given;*

*b) when the deadline specified in the interim decision expires;*

*c) in other cases, expressly provided for by law.*

*2. The public body annuls the intermediate decisions, if during the procedure the cause provided for in point 1, of article 67, of this Code falls.*

compared to other traditional methods of property acquisition in Albania, such as property restitution and compensation for former owners, privatization contracts, or the acquisition of agricultural land.

With the enactment of Law No. 20/2020 “On the Completion of Transitional Ownership Processes in the Republic of Albania,” the legalization process is defined as a transitional administrative-legal procedure. The State cadastre Agency is the designated state body responsible for managing this process. This law has extended the legalization deadline to include buildings constructed after June 27, 2014, which contrasts with the original deadline set by Law No. 9482/2006 “On the Legalization, Urbanization, and Integration of Constructions without Permission,” as amended. The extension of the deadline for unauthorized constructions included in the legalization process presents challenges in respecting and protecting the property rights of former owners, thereby undermining legal security and the effective protection of these rights. Although the process began in 2004, nearly 19 years later, it remains incomplete, with a high likelihood of continuing for a long time. Factors contributing to this prolonged duration include numerous legislative changes and deficiencies in the legal framework governing the legalization process, which have served as a premise for legal violations during the review of self-declarations for legalization on a case-by-case basis.

One of the primary reasons for the violation of the right to a regular legal process in concluding the legalization process, both on a case-by-case basis and as a whole, is the failure to complete the administrative review of self-declarations within the legal deadline.<sup>146</sup> Since the law no. 9482, dated 04.03.2006 “On the legalization, urbanization and integration of constructions without permit,” as amended (now repealed), did not set a time limit for the completion of the administrative procedure engaged by self-declarations made for legalization purposes, the legal procedural timeline stipulated by the Code of Administrative Procedures should apply. The former ALUIZNI should have completed the administrative procedure within this timeline, issuing a final decision warranting the legalization of the self-declared informal construction, or its exclusion from the legalization process.

In Law No. 20/2020 “On the Completion of Transitional Processes of Ownership in the Republic of Albania,” and the associated implementing by-laws, clear deadlines are established for the legalization process. However, the backlog of previous applications, still pending processing for legalization, complicates the completion of this transitional process, actually resulting in non-compliance with the stipulated procedural deadlines. Besides several other factors that have negatively impacted the progress of the legalization process, the primary issue lies in the lack of attention to and analysis of the causes and factors leading citizens or other entities to construct buildings without a permit or in violation of existing permits, regardless of whether for residential or other uses.

### ***Legalization versus Punishment for Unpermitted Constructions***

While the legislator has regulated the processes related to the legalization of constructions without permission, it has also established the legal framework for punishing individuals or entities building constructions in violation of the legal regulatory provisions applicable. However, there exists a certain level of ambiguity and conflict between the normative acts governing these legal processes, due to incongruences. Recognizing the importance of adhering to legislation in the field of territorial

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<sup>146</sup> Provided, in Article 49, of Law no. 8454, dated 12.05.1999 “Code of Administrative Procedures of the Republic of Albania”, amended. (Repealed by Law No. 44/2015)

development, i.e., protecting and respecting public and private property, as well as other real rights deriving from it, the legislator has included in the Criminal Code of the Republic of Albania criminal offenses that violate the legal regime of land and buildings.<sup>147</sup>

The legalization of constructions without a permit has been supported by legal framework since 2004, although the regulatory legislation in this field has undergone frequent changes. Conversely, constructing buildings without a permit is considered a criminal offense under the Criminal Code, reflecting the social danger it poses. Since 2008, this offense has been compounded by criminal elements related to the misuse of land contrary to its designated purpose, as well as land occupation. Logically, since 2004, there has been a legal basis in place that regulates the legalization process for constructions carried out without permission. This process, when applied on a case-by-case basis, not only legalizes these unauthorized constructions and converts them into legal, private property, but it also effectively “amnesties” the lawbreakers who erected these buildings in violation of the Criminal Code's provisions.<sup>148</sup>

Despite the significant powers granted to the National Inspectorate of Territory Protection and the Inspectorate of Territory Protection in Local Units by Law No. 9780, dated 16.07.2007, “On the Inspection and Protection of the Territory from Illegal Constructions,” as amended, the process of legalizing constructions without permission has acted as a deterrent to punishing illegal activities in the field of territorial development. The legalization process, especially with the transfer of ownership of the construction plot to the owners of unauthorized constructions, intersects with and impacts other important legal processes related to the respect and protection of public and private property rights. These processes include the division of agricultural land and the restitution (physical compensation) and compensation of property to former owners. These legal processes, each centred on property rights but treated separately and in parallel, have so far shown a lack of harmonization, often resulting in conflicts that impede their progress and completion. It is currently evident that:

- The process of allocating agricultural land to the entitled beneficiaries has not yet been completed;
- The process of restitution (physical compensation) and compensation of property to former owners has not yet been completed;
- The legalization process for unauthorized constructions has not yet been completed.

The regulatory legislation governing these legal processes (the division of agricultural land, the restitution and compensation of property to former owners, and the legalization process) has failed to maintain uniformity in the treatment of property rights and protection from one process to another. This has created a lack of legal stability for this fundamental right. As previously emphasized, the aforementioned issues related to the Local Directorates of State Cadastre Agency bring numerous problems in relations with citizens, from the loss of trust in public administration bodies to the risk of civil lawsuits against administrative bodies for non-contractual damages caused to citizens by the violation of the aforementioned rights.

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<sup>147</sup> Depending on the entry into force of the legal changes in the Penal Code, subjects who have committed the criminal offense that violates the legal regime of land and constructions are punished with a fine or imprisonment.

<sup>148</sup> To this “normative clash”, in the applicable legal provisions, is added the other fact that the public bodies charged by law with control or monitoring powers in the field of territorial development, have not shown effectiveness in exercising their functions, adding here the ambiguity and the lack of stability and legal coherence of the specific regulatory legislation in force.

The People's Advocate institution has continued to inform the various LDSCAs<sup>149</sup> that the administrative failure to review citizens' applications within the legal and/or reasonable time limit, depending on the other circumstances of the case, may constitute grounds for initiating a process for the compensation of damage caused by the unjustified duration of the administrative procedure. This is because the rights of citizens to handle their issues within the deadlines provided by the normative acts in force, in a legal, transparent, impartial, fair manner, actively helping them, or even their right to be informed about the activity of state bodies (especially in cases where they are participants in administrative procedures), are rights provided not only by the Code of Administrative Procedures,<sup>150</sup> but primarily by the Constitution of the Republic of Albania.<sup>151</sup> The fact that citizens, for reasons independent of them, do not have an issue resolved in administrative procedures (regardless of whether positively or negatively), although they have complied with all the requirements of the relevant legislation, causes them not to use the property they own, as guaranteed by the legislation in force.

### ***Activity of the Territory Protection Inspectorate in Local Self-Government Units and the National Territory Protection Inspectorate***

The National Inspectorate of Territory Protection (NITP) and the Inspectorate of Territory Protection (ITP) within local self-government units primarily focus on adhering to norms, standards, and development conditions of the territory, as well as protecting the territory from illegal constructions. In 2023, 16 complaints were filed against the activities of NITP and ITPs in local self-government units. Four of these complaints have been resolved, while the rest are still under review. These complaints are centered on issues such as, inaction by these public bodies to initiate procedures for identifying and sanctioning illegal constructions, inaction regarding requests to ensure compliance with approved construction projects, allegations of procedural violations during interventions to demolish constructions deemed illegal.

From the complaints reviewed by the People's Advocate institution related to the activities of NITP or ITPs in local self-government units, several key issues have been identified:

- ITPs within local self-government units often avoid their legal obligations in handling certain issues.
- there is a notable lack of transparency in these bodies' activities, frequently cited by complainants and evidenced through the AP's operations.
- complainants often face property violations by NITP or ITPs without prior notification or official communication about the planned interventions, thus infringing on their right to a fair legal process.
- persistent legal violations infringe on individual rights and freedoms, with no corrective actions taken, worsening the legal situation for entities who own or possess buildings with various legal statuses.
- there are delays and instances of withholding information in the reporting of ITPs to NITP regarding specific issues, where cross-examination was used by the People's Advocate.

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<sup>149</sup>We also inform the General Directorate of the State Cadastre Agency.

<sup>150</sup>In vessels 4, 5, 6, 10, 13, 15, 18/2, etc.

<sup>151</sup>The People's Advocate, within the framework of taking measures for the progress of the legalization process, has addressed 13 recommendations to the relevant bodies.

In cases where the administrative review has been completed, several recommendations have been issued regarding the activity of these administrative bodies. Notably, a recommendation was addressed to the ITP in the Municipality of Tirana<sup>152</sup> regarding the complaint of citizen AH. In the response to the People's Advocate, it is pointed out that inspectors of this body,<sup>153</sup> who inspected the situation on the ground, did not find any building activity going on for them to take action as required by the applicable legislation.

Prompted by this response, the People's Advocate reviewed the relevant applicable legislation in order to comprehend the rationale of such response. The specific basic law determining the scope and powers of the Territory Protection Inspectorate at local units is the law no. 9780, dated 16.07.2007 "On the inspection and protection of the territory from illegal constructions," as amended<sup>154</sup>. As one of the construction inspections bodies, the Territory Protection Inspectorate within local units holds the legal responsibility for overseeing territory control and ensuring compliance with technical standards and development conditions in the field of planning and territorial development. These responsibilities are also explicitly provided for in other relevant laws. The Inspectorate's activities are based on verification processes and sanctioning decision-making, as expressly outlined in the current legislation. According to Law No. 9780, dated 16.07.2007, as amended, regarding the Territory Protection Inspectorate in local units, Article 5, point "d," mandates that, during the exercise of the responsibilities outlined in Article 4, the Inspectorate must, among other duties, "make a decision to demolish illegal constructions." This authority is further clarified in the final paragraph of the same article.<sup>155</sup>

Further, letter "c", point 8, article 12, of law no. 9780, dated 16.07.2007, as amended, states that: "*The National Inspectorate of Territory Protection and that of the local unit, in the exercise of responsibilities and duties provided for in this law, have the right:*

*c) to make the subject of their control the demolition of an existing building, the construction or works for the construction of a new building, the reconstruction of the building, the repair of the building, the ground and underground infrastructure, as well as the works/ constructions, which present a risk of collapse, with consequences for the life and health of people and for the property of third parties.*"<sup>156</sup>

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<sup>152</sup>Letter of the People's Advocate no. K3/A34-9 prot., dated 28.12.2023.

<sup>153</sup>The letter of the IMT, in the Municipality of Tirana, no. 7875/1 Prot., dated 9.10.2023.

<sup>154</sup> Article 2 of this law stipulates that its object is the determination of bodies for the inspection and protection of the territory from illegal constructions and their responsibilities.

<sup>155</sup>is expressly defined that: "*The word "construction/work", according to this article, includes those processes and/or construction objects that are built, installed in the territory, with stationary or temporary placements, that take place on and/or on land, any action/ process of construction, excavation, demolition, expansion, repair, renovation, as well as any other intervention in the territory or structure and refers to the current state, the volume of works performed, including and/or illegal enclosures at the time of the inspection exercise .*

<sup>156</sup> Meanwhile, the law no. 107/2014 dated 31.07.2014 "On Territorial Planning and Development", amended, in points 20 and 21, of article 3, as well as in point 1, of article 39, determines respectively that:

"20. "Construction is any object that is built or installed in the territory, with stationary or temporary placement, and that takes place under and/or above ground".

21. "Construction/work without a permit", are those processes and/or construction projects carried out in the absence of a construction permit, a preliminary declaration for the performance of works or carried out under the conditions of a revoked permit.

"1. The construction permit is necessary for any construction, repair, restoration or demolition of existing buildings, installation or erection of temporary constructions, except for the cases provided by Article 41 of this law".

In points 1-3, of Article 51, of the same law, it is determined that:

Based on the powers granted by law to the Inspectorate of Territory Protection (ITP) of the Municipality of Tirana, it is evident that this public body has full competence to conduct on-site verifications of constructions or works reported as illegal by citizens. Specifically, in the case of citizen AH, who claimed that citizen GSh had made illegal constructions, both the complainant and the Tirana Municipal Police notified the ITP. The ITP's response which asserted that it lacks legal competence to intervene, and that no construction works in progress were found, is not only incorrect but also represents a misinterpretation of the specific regulatory legislation applicable, leading to repeated inaction by this public body.

In light of the ITP's position, the People's Advocate has emphasized that the current legislation not only allows for the verification of the legality of existing constructions or ongoing construction works but also mandates the ITP to take further action. This includes demolishing illegal constructions that were initially included in the legalization process but were later rejected for legalization by the competent public body. Consequently, the People's Advocate recommended:

- The exercise by the Inspectorate of Territory Protection of Tirana Municipality of the responsibilities defined in Law No. 9780, dated 16.07.2007, "On the Inspection and Protection of the Territory from Illegal Constructions," as amended, and in the specific regulatory legislation applicable, to address the complaint of citizen A.H.
- Implementation of measures to prevent the recurrence of such practices in future administrative procedures within the jurisdiction and competence of the Inspectorate of Territory Protection of the Municipality of Tirana.

*This recommendation was not accepted.*

In the process of examining the complaint by "Erjoni" sh.pk concerning the demolition of buildings forming the Prestige Holiday Resort in Golem, Kavajë Municipality, it was found that the activity of the National Inspectorate of Territory Protection (NITP) violated the fundamental right to a regular legal process. As a result, the People's Advocate has recommended specific actions to address these violations:<sup>157</sup>

- Assign responsibility and identify the individuals responsible for violating the rights and legal interests of the subject "Erjoni" sh.pk, whose facilities in Golem, Kavajë Municipality, were demolished without a due legal process.

*This recommendation was not accepted.*

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*"1. The mission of the inspection is to guarantee and protect the national interest for a fair and sustainable development of the territory, through the prevention of illegal works and constructions, according to this law and the acts issued in its implementation, as well as the fair punishment of offenders, that violate the provisions of this law.*

*2. The inspection for the verification of compliance with the legal requirements, according to this law, is carried out in accordance with this law, the by-laws issued in its implementation and the applicable legislation for construction inspection in the Republic of Albania.*

*3. The inspection authorities cooperate and coordinate the inspection actions among themselves, as well as with the planning authorities, in order to increase the effectiveness of the inspection. When it becomes aware of the facts, even though they may not be within its sphere of jurisdiction and responsibilities, each inspection authority shall immediately notify the other responsible or interested authority.*

<sup>157</sup>This recommendation can be found at the link:

<https://www.avokatipoullit.gov.al/media/manager/website/media/Erjoni%20shpk.pdf>.

It has also been established that the financial damage caused by NITP or the Inspectorate of Territory Protection (ITP) in local units during the demolition of buildings constructed with proper permits places these bodies' activities under the conditions outlined by Law No. 8510, dated 15.07.1999, "On Extra-Contractual Liability of Public Administration Bodies," as amended.

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### *3.11 Regulating labour relations and respecting the right to due process in administrative proceedings<sup>158</sup>*

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The People's Advocate institution has been actively involved in addressing labour relations, particularly focusing on unfair dismissals from the public administration. Throughout 2023, numerous complaints were submitted by citizens, both from individuals with civil servant status and those without. The institution has been dedicated to ensuring that the management of labour relations in the public administration adheres to the right to a regular legal process in administrative procedures, aiming to guarantee stability and protect labour rights at both local and central levels.

In 2023, the People's Advocate handled 25 cases related to labour relations, filed by employees who had been dismissed, transferred, suspended, or subjected to disciplinary measures. Through in-depth administrative investigations and addressing the respective issues in these cases, the PA managed to resolve most of them in favour of the employees, while the remainder are still under administrative investigation.

To build and sustain a functional public administration, it is crucial to adhere to basic principles such as: equal opportunities, non-discrimination, meritocracy, transparency, professionalism and political impartiality. These principles are essential for both employees governed by the labour Code and civil servants regulated by civil service legislation. However, during administrative activities, it was observed that in some cases, public administration bodies violated the principles of a regular legal process in the administrative procedure due to insufficient application and non-compliance with mandatory legal principles and procedures.

Due process, guaranteed as a fundamental human right, must be upheld in administrative procedures, too, even though it is not explicitly stipulated in the horizontal law on administrative procedures.<sup>159</sup> The principle of due process is one of the most important administrative principles, especially when administrative procedures directly impact the legitimate interests and rights of individuals, such as the right to employment, consequently, the right to social and economic welfare. This right to a regular process in administrative procedures is enshrined in the European Convention on Human Rights and the Constitution of the Republic of Albania, and has been confirmed by the jurisprudence of the Constitutional Court.

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<sup>158</sup> This area of law is handled by the Section for central administration bodies, local governments and third parties acting on their behalf.

<sup>159</sup> Code of Administrative Procedures.

Throughout the process of administrative review, it has been observed that the procedures followed were often unclear and incomplete, failing to guarantee the principles of clarity and legal certainty.

In the context of investigations, public administration institutions were requested to provide explanations and relevant documentation. The People's Advocate found that there is significant room for improvement in administrative procedures, addressing specific issues on a case-by-case basis to prevent future occurrences. Several key problems have been identified, such as inactions by responsible institutions, failing to conclude on the measure of responsibility at the hierarchical level. There were also instances where, despite a complete legal framework guaranteeing a regular legal process, this principle was not respected during disciplinary procedures by public administration bodies.

Violations of essential elements of due process have been found, including legality, transparency, information, proportionality, justice and impartiality, objectivity, use of a language known to the subject, right of access and representation, right to information and to be heard, adversarial process, reasonable timeframes, reasoned decision-making, right to administrative and judicial appeal, etc.

Unlawful dismissals, whether due to non-compliance with legal procedures or lacking reasonable cause, often result in a high likelihood of the affected individuals winning lawsuits against the termination of their employment. Such actions or inactions by relevant institutions can lead to significant monetary costs for the state budget. The main problems identified from complaints and cases pursued by the People's Advocate include unfair dismissal or removal from office, appointment procedures in public administration, unfair transfers to other positions, suspension procedures in the civil service, restructuring procedures of public administration institutions, implementation of final court decisions for reinstating civil servants, non-granting or improper payment of annual leave.

A significant issue is the lack of effective cooperation of these institutions with the People's Advocate, hindering the ability to conduct complete and timely investigations. The principle of cooperation is a legal and constitutional obligation for all state/public administration bodies, which must provide all required documents and information to the People's Advocate. This principle is crucial, as evidenced by the fact that the Constitution provides the People's Advocate with legal instruments to guarantee human rights and ensure cooperation from public administration bodies and officials.<sup>160</sup> Referring to the problems encountered, the institution of the People's Advocate, in exercising its powers and fulfilling its duties, has addressed these issues and recommended disciplinary measures for non-compliance with legal provisions by the responsible employees tasked with responding to the requests of the People's Advocate. Specifically, the issue of unfair dismissals will continue to be a key focus for the People's Advocate, aiming to contribute to the improvement and creation of a functional public administration in accordance with European standards.<sup>161</sup>

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<sup>160</sup> Such as the annual and special reports, recommendations or proposals for taking administrative measures against responsible officials, etc.

<sup>161</sup> The institution of the People's Advocate appreciates the elevation to the ministerial level of the administration of issues related to the functioning of the public administration, showing the importance it has within the European integration process as well as in the effective guarantee of these rights.



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### 3.12 Consumer protection<sup>162</sup>

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Consumer protection is one of the most important policies of the European Union. By signing the Stabilization and Association Agreement, Albania has committed to providing Albanian consumers with the same rights and protections as European consumers. Specifically, Law No. 9590, dated 27.07.2006, “On the Ratification of the Stabilization-Association Agreement between the Republic of Albania and the European Communities and Their Member States,” in its article 76, states: “The parties will cooperate to align consumer protection standards in Albania with those of the European Community. Effective consumer protection is essential to ensure the proper functioning of the market economy. This protection depends on the development of an administrative infrastructure to ensure market supervision and the implementation of laws in this area...”

The consumer protection acquis<sup>163</sup> covers the safety of consumer goods, as well as the protection of the economic interests of consumers in some specific sectors. Member States must transpose the acquis into national legislation and create independent administrative structures and enforcement capacities that ensure effective market surveillance and implementation of the acquis.

Consumer empowerment is not just a right; it involves creating an environment that enables consumers to exercise their rights and benefit from them. This means establishing a system that supports consumers and guarantees the safety of goods and services, as well as the effective protection of their economic interests when they are at risk. As a cross-sectorial issue, consumer protection affects various institutions at the local level, which constantly face citizen complaints. With the recent changes brought by territorial reform and the decentralization process, local self-government units have been granted several new powers.

In 2023, the People's Advocate handled 39 cases related to claims of incorrect application of the law, where the Universal Service Supplier (part of Electricity Distribution Operator) and Water and Sewerage Companies were alleged to have violated the law. The People's Advocate carefully analysed the explanations and documentation submitted by the responsible institutions, identifying areas for procedural improvement and opportunities to restore violated rights. Access to essential services such as drinking water and electricity is a fundamental need. The lack of these services constitutes a serious violation of human rights. Moreover, achieving universal and equal access to drinking water and energy is a crucial part of the 2030 Sustainable Development Goals.<sup>164</sup> The scope of ex officio cases and complaint/requests relates to claims on electricity and water overbilling, inaction of operators against

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<sup>162</sup> This area of law is handled by the Section for central administration bodies, local governments and third parties acting on their behalf.

<sup>163</sup> Chapter 28: Consumer Protection and Public Health.

<sup>164</sup> Goal 6: Ensure availability and sustainable management of water and sanitation for all. 6.1: By 2030, achieve universal and equitable access to safe and affordable drinking water for all.

Goal 7: Ensure access to affordable, reliable, sustainable and modern energy for all. 7.1: By 2030, ensure universal access to affordable, reliable and modern energy services.

citizens' complaints, power/water interruptions, foreclosures, economic inability to pay for the service, quality of service offered etc.

It is crucial to implement measures to protect consumers in need, particularly in ensuring the continuous supply of electricity and water, especially in rural areas. Some complaints reveal that energy and water supply operators advise citizens to pay off arrears in instalments through agreements. While this offers temporary relief, it fails to address the underlying issues, leaving room for these problems to recur over time.

The lack of adequate sewage infrastructure remains a significant problem. This issue is exacerbated when Regional Water and Sewerage Companies digitize subscriber registers without considering the effects of the new system's formula calculations. This negligence results in exorbitant debt for subscribers who have been regular in their payments over the years. Therefore, it is necessary to train personnel appropriately in the application of new digital systems. Additionally, both the Electricity Distribution Operator and the Water and Sewerage Companies often fail to implement legal provisions regarding preferential tariffs or exemptions for vulnerable groups.

Private mobile phone companies also exhibit indifference toward consumer rights. This is evident in their disregard for the subscriber's intent to terminate contracts. Despite completing all procedural steps, including appeals, subscribers often continue to be unjustly charged due to the companies' failure to close contracts properly.<sup>165</sup>

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### 3.13 *Respecting the rights related to the local government*<sup>166</sup>

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Local governments play a crucial role in implementing policies, aligning with the Acquis Communautaire, and advancing the European integration agenda. The European Commission emphasized this role in its 2019 Communication on EU Enlargement Policy, stating: *“The role of regional and local authorities should be taken into account in the process of harmonization with the EU and in the eventual implementation of the rules of the EU. An appropriate balance must be found between central, regional, and local government that best supports the implementation of reforms and the provision of services to citizens.”*

The role of local government is recognized and confirmed in various acts by international organizations, including resolutions by the UN Human Rights Council. Local government actions are essential for preserving civic space, ensuring access to basic services, and improving urban planning to achieve the state's social objectives. One significant national policy is the Decision of the Council of Ministers No. 623, dated 26.10.2018, “On the Approval of the Charter of Citizens' Rights for the Benefit of Public

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<sup>165</sup>The mandate of the People's Advocate extends only to the public sector and needs to be wider as the institution receives quite a few complaints from consumers of mobile phone companies and banks.

<sup>166</sup>This area of law is handled by the Section for central administration bodies, local governments and third parties acting on their behalf.

Services.” This charter guarantees citizens and businesses access to high-quality public services at minimal cost. The charter defines the rights of citizens and businesses to benefit from services provided by authorized institutions, including local government bodies.<sup>167</sup>

The People's Advocate assesses that, despite its approval in 2018, the citizens are barely aware of its existence and a better job needs to be done to promote these rights.

### ***The right to housing***

One of the most important human rights directly related to the right to life and health is the right to housing, which falls under the jurisdiction of local government bodies. Local authorities must ensure legal protection for housing and progressively realize all aspects of the right to adequate housing.

In 2023, the institution of the People's Advocate handled 29 complaints and cases related to housing rights. Notably, the People's Advocate took a proactive role in protecting this right, initiating many cases ex officio. The administrative investigations focused on ensuring that local authorities adhered to proper administrative rules and procedures in planning, providing, administering, and distributing social housing programs. These efforts aim to create opportunities for suitable and affordable housing, tailored to the financial capabilities of families in need and supported by responsible state institutions.

The social housing programs include social housing for rent, programs for improving existing housing conditions up until new facilities are built, low-cost housing, development of areas for housing purposes, temporary housing programs, etc. Local self-government units are guided to identify issues and ensure that families and individuals who do not qualify for one program have the opportunity to benefit from another social housing program if they meet the legal conditions. Cases related to housing often involve social housing, soft loans, rental bonuses, and improvements in living conditions, as well as urgent needs for reconstruction due to damage from earthquakes, floods, and other disasters.

In handling housing-related cases, the People's Advocate also considers Albania's commitment to achieving the Sustainable Development Goals by 2030, which includes ensuring the right to suitable accommodation.<sup>168</sup> Cooperation during the administrative investigation is crucial and closely linked to the principles of transparency and accountability. The mission of the People's Advocate is to enhance the transparency and accountability of public bodies, ensuring that their administrative activities uphold the legal rights and interests of individuals. We consistently request information regarding the duration, transparency, and specific stages of the administrative processes, especially concerning the implementation of administrative acts issued for these purposes. However, we often encounter a lack of

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<sup>167</sup> Among others, we can mention: the right to information; the right and use of public services; the right to equal treatment in the provision of public services; the right to active assistance during the service provision process; the right to an effective remedy; the right to process your request in order of application; the right to receive services within reasonable terms; the right to receive a service in a transparent manner; the right to have alternatives in submitting the request for the provision of services; the right not to be penalized for the mistakes/inaccuracies of state administration institutions; the right to appeal; the right to have infrastructure in the provision of public services; the right to prior consultation; the right to quality service, etc.

<sup>168</sup>Point 11: “Make cities and human settlements inclusive, safe, resilient and sustainable. Point 11.1: “By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade poor countries”.

fruitful cooperation from the competent bodies in providing comprehensive explanations. Responses are frequently incomplete or unrelated to our inquiries.

Consequently, we have recommended initiating administrative procedures to identify responsible employees at the hierarchical level who fail to fulfil their legal obligations to respond to our requests. We also advocate for administrative and disciplinary measures against these individuals. Our efforts particularly focus on cases involving vulnerable groups, such as families with sick members, disabled individuals, children, pregnant or divorced women with children, and the elderly. It has been observed that responsible bodies have not shown sufficient care towards these groups in addressing housing-related issues.

Law No. 22/2018 “On Social Housing” enshrines the principle of adequate housing, outlining the conditions required for housing to be considered suitable. Housing must guarantee privacy, safety, a peaceful and dignified life, and adequate living space according to legal norms and construction standards. It should also provide basic services within residential environments. Therefore, appropriate measures must be taken to improve living conditions, particularly for those with limited budgetary means. Each municipality, local government unit, or other competent institution should evaluate social-economic situations on a case-by-case basis to ensure suitable housing in accordance with legal norms.

### ***Right to Public Service Provision***

With regard to human rights violations in the provision of public services, the People's Advocate institution continuously requested local government bodies to respect these rights. In the field of infrastructure and public services, municipalities are responsible, among other things, for the construction, rehabilitation, and maintenance of local roads; road signage; local sidewalks and public squares; public lighting; local public transport; collection, removal, and treatment of waste; construction, rehabilitation, and maintenance of housing; treatment and supply of drinking water; collection, removal, and treatment of wastewater and rainwater, etc., within their jurisdiction.

In 2023, the People's Advocate institution handled 80 cases/complaints where one of the main issues was the lack of standards and parameters of roads, their maintenance, and communal spaces. This concern extends beyond individual rights to the community's right to a proper living environment. From the overall treatment of these cases, we have found that the right to public service provision in practice is constrained and often unmet, especially in rural areas or small towns, unlike larger cities. These issues remain in the shadows due to the lack of allocated funds for roads, sewer systems, household waste, and more.

In addressing these issues, the People's Advocate has also considered the sustainable development goals, specifically goal number 9: “Build resilient infrastructure, promote inclusive and sustainable industrialization, and foster innovation,” and target 9.1: “Develop quality, reliable, sustainable, and resilient infrastructure, including regional and cross-border infrastructure, to support economic development and human well-being, with a focus on affordable and equitable access for all.”

The People's Advocate institution emphasizes the critical importance of living in normal and suitable environments as an expression of one of the prerequisites for fulfilling the state's obligation to provide and guarantee public services. For this reason, in the context of handling of cases, through official

communications, the People’s Advocate urged the institutions to take positive action to guarantee and ensure the provision of services that have a direct impact on the safety and protection of citizens' lives.

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### 3.14 Child protection and child rights<sup>169</sup>

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The activity of the institution of the People's Advocate would not be effective without a continuous cooperation with all the actors and factors that contribute to the protection and respect of human rights. In the context of protecting children's rights and guaranteeing these rights, maximum attention has been paid to the principle of “the best interest of the child,” as a primary consideration.

During the year 2023, Albania reported to the UN Committee “On the Rights of the Child” and the contribution of the People’s Advocate was part of the report submitted by the country. The committee, in the context of independent monitoring of children's rights, recommended, <sup>170</sup>among other things, to the Albanian state to:

- take further steps to guarantee the independence of the People’s Advocate, including funding, mandate and staffing, in full compliance with the Paris Principles;
- further strengthen the mechanisms for receiving, investigating and addressing complaints from children, in a child sensitive and friendly manner, ensuring the privacy and protection of child victims;
- undertake monitoring and follow-up of these mechanisms and ensure that they are visible to children across the country;
- give priority to the systematic and effective implementation of the recommendations of the People's Advocate addressed to the state authorities on the protection of the rights of the child by these authorities.

In order to protect and guarantee children's rights, the focus the People’ Advocate as a national human rights institution is on:

- listening to children's voices, especially those in the most vulnerable situations;
- creating children’s and the entire society's awareness of the rights that children should enjoy, free from violence and hate speech, in all the dimensions of everyday life, not just in legislation and conventions;
- assessing the impact of digital technology on children's lives and health;
- preserving children's privacy and adopting a child friendly approach;

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<sup>169</sup>This area of law is covered by the Child Protection Section of the People’s Advocate institution.

<sup>170</sup>In summary, the Committee has also recommended to the Albanian state:

- Ensure that the right of the child to have his or her best interests taken into account is appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial procedures and decisions, as well as in all policies, programs and projects that are important and have an impact on children.
- To strengthen the capacity of all relevant professionals to assess and determine the best interests of the child and to give that principle due weight as a primary consideration.
- Establish mandatory processes and design and implement tools for *ex-ante* and *ex-post* impact assessments of legislation and policies relating to children, for the realization of the child's right to have his or her best interests considered primary.

- ensuring appropriate budget allocations to implement children’s rights.

### ***Complaints/requests/cases handled ex officio***

The commitment to “Leave no-one behind, which is the key principle of all the Sustainable Development Goals, has been at the core of many cases handled ex officio by the People’s Advocate institution in 2023, in respect of rights of the child. In this aspect, intensive work has been done to review complaints or requests involving the rights of the child, draft individual, general or legislative recommendations, conduct field inspections and monitorings in order to change and improve the administrative activity of public administration to the advantage of the effective implementation of children's rights.

In his conclusions and recommendations, the People's Advocate aimed to solve the problems by focusing on the highest interest of children and examining how this principle is adhered to by the entire mechanism of the integrated child protection system. In 2023, the People’s Advocate handled 72 cases ex-officio involving protection of children's rights, 36 complaints from children themselves and 42 complaints from adults. The review of these cases resulted in 29 recommendations for both central and local government bodies.

### ***Inspection/monitoring/administrative investigation***

During 2023, the People's Advocate inspected all residential social care institutions that provide services for children in need and issued relevant recommendations to public administration bodies. These services are part of the Social Protection Program and are financed by the state budget. They are administered at both central and local levels, forming a crucial component of residential social care for children. As part of the decentralization process, six residential social care institutions have come under the administrative control of municipalities. However, these institutions are still financed by the State Social Service, resulting in a dual oversight approach.<sup>171</sup>

Based on inspections conducted over the years by the People's Advocate, it has been established that the number of institutionalized children has generally decreased year by year. However, this decrease is very negligible and does not align with the significant reduction in the birth rate over recent years. The percentage of children admitted to institutions due to poverty and family’s social problems (social orphans) remains higher than those classified as abandoned children (biological orphans). In addition to biological and social orphans, residential services also cater to abused children or children in need of immediate protection. However, these services are inadequate for such children, who require specialized care. The public social care institutions inspected by the People's Advocate had not commenced their transformation into new types of community-based services.

With all the deadline extensions in implementing the deinstitutionalization plan, based on inspections, the People's Advocate found that several key measures were not implemented as scheduled for 2023. These measures include establishing professional guardianship services, implementing individual plans for children in social care institutions, transforming current institutions into support centres for children and families, and increasing the number of employees in self-government units. Additionally, many buildings of social care institutions are old, and the ongoing partial reconstructions aimed at making them

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<sup>171</sup> The double dependence of these institutions brings difficulties in the management and administration of the service starting from the distribution and budgeting of funds, the selection, appointment and accountability requirement of personnel, elements that affect the well-being and development of the child.

suitable for the new types of community-based services have further deteriorated the accommodation environments, making them non-compliant with national and international standards.

### ***Problems Identified***

The People's Advocate aims to solve the identified problems in communications with representatives of the central and local government. The principle of the highest interest of the child requires cooperation and coordination, in compliance with the legal obligations within the scope of activity of the public administration bodies.<sup>172</sup> In our administrative practice of monitoring the integrated child protection system, at the central and local level, based on the investigations carried out, we established violation of children's rights in respect of the following:

*The right to participate* - The main problem is insufficient knowledge and understanding of the child's right to participate in society, as well as the limited capability of adults to communicate and work with children towards the realization of this right. Involvement of children in decision-making is visible in the central government (children give opinions/suggestions on strategic documents concerning them), but has not yet been implemented in a way that would ensure children's meaningful participation at the local level.

*The right to education* - In 2023, the majority of complaints/requests concerning the violation of children's rights in the field of education were raised by the children themselves. Their complaints focused on inappropriate infrastructural environments and the lack of equipment and teaching tools to enable effective learning (cabinets of scientific and sports subjects).<sup>173</sup> Complaints related to compulsory education cantered on the need to ensure transport for students, the lack of qualified professionals in some educational institutions, the lack of assistant teachers, and decline in enrolments at a significant rate from year to year, especially in rural areas.

*The right to health care* - Children's health is susceptible to many factors, which are variable and sometimes unpredictable, such as the events of the last three years have shown. These events include the Covid-19 pandemic, the impact of climate change on children's health, and the effects of the rapid technological developments on children's physical and mental health. In the current reporting year, administrative investigations by the People's Advocate showed that the same problems as in previous years continued to persist, such as the insufficient number of health care specialists, especially doctors specializing in mental health for children and young people, restricted children's access to services, difficulties faced by chronically-ill children in receiving health care services, etc.<sup>174</sup>

The People's Advocate reviewed 20 cases (*complaints, requests, ex-officio cases*) involving children with pathologies requiring specialized services that their families could not afford. Despite the Ministry of Health and Social Protection's efforts to complete the necessary documentation and cover treatment

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<sup>172</sup> For the year 2023, 65% of the treated cases based on their total number have been resolved in favor.

<sup>173</sup> The *ex-officio* cases dealt with in this area are related to the damage to educational institutions (deemed non-functional by the Verification Commission) caused by the 2019 earthquake, in counties that are not part of the reconstruction program scheme.

<sup>174</sup> Children have to wait a long time for their specialized check-ups, as these services are only offered at the "Mother Teresa" University Hospital Centre, Tirana.

expenses using 25%-30% of the annual budget from the FSDKSH fund, none of these cases received financial support.

*The Right to a Decent Standard of Living* - During the reporting year, the People's Advocate handled a considerable number of complaints, requests, and ex officio cases related to the difficult socio-economic conditions of families with children. Inadequate living conditions negatively impact children's physical and mental health, school performance, behavioural patterns, work habits, and overall growth and development. The Economic Aid Scheme, the primary instrument for poverty alleviation in the country, currently has a limited impact on reducing child poverty, as it is focused on supporting families rather than directly targeting children.

According to the Report on the Minimum Living Standard in Albania,<sup>175</sup> the amount of economic aid remains very low compared to the minimum living standard. Consequently, the impact on the realization of children's rights is minimal. Therefore, the People's Advocate emphasizes the need to define the term "poor child." This definition would aid policymakers in conducting an in-depth analysis of expenditures focused on children, both at the central and local levels. This, in turn, would enable the development of policies to ensure children's rights and the comprehensive reporting of investments made for children in the country.

*The Rights of Children with Disabilities* - The People's Advocate addressed complaints related to the government's implementation of the bio-psycho-social model for disabilities, highlighting that children diagnosed with celiac disease are excluded from the disability payment scheme. Effective implementation of this model requires documenting all identified difficulties in order to improve and address them. In 2023, an inspection at the Vlora Development centre revealed that the age of the centre's beneficiaries did not comply with current social care legislation. This issue has also been raised by the People's Advocate regarding the Shkodër Development centre. The operation of these centres does not comply with the social care service legislation, hindering the assessment process of children with disabilities in social care institutions and the transformation of these development centres into family-based community services for children with disabilities.

*Protection of the Rights of Children in Conflict with the Law* - To ensure a justice system that is friendly to minors in conflict with the law, as victims and/or witnesses, the People's Advocate (Section for the Protection and Promotion of Children's Rights) conducted an ex officio administrative investigation into the serious psychological condition of a juvenile in the Kavajë IECD. Considering the circumstances that led to the minor's deprivation of freedom, the People's Advocate recommended to the Ministry of Justice to assess the case in the light of the minor's best interest<sup>176</sup> in order to ensure proportionality and facilitate easier reintegration into family and society. During the inspection visit to IECD Kavajë, it was found that some of the recommendations addressed to this institution have not been implemented in practice.

### 3.14.1. *People's Advocate Recommendations and its Involvement in Law-making, Practice Unification, and Strategy Design in the Field of Child's Protection and Child's Rights*

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<sup>175</sup> Made in 2020 by the People's Advocate in collaboration with UNDP, the report determined that the minimum amount needed for an individual to meet basic needs in Albania is 17,875 lekë per month.

<sup>176</sup> In accordance with the provisions of the United Nations Convention on the Rights of the Child and Comment 2 of the European Convention on Extradition



To enhance the ongoing efforts of public administration bodies at both central and local levels in realizing and protecting children's rights, guided by the fundamental principles of children's rights and their best interests, the People's Advocate has made recommendations<sup>177</sup> concerning:

**1. The right to education, entertainment and cultural activities**

- The Ministry of Education and Sports' need to conduct a comprehensive assessment of the infrastructural condition of educational institutions nationwide. This should be done in collaboration with local governments to clearly identify needs and enhance the quality of education for children and students by creating necessary infrastructural conditions and providing essential teaching/learning tools.
- Measures to identify and address the needs of Roma and Egyptian students who do not attend school regularly or are at risk of dropping out. These students should be referred to child protection institutions.
- Strengthening the system for monitoring and evaluating the right to education by timely identifying Roma and Egyptian students at risk of dropping out and referring them to child protection structures.
- Enhancing efforts to increase cooperation to achieve the objectives of the National Action Plan for Equality, Inclusion, and Participation of Roma and Egyptians 2021-2025. This plan aims for quality education that treats Roma and Egyptian children with dignity and respect, in accordance with the best interest of the child.
- Immediate measures for continuous and effective monitoring of educational settings to prevent the advertising and consumption of unhealthy foods.
- Measures to provide information in schools regarding food safety and promote healthy food choices.

**2. The right to health care**

- Taking measures to form a working group that will assess the available resources of the state (Mandatory Healthcare Insurance Fund), as well as other resources from non-profit organizations, international organizations, and the private sector. This group will work towards creating a special fund dedicated solely to children, enabling the coverage of medical expenses not included in the package of secondary hospital services and providing tertiary hospital services under the mandatory health care insurance scheme.
- Implementing measures to create a platform within the patient referral system specifically for children diagnosed with pathologies requiring specialized services not covered by packages of the secondary and tertiary hospital services of the mandatory health care insurance scheme. This platform should list all children in order for them to benefit from payments to special service packages provided by both public and non-public hospital services, domestically and internationally, through the annually allocated special fund dedicated solely to children.
- Designing measures to ensure that the special fund dedicated specifically for children is incorporated into the Decision of the Council of Ministers on the financing of hospital health services from the mandatory health care insurance scheme, which is approved at the beginning of each year.

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<sup>177</sup> Available at: <https://smpdf.org/2023/03/01/rekomandime-2023/>

### 3.14.2. Legislative Recommendations

#### 1. Prevention of early marriages

In the conditions where the relevant provision of the Family Code remains intact,<sup>178</sup> prompted by the final conclusions (2023) of the UN Committee on the Rights of the Child to Albania, “*to remove all exceptions that allow marriage for children under the age of 18,*” the People’s Advocate took the initiative to address to the Ministry of Justice the following recommendation:

- To take measures to repeal Article 7, second paragraph, of Law No. 9062, dated 8.5.2003, “Family Code,” as amended, which grants courts the authority to allow marriages under the age of 18. This is to prevent child marriages and to set the minimum age for marriage in accordance with international standards, the Convention on the Rights of the Child (CRC), and the best interests of children.
- To take measures to revise the Civil Code to remove all legal exceptions to the minimum marriage age of 18 for both girls and boys and to harmonize the legal provisions in this regard.

Regarding this recommendation, the Ministry of Justice responded that it will be *considered within the relevant reviews for legal interventions in the Family Code and the Civil Code.*

#### 2. Exercise/loss of parental responsibility

From the ex officio cases, and inspections in residential social care institutions for children it is evident that, in most cases, children have long-term stays (on average 4-5 years) in these institutions. This prolonged institutionalization has negative consequences on their normal development, especially for those under 6 years old, which are not easily correctable. Superficial parental interest and failure to strengthen the biological family are reasons that leave children “hostages” to institutionalization. Not being declared “abandoned,” they do not have the opportunity to be adopted and receive the support and warmth of an adoptive family. The People's Advocate, based on the legal term “parental responsibility,” stresses that parents should be aware of the important responsibilities they have towards their children. In this perspective, the People's Advocate recommended to the Ministry of Justice to assess the need for revising the Family Code to provide a detailed understanding and practical implementation of the principle of “the best interest of the child” and to address cases of abandonment by parents. The Ministry of Justice responded that this recommendation will *be considered within the relevant reviews for legal interventions in the Family Code.*

#### 3. Promotional Activities for Children's Rights

Awareness and promotion of children's rights contribute to children’s well-being, development, and dignity. The People's Advocate, as required by its constitutional mandate, has continuously urged public bodies to protect the best interest of the child in their decision-making processes. Some main themes of the promotional activities of the People's Advocate for children's rights include:

#### 4. Children’s Vulnerability, Protection from Violence, Exploitation, and Abuse

Children are inherently vulnerable due to their age and dependence on adults. The institution of the People's Advocate has played a crucial role in protecting children from violence, exploitation, abuse, and neglect, in efforts to make that their rights are upheld and enforced. Notably, the People's Advocate took

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<sup>178</sup> Article 7, second paragraph.

a public stand on the ex-officio case of violence against a minor girl by four peers in the city of Vlora.<sup>179</sup> As regards the phenomenon, the People's Advocate has repeatedly recommended to:

- strengthen community and school security, through increasing the number of psycho-social workers and security officers;
- create specialized services for protecting children from violence and any form thereof, to minimize this negative phenomenon as much as possible;
- take proactive steps by all institutional and non-institutional actors to increase society's awareness of sanctions against the perpetrators of violence against children, even when exercised by parents, requesting the removal of parental rights in such cases.

Similarly, the People's Advocate made a public statement and addressed the case of violence against a 3-year-old minor in a kindergarten, alongside the case of sexual abuse by a doctor against a 14-year-old child, emphasizing the importance of protecting children from all forms of violence, abuse, and pornography.

## **5. Promotion of the child centred approach**

The People's Advocate Institution prioritizes children's rights by adopting a child-centred approach, recognizing and respecting the unique needs, capacities, and perspectives of children on their lives, as well as the political, and decision-making processes. In this context, the People's Advocate has engaged in implementing informative and promotional activities, such as organizing roundtables/meetings with children from two educational institutions.<sup>180</sup> Children/students discussed about their rights, focusing in particular on the right to participate and the importance of having their voices heard.

## **6. The right to education**

Human rights institutions protect and monitor the realization of children's right to education. Ensuring access to quality education for all children is essential for their intellectual and social development, as well as to break the cycle of poverty and promote equality in society. Among other things, the People's Advocate:

- Published in the media (web and the Facebook social network) and participated in meetings with public administration bodies and civil society organizations,<sup>181</sup> highlighting some of the issues of Albanian education, and the importance of promoting inclusive education;
- Conducted the promotional activity, "Open Day", with children/students of 9-year and secondary schools.<sup>182</sup>

## **7. Children's participation**

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<sup>179</sup> During the handling of this case, the institution of the People's Advocate asked the competent bodies to take the necessary measures for handling the case with professionalism, in a timely fashion, as well as providing the appropriate protection and support for the child victim of this violence.

<sup>180</sup> Schools "Kosova" and "E Kuqe", in the city of Tirana.

<sup>181</sup> For example, the meeting organized by CRCA/ECPAT Albania, held in the premises of the COD center at the Prime Minister's Office.

<sup>182</sup> The children who participated in these meetings/activities represented their peers from cities such as: Tirana, Durres, Shkodra, Dibra and Korça, the "IMPACT" group of the World Vision organization, children and young people from "Save the Children" organization, Lazarat etc.

Children's active participation in decision-making processes and their voices in the country's life are very important. The institution of the People's Advocate has made efforts to listen to the voices, perspectives and opinion of children in the meetings and promotional activities with an impact on them. Following are some of the strategies employed:

- promotional event/activity on the occasion of the International Day of Children's Rights.<sup>183</sup> The activity, which was organized in the premises of the People's Advocate, saw the exhibition of works (paintings) by children of the 9-year school "Ardian Klosi", in Tirana.
- celebration of June 1, Children's Day, in kindergarten no. 20 of the city of Tirana. 140 children between the ages of 3 and 6, parents, community members, as well as representatives of institutions working with children participated in this event.
- "Open days" activity, with the children/students of the "Ismail Qemali" secondary school, in Tirana, and the 9-year school "Imelda Lambertini", in Elbasan, in the premises of the People's Advocate. This activity provided the opportunity to highlight the importance of the Children's Rights, with particular focus on the freedom of expression which guarantees that their voice is heard.

## **8. Health, Well-being, and the Right to Development**

Children's right to health includes access to healthcare, nutritious food, and a safe environment. During 2023, the People's Advocate played a crucial role in advocating for policies that prioritize the physical and mental well-being of children. These efforts aimed to ensure that institutional policies and practices promote the full development of children, including their physical, mental, and social well-being. During the promotional activities like "Open Days" in various educational institutions, the People's Advocate emphasized the obligation of institutions to fulfil the requirements outlined in Convention on the Rights of the Child.

## **9. Protection of Marginalized and Disadvantaged Children**

In 2023, the People's Advocate focused on addressing the needs of marginalized and disadvantaged children, such as those with disabilities, children in residential institutions, and those living in poverty or extreme poverty. Notably, an "Open Days" activity was organized with the children, students, and staff of the "Adem Sheme" 9-year school in Sarandë. This promotional activity aimed to educate children about their rights and address issues, particularly children without parental care aged 6-15 years from the residential institution "Vangjel Pulla," who receive education at the "Adem Sheme" school.

## **10. Legal Responsibility**

The institution of the People's Advocate has established legal frameworks and mechanisms to hold accountable those who violate children's rights. This helps prevent future violations and ensures justice for children who have experienced such violations. The commitment of the People's Advocate in this area was made concrete through the publication of the special report, "Child Support Policy: The Obligation to Provide for Children," as well as making a media statement on this matter.

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<sup>183</sup> November 20, 2023.

Promoting children's rights is essential to creating a world where every child is treated with dignity, respect, and equality. In 2023, the People's Advocate carried out 42 promotional activities (meetings, open days, and online activities), which are detailed in Chapter II of this report (Implementation by the institution of the People's Advocate of the Resolution of the Assembly of the Republic of Albania 2023).

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### 3.15 Respecting the right to health care<sup>184</sup>

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Health is the foundation of individual well-being and is considered a fundamentally valuable indicator towards progressively achieving social protection and inclusion. According to the WHO, *“Health is a state of complete physical, mental, and social well-being, and not merely the absence of disease or infirmity.”*

Good health enables people to work, participate fully in society, and support themselves financially. For this reason, the health sector can play a key role in supporting the social sector's goals of reducing poverty and social exclusion. Conversely, social interventions simultaneously improve the health indicators of the population and targeted individuals. The goal of the healthcare system is to significantly improve population health and well-being, reduce health inequalities, strengthen public health, and ensure people-centred health systems that are universal, equitable, sustainable, and of high quality.

The People's Advocate emphasizes that the principle on which healthcare should be based is the quality of service and efficiency, guaranteeing patient safety and fairness of treatment. This approach ensures alignment with international standards originating from the International Declaration of Human Rights and confirms the constitutional social objective of achieving the highest possible physical and mental health standards for citizens.

Referring to the complaints registered with the institution of the People's Advocate for 2023, there were 38 cases, of which 18 were taken up ex officio. Of the total number of reviewed complaints, 30 have been resolved, with the rest still under administrative investigation. Among the complaints reviewed, 15 were resolved in favour of the citizens. The complaints/ex officio cases highlighted several main problems:

- Non-standard medical treatment for certain illnesses;
- Bureaucratic delays and long waiting lines at the “Mother Teresa” University Hospital centre (QSUT);
- Lack of medications for children with leukaemia at QSUT;
- Insufficient health services in many health centres due to a shortage of doctors and the poor condition and malfunctioning of buildings designated as health centres;
- A persistent shortage of nursing personnel and specialist doctors;

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<sup>184</sup>This field of law is covered by the General Section in the institution of the People's Advocate.

- An exodus of doctors and nurses, negatively impacting regional hospitals, in particular.

Of the cases which were founded to be grounded and addressed by recommendations to the relevant authorities, mention can be made:

### *3.15.1. Recommendation to the Ministry of Health and Social Protection Regarding the Lack of Healthcare Personnel*

Efforts have been made over the years to address the shortage of health personnel in district hospitals and remote areas through various programs introduced by the Ministry of Health, such as the “Brain Gain” program (2006-2011) and providing salary bonuses for doctors who agree to work in regional hospitals. However, these programs have not yielded the expected results, as the issue persists. The People's Advocate acknowledges that this is not unique to Albania, but the situation is particularly problematic compared to other Balkan countries. Despite the disturbing phenomenon of the lack of health personnel in districts and remote areas being addressed in the National Health Strategy 2021-2030, the specific objective related to further strengthening primary health care remains a significant challenge for the practical implementation of this strategy.<sup>185</sup>

Under these conditions, the People’s Advocate recommended to the Ministry of Health and Social Protection:

- To continue the institutional commitment and promote and coordinate the inter-institutional cooperation in implementing the National Health Strategy 2021-2030, to address the lack of human resources and challenges in health services in rural and hard-to-reach areas by citizens”.

### *3.15.2. Recommendation to the Ministry of Health and Social Protection regarding issues encountered by internal medicine and arterial hypertension doctors with recruitment in hospital structures, as well as exclusion of drugs prescribed by them from the List of Reimbursable Drugs.*

Considering their important role in hospital services, these doctors request, among other things, that their status be clearly determined as regards their position in the specialized healthcare services. Under these conditions, the People's Advocate recommended to the Ministry of Health and Social Protection:<sup>186</sup>

- To review as soon as possible the issues raised by internists doctors, by the working group composed of representatives from the Ministry of Health and the Mandatory Health Care Insurance Fund, in cooperation with the Tirana University of Medicine, providing relevant solutions for each of them;
- To issue all the necessary implementing by-laws to complete the administrative procedure applicable in this case, in the fastest possible time, in accordance with the specific legislation in

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<sup>185</sup> Although over the years there have been efforts to address this problem, it is necessary to continue working in this direction to provide sustainable and long-term solutions, such as increasing investments in infrastructure, revising basic training curricula and building a new national program of mobile medicine to support health care in rural and hard-to-reach areas. Also, it is important to take measures to improve the payment system and ensure equal treatment for all citizens throughout the country. To achieve these goals, there must be joint commitment of state institutions, non-governmental organizations and health professionals.

<sup>186</sup> Recommendation of the People's Advocate, no. Prot. K1/14-4, dt. 22.12.2023.

the field and the provisions of the Code of Administrative Procedures, as well as notifying the internist doctors thereof.

*Regarding these recommendations, regrettably, the Ministry of Health and Social Protection has given no response.*

### *3.15.3. Recommendation to the University Trauma Hospital<sup>187</sup>*

AZ, Chief of Service of Reconstructive Plastic Surgery (Angiosurgery) and Diabetic Foot, University Trauma Hospital, in Tirana, complained to the People's Advocate regarding a disciplinary measure imposed on this citizen who was also former director of this hospital. The People's Advocate reviewed this case in the context of measures needed at systemic level in order to contribute to the better administrative procedures applied by public administration as required by good governance standards. The recommendation centered on:

- taking measures to design clear rules governing the provision of paid leave as required by employer's constitutional obligation to guarantee paid annual leave to their employees;
- taking measures to design, in accordance with Article 37 of the labour Code, contractual or regulatory procedures guaranteeing the right of affected individuals to be heard in administrative procedures involving them;
- repealing point 2, of Order no. 729, dt. 06.12.2022, regarding “the warning notice” to AZ.

*This recommendation was not accepted by the Director of the University Trauma Hospital.*

The Institution of the People's Advocate holds that accountability mechanisms are essential to ensure the level of compliance with the state's obligations arising from the implementation of the right to healthcare. Monitoring and holding the state accountable is achieved through administrative, political, judicial mechanisms and by including in the process a number of actors such as various NGOs, national institutions for the protection of human rights as well as citizens themselves who are becoming aware of their right to decent health care. Also, the institution of the People's Advocate, assesses that the state is responsible for and plays an active influencing role on other economic and social factors affecting health as well as in the creation of material and human infrastructure for diagnosing and fighting diseases, in order to improve the quality of life and health.

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## *3.16 Respecting the right to education<sup>188</sup>*

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The constitutional right to education is recognized both as a right and a duty. On one hand, everyone enjoys the opportunity to be educated, while on the other, certain obligations are established to realize this right. These obligations fall on the state, parents, and the children themselves. Parents are required to enrol their children in school, while the state has the duty to provide the necessary infrastructure free of charge to facilitate the exercise of the right to education. Education is widely considered a key instrument for economic growth due to its role in building human capital. The benefits of education

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<sup>187</sup> Recommendation of the People's Advocate, no. Prot K1/A37-5, dt.02.02.2023

<sup>188</sup>This field of law is covered by the General Section in the institution of the People's Advocate.

extend not only to the educated individual but also to the economy as a whole. The right to education falls under the category of economic, social, and cultural rights and freedoms. The Constitution of the Republic of Albania similarly upholds this view, incorporating the right to education as a constitutional right within the chapter on economic, social, and cultural rights and freedoms.

Higher education and university reform have been, and continue to be, among the most significant public issues in the country. Despite three major reforms since 1990, the legal framework has not sufficiently fostered internal reforms in university life, including curricula, scientific research, and the role of students. Eight years after the adoption of the higher education reform, public universities and the Ministry of Education and Sports, the two primary institutions responsible for implementing this reform, have shown drawbacks and problems in fulfilling their legally mandated tasks. The People's Advocate identifies the most significant problems facing higher education in Albania as:

- The poor quality of student admissions to universities;
- The lack of material and scientific resources in secondary and higher education institutions;
- The inability of professors to incorporate research in university teaching/learning;
- The closure of teacher training programs due to young people leaving for studies abroad.

Throughout 2023 and beyond, the People's Advocate institution has monitored issues regarding the right to education. These issues have been highlighted in various complaints addressed to the institution and in reports in the written and online media. It has been consistently observed that higher education and university reform remain critical public issues in the country due to the persistent challenges they present.

The People's Advocate reviewed 42 cases in the current reporting year,<sup>189</sup> of which 20 ex officio. Of this total number, that 35 complaints have been completed, the others are still undergoing administrative investigation. Out of the reviewed complaints, 16 were resolved in favour of the citizens.

A significant ongoing issue, inherited from the previous year and evident in many individual complaints filed with our institution, is that employment of teachers is not based on meritocracy. Additionally, the financial bonus for teachers working away from their residence is delayed. University academic staff face a number of issues, including heavy bureaucratic tendering procedures, which leave them without the necessary teaching material, etc. The increasing trend of young people leaving Albania is also a serious concern. This exodus is driven not only by liberal employment policies in other countries but also by barriers to education (such as strict grade requirements for certain fields) and the lack of secure, decent employment opportunities in Albania. The PA institution has particularly focused on numerous student complaints related to the high financial costs of student life and costly tuition fees due to rising prices and inflation.

In the current reporting year, the process of awarding student scholarships encountered issues, as reflected in individual complaints submitted to the People's Advocate. These complaints were addressed to the administrations of the Rectorate, Universities, and the Ministry of Education, Sports, and Youth for resolution. In line with the tasks assigned by the Assembly of Albania in its Resolution 2022, the People's Advocate conducted meetings at the Universities of Elbasan and Tirana with student groups. These meetings aimed to engage closely with students, discuss various student life issues, and raise awareness

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<sup>189</sup>Complaints were submitted both by teachers, pedagogues and educators as well as by pupils and students.



about the powers and role of the People's Advocate in supporting their rights. During these interactions with both students and faculty, complaints were collected and addressed on a case-by-case basis with the relevant authorities.

As regards complaints reviewed ex officio it is worth noting one specific case reported in the media under the title, “Anti-crisis package - the forgotten students’ revolt against staggering rent prices.” The case was taken up following the government's announcement of measures to support certain groups during the crisis, but excluded students, who are significantly impacted by the rising prices, especially in terms of rent and living costs. Despite their struggles, no financial assistance or fee relief was offered to students. Poverty is multifaceted, encompassing lack of income, services, and participation, all crucial for the enjoyment of human rights. Poverty, both as a cause and consequence of human rights violations, must be addressed within the context of the state's obligations to respect and guarantee human rights. A human rights-based approach requires that human rights standards and principles be central to governmental planning and policies. Providing concrete help and essential living means to students, ensuring they can face and overcome their situation with dignity, necessitates an objective and immediate assessment and the guarantee of basic social services and direct financial support. In this respect, the People’s Advocate recommended to the Ministry of Education and Sports to:<sup>190</sup>

- approve a New Social Support Package for students, enabling them to live a normal and dignified life amid the global and local crisis.
- ensure that this package remains in force until economic indicators improve and the crisis situation is overcome.

*This recommendation was reviewed and partially accepted by the Ministry of Education and Sports.*

Complying with the Resolution of the Assembly of Albania, dated June 22, 2023, “On the evaluation of the activity of the People’s Advocate in 2022,” the institution held an “Open Day” event at “Aleksandër Xhuvani” University in Elbasan. During the meeting with the academic staff, the challenges and issues faced by the institution in its daily work were discussed, alongside some concrete proposals, including: removing the average grade requirement for access to higher education; harmonizing the implementing by-laws followed by higher education institutions; unifying study programs, as a legal provision still unfulfilled; cooperating between higher education institutions and agencies under the Ministry of Education and Sports; streamlining the documentation process for the opening and reorganization of study programs to be less administrative and more academic; allocating budgets for field teaching practices with students; providing financial scholarships and exempting or reducing tuition fees in higher education institutions (HEIs); creating book funds in HEI libraries; enhancing the capacities of laboratories or research centres in HEIs, etc.

All these proposals were included in the recommendation sent by the People’s Advocate to the Ministry of Education and Sports to:<sup>191</sup>

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<sup>190</sup>Recommendation of the AP, no. prot. K1/I77-6, dt. 25.07.2023.

<sup>191</sup>Recommendation of the PA, no. Prot. K1/G4-2, dt. 27.12.2023.

- take measures to find legal and financial mechanisms for solving/addressing the problems identified and concrete suggestions made A. Xhuvani University, Elbasan.

*The People's Advocate has not received any response* as of the time this report was being drafted, although the deadlines stipulated in the law have passed.

While commending the government's efforts to increase the salaries of teachers and professors, the institution of the People's Advocate acknowledges that enhancing their motivation through salary increases remains a significant challenge. Albania must effectively engage in providing comprehensive quality education, which will yield concrete and effective benefits for pupils and students, as well as contribute to the development of human capital in Albania.

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### 3.17 *Respecting the right to social care*<sup>192</sup>

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The purpose of Social Inclusion Policies is to establish a transparent, accountable, and systematic approach to assessing social inclusion across all domains, including poverty and social protection policies, employment and skills, health, education, housing, and basic needs. These policies are fundamental elements of human rights. In Albania, social protection policies are grounded in the social objectives enshrined in the Constitution of the Republic of Albania, which mandates the government to ensure that every Albanian citizen, irrespective of income, origin, age, gender, ethnicity, education, sexual orientation, cultural identity, political or religious beliefs, is entitled to a dignified life and access to quality public services. These services include the provision of essential sustenance, housing, health care, and education.

Poverty<sup>193</sup> (at-risk-of-poverty rate) in Albania remains high, over 22.0%.<sup>194</sup> According to the results of the Survey of Income and Living Conditions (EUSILC) 2021, which measures living standards, as well as relative poverty and material deprivation in Albanian families, published on 30.12.2022 by INSTAT,<sup>195</sup> it is estimated that the level of social exclusion in Albania, i.e., individuals at risk of poverty, or deeply materially deprived, or with very low employment intensity, is about 43.9% of the population. Severe material deprivation<sup>196</sup> is estimated at 35.2% in 2021. This means that almost 1/3 of the population lives in very difficult economic conditions. Referring to the study on “Social Protection Transfers to Poor

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<sup>192</sup>This field of law is covered by the General Section in the institution of the People's Advocate.

<sup>193</sup>Poverty is defined as a person living on less than US\$5.5 per day based on 2011 revised purchasing power (PPP). In May 2020, PPP 2011 this estimate was revised to US\$5.5 per day. This revision reflects a reassessment of cost of living comparisons between countries, but does not imply a real change in poverty within countries (<https://openknowledge.worldbank.org/bitstream/handle/10986/33623/9781464815300.pdf>).

<sup>194</sup> <https://albania.un.org/sites/default/files/202204/UN%20Albania%20Annual%20Progress%20Report%202021.pdf>

<sup>195</sup> <https://www.instat.gov.al/en/themes/social-condition/income-and-living-conditions-in-albania/publication/2022/income-and-living-conditions-in-albania-2021/>

<sup>196</sup>Severe material deprivation is defined as the percentage of the population with a forced lack of at least 4 of the 9 items of material deprivation.

Families,”<sup>197</sup> where the categories of expenses for poor families are listed, food occupies the largest part of expenses, leaving negligible opportunity for other expenses such as communication, culture, etc.

The Economic Aid Scheme, one of the state's key tools to support impoverished individuals, involves a series of procedures managed by both central and local institutions. Improving the assessment indicators for poor and extremely poor families is a primary objective in the development and adaptation of this scheme. The amount of economic aid is determined by the Decision of the Council of Ministers (DCM no. 597/2019) and is based on the family structure. This scheme uses a means-tested assessment, allowing families to qualify even if they have multiple sources of income. Social assistance also includes disability benefits, cash transfers to disabled persons, and, in cases of total disability, their guardians, as well as families in need.

The reform of the Economic Aid Scheme continues to face several challenges: the insufficient amount of aid, the exclusion of at risk-of-poverty families from the scheme, inadequate coverage of all vulnerable categories, and the absence of by-laws defining the minimum living standard and adjusting the aid over time. Addressing these issues is essential for protecting citizens' income sources and ensuring a more inclusive social protection system.<sup>198</sup>

Monitoring measures to reduce poverty, promote social inclusion, and uphold the right to care and social inclusion is a key priority of the People's Advocate institution. These measures are vital for unlocking the significant untapped human potential in Albania and mitigating the harmful effects of inequality on economic growth and social integration. In 2023, the People's Advocate addressed citizens' complaints and ex officio cases, as well. This year, 35 complaints were registered, 10 of which were initiated by the institution.

To address these cases, the People's Advocate conducted administrative investigations, resolving them in favour of citizens and/or providing complainants with legal explanations for the interruption or non-receipt of requested assistance. Along with the findings, these included relevant suggestions and recommendations to responsible institutions for solving the issues. Of the total reviewed complaints, 19 were completed, and 8 recommendations were issued to the relevant institutions, while the remaining cases are still under investigation.

The prominent problems identified in the cases handled this year include:

- low levels of economic assistance and the inability to cover living expenses.
- insufficient funds dedicated to economic assistance to meet the social care needs of vulnerable groups.
- suspension and termination of economic assistance benefits, and exclusion from the economic assistance scheme for various reasons, due to faults with the electronic scoring system. The national electronic register was created to speed up the process and reduce abuse, and not create obstacles. Systems must be improved to fairly assess needs and treat all applicants equally. The

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<sup>197</sup> <https://www.avokatipoullit.gov.al/media/manager/website/reports/Vler%C3%ABsim%20mbi%20qasjen%20dhe%20doromirimin%20familiar%20te%20transfertave%20te%20MS.pdf>

<sup>198</sup> <https://www.avokatipoullit.gov.al/media/manager/website/reports/Minimumi%20jetik%20ok.pdf> .

mission of state bodies is to address citizens' needs, not merely to apply the “results” of digital systems without analysis.

- citizens' uncertainty about the reasons for not receiving or being excluded from economic aid scheme. This is often due to low education levels and limited access to information among vulnerable groups, who are frequently penalized by the scoring system. They miss out on or lose support due to a lack of information about their rights and available support. Additionally, the charter of rights for citizens receiving public services is not consistently applied.
- the need to enhance the capacities of administrative units and actors within the reference mechanism to ensure the correct application of the legal framework, timely and accurate information to those in need, and strengthened inter-institutional cooperation with a proactive approach to resolving citizens' issues. Proper knowledge and application of the law are essential not only for the public administration's image but also for long-term solutions to citizens' problems.
- local budget constraints for adequately addressing social policies.
- lack of income from the economic aid scheme leads to insufficient funds to cover minimum living expenses, affecting access to suitable housing, employment, and health services. For families with children, these issues also impact access to education.
- difficulties faced by families or individuals in remote areas with difficult terrain in applying for Economic Aid, but also in accessing other services like health, employment, and education, due to lack of transport or unaffordability of transport costs.

The People's Advocate notes that these issues are recurring and have not been effectively addressed by the responsible institutions. Specific cases examined by the People's Advocate, were concluded with relevant recommendations, which highlight the need for more effective solutions and actions from these institutions.<sup>199</sup> Some of these recommendations are given below:

#### *3.17.1. Recommendation to the Kukës Municipality<sup>200</sup>*

- take measures for the drafting and implementation of a plan for the continuous professional training of the staff of the Directorate of Social Services at the Municipality of Kukës with a focus on understanding and implementing the legal framework on Social Protection in the Republic of Albania, the protection of human rights in the country as well as the role of the People's Advocate

#### *3.17.2. Recommendation to the Divjaka Municipality*

- take measures for the design and implementation of a plan for continuous professional training and provision of workshops for the employees of the Divjaka Municipality to allow them to master the legal framework that regulates the activity of the local government in particular as regards social protection. Additionally, they should be trained on the role of the People's Advocate and respect for human rights.

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<sup>199</sup>During the year 2023, 7 recommendations addressed to responsible local institutions, related to the field of the right to social care, and one recommendation addressed to the Ministry of Health were drawn up.

<sup>200</sup>No. Doc. 202201256, Letter No. K1/K10-10 dated 03.06.2023. (*Kukës Municipality has not responded to the recommendation of the People's Advocate.*)

- take the necessary measures, based on the applicable legislation in force, to solve the housing problem of family J.<sup>201</sup>

### 3.17.3. *Recommendation to the Regional Directorate of State Social Service in Fier*<sup>202</sup>

- Coordinate and enhance inter-institutional cooperation, and take measures for a thorough evaluation of how sensitive issues concerning national minorities and vulnerable groups, supported by the Albanian state through social protection programs, will be addressed within its jurisdiction. This involves adopting a collaborative and substantive approach, and ensuring a fair exchange of necessary information to effectively resolve relevant cases.

### 3.17.4. *Recommendation to the Kukës Municipality*<sup>203</sup>

- take immediate measures for the design of the housing program for the groups in need in accordance with the legislation in force;
- take immediate measures to provide stable and suitable housing for Mrs. BS in accordance with the needs of the family and the provisions of Law no. 22/2018 “On social housing” and relevant implementing by-laws.

### 3.17.5. *Recommendation to the Shkodër Municipality*<sup>204</sup>

- take immediate measures to assess the social-economic conditions, providing help and support to Mrs. VS.

### 3.17.6. *Recommendation to the Këlcyrë Municipality*<sup>205</sup>

- take measures to coordinate and increase inter-institutional cooperation; undertake a serious assessment of how the Municipality handles issues that affect the rights of citizens; commit to a proactive, cooperative approach and a fair and exhaustive exchange of information necessary for the solution of citizens’ cases.
- initiate disciplinary proceedings against the employee/s of the Municipality of Këlcyrë who did not fulfil and do not fulfil the legal obligation of cooperating with the institution of the People’s Advocate or the complaining entity.

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<sup>201</sup> No. Doc. 202201593, Letter no. K1/ I122-6 Prot., dated 08.03.2023. (*Divjaka Municipality has accepted the recommendation of the People’s Advocate, taking the necessary measures*)

<sup>202</sup>No. Doc. 202201267, Letter no. K1/ I95-10 Prot., dated 08.03.2023. (*Regional Directorate of State Social Service in Fier has not accepted the recommendation of the People’s Advocate, sticking to the previous position and reducing the case involving several Roma families, in one single family*).

<sup>203</sup>No. Doc. 2023000255, Letter no. K1/ D3-12 Prot., dated 25.07.2023. (*Kukës Municipality has not responded to the recommendation of the People’s Advocate*).

<sup>204</sup>No. Doc. 202300529, Letter no. K1/V4-9 Prot., dated 30.11.2023. (*Shkodër Municipality has not responded to the recommendation of the People’s Advocate*).

<sup>205</sup>No. Doc. 202200629, letter no. K1/H3-8 Prot., dated 06.12.2023. (*Këlcyrë Municipality has not responded to the recommendation of the People’s Advocate*).

### 3.17.7. Recommendation to the Kukës Municipality<sup>206</sup>

- design a periodic payment schedule based on the limited financial possibilities of family A., as a family in need, in order for family A to pay off its liability deriving from failure to treat its family member, Mrs. MA, as a disabled person over March 2021- May 2023;
- create a consolidated policy to address similar issues, through the mechanism of periodic payment schedules;
- coordinate and increase inter-institutional cooperation; undertake a *serious assessment of how the Municipality handles issues that affect the rights of citizens; commit to a proactive, cooperative approach and a fair and exhaustive exchange of information necessary for the solution of citizens' cases.*

### 3.17.8. Recommendation to the Ministry of Health<sup>207</sup>

- take measures to coordinate and continuously review problems caused by electronic systems when decisions are based on automatically produced results; design and apply policies aimed at the effective improvement of electronic systems, considering alternative possibilities of intervention to avoid system errors that create inequalities and result in the artificial expansion of social or economic inequalities.

The People's Advocate commends the efforts of the Albanian Government to improve the social protection system. However, these interventions remain limited in scope and duration, and citizens have consistently reported that the amount of economic assistance is insufficient to cover their most essential monthly expenses. This level of assistance is inadequate to alleviate poverty or enable the social integration of individuals and families in need. Furthermore, Albania remains one of the few countries without a legally defined living minimum, which is essential for accurately determining the real poverty line and distinguishing between those who are poor and those who are not. This indicator should be the foundation of social policies for groups in need.<sup>208</sup> An up-to-date and approved living minimum is essential for determining the minimum amount a citizen needs to live, and accordingly adjust the rate of economic assistance, pensions, and unemployment benefits. Legislation should outline the methods and mechanisms for applying this minimum, ensuring that every citizen can easily benefit from such guarantees. This would help ensure a dignified life with access to basic services and enable active participation in society, regardless of ability to work.<sup>209</sup>

The institution of the People's Advocate recognizes that poverty is not only a lack of income but also a lack of access to services and participation in society, both of which are essential for the enjoyment of human rights. Poverty, both as a cause and a consequence of human rights violations, must be addressed within the context of the state's obligations to respect and guarantee human rights. A human rights-based

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<sup>206</sup>No. Doc. 202300675, letter no. K1/SH5-7 Prot., dated 18.12.2023 . (*Kukës Municipality has not responded to the recommendation of the People's Advocate* ).

<sup>207</sup>No. Doc. 202300529, letter no. K1/V4-10 Prot., dated 18.12.2023 (*The Ministry of Finance has accepted the recommendation of the People's Advocate, anticipating taking the necessary measures to improve the information management system of the social protection scheme and its interaction with other systems in order to refer and follow up the situation of families/individuals in need*).

<sup>208</sup>The People's Advocate designed special report "On the Living Minimum Standard in Albania" (2020).

<sup>209</sup>The report suggests amending the law no. 57/2019 "On social assistance in the Republic of Albania" to introduce the definition of the living minimum.

approach means that human rights standards and principles should be at the core of state planning and policies.

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### 3.18 *Respect for the Rights of Persons with Disabilities*<sup>210</sup>

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The institution of the People's Advocate also gives priority to the rights of persons with disabilities. Due to the very nature of its work and powers, the People's Advocate has always given priority to the troubling phenomena with which persons with disabilities are faced, directing a considerable amount of its work and activity to the promotion and protection of their rights.

With regard to cases registered during 2023, there have been 78 cases,<sup>211</sup> for 46 of which the administrative investigation has been concluded, while 22 others continue to be in the review process. From the total number of cases reviewed, 25 cases were resolved in favour of the citizens. The most notable issues raised in the examined cases include:

**1. *Non-ratification by the Albanian state of the Optional Protocol to the Convention on the Rights of Persons with Disabilities***

This issue was also presented in the Annual Report 2022 and continued to be addressed throughout 2023. The Committee on the *UN Convention on the Rights of Persons with Disabilities* has recommended that the Albanian state ratify the Optional Protocol to the Convention without further delay.<sup>212</sup> With the aim of fulfilling this obligation, the Ministry of Health and Social Protection *informs that the processes will continue and appropriate measures will be taken regarding the ratification* of the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities.

**2. *Non-receipt of 200% of the monthly disability payment for individuals holding the status of the Blind, while attending the School of Advocacy***

This issue, which started to be addressed in 2022, continued to receive institutional intervention from the People's Advocate, systematically bringing attention to the fact that employment directly impacts the independent living of persons with disabilities. In this context, being employed as a private attorney creates income not only for the person with disabilities but also for their family members, thus fulfilling the primary goal *of integrating this category into social life* with a direct impact on improving their overall quality of life.

To ensure equal opportunities for participation and full and effective inclusion in society, the People's Advocate has sent the following recommendation to the Ministry of Health and Social Protection:

**3. *Initiating procedures for an addition to point 2, Chapter III of the Decision of Council of Ministers no. 182, dated 26.02.2020 "On determining the amount, criteria, procedures and documentation for the valuation and receipt of disability payments, as well as personal caretakers", as amended***

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<sup>210</sup>This field of the law is covered by the General Section of the institution of the People's Advocate.

<sup>211</sup> 57 complaints and 21 cases on own initiative.

<sup>212</sup> Resolution dated 25.09.2019, point 10.

Following the institutional persistence of the People's Advocate, the Ministry of Health and Social Protection, responded that the recommendation would be evaluated during the revision of legislation in the field of disability according to the Analytical Plan of Acts.

#### ***4. Assessment of Disability by the Bio-Psycho-Social Committee***

With the implementation of the new Bio-Psycho-Social assessment scheme for persons with disabilities, complaints have been addressed that include: non-assignment of the disability group; change of the disability group/level; removal of the status of paraplegic/tetraplegic invalid and consequently non-receipt of hygienic-sanitary package expenses. To address these issues throughout the year, the Ombudsman Institution has approached the Multidisciplinary Disability Assessment Commissions in the jurisdictions of the complainants and the Medical Disability Assessment Commission at the State Social Service, which in their responses emphasize that medical diagnoses are not included as eligibility criteria in the Bio-Psycho-Social Disability Assessment Guide over the age of 18.

For further consideration of the presented issues, the People's Advocate has sent the below recommendation to the Ministry of Health and Social Protection:

- To consider the requests of the People's Advocate that certain medical diagnoses, pertaining to forms of paralysis and excluded from the new disability assessment scheme, be reinstated as eligible medical criteria for benefiting from the Status of Paraplegic and Tetraplegic Disabled Persons.

*This recommendation was not accepted*, but the Ministry of Health and Social Protection states that it has a focus on disability issues and has undertaken reforms in this field, addressing every problem in cooperation with other responsible institutions for their implementation.

#### ***5. Non-disbursement of the 2022 year-end holiday bonuses and other monetary allocations for mitigating the effects of the war in Ukraine and mitigating the impact of the crisis***

With regard to the lawful financial treatment denied to citizen AÇ, a long-term beneficiary of the disability payment, after an analysis of the sub-legal acts issued for granting the end-of-year holiday allocation for 2022 and financial support for certain categories to mitigate the impact of the crisis and the effects caused by the war in Ukraine, as well as the decision made by KMCAP<sup>213</sup>- Superior P/T and Neurology as a legal-medical-administrative act with executive legal force,<sup>214</sup> guaranteeing her right to benefit from an acquired right, the People's Advocate sent the General Director of the State Social Service the recommendation:

- to award the year-end holiday allocation for 2022, as well as the corresponding amounts from the financial support for mitigating the impact of the crisis and mitigating the effects of the war in Ukraine in the amounts of 3000 (three thousand) leks, 8000 (eight thousand) leks and 9000 (nine thousand) leks;

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<sup>213</sup>Re-evaluation of the amount of the disability pension.

<sup>214</sup>Regulation "On the Organization, Rights, Duties and Functioning of the Medical Commission for Determining Ability to Work, for the assessment of persons with disabilities and the Medical Commission for Determining Blindness", chapter III/4 Decision Making.



- to send the list of beneficiary or non-beneficiary persons of the disability group immediately after receiving the decisions of the Bio-Psycho-Social Disability Assessment Commissions and the Superior KMCAP to the Regional Directorates of the State Social Service, which then in turn sends it to the Municipalities.

The State Social Service *fully accepted the recommendation* and, among other things, informed that the Regional Directorate of the State Social Service had communicated with the relevant Administrative Unit, requesting planning of funds to make the above payments.

#### **6. *Non-receipt of response regarding the date of examination by the Medical Disability Assessment Commission for purposes of being assigned a disability group***

We note that following the People's Advocate's institutional interventions with the State Social Service (SSS), there has been fruitful cooperation throughout this year, as consideration has been given to the requests for bringing forward the complaint review date by the Complaint Review Commission at the SSS. For the category of persons who, by decision of the Superior Medical Disability Assessment Commission/SSS, are deemed ineligible to benefit from disability groups, detailed legal information has been provided regarding their right to reappear for assessment before the commission.

#### **7. *Non-reimbursement of tickets for urban and interurban transport of persons with mobility and vision disabilities in the cities of Vlora and Dibër***

Despite the fact that the specific legal framework expressly provides for the right of persons with disabilities to be reimbursed for urban and interurban transport tickets,<sup>215</sup> they continue to pay the price of the tickets in full. After the intervention of the People's Advocate with the Municipalities of Vlora and Dibër, their requests were reviewed, and funds have been planned in the 2024 Budget, with the aim of exempting these persons from paying for this service in accordance with relevant legislation.

#### **8. *Unsuitable premises of Voting Centres***

Given that the right to free, secret and equal voting is one of the basic and inalienable human rights, the institution of the People's Advocate has continuously emphasized the effective exercise of this right by all social groups in the country, and in this context, special attention has been given to creating suitable conditions for exercising this right for persons with disabilities by ensuring access in the voting centres.<sup>216</sup>

It is essential that each voting centre has a minimal standard of conditions that facilitate access throughout the voting process for all categories of persons with disabilities, related to ensuring and putting into operation the necessary logistics, as well as determining the location of the voting centres. Compliance with these conditions should be evaluated by the head of the local self-government unit, in order to fully and appropriately meet them.

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<sup>215</sup> Article 11 of Law no. 8098, dated 28.03.1996 "*On the Status of the Blind*", as amended, stipulates that: "*The blind have the right to free travel for themselves and their companions on urban transport and half-price travel on interurban transport*". Article 11 of Law no. 8626, dated 22.06.2000 "*Status of Paraplegic and Tetraplegic Invalids*", as amended, provides that: "*Urban travel for paraplegic and tetraplegic patients, along with their companion, is free on state and private transportation, while interurban travel is reimbursed by the state at 50 percent of the value*".

<sup>216</sup>The obligation to guarantee persons with disabilities political rights and the opportunity to enjoy them equally with the rest of the population specifically derives, among other things, from the United Nations Convention "On the Rights of Persons with Disabilities".

In the context of the 2023 Local Elections, the People's Advocate addressed the mayors of municipalities with a recommendation:

- to take measures to create suitable conditions in the voting centres for persons with disabilities, in order to guarantee the free exercise of their constitutional right to vote, in the Local Elections of May 14, 2023.<sup>217</sup>

The People's Advocate emphasizes that the lack of suitable facilities for persons with disabilities in the voting centres can also be considered a restriction or obstacle to their right to vote. Additionally, in the context of the institution's activity on the preliminary monitoring of preparations for the electoral process for local government elections, the People's Advocate addressed the Regulatory Commission at the Central Election Commission, recommending that:

- as soon as possible, before the next elections for local government bodies, amendments be made to Instruction no. 1 date 5.12.2020, "Determining the rules for the establishment, designation and notification of the location of the voting centres and the preparation of the map of the local self-government unit for the elections", approved by the Regulatory Commission, in the CEC;
- detailed provisions be added to this instruction, providing for the facilitation of voting for persons with disabilities in the voting centres, as well as for the issues presented in the recommendation<sup>218</sup> of the People's Advocate;
- the provision of an effective mechanism for controlling the fulfilment of legal criteria by the relevant bodies of the local self-government units, which create the premises for suitable conditions in the voting centres, for the free exercise of the right to vote by persons with disabilities.

By decision no. 11, dated 20.03.2023, the Regulatory Commission at the CEC<sup>219</sup> decided that some amendments be made in existing Instruction no. 1, dated 5.12.2020, "Determination of rules for the establishment, appointment, and notification of the location of voting centres and the preparation of the map of the local self-government unit for elections," which have also been previously addressed by the institution of the People's Advocate.<sup>220</sup> Following careful review of these amendments, it can be noted

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<sup>217</sup>Only 11 Municipalities (Rrogzhinë, Tirana, Pogradec, Divjakë, Cërrik, Elbasan, Peqin, Kuçova, Ura-vajgurore, Kurbin, and Mirdita) have responded, confirming that they have taken measures to ensure accessibility for persons with disabilities, mainly by placing voting centres on the ground floors and appointing support staff to enable the free exercise of the right to vote.

<sup>218</sup>No. K1/S4-2, dated 06.04.2021

<sup>219</sup>Decision "On some amendments and additions to Instruction no. 1, dated 5.12.2020 of the Regulatory Commission, 'Determining the rules for the establishment, designation, and notification of the locations of voting centres, and the preparation of the map of the local self-government unit for the elections'".

11 a) Letter "b" of point 3 of article 5 is amended as follows: "b) implementation of technical rules according to the current legislation for the use of spaces by persons with disabilities to ensure their access to the voting centre, by ensuring at least that: i. The entrance to the voting centre has a continuous horizontal passage and necessary slopes, ii. The entrance doors to each voting centre (the main entrance and the entrance within the voting centre) allow easy passage even for persons in wheelchairs. The door threshold before and after it should be level with the surfaces of the premises."

b) After point 3 of article 5, point 4 is added with the following content:

"4. In accordance with letter "b" of point 3 of this article, at the request of the State Election Commissioner, municipalities send information on the measures taken, within 10 days of receiving the request."

c) In letter "b" of point 1 of article 8, the words "...as a rule..." are removed.

that the Instruction has been improved. It now provides for the minimal technical rules that voting centres must meet to enable access by persons with disabilities, both in terms of the locational arrangements that enable access to these centres, but also by removing the phrase “as a rule” in letter “b” of point 1 of article 8 of this Instruction. Thus, according to the instruction of CEC, the head of the local self-government unit must designate voting premises on the first floor in all voting centres where voters with disabilities are registered.

### ***9. Lack of Adequate Building Infrastructure in the Municipal buildings of Dibër and Tepelenë***

Accessibility is directly related to one of the basic human rights and freedoms, which is the freedom of movement, the right to receive public services normally in all areas of life, the right to information and communication, which is linked with every individual’s freedom to be actively involved in the public and political life of the country. The lack of access to infrastructure negatively affects the ability of persons with disabilities to obtain information, creating difficulties for them and often requiring them to be accompanied by another person. If there is no suitable infrastructure for persons with disabilities, it is not possible for them to obtain information. Therefore, accessibility is considered a prerequisite for the realization of all rights of persons with disabilities and their full participation in social and economic life.

To guarantee the right of accessibility for persons with mobility and visual disabilities in the infrastructure of buildings, the People's Advocate sent recommendations to the Mayors of the Municipalities on:

- taking measures to carry out modifications in municipal buildings to accommodate people with mobility and visual impairments;
- approving an action plan based on accessibility standards and involving people with disabilities in the process;
- setting a suitable timeframe for the realization of these modifications;
- ensuring that digital services are accessible to people with disabilities.

On the International Day of the Rights of Persons with Disabilities, the People's Advocate, through an awareness message, addressed all state structures to prioritize the need for an independent and dignified life for persons with disabilities and to cultivate an environment that creates opportunities for all and removes barriers that hinder equal participation in society. The institution of the People's Advocate emphasizes the need for societal awareness and active participation in the process of integrating persons with disabilities into society.

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### ***3.19 Gender equality<sup>221</sup>***

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The People's Advocate notes that Albania has made significant strides in drafting and improving the legal framework to protect women's rights, particularly against all forms of violence. The government has approved the National Strategy for Gender Equality 2021-2030. The establishment of specialized structures, efforts made to strengthen professional capacities, awareness campaigns within the 16 days of activism against gender-based violence, and the elimination of gender stereotypes, are all actions that

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<sup>221</sup>This field of law is covered by the General Section in the institution of the People's Advocate.

contribute to protecting women and girls from violence. Moreover, Albania is a party to specific conventions addressing women's rights, obligating the country to implement these important agreements by harmonizing domestic legislation and fulfilling recommendations from expert committees.

Despite all the measures taken, it is noticed that women and girls experience situations of inequality and discrimination; as indicated by official figures, violence against women in all its forms, has increased from year to year.<sup>222</sup> Throughout 2023, issues identified through complaints, ex-officio cases, open days, participation in roundtables and cases forwarded by civil society, mainly involved violence against women/girls in various forms, and more specifically:

- sexual violence against women and minor girls, frequently reported by the media, remains a concerning issue, highlighting the need for increased attention from responsible institutions;
- problems of sexual harassment in public spaces and bullying via social platforms have significantly risen. Insults, defamation, and hate speech have, in some cases, led to family violence and even suicide attempts;
- the use of sexist language in audio-visual media persists;
- during divorce proceedings and child custody decisions, women have faced prolonged procedures for final judgments, leading to verbal violence between ex-spouses, hate speech, and deprivation of meeting with minor children;
- the murder of women and girls remains one of the most extreme forms of violence. Femicide severely impacts Albanian society, with over 159 women and girls having been killed since 2010. In 2023 alone, 10 women were murdered;
- mental health issues exacerbated by domestic violence continue to present challenges for social services in municipalities.

Referring to specific cases examined by the institution of the People's Advocate related to the aforementioned issues, the most prominent case was made public through Ora News TV.<sup>223</sup> This case, handled on the initiative of the General Section, raised the concern that: *“Girls in the Student Town felt unsafe due to frequent sexual harassment, sometimes escalating to stalking. The Movement for the University protested against this situation, demanding more protection from the police for girls living in the Student Town, especially during the late hours of the night when this protection is lacking.”*

Following institutional intervention by the People's Advocate with the Tirana Police Directorate and Tirana Municipality, the following measures were taken:

- enhanced police services in the territory of the Student Town, especially late at night, with regular communication with staff serving in the student residences;
- collaboration between police officers and the dormitory directorate, including meetings with students. According to the information provided during the meetings, no further concerns about sexual harassment or other forms of violence were raised in these meetings;
- the high-ranking officers of Police Station No. 1 regularly instruct officers to conduct frequent checks at building entrances, around the premises, and in outdoor areas where students gather, to prevent any criminal incidents;

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<sup>222</sup>Data from INSTAT data, referred to in the publication "Men and Women in Albania", have shown that during the year 2022, around 70.2% of victims of domestic violence and 81.8% of victims of sexual violence were women.

<sup>223</sup> Link <https://www.oranews.tv/vendi/mbroni-vajzat-tek-qyteti-studenti-levizja-per-universitetin-kerkon-reagim--i1074107>

- the Directorate of Public Lighting at the Municipality of Tirana, took measures to improve public lighting in the Student Town area, resolving the issue.

Referring to specific cases reviewed by the institution of the People's Advocate, where administrative investigations concluded with the drafting of relevant recommendations, we highlight the following:

- The recommendation of the People's Advocate and the Commissioner for Protection from Discrimination directed to all municipalities to ensure gender-balanced representation in appointed local government bodies, in compliance with the Albanian legislation and international documents, including the spirit of the CEDAW Convention. By the end of 2023, 48 municipalities had accepted the recommendation, showing commitment to legal compliance and improving gender balance in the appointed bodies of local self-government;
- The recommendation of the People's Advocate for legislative changes to prevent sexism in media and address issues arising from this phenomenon,<sup>224</sup> directed at responsible institutions to initiate necessary legal amendments.

Based on the continuous monitoring of violence against women and girls; a survey report by the association “Albanian Women in Audiovisual AWA,” on the topic of “Sexism in Audiovisual Media; a Review of Domestic Legislation; and the Obligation to Align Legislation with European Standards,<sup>225</sup> the People's Advocate found that audiovisual media often contribute to violating women's rights. Gender stereotypes, inequality, sexism, and violence against women and girls are frequently portrayed through sexist behaviours, comments, and jokes, which, although presented as harmless, are degrading and undermine the dignity and self-esteem of women and girls. Sexism and sexist behaviour result in psychological, socio-economic, and, in some cases, physical and sexual harm.

Following the recommendation sent in April 2023, the Albanian Parliament approved Law No. 30/2023, which included the definition of sexism in media, while the Audiovisual Media Authority approved the Audiovisual Media Broadcasting Code with specific provisions against sexism and gender stereotyping in media content, thereby incorporating the recommendations of the People's Advocate.

The People's Advocate notes that throughout 2023, the reporting of cases of violation of women's and girls' rights intensified. Serious incidents, from physical violence and sexual abuse to murder, shocked the public. Through official statements on its website<sup>226</sup> and the Facebook social media, the People's Advocate earnestly called on:

- responsible institutions to handle gender-based violence and domestic violence and to respond swiftly to crimes by conducting a thorough analysis of all links in the system of protection and support to victims. This approach will help ensure that these horrible crimes do not happen again;

<sup>224</sup> <https://www.avokatipopullit.gov.al/media/manager/website/media/rek.%20ndryshime%20ligjore%20lidhur%20me%20seksizmin%20ne%20media.pdf>

<sup>225</sup> <https://vizionalsherbim.website/albanianwomaninaudiovisual.com/wp-content/uploads/2021/11/studimi-arsyetimi-ligjor-per-propozimet-ligjore-AWA.pdf>

<sup>226</sup> <https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/news/avokati-i-popullit-ngre-zrin-kundr-vrasjes-s-grave-nshqipri-903/>  
<https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/news/avokati-i-popullit-shnon-8-marsin-ditn-ndrkombtare-tgruas-905/>

- the police, prosecution, and courts to promptly analyse incidents and show zero tolerance in addressing gender-based violence and domestic violence, adhering to existing legislation and considering gender sensitivity;
- all institutions at the central and local levels with legal responsibilities should take all necessary measures to rehabilitate perpetrators. Additionally, they should expand and enhance specialized support services for victims of gender-based violence nationwide;
- the education system to diligently educate the younger generation on justice and gender equality principles, in order to make violence, hate speech, and discrimination unacceptable;
- the media to professionally cover such cases, becoming an ally in the fight against gender-based violence and domestic violence;
- the general public, women and men, boys and girls to distance themselves from and condemn such crimes, which undermine democracy, the right to life, and human rights.

The People's Advocate re-iterates that the murder of women and girls is one of the most extreme forms of violence. Femicide severely impacts Albanian society. Over the years, a thorough analysis of the causes of murders, suicides of women/girls, and health damage due to violence has been lacking. Analyses by civil society regarding the work of responsible state structures to prevent such crimes are only partial. To clearly analyse data, the causes of femicide, and institutional actions, and also prepare periodic reports with findings and recommendations, the People's Advocate has sought UNWOMEN's support to establish a mechanism, the Femicide Observatory, expected to be finalized in early 2024.

As part of its legal mandate to promote the rights of women and girls, advance gender equality, and combat domestic violence, the People's Advocate actively participated in roundtables and events organized by institutions and civil society. These events included International Women's Day on March 8, the 16 Days of Activism against Gender-Based Violence, and various other occasions. During these events, the People's Advocate consistently emphasized the importance of empowering women and girls, increasing both central and local budgets to address gender-based violence, strengthening social support structures, and the role of the Coordinated Referral Mechanism in municipalities to ensure immediate support for domestic violence victims and proper law enforcement. The People's Advocate also participates in the annual 16 Days of Activism against Gender-Based Violence campaign, which takes place from November 25 to December 10 under the UN's global campaign *UNITE*. In 2023, the campaign's theme was “*Invest to Prevent Violence against Women and Girls.*” During this period, the People's Advocate's official website and social media profiles were decorated in orange, the colour symbolizing the fight against violence towards women, and featured the message “*No Excuse for Violence against Women and Girls.*” In an official statement on November 25,<sup>227</sup> the International Day for the Elimination of Violence against Women, the People's Advocate joined the voices of individuals, communities, and organizations in the unwavering commitment to eradicate all forms of violence against women, not just during the 16 days of activism, but on a daily basis.

Monitoring the implementation of women's rights conventions is another area of focus. In October 2023, a meeting with representatives of the GREVIO Expert Group on Monitoring the Istanbul Convention was held at the People's Advocate's office. In the context of the second thematic monitoring round 2017-2022,

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<sup>227</sup> <https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/news/avokati-i-popullit-solidarizote-me-nismn-pr-16-ditt-e-aktivizmit-kundr-dhuns- to-women-960/>

“Building Trust by Providing Support, Protection, and Justice for Women Victims of Domestic and Gender-Based Violence,” the experts discussed and sought information, opinions, and assessments from the People's Advocate on the situation of women's rights and gender-based violence in line with the Convention. The GREVIO results and recommendations for the Albanian Government are expected in a special report in June 2024.

Statistical data and gender-disaggregated information are crucial for understanding gender equality trends and serve as the basis for in-depth analyses of gender roles distribution and discrimination causes. Under the 2020 Memorandum of Cooperation,<sup>228</sup> the People's Advocate collaborates with INSTAT on the “Human Rights” chapter for the annual publication “Men and Women in Albania.” The most recent publication by INSTAT in July 2023, “Men and Women in Albania 2023,”<sup>229</sup> notes that: “*For all types of complaints addressed to the People's Advocate in 2022, 843 complaints were filed by men (52.2%) and 472 complaints by women (29.3%). Complaints in 2022 about violations for different interest groups, affecting both genders, are 229 (18.5%). In the total number of complaints alleging violation of rights, most of them concerned economic, social, and cultural rights.*”

During 2023, the focus was on inspecting emergency specialized support services for domestic violence victims in local government units, which must operate not only by national but also international standards, especially those emphasized in the Istanbul Convention. These inspections were carried out at the Centre for Protective, Empowering and Emergency Services for Children and the Family, in Durrës, and the Centre for Handling Cases of Domestic Violence, in Gjirokastër. The People's Advocate welcomes the efforts and measures taken by the government and local self-government units to meet the needs of violence victims with specialized services, allocating funds through the Social Fund Mechanism. However, the People's Advocate continues to observe that these services must be significantly improved, increased in number, and expanded nationwide to be accessible and available to all women and their children.

Since January 2020, *the Centre for Protective, Empowering and Emergency Services for Children and Families has been established in the Municipality of Durrës.* This centre serves as a model within the framework of the National Reform of Social Services and the Social Protection Strategy. Emergency services are provided to individuals who are victims of domestic violence and their children, including those without parental care or who have been violated, street children, exploited and abused children who need immediate assistance due to life-threatening and health-threatening situations. The analysis of information collected during the inspection concluded with the recommendation to relevant institutions<sup>230</sup> to: “Take measures to further improve the operating standards of the centre for Protective, Empowering, and Emergency Services for Children and Families in Durrës, in accordance with international and national standards for specialized support services. *This recommendation has been accepted by the Municipality of Durrës and the State Social Service, with a commitment to implement the recommendations made by the People’s Advocate.*”

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<sup>228</sup> <https://www.avokatipoullit.gov.al/sq/articles-layout-1/media/Memorandume-marveshje/memorandum-and-agreement-516/>

<sup>229</sup> <https://www.instat.gov.al/al/publikime/librat/2023/burra-dhe-gra-2023/>

<sup>230</sup> To the Municipality of Durrës, Durrës Region, the Prefect of Durrës Region, the Local Self-Government Support Agency, and for the information of the Ministry of Health and Social Protection, the State Social Service, and the State Inspectorate of Labor and Social Services.

*The Centre for Handling Cases of Domestic Violence* has been established in the Municipality of Gjirokastra, since January 2020, as an emergency service, within the framework of the National Reform of Social Services and the Social Protection Strategy, as well as based on the Social Plan of the Gjirokastra Municipality. The purpose of this Centre is to provide safe housing and offer psycho-emotional support services, legal assistance, and referrals for medical services, employment, and free housing for abused women and girls, as well as those at risk, helping to mitigate the effects of the crisis caused by violence.

The results of the inspection and evaluation of information in accordance with legislation on social care services and service delivery standards concluded with the recommendation to, *“Take measures to further improve the operating standards of the Centre for Handling Cases of Domestic Violence, in Gjirokastër, in accordance with international and national standards for specialized support services,”* made to the Municipality of Gjirokastra, the Centre for Handling Cases of Domestic Violence, the State Social Service, and the State Inspectorate of Labour and Social Services. *The recommendation has been accepted* by all institutions and is in the process of being implemented.

The institution of the People's Advocate, with a special focus on empowering women and girls and combating gender-based and domestic violence, is committed to continuing its monitoring and promotional work in defence of their rights. This includes taking into account the Concluding Remarks to the Albanian Government by the Committee on the Elimination of Discrimination against Women and the recommendations expected from GREVIO within the framework of the State Report II on the implementation of the Istanbul Convention. Additionally, the People's Advocate will continue to monitor social care services, as provided by emergency shelters and specialized services for violence against women, to improve service standards in line with the national legal framework and international standards.

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### 3.20 *Protection of the rights of the LGBTIQ community*<sup>231</sup>

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The People's Advocate, in its role as a promoter and protector of human rights, pays attention to the rights of LGBTIQ persons<sup>232</sup> as it does for every citizen in the Republic of Albania. Through continuous monitoring of the situation regarding respect for human rights, participation in awareness-raising activities organized by civil society organizations within the framework of the IDAHOT campaign,<sup>233</sup> as well as participation in roundtable throughout 2023 with a focus on the protection of LGBTIQ rights, the People's Advocate has observed that members of this community still face prejudice, stigmatization, and discrimination. Moreover, hate speech, particularly on social media, is directed against LGBTIQ

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<sup>231</sup>This field of the law is covered by the General Section in the institution of the People's Advocate.

<sup>232</sup>Lesbian, gay, bisexual and transgender.

<sup>233</sup> International Day against Homophobia, Biphobia and Transphobia.



individuals and other marginalized groups in society. These observations by the People's Advocate are consistent with those reported in the European Commission's 2023 Progress Report for Albania.

The official statement on the International Day against Homophobia, Transphobia, and Biphobia on May 17, 2023, emphasized: *“The People's Advocate believes that collaborative efforts, marked by responsibility and seriousness from all institutions, in cooperation with civil society organizations and supported by international partners, are essential to advance the implementation of the National Action Plan for LGBTIQ+ 2021-2027. This includes necessary legal amendments and other measures in employment, health, social services, and public services, as well as increasing societal awareness. Laws and policies are one aspect, however, acceptance, tolerance, and support from society and family are equally important.”*

During 2023, it was noted that there were no complaints directly addressed to the People's Advocate by members of the LGBTIQ community. However, we bring to attention that in meetings with citizens organized as part of the Open Days in several municipalities of the country, we also aimed at raising awareness regarding the rights of LGBTIQ+ persons, to create a more accepting environment and to eliminate discriminatory attitudes.

The capacity building of professionals is considered an important part of the work to adequately address the issues faced by LGBTIQ persons. For this purpose, the People's Advocate has collaborated with the LGBTIQ+ Alliance to organize a training session for the institution's staff, which took place on November 17, 2023. The goal was to increase access and effective treatment of reports on cases motivated by discrimination based on sexual orientation, gender identity, and sex characteristics. Additionally, representatives of the Regional Offices of the People's Advocate were trained during April and May 2023 by the OMSA organization on issues related to employment and specifically on implementing the measures of the National Action Plan LGBTIQ+ 2021-2027, to reduce the barriers that keep LGBTIQ+ persons away from the labour market and increase access to decent work in non-traditional employment sectors.

It should be noted that throughout the reporting year, the institution of the People's Advocate has consolidated the partnership with civil society organizations that protect the rights of this community, playing a proactive role in all activities organized to raise societal awareness regarding these rights. One of the functions of the People's Advocate's institution is monitoring/inspecting public residential centres, which should operate by implementing national standards in force, while also considering international standards and principles of equality and non-discrimination, respect and guarantee of values, personality, dignity, security, inclusion, diversity, and the right to protection, integration, and access to specialized supportive services tailored to the needs of LGBTIQ+ persons.

For this purpose, in July 2023, the STREHA Centre was inspected. This centre is crucial as it is the only one in the country and region offering multidisciplinary services and emergency shelter for young LGBTIQ+ people aged 18-29, who have fallen victim to various forms of violence, including domestic violence due to their sexual orientation, gender identity, gender expression, sex characteristics, or partner violence.

Capacity building of service providers, raising public awareness, and advocating to overcome the barriers and difficulties faced in family and society by the LGBTIQ+ community, as well as the integration of these

young people, are some of the activities of this centre. Since 2019, STREHA Centre has been partially supported by the state budget (the Social Fund of the Ministry of Health and Social Protection). After inspecting the STREHA Centre, evaluating the living conditions, reviewing documentation, and conducting interviews with both beneficiaries and staff, the People's Advocate made a recommendation to “*take measures to further improve the operational standards of the STREHA Centre.*” The recommended measures for respective institutions include:

- ensuring the sustainability of the STREHA Centre through increased budget funds, considering that this is currently the only residential service in the country for LGBTI+ persons who experience violence, including domestic violence or abuse. For this, within 2024, the Ministry of Health and Social Protection in collaboration with the responsible social structures of the Tirana Region should plan to increase budget support for the STREHA Centre;
- exploring the possibility of planning expenses for the purchase of new mattresses, wardrobes, and chairs, by the STREHA Centre in collaboration with the Regional Authorities, to enable normal living conditions for the beneficiaries;
- the Tirana Region should collaborate with central and local institutions to find free state-owned premises or other assets to enable a permanent and suitable environment for the activities of the STREHA Centre;
- the State Social Service and the State Labour and Social Services Inspectorate should monitor the standards and activities of the LGBTI+ Shelter.

*The recommendation has been accepted* and the commitment and willingness to implement the respective recommendations have been expressed by the State Social Service and the Tirana Regional Council.

The institution of the People's Advocate considers that the most significant issue facing the LGBTIQ community is the low level of awareness in the state and society regarding their rights. Consequently, drafting specific legislation to recognize changed gender identities, amending the Penal Code and Family Code, and carrying out promotional activities by the relevant institutions are essential steps to advance the protection and respect of the rights of this community.

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### 3.21 *Rights of National Minorities*<sup>234</sup>

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During 2023, the People's Advocate continued to focus on the rights of national minorities, working primarily to improve the living conditions for members of the Egyptian and Roma communities. These minorities face more frequent and acute issues compared to other national minorities in the country.

The People's Advocate has proactively addressed these issues by handling the complaints received, as well as tackling the problems identified by the media, recommending appropriate measures. These issues mostly concern extremely difficult living conditions, lack of services or access to services, and lack of access to education. These issues are approached as systemic problems in order to enable long-term solutions. Equality, inclusion, and integration of national minorities in all walks of life, notwithstanding societal challenges, should be a particular focus of public administration bodies, which should take a more proactive and cooperative approach, showing greater sensitivity and professionalism in addressing

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<sup>234</sup>This field of law is covered by the General Section in the institution of the People's Advocate.

these issues.

Individual speech and acts, as well as institutional policies and practices of marginalization, exclusion, physical violence, hate speech, and the devaluation of Roma culture and lifestyle, remains a concerning phenomenon for a democratic society. This phenomenon produces a series of negative stereotypes and distorted images that represent a specific form of racism, affecting both Roma and, Egyptian individuals and communities. Not only should the strategic and legal framework for equality, inclusion, and participation reflect concrete policies for the real integration and inclusion of Roma and Egyptians, but central and local government bodies must also take measures to include these marginalized groups as part of a diverse, inclusive, and democratic society.

A considerable portion of the complaints addressed by the People's Advocate involve issues raised by individuals from national minorities, but these issues are not directly identified as related to the community rights of national minorities, or their individual legitimate rights due to their minority status. These complaints continue to focus on housing rights, employment rights, access to social care systems, and overall improvement of living conditions.

During 2023, administrative investigations were initiated on five issues concerning respective communities or individual members of national minorities across the country, and six individual complaints/requests were reviewed. The problems and challenges faced by national minorities are diverse, but fundamentally relate to:

- the need for substantial and comprehensive improvement of living conditions;
- enhancing and improving the level of education and skills;
- other rights such as ethnic, linguistic, cultural and religious identity.

Several issues identified in 2023 were addressed through recommendations, as follows:

- ***Recommendation to the Administrative Unit of Sukth, Durrës Municipality:*** To take immediate measures for the regular and hygienic supply of drinking water to the village of Borakë. This recommendation has been partially accepted and implemented.
- ***Recommendation to Vlora Municipality:*** To fully and effectively exercise its functions to continuously and sustainably improve the living conditions of the Egyptian community living in the “Partizani” neighbourhood, and ensure institutional commitment to this issue. This recommendation has been partially accepted and implemented.
- ***Recommendation to Shkodër Municipality:*** To fully and effectively exercise its functions to continuously and sustainably improve the living conditions of the Egyptian community living in the “Liria” neighbourhood of Shkodër, and ensure institutional commitment to this issue. There has been no response from Shkodër Municipality, despite repeated requests from the institution of the People's Advocate.
- ***Recommendation to Fier Municipality:*** To fully and effectively exercise its functions and competences for a comprehensive assessment to continuously and sustainably improve the living conditions of the Roma community living in the village of Drizë, Fier. This recommendation was rejected by Fier Municipality, which responded that they neither accept, nor understand the recommendation of the People's Advocate.
- ***Recommendation to the Ministry of Education and Sports:*** To assess the possibilities for establishing a second-level study program in Albanian and Romani languages as a continuation

of the first-level program, and to analyse and evaluate the possibilities of opening study programs, initially at the first level and subsequently at other levels, in other public universities in the country. The Ministry of Education and Sports responded, stating that higher education institutions enjoy autonomy and academic freedom under current legislation, which makes them competent to draft and develop programs and propose new ones based on prior assessment of labour market needs.

- ***Recommendation to the Ministry of Health and Social Protection:*** To take measures for the timely approval of special protocols and procedures for managing cases of unidentified patients and to strengthen institutional and inter-institutional cooperation for these cases in all institutions in the Republic of Albania. This recommendation has been partially accepted and implemented by the Ministry, which has contacted health care structures, providing them with guidelines on the steps they should follow.

Additionally, as highlighted in previous reports, the recommendation of the People's Advocate to complete the process of issuing by-laws based on and for the implementation of Law No. 96/2017 “On the Protection of National Minorities in the Republic of Albania”<sup>235</sup> remains relevant. Specifically, four by-laws remain to be approved:

- draft decision “On determining the composition, functions and procedures of the Commission for reviewing requests for the recognition of national minorities (new minorities in addition to those recognized by Law No. 96/2017)”;
- draft decision “On the use of minority languages in the relations between persons belonging to national minorities and local self-government bodies”;
- draft decision “On determining the documentation and procedures for collecting/verifying data on the membership of persons in a national minority.” This draft decision aims to guarantee the principle of self-identification of persons belonging to minorities and verify data on membership in a national minority, related to the objective criteria of minority identity, as well as serving to enable the exercise of rights provided by law;
- draft decision “On the criteria for supporting initiatives and projects aimed at protecting the rights of national minorities, preserving and promoting their distinctive cultural, ethnic, linguistic, traditional and religious identity, and eligibility criteria for funding under the “Fund for National Minorities.”

The year 2023 marked a sustained commitment by the People's Advocate to protect the rights of national minorities in Albania. This involved a proactive approach to addressing the identified issues through administrative investigations and specific recommendations. The People's Advocate emphasizes the need for institutional engagement from both central and local public administration bodies to ensure equality, inclusion, and integration of national minorities into Albanian society, thereby building a more equal and inclusive environment for all ethnic groups.

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<sup>235</sup> Addressed to the Chairman of the Council of Ministers and the Chairman of the Central Election Commission, with letter No. K1/I10-2 dated 25.02.2020.

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### 3.22 *Respecting Rights in the field of Social Security*<sup>236</sup>

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The social security system forms the main scheme of social protection in Albania. Given the vital importance of this right for citizens, as it directly impacts their ability to meet daily living expenses, the institution of the People's Advocate believes it should be implemented quickly, efficiently, and without delays by the responsible institutions.

Citizens who have addressed the institution of the People's Advocate have raised issues in their complaints related to:

- incorrect calculation of the amount of old-age pensions;
- low amount of these pensions;
- wrongful identification of years worked;
- incomplete payment of old-age pensions;
- lack of response to requests for pension review;
- failure to provide copies of documents in the pension file;
- denial of the right to supplementary pensions for mining workers, etc.

Based on complaints registered in 2023, a total of 38 cases were handled, of which administrative investigations were completed for 26 cases, and 12 cases are still under review. 11 cases were resolved in favour of the citizens. The People's Advocate, in its legal capacity as an advisor, has guided citizens throughout the complaint handling process, especially when the complaints were found to be unfounded. The institution provided legal clarification on the approach to solving their issues, advising them to pursue administrative appeals with the Regional Appeal Commissions at the Regional Social Security Directorates where they reside, as well as with the Central Appeals Commission at the Institute of Social Security. Regarding the issues mentioned above, we highlight the following:

#### ***1. Inaccurate Calculation of old-age Pensions***

During examination of cases, the institution of the People's Advocate has systematically suggested that the Regional Social Security Directorates review pension files and recalculate old-age pension amounts to improve beneficiaries' standing. In some cases, these recalculations resulted in changes to the pension amounts, with beneficiaries receiving additional credits.

#### ***2. Wrongful identification of Years Worked in Calculating old-age Pensions***

The Institution of the People's Advocate has assisted in citizens' retrieving documentation from the Central Archive of Social Security. In cases where documentation is missing from the Central Archive, citizens have been informed that the competence to recognize legal facts or verify documents lies solely with the court. They have been advised to pursue legal avenues and apply for free legal aid in the form of secondary legal assistance<sup>237</sup> if they choose to file a lawsuit.

#### ***3. Inaccurate Calculation of Years Worked***

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<sup>236</sup>This field of law is covered by the General Section in the institution of the People's Advocate.

<sup>237</sup>Provision of legal aid and offering representation before the court, pursuant to law no. 111/2017 "On legal aid guaranteed by the state".

Following the intervention of the People's Advocate with the responsible authorities, based on findings in specific cases, citizens have had their working years recognized on a case-by-case basis, directly resulting in the effective realization of their rights under Law No. 29/2029 “On supplementary financial treatment of workers who have worked in underground mines, oil and gas industry workers, and metallurgical workers.”

#### ***4. Failure to Provide Citizens with Access to Documentation in their Pension Files***

Throughout the year, citizens have raised issues with the People's Advocate regarding non-provision of documents contained in their old-age pension files, requesting the institution's help in obtaining these documents. Following institutional interventions, complainants have been able to obtain the requested documents.

#### ***5. Denial of the Right to Withdraw Old-Age Pensions with an Indefinite Power of Attorney***

Regarding this issue, it should be noted that under current legal framework, the person authorized by the pensioner, according to a notarial act with an indefinite power of attorney for pension withdrawal, must present themselves at the Post Office to withdraw the pension and the end-of-year allocation for 2023. In a complaint to the People's Advocate, the complainant G.K. stated that postal employees refused to issue the pension because of a notification by the Albanian Post that all indefinite powers of attorney are considered invalid.

According to the Agreement<sup>238</sup> concluded between the Albanian Postal Services and the Social Insurance Institute, powers of attorney must be valid for either 3 years or 6 months. However, this notice was not available in written form<sup>239</sup> at the Post Office, nor posted in its premises to inform the pensioners.

Based on this case and considering that pensioners, especially those with health problems, financial difficulties, or living abroad, may not be aware of the changed modalities, the People's Advocate addressed the Social Security Institute, requesting measures to post the notice in the post-office premises to inform pensioners of this new validity requirement for power of attorneys for collecting pensions.

In conclusion, we emphasize that the institution of the People's Advocate acknowledges the achievements of the Albanian State thus far in reforming the public social security system. However, it believes that efforts should be directed towards being more effective in policies related to social security, as several issues remain highly sensitive in the public's opinion, primarily the low pensions, which are insufficient to cover the living costs of the elderly.

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### ***3.23 The Right to a Healthy Environment<sup>240</sup>***

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<sup>238</sup>With no. 6096/1425, dated 11.07.2023, "On the payment of pensions and other benefits from social security and the collection of social and health insurance contributions"

<sup>239</sup>With protocol number, signature and seal.

<sup>240</sup>This field of the law is covered by the General Section in the institution of the People's Advocate.

In accordance with the Constitution of the Republic of Albania, everyone has the right to a healthy and ecologically suitable environment. The Constitution also guarantees the right to information as a fundamental human right and freedom. This protection is further reinforced by Law No. 10431, dated 09.06.2011 “On Environmental Protection,” as amended, thus completing the necessary framework for implementing the constitutional requirement for an ecologically clean environment.

The legal and institutional framework in the field of the environment is under continuous review. Chapter 27 (“Environment and Climate”) is one of the most important chapters of the EU acquis. The European Commission's 2023 report highlights that “*Albania shows some level of preparedness in this field and has made limited progress in aligning its policies and legislation with the EU acquis, in areas such as water management, chemicals, environmental crime, and climate policy....*”.

In the context of the right to access to a clean, healthy, and sustainable environment, the People's Advocate emphasizes the importance of the state of the environment and environmental protection in Albania, as environmental problems can have negative implications, both direct and indirect, for the effective realization of all human rights. In this framework, the institution of the People's Advocate institution has monitored throughout 2023 the issues related to the right to a healthy environment, whether through the review of various complaints submitted to the institution, or those identified in the cases made public in written and online media.

Referring to the cases handled by the institution of the People's Advocate, not only citizen's complaints but also those initiated by the institution itself, a total of 18 cases were handled in 2023. Generally, citizens' complaints presented to the People's Advocate reflect similar issues as in the previous year, such as air and water pollution, noise pollution, environmental pollution from waste, pollution near rivers, and the discharge of untreated waste into them.

The People's Advocate notes that central and local institutions responsible for the environment continue to fail to fulfil their legal obligations stemming from the right to a clean and healthy environment. Furthermore, one of the ongoing challenges in the environmental sector remains waste management, including the lack of infrastructure for integrated urban waste management and the national shortage of landfills for hazardous and solid waste. Regarding noise pollution levels, based on complaints handled by the institution of the People's Advocate in 2023, it appears that responsible institutions have failed to protect and guarantee a peaceful life free from noise, despite the new legal changes to the law, “On the Assessment and Management of Environmental Noise,” approved in June 2023.

The People's Advocate observes that the principle of sustainable development is not sufficiently implemented because environmental protection is treated as secondary and not as important as social and economic development. The responsible institutions generally show a lack of cooperation and coordination in exercising their legal responsibilities and taking immediate measures to solve environmental protection problems.

The institution of the People's Advocate highlights the lack of responses or inadequate responses from institutions to its requests, as a major problem in addressing environmental issues. In this context, the failure to send information and documentation, or the sending of partial responses beyond the stipulated and reasonable legal deadline, delays the administrative process and denies citizens their constitutional

rights and the use of constitutional mechanisms to guarantee such rights.

Referring to specific cases reviewed by the People's Advocate, for which administrative investigations concluded with the drafting of recommendations for 2023, we highlight:

*3.23.1. Recommendation for taking Necessary Measures in compliance with the Obligations stemming from the Bern Convention, addressed to the Ministry of Tourism and Environment, and the Ministry of Infrastructure and Energy.*

In September 2023, the Standing Committee of the Bern Convention recommended that Albania suspend the construction of the Vlora Airport until a new and sufficient Environmental Impact Assessment (EIA) procedure is carried out. In this regard, the People's Advocate, in accordance with the recommendations issued by the Standing Committee of the Bern Convention, recommended:

- taking the necessary measures to implement the convention ratified by law no. 94 dated 2.3.1998, on the Conservation of Wildlife and Natural Habitats (Bern Convention), which is a binding international legal instrument in the field of nature protection and conservation;
- taking immediate measures to implement the recommendations of the Standing Committee of the Bern Convention regarding the suspension of construction works for the Vlora International Airport, until the concrete measures specified in this recommendation are met;
- taking measures to identify and initiate disciplinary proceedings against Ministry employees who did not cooperate in providing the requested information to the institution of the People's Advocate.

*The recommendation has been accepted and implemented partially.*

*3.23.2. Recommendation for taking Immediate Measures to Eliminate Environmental Pollution caused by the Waste Collection Site in the 24 Maji neighbourhood of Vlora*

Given the very serious and emergency situation for the health of citizens, the People's Advocate recommended the following:

- taking measures as quickly as possible, using all the legal means provided to the Vlora Municipality by Law No. 139/2015 "On Local Self-Government," to eliminate pollution caused by the waste collection site located in the 24 Maji neighbourhood;
- taking measures as quickly as possible to open a new landfill for waste collection within standards and according to the deadlines specified in the project contract with KfW (German Bank);
- taking measures to identify and arrest, in cooperation with the State Police, the persons/entities responsible for burning waste in the 24 Maji neighbourhood, which causes harm to the community's health and pollutes the surrounding environment;
- taking measures as quickly as possible by the Ministry of Tourism and Environment to increase and strengthen monitoring by relevant inspectorates to ensure rigorous enforcement of the law;
- taking measures for coordination and collaboration between central and local public administration bodies in exercising their competences for waste management;
- taking measures by the Mayor of Vlora to identify and initiate disciplinary proceedings against municipal employees who did not cooperate in providing the requested information to the institution of the People's Advocate within the time requested;
- placing warnings that intentional burning is considered a criminal offense.



Given the responses from responsible institutions, the People's Advocate regrettably notes *the lack of response from the Municipality of Vlora*, violating legal and constitutional provisions that guarantee the right of the People's Advocate to seek explanations and information from any public administration body. Additionally, air monitoring by the National Environmental Agency at the waste collection site in the 24 Maji neighbourhood of Vlora shows that air pollution exceeds permissible levels. Given this situation, the People's Advocate again calls on responsible institutions to take immediate and concrete measures to resolve the problem, which remains a serious and urgent concern for the health of citizens.

*3.23.4. Recommendation for Cleaning and Eliminating Waste caused by Illegal Activities, in the Tepe neighbourhood of the city of Shkodra<sup>241</sup>*

The findings of the People's Advocate identified the lack of response from responsible institutions in addressing the problem. Institutions also tend to avoid responsibility by continuously sending written correspondence between them but never reflecting on planning measures or concrete steps for integrated waste management. In this case, the People's Advocate recommended:

- taking measures by responsible institutions at central and local levels to draft and implement a comprehensive integrated waste management plan throughout the Shkodër Municipality, accompanied by activities and appropriate budgets;
- taking measures for coordination and collaboration between central and local public administration bodies in exercising their competences on waste management;
- taking measures as quickly as possible, by relevant inspectorates to increase and strengthen monitoring with the aim of rigorously enforcing the law;
- taking measures as quickly as possible, using all legal means provided by Law No. 139/2015 “On Local Self-Government” to the Shkodër Municipality to clean up waste accumulated in the Tepe area;
- taking measures by responsible local institutions to identify and stop individuals/entities engaging in illegal activities, such as disposing of untreated waste contrary to current legislation;
- taking immediate measures to establish and operate an appropriate waste management system to avoid massive pollution and raise community awareness about maintaining a clean environment.

*The recommendation has been accepted and implemented partially by the responsible institutions.*

*3.23.4. Recommendation addressed to the Kurbin Municipality for taking Immediate Measures to Protect the Environment from Waste Burning in the area of Fushë Mamurras*

In this case, the People's Advocate recommended:

- taking measures as quickly as possible, using all legal means provided to the Kurbin Municipality by Law No. 139/2015 “On Local Self-Government” to eliminate pollution beneath the bridge over the Drojë River in the Fushë Mamurras area;
- taking measures to identify and arrest, in cooperation with the State Police, the persons/entities responsible for burning waste, which causes environmental pollution and harms the health of the community;

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<sup>241</sup>Addressed to the Municipality of Shkodër, the National Territorial Protection Inspectorate, the Regional Environmental Agency of Shkodër, Lezhë, Kukës, the Local Police Directorate of Shkodër and Cc:ed to the Ministry of Tourism and Environment.

- taking measures as quickly as possible to prevent illegal activities and environmental pollution in this area;
- identifying Kurbin Municipality staff and structures that did not cooperate in providing the information requested by the People's Advocate institution and taking disciplinary measures to prevent this situation in the future.

*The recommendation has been accepted but partially implemented by the responsible institutions.*

### *3.23.5. Recommendation to the Shkodër Municipality and the National Agency of Protected Areas for taking Immediate Measures to Protect the Environment from Waste in the area of Theth National Park*

In this recommendation, the People's Advocate emphasizes the importance of the Shkodër Municipality's engagement in establishing and operating an Integrated Waste Management System, raising community awareness about waste management, and coordinating administrative efforts between central and local structures to enforce legislation on integrated waste management, environmental protection, in particular protected areas. In this case, the People's Advocate recommended:

- taking measures as soon as possible, using all legal means provided to the Shkodër Municipality by Law No. 139/2015 “On Local Self-Government” to clean up waste accumulated in the Theth area;
- prioritizing the protection of the municipal protected area with all its components from possible negative impacts of activities conducted in the Theth area;
- identifying Shkodër Municipality staff and structures that did not cooperate in providing the information requested by the institution of the People's Advocate and taking disciplinary measures to prevent this situation in the future.

*The recommendation has been accepted but partially implemented by the responsible institutions.*

### *3.23.6. Recommendation for taking Immediate Measures to Ensure a Quiet and Noise-Free Living Environment for Mrs. ST<sup>242</sup>*

In this recommendation, the People's Advocate identified the lack of response from responsible institutions in addressing the issue presented in the citizen's complaint. Institutions also tend to avoid responsibility, thereby exhibiting poor knowledge of the law, coupled with a lack of logistical means to measure pollution. In this case, the People's Advocate recommended:

- taking measures as quickly as possible by Elbasan Municipality such as administrative measures, suspension, or closure of activities that do not comply with the provisions of the law “On the Assessment and Management of Environmental Noise;”<sup>243</sup>
- taking measures as soon as possible by the Ministry of Tourism and Environment and the Interior Ministry to increase and strengthen monitoring by dependent institutions to ensure rigorous enforcement of the law;

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<sup>242</sup>Directed to Municipality of Elbasan, NTPI Elbasan, Regional Environmental Agency Berat, Korce, Elbasan, and National Environmental Agency

<sup>243</sup>Law no. 50/2023 on some additions and amendments to law no. 9774, dated 12.7.2007, "On the Assessment and Management of Environmental Noise", as amended.

- taking immediate measures by the Regional Directorate of the National Territorial Protection Inspectorate regarding the duties assigned by the Regional Environmental Agency Berat, Elbasan, and Korçë to insulate the remaining part of the environment where work is conducted and which is a source of noise;
- taking measures by responsible institutions to ensure the quality of monitoring, measurements, and implementation of methodologies through certified devices for measuring noise levels;
- taking measures by local responsible institutions to enforce legal requirements by physical/legal entities that carry out activities generating noise above permissible levels;
- conducting staff training to achieve objectives and enforce legal and regulatory criteria for effective and safe inspection of environmental noise.

*The recommendation has been accepted and implemented partially by the responsible institutions.*

### *3.23.7. Recommendation for taking Immediate Measures to Adequately Supply Drinking Water within Hygienic and Sanitary Standards for Residents of the village of Domen, Postriba area<sup>244</sup>*

In relation to this case, the People's Advocate recommended:

- taking immediate measures by the Shkodër Water Supply and Sewerage Company to adequately supply drinking water within hygienic and sanitary conditions, in accordance with required standards and as an urgent need to protect the health of residents in the Domen Village, Postribë area, Shkodër;
- taking immediate measures for investments to improve and maintain sewerage systems to provide a final solution to the created situation, which would reduce the risk of severe effects on public health and the environment in general;
- taking measures as quickly as possible by the Ministry of Tourism and Environment to increase and strengthen monitoring by relevant inspectorates to ensure rigorous enforcement of the law;
- taking measures for coordination and collaboration between central and local public administration bodies in exercising their legal competences to protect health and the surrounding environment.

*The recommendation has been partially accepted but not implemented.*

An analysis of the above facts highlights that Albania shows deficiencies in the environmental protection system, whose function is not only the protection of nature and the environment but also human rights, as enshrined in national and international legislation. The emergency situation in our country regarding environmental pollution, the current waste management system, and inadequate protection of various environmental components require systematic and coordinated cooperation of all responsible authorities at all levels to preserve the environment for present and future generations.

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<sup>244</sup> Addressed to the Municipality of Shkodër, Water Supply and Sewerage Company Shkodër SHA, the Ministry of Infrastructure and Energy, the Ministry of Tourism and Environment, National Environmental Agency, Regional Environment Agency Shkodër, Lezhë, Kukës.

## CHAPTER IV

### OTHER INSTITUTIONAL ENGAGEMENTS

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#### *4.1 Procedures for Selecting Candidates for members of the High Judicial Council and members of the High Prosecutorial Council from the ranks of Lawyers and Civil Society*

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Based on Law no. 115/2016 “On the governance bodies of the justice system”, as amended, following the publication by the Parliament of the Republic of Albania<sup>245</sup> of the announcement of vacant positions, and the call for expressions of interest to become members of the High Judicial Council and members of the High Prosecutorial Council from the ranks of lawyers and civil society, the People's Advocate immediately reacted by initiating the administrative procedures for carrying out the process, in accordance with the competences and deadlines defined in the aforementioned law. Subsequently, by Order of the People's Advocate,<sup>246</sup> an Ad-Hoc working group was created to support the People's Advocate in exercising the legal competences in filling the vacancies for members in the High Judicial Council as well as in the High Prosecutorial Council from the ranks of lawyers and civil society.

##### *4.1.1. Procedures for selecting candidates for members of the High Judicial Council and members of the High Prosecutorial Council from the ranks of lawyers*

The Ad-Hoc Working Group for supporting the People's Advocate in exercising legal competences, in accordance with legal provisions, reviewed the documentation submitted by candidates within a 5-day period from the moment of submission. In cases where it was deemed that the documentation needed to be supplemented, candidates were notified electronically, giving them a 5-day deadline, as stipulated by law. The Ad-Hoc Group administered all responses from the candidates, noting the date when the documentation/information was requested and the date when the documentation/information was completed by the candidates. Every electronic communication with the candidates, as well as all documentation submitted electronically, by mail, or in person by the candidates, was recorded in a specially created register.

From the preliminary verification of the administered documentation, it turned out that a total of 29 candidates from the ranks of lawyers had expressed their interest, of which:

- in 6 cases, the candidates had expressed an interest only for membership in the High Judicial Council;
- in 22 cases the candidates had expressed an interest for membership in both positions, i.e., member of the High Judicial Council and member of the High Prosecutorial Council;
- in 1 case, the candidate had expressed his interest beyond the specified deadline.

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<sup>245</sup> Dated July 20<sup>th</sup>, 2023

<sup>246</sup> Order no. 113, dated 24.07.2023, "On the establishment of the Ad-Hoc working group to support the People's Advocate in exercising legal competences, for filling vacancies for members in the High Judicial Council and the High Prosecutorial Council, from the ranks of lawyers", as amended.

To verify the fulfilment of each legal criterion by each candidate, an individual file was created for each candidate, in which all submitted documentation proving the fulfilment of each criterion was reflected, or the request of the People's Advocate for additional documentation was recorded, along with the documentation submitted in response to this request. All these materials, together with the relevant report, were made available to the Independent Ad-Hoc Commission. In accordance with Articles 23 and 25 of Law no. 115/2016, “On the governance bodies of the justice system”, as amended, following the request of the People's Advocate, in the framework of procedures for the establishment and functioning of the Independent Ad-Hoc Commission for the preliminary verification and evaluation of candidates for members of the High Judicial Council and the High Prosecutorial Council from the ranks of lawyers, the Chamber of Advocates communicated the list of lawyers who meet the specified legal criteria for members and alternate members of the Independent Ad-Hoc Commission.

The People's Advocate, after reviewing the list of lawyers, invited the youngest and the oldest among them to serve as members of the Independent Ad-Hoc Commission. The same procedure, based on the same criterion, was followed in the case of appointing two alternate members. At the end of these procedures, the People's Advocate publicly announced the names of the members and alternate members from the ranks of lawyers in the Independent Ad-Hoc Commission. The same procedure was followed in the case of filling the member position in the Independent Ad-Hoc Commission from the Academy of Sciences.

On August 24, 2023, the first meeting<sup>247</sup> for constituting the Commission was held, and the work officially began for drafting and approving the rules and procedures for the functioning of this Commission.<sup>248</sup> The commission considered it very important to conduct a transparent procedure in full respect of the legal criteria, as well as ensuring the presence and support of international partners at every stage of the process, in the capacity of observers. Furthermore, in the framework of transparency and public information regarding all stages of the development of this process, two special sections were opened on the official website of the People's Advocate institution, which were continuously updated with information and press releases regarding this process.<sup>249</sup>

During this period, the People's Advocate, in the capacity of Chairman of the Ad-Hoc Commission, held meetings with representatives of the European Union delegation and the OPDAT mission in Tirana, aiming for these organizations to follow, monitor, and support this process closely at all its stages, given their central role in the ongoing progress of the justice reform. Representatives of international partners were present as observers at all meetings of the Ad-Hoc Commission, providing assistance, but not interfering in the decision-making process.

As part of verifying the legal standing and preliminary assessment of professional and moral criteria, as well as ranking the lawyers running for membership in the High Judicial Council and the High

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<sup>247</sup>Throughout the process, 14 (fourteen) meetings of the Independent Ad-Hoc Commission were held, respectively on 24 August 2023, 7 September 2023, 27 September 2023, 2 October 2023, 3 October 2023, 12 October 2023, 13 October 2023, 3 November 2023, 4 December 2023, 7 December 2023, 13 December 2023, 16 December 2023, 26 December 2023, 28 December 2023, and 29 December 2023.

<sup>248</sup>With decision no. 2, dated 27.09.2023, the *Ad Hoc Commission* also approved its operating regulations.

<sup>249</sup> These sections can be found at the link: <https://www.avokatipoullit.gov.al/sq/article-ildp-layout/transparency>

Prosecutorial Council, the People's Advocate, as Chairman of the Independent Ad-Hoc Commission, officially sent a request to the General Prosecutor's Office for the verification of integrity declaration forms. Additionally, official letters were sent to the Authority for Information on Former State Security Documents, the State Intelligence Service, and the National Authority for the Security of Classified Information.

It should be noted that the General Prosecutor's Office refused to conduct the integrity check of the candidates, which created serious obstacles in the work and functioning of the Independent Ad-Hoc Commission, not only regarding the completion of the candidate evaluation process based on the professional and moral criteria defined by law, and subsequent ranking based on these criteria, but especially regarding the delays caused in the process by such an approach. In the opinion of the General Prosecutor's Office, this verification should be carried out by the Ad-Hoc Commission, although Articles 31 and 129 of Law no. 115/2016 "On the governance bodies of the justice system," as amended, clearly specify that the verification is carried out by the General Prosecutor's Office.<sup>250</sup> Consequently, the Ad-Hoc Commission, due to the importance of the verification for evaluating the candidates' integrity, decided to carry out this process itself (to the extent possible). Of course, carrying out this process required investment in human capacities and time, which were not provided for by the legislator at the time of drafting the law.

The Commission conducted a thorough and comprehensive administrative investigation to ensure that candidates for membership in the HJC and HPC from the ranks of lawyers met the legal criteria. This consisted of: (1) detailed verification of compliance with the legal criteria by each candidate through careful and interconnected scrutiny of the administered documentation in their files, including resumes, university studies, employment records, certifications from the Chamber of Advocates of Albania, certifications issued by tax and social security authorities, and any other document administered in the file related to fulfilling these criteria; (2) obtaining additional information or documentation from the candidates themselves in cases where certain elements<sup>251</sup> of the documentation were insufficient, unclear, or had discrepancies; (3) obtaining official information from public institutions regarding integrity, regular payment of all tax obligations, and disciplinary measures; and (4) obtaining public information, such as data related to the activity conducted through historical extracts published by the National Business Centre, or other information from official public sources serving the process.

At the end of the preliminary verification procedure, as the first stage of this process, the Ad-Hoc Commission announced on December 7, 2023 the names of the candidates who met the legal conditions to be members of the High Judicial Council and the High Prosecutorial Council, as well as the names of candidates who did not meet these conditions. Meanwhile, for candidates who met the legal conditions to be members of the High Judicial Council and the High Prosecutorial Council, the Independent Ad-Hoc Commission decided to proceed with the evaluation phase of professional and moral criteria through the conduct of hearing sessions.

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<sup>250</sup> Both provisions specify that: *For the integrity check of the candidates, the chairman of the commission immediately forwards the self-declaration forms completed by the candidates to the General Prosecutor's Office, according to the requirements of the law "On guaranteeing the integrity of persons elected, appointed or exercising public functions" if necessary. The General Prosecutor's Office conducts the verifications within 30 days from the submission of the forms.*

<sup>251</sup> Such as the regular payment of tax obligations, certification of work or professional experience, effective and uninterrupted practice of the legal profession, absence of disciplinary measures, academic performance during university studies, etc.

The Independent Ad-Hoc Commission preliminarily approved the methodology for evaluating professional and moral criteria and determining their specific weight (scores) for ranking candidates for membership in the High Judicial Council and the High Prosecutorial Council from the ranks of lawyers.<sup>252</sup> This Methodology was drafted based on the Methodology for evaluating and scoring candidates for judges in the Constitutional Court, approved by Decision no. 51, dated 21.06.2019, of the Justice Appointments Council. On December 13 and 16, hearing sessions were held, and after their completion, the Independent Ad-Hoc Commission began the process of evaluating professional and moral criteria and determining their specific weight (scores) for ranking candidates.

It should be noted that, during this period, there were also appeals to the Administrative Court of Appeal by 4 (four) candidates for whom the Commission had made and communicated the decision that they did not meet the legal criteria to be members of the HJC and HPC. At the conclusion of court proceedings, three appeals were overrun by the Court as unfounded in law. As regards the fourth candidate, the decision of the Administrative Court of Appeal created unlawful and unfounded expectations for the parties involved, in addition to conflicting with the criteria and principles of administrative adjudication established by this court or by higher-level courts.

In its decision, *first*, the Administrative Court of Appeal violated the permissible limits of its review in this case as set by Article 10 of Law no. 49/2012 and Articles 32 and 130 of Law no. 115/2016; *second*, the court reviewed the case on its merits contrary to what is allowed, taking the attributes of the public authority; and *third*, the court, in an attempt to interpret the norm, in fact, created/added a norm.<sup>253</sup> This decision flagrantly violated the principles of due process of law, as it did not accurately reflect the litigation regarding the defendant parties and violated the legal deadline for delivering the decision of the Administrative Court of Appeal.<sup>254</sup> The People's Advocate is of the opinion that the prolongation of procedures for clarifying the reasoned judgment was of a nature that significantly jeopardized the interests of the parties, due to the excessive length of the judicial procedure, as the review process by the Ad-Hoc Commission had to comply with specific timeframes defined by law, which are short, and current legislation does not provide mechanisms for securing the lawsuit in such a case, but also because the vacant positions in the HJC and HPC were limited in number. For these reasons, the People's Advocate filed a recourse to the Supreme Court, challenging decision no. 6 (86-2024-44), dated 23.01.2024, of the Administrative Court of Appeal, Tirana.

At the end of the candidate evaluation process, based on the criteria stipulated in points 1 to 5 of Article 34 and points 1 to 5 of Article 132 of Law no. 115/2016 “On the governance bodies of the justice system”, as amended, and in the Evaluation Methodology, the Independent Ad-Hoc Commission approved the ranking of the candidates. With the completion of the evaluation of professional and moral criteria and

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<sup>252</sup>Decision no. 11, dated 07.12.2023 of the Independent Ad-Hoc Commission.

<sup>253</sup>Based on the jurisprudence and previous decisions of the Court of Appeal, as well as the Supreme Court, in these types of cases, the Court cannot impose on the Ad Hoc Commission how it should make a decision during the procedures for the preliminary evaluation and ranking of candidates for members of the High Judicial Council and members of the High Prosecutorial Council, from the ranks of lawyers. When this happens, the Court assumes the competencies and characteristics of a public body, which is not in line with the legal competencies of the Court and the nature of the judgment in this case, as it creates a serious issue in terms of the understanding and application of the law by the court.

<sup>254</sup> Decision no. 109 (86-2023-1510) of the Administrative Court of Appeal was announced on 28 December 2023, while the reasoned decision was notified to the People's Advocate (via postal service) only on 16 January 2024.

the determination of their specific weight (scores) for ranking candidates for membership in the High Judicial Council and the High Prosecutorial Council from the ranks of lawyers, the Independent Ad-Hoc Commission considered its engagement in this process concluded on December 29, 2023.

Consequently, through letter no. 8 prot, dated 23.01.2024, from the People's Advocate, the evaluation report and the complete documentation of the candidates for membership in the High Judicial Council and the High Prosecutorial Council from the ranks of lawyers were forwarded to the Parliament of Albania.

Based on the engagement and experience of the People's Advocate as part of the preliminary verification process for members to the High Judicial Council and High Prosecutorial Council from the ranks of lawyers and civil society, there is a need for legal initiatives to amend the provisions of Law no. 115/2016 “On the governance bodies of the justice system”, as amended, which relate to institutional responsibility for verifying the fulfilment of legal conditions, the timeframes for completing this process, the quality of candidate selection, as well as the need for financial support for the institution of the People's Advocate in carrying out this process.

#### *4.1.2. Selection Procedures for Candidates for members to the High Judicial Council and the High Prosecutorial Council from Civil Society*

As with the candidates for members of the High Judicial Council and the High Prosecutorial Council from the ranks of the legal profession, the Ad-Hoc Working Group for supporting the People's Advocate in exercising its legal competencies, in accordance with legal provisions, reviewed the documentation submitted by candidates within a 5-day period from the time of submission. Where it was deemed necessary to complete the documentation, candidates were notified electronically, giving them a 5-day deadline as stipulated by law. The Ad-Hoc Group managed all responses received from the candidates, noting the date the documentation/information was requested and the date it was completed by the candidates. Every electronic communication with the candidates, as well as all documentation submitted electronically, by mail, or physically by the candidates, was recorded in a specially created register.

From the preliminary verification of the administered documentation, it was found that a total of 13 candidates from civil society expressed interest, of which:

- in 2 cases, the candidates had expressed interest only for membership in the High Judicial Council;
- in 1 case, the candidate had expressed interest only for membership in the High Prosecutorial Council;
- in 9 cases, candidates had expressed interest in membership in both positions, as member to the High Judicial Council and member to the High Prosecutorial Council;
- in 1 case the candidate withdrew his candidacy.

For the purpose of verifying the fulfilment of every legal criterion by the candidates, an individual file was created for each candidate, in which all the submitted documentation that verifies the fulfilment of each criterion was reflected, or a request for additional documentation was noted, along with the documentation submitted to fulfil this request. In accordance with point 9 of Article 56 and point 9 of Article 154 of Law No. 115/2016 “On the Governing Bodies of the Justice System,” as amended, on



August 25, 2023, a review and verification of the fulfilment of the conditions and legal criteria for candidates who had expressed an interest in representing the civil society on the High Judicial Council and the High Prosecutorial Council was conducted in an open and public process at the institution's premises.

The People's Advocate invited all civil society organizations and other interested actors to be part of this important process through their presence and contribution during this phase of review and verification of the fulfilment of legal conditions and criteria. Additionally, in accordance with the obligations under point 10 of Article 56, the People's Advocate announced three calls for expressions of interest for members of the civil society commission<sup>255</sup> that would conduct the preliminary verification of the candidates for the member representing civil society on the High Judicial Council and the High Prosecutorial Council.

It should be noted that after the second announcement, upon the expiration of the deadline for civil society organizations to express their interest, the People's Advocate initiated the process of verifying the fulfilment of the criteria by the organizations that had expressed an interest in being part of the civil society commission whereby publishing the names of the organizations that met the specified legal criteria. Since one of the civil society organizations notified the withdrawal of their expression of interest for participation in the civil society commission, this created a lack of the minimum quorum for competitive selection, according to the provisions of Law No. 115/2016 dated 3.11.2016 “On the Governing Bodies of the Justice System,” as amended, necessitating the re-announcement of the call for expressions of interest for members to the civil society commission.

After the completion of the process of verifying the fulfilment of the criteria, the civil society organizations that met the defined legal criteria to proceed to the next stage of the process were as follows:

- The Association of the Blind of Albania
- The Centre “Gender Alliance for Development”
- The Centre “Civic Resistance”
- The Foundation “Contribution to Education”
- The Albanian Centre for Sustainable Development
- The Centre for Public Information Issues “Infochip”
- The Organisation “Social Justice”
- The Legal Clinic “Wisdom”

On September 18, 2023, the first meeting of the civil society organizations that met the legal criteria to be part of the civil society commission was held in the premises of the People's Advocate. Since more than 5 organizations met the legal criteria, it was agreed that on September 20, 2023, the procedure for selection by secret ballot would be conducted.

On this date, the second meeting of the civil society organizations was held in the premises of the People's Advocate. Present at this meeting were representatives of the following organizations:<sup>256</sup>

- The Centre “Gender Alliance for Development”
- The Centre “Civic Resistance”

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<sup>255</sup>This is due to the lack of interest from civil society organizations to participate in this process.

<sup>256</sup>Meanwhile, no representative from the Association of the Blind of Albania participated.

- The Foundation “Contribution to Education”
- The Albanian Centre for Sustainable Development
- The Centre for Public Information Issues “Infochip”
- The organization “Social Justice”
- The Legal Clinic “Wisdom”

In accordance with the procedures stipulated by Articles 56 and 154 of Law No. 115/2016 “On the Governing Bodies of the Justice System,” as amended, after the completion of the voting process, the five organizations that received the most votes were as follows:

- The Centre “Civic Resistance”
- The Organization “Social Justice”
- The Legal Clinic “Wisdom”
- The Foundation “Contribution to Education”
- The Albanian Centre for Sustainable Development

The selected organizations as members of the civil society commission chose Mr Gentian Serjani, a representative of the “Social Justice”, as the chairperson of this commission. The first meeting of the Commission was held on September 26, 2023. It should be noted that after the People's Advocate completed the open and public process of reviewing and verifying the fulfilment of the legal conditions and criteria of the candidates from civil society, the report on the fulfilment of the legal conditions and criteria, along with the relevant documentation of the candidates, was made available to the Civil Society Commission to proceed further, according to the procedures stipulated by applicable legislation. During the evaluation period, there were appeals to the Administrative Court of Appeals by 4 (four) candidates for whom the Commission had made and communicated the decision that they did not meet the legal criteria to be members of the HJC and HCP. Two appeals were dismissed by the Court as unfounded in law.

Delays in conducting court hearings or issuing reasoned judgments by the Court led to the process being prolonged.<sup>257</sup> As soon as the Civil Society Commission had all the written decisions of the Administrative Court of Appeals available, it proceeded with the further administrative steps to complete this process and, on April 17, 2024, submitted all the necessary documentation to the Albanian Parliament, in fulfilment of the legal obligations stipulated by Article 58, point 1, and Article 156, point 1, of Law No. 115/2016 “On the Governing Bodies of the Justice System,” as amended.

As with the preliminary verification process for members to the High Judicial Council and the High Prosecutorial Council from the ranks of the legal profession, it is also deemed necessary to amend the provisions of Law No. 115/2016 “On the Governing Bodies of the Justice System,” as amended, concerning the clarification of criteria and the determination of the same standards<sup>258</sup> for verifying the fulfilment of the legal conditions for the qualities of candidates, as well as the functioning of the Civil Society Commission. We consider that the inclusion of the People's Advocate, not only in the preliminary evaluation phase of the documentation, but also as part of this Commission, would be an added value

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<sup>257</sup>The latest decision taken by the Administrative Court of Appeal for one of the complaining candidates is dated February 28, 2024.

<sup>258</sup>As specified in the case of the preliminary verification process for members of the High Judicial Council and members of the High Prosecutorial Council from the ranks of lawyers.

that would significantly contribute not only to ensuring the implementation of the same standards but also to the realization of a transparent process in full respect of the legal criteria, without impairing the spirit and purpose of the law. This is motivated by the role of and experience already gained by the People's Advocate as the Chair of the Independent Ad Hoc Commission for the selection of members from the ranks of the legal profession.

*4.1.3. "Amicus Curiae" opinion in the Constitutional Court regarding the Agreement for the Administration of Sub-zones of Cultural Heritage and Cultural Landscape, part of the Butrint National Park*

During 2022, one-fifth (1/5) of the members of the Parliament of the Republic of Albania submitted a request to the Constitutional Court of the Republic of Albania asking for "Annulment of Law 50/2022 'On the approval of the agreement for the administration of subzones of cultural heritage and cultural landscape, part of the Butrint National Park ... .'" The main claim was "Violation of national identity and national heritage." By letter no. 826/27, dated 06.02.2022, from the Constitutional Court, the institution of the People's Advocate was notified that regarding this request, the Assembly of Judges of the Constitutional Court, by decision dated 31.01.2023, had decided to "Accept the request to call as interested subjects in this judgment also the President of the Republic and the People's Advocate." Based on the above, pursuant to the provisions of Law No. 8577 dated 10.02.2000, "On the organization and functioning of the Constitutional Court of the Republic of Albania," as amended, and Law No. 8454 dated 04.02.1999, "On the People's Advocate," as amended, this request was addressed by an "Amicus Curiae" opinion, sent in writing to the Constitutional Court at the beginning of March 2023.

The People's Advocate expressed its opinion on whether there was, or not, a violation of a fundamental human right, while providing a broader perspective from the viewpoint of the highest standard of law implementation. Specifically, the PA institution addressed the premises for the violation of Heritage and National Identity. It was emphasized that national heritage constitutes one of the foundations of the Albanian State, as provided for in the Constitution of the Republic of Albania, as well as in several international Conventions ratified by our country. Cultural heritage, as a component of national heritage, must also be treated in accordance with the universal standards provided by Article 27, point 1, of the UN Universal Declaration of Human Rights; Article 15, point 1, letter a, of the UN International Covenant on Economic, Social, and Cultural Rights; the Framework Convention of the Council of Europe on the Value of Cultural Heritage for Society (Faro, October 27, 2005).

In the light of the international standards in the field of national heritage, the Butrint National Park is a cultural heritage asset that constitutes an important cornerstone in the creation of our national identity. This Park and the surrounding area are not only a national asset but also an international/universal one, and because of its values, it is included in the list of UNESCO World Heritage sites (the Convention "On the Protection of the World Cultural and Natural Heritage" or the Paris Convention), as a wetland of international importance for waterbird habitats (the Ramsar Convention).

Since the Butrint Park benefits from protection under other Conventions, such as the "Convention for the Protection of the World Cultural and Natural Heritage" (the Paris Convention), our opinion sent to the Constitutional Court addressed the participation of the Ministry of Culture in the Butrint Foundation as provided for by domestic legislation, notably Law No. 28/2018 "On Cultural Heritage and Museums,"

the legislation regulating the creation and activity of Foundations (Articles 54-63 of the Civil Code, Law No. 8788, dated 7.5.2001 “On Non-Profit Organizations,” as amended<sup>259</sup>), as well as the characteristics of state institutions created by special laws that have the form of a public legal entity versus Foundations created by natural or legal persons.

Additionally, our opinion addressed the principle of independence of non-profit organizations,<sup>260</sup> the issues that may arise in cases of overlapping participation of public state institutions as co-founders with private legal entities in the same foundation; the inadequacy of the legislation in regulating the participation of public state institutions in Foundations. This is because the inclusion of two articles in Law No. 20/2018 “On Cultural Heritage and Museums” and the issuance of an implementing sublegal act by the Minister of Culture, are insufficient for the creation or participation of public state institutions in Foundations. Our opinion stated that the legislation should first be fully developed. It is essential to clarify the rules regarding the participation of public state institutions in such foundations and the supervision of these foundations by the state (a duty outlined in the Civil Code but still inadequately fulfilled).<sup>261</sup>

Our opinion also addressed the lack of harmonization of the participation of the Ministry of Culture in such a Foundation with the scope and policies of this Ministry. This is because the guiding policies set by the Council of Ministers for the Ministry of Culture task this ministry with ensuring financial support through the National Fund for the Care of Cultural Heritage, but not creating or participating in Boards for managing cultural heritage assets of special value, as is the case of co-founding and participation of the Ministry of Culture in the Butrint Management Foundation.

The participation of the Minister of Culture on the Board of Directors of the Butrint Foundation, despite its aim to ensure better representation of state interests in the protection of the Butrint Park, fundamentally poses an issue because, as a member, the Minister would need to adhere to different legislation than that under which he exercises his activities as a public official. This dual position of the Minister of Culture could create issues in representation, as well as in the decision-making quorum on the Board.

Our opinion also analysed the Framework Convention of the Council of Europe on the Value of Cultural Heritage for Society, dated October 27, 2005, the European Convention “On the Protection of the Archaeological Heritage” (revised), the ambiguity regarding the competencies of the Institute of Archaeology, and references to the case law of the European Court of Human Rights, which considers the protection of cultural heritage and its management as essential for not only preserving the quality of life but also for caring for the historical, cultural, and artistic resources of the region and its inhabitants,

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<sup>259</sup>Article 2, point 3 of the law "On Non-Profit Organizations": *"For the purpose of this law, the following terms have the following meanings ... 3. "Non-profit organization" means associations, foundations and centres, whose activities are conducted independently and without influence from the state"*.

<sup>260</sup>Article 6 "Principle of independence from the state" and Article 7 "Relations of non-profit organizations with state bodies", of law no. 8788, dated 7.5.2001 "On Non-Profit Organizations".

<sup>261</sup> Article 59, of the Civil Code: *"The cases and manner of supervision of the activities of foundations by the competent state bodies are expressly provided for in the law"*.

recognizing, however, that national authorities have a margin of appreciation in determining the general interest of society.<sup>262</sup>

Focusing on the obligation of the Albanian State for the protection of national heritage according to the Constitution (Articles 3 and 59/1/g), the standards of the conventions ratified by our country (mainly the Paris Convention), and Law No. 27/2018 “On Cultural Heritage and Museums” concerning the violation of national natural heritage, our opinion assessed that from a legal-administrative perspective, the intertwining of archaeological and environmental elements in the Butrint area and its surroundings is quite specific, as it is subject to different legislations that regulate respectively the environmental and cultural/archaeological fields. In the same geographical area, these laws provide for different administrative structures, different protection and preservation regimes, and different management plans.

Our opinion emphasized that the joint drafting and approval by state institutions of management plans for assets on the UNESCO list is a standard accepted by both the aforementioned international Conventions and UNESCO Manuals implementing these Conventions and that the non-implementation of the above-mentioned legal obligations, such as:

- non-implementation by the Foundation of the Integrated Management Plan for the Butrint National Park approved by the Council of Ministers, but rather the attempt to implement a different management plan prepared by the Foundation itself;
- the transfer of powers for the administration of the Butrint National Park from a Board composed of representatives of state institutions to the Foundation (where only the Ministry of Culture is represented);
- The failure of the Regional Administration of the Protected Area to exercise its legally recognized competencies within the National Park Area;
- are premises for the direct violation of natural and cultural heritage, and as such:
  - are in violation of articles 3, 59 letters d, dh and g of the Constitution;
  - are in conflict with the principle of the rule of law (provided by Article 4 of the Constitution); and
  - in conflict with the principles of the aforementioned international Conventions.<sup>263</sup>

In order to set the best standard for preservation and protection of national identity and heritage, to harmonize legislations in the fields of both culture and environment, as well as complying with the international obligations, this *amicus curiae* opinion recommended that specific legal provisions should be enacted regarding the territory of the Butrint Park and its surrounding area, (in the form of a special law) before adopting new forms of administration, as provided by Law No. 50/2022.

Our opinion also emphasized the importance of careful consideration in the final resolution of this issue, in order to make sure that no gaps are created that could negatively impact the environmental situation of the Butrint Park. This requires a review of the regulatory framework for establishing the relationship between the Albanian state and the Butrint Management Foundation, with the goal of providing full guarantees for fulfilling the fundamental functions and obligations of the state derived from ratified

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262 ECtHR decisions: *Kozacioğlu v. Turkey*, 19 February 2009, § 54; *Kristiana LTD v. Lithuania*, 6 February 2008, § 104; *Beyeler v. Italy*, 5 January 2000, § 112; *Ruspoli Morenes v. Spain*, 28 November 2001, § 39; and *Debelianovi v. Bulgaria*, 29 June 2007, § 54.

<sup>263</sup>According to Article 122, point 3 of the Constitution: "*An international agreement ratified by law takes precedence over national laws that are not in accordance with it*".

Conventions, as well as the Constitution of the Republic of Albania. The review should also verify compliance with national and international environmental obligations, ensuring that the level of environmental protection in this World Heritage Site and Ramsar Site is not compromised.

Since it was our intention to identify similar practices in other countries (i.e., in managing assets with universal value through co-founded Foundations), a number of models were explored, but no similar case was found. Furthermore, the materials reviewed for this opinion revealed that the transition to this new management model, which had never been tested before, was carried out without proving the necessity of this new model and without initially exhausting the current possibilities related to fulfilling the fundamental functions of the state itself.<sup>264</sup> Given that by international standards national identity and cultural heritage are a fundamental human right, and to ensure that the intervention is in proportion with the situation that dictates it, the PA's opinion analyses whether the criteria of proportionality has been observed and the essence of the relevant right has not been impaired.

The Albanian Constitutional Court in its jurisprudence holds that despite the discretion of the legislator to act within its normative space and clearly define the goals it seeks to achieve on a case-by-case basis, it is unacceptable in a state of law to undertake and approve legislative initiatives that are not based on preliminary assessments or studies (see decision no. 29 dated 2.07.2021 and decision no. 60, dated 16.09.2016 of the Constitutional Court). Constitutional jurisprudence, especially as regards the means used by the legislator, states that the legislator should apply such legal means, which are effective, meaning they must be chosen in such a way as to be suitable for achieving the pursued goals. The use of these means must be necessary, meaning that the goal cannot be achieved by other means.

The Opinion concludes that given *the high protection status of the Butrint National Park, and in the context of preserving cultural heritage as stipulated in the Constitution, as well as in the light of the international conventions ratified by our country, the Albanian legislation on the preservation and management of cultural and natural assets appears problematic. These issues may serve as a premise for the violation of constitutional principles, warranting very careful consideration by the Constitutional Court.*

4.1.4. *“Amicus Curiae” opinion to the Constitutional Court regarding the Decision of the Council of Ministers no. 495, dated 21.07.2022 “On the reorganization of the judicial districts and territorial competences of the courts.”*

At the request of the Constitutional Court, the People's Advocate provided an opinion on the case presented by the applicant, the Chamber of Advocates of Albania, requesting that the court *“Repeal, as incompatible with the Constitution of the Republic of Albania, Decision of the Council of Ministers no. 495, dated 21.07.2022 “On the reorganization of the judicial districts and the territorial competences of the courts.”*

Before the aforementioned Decision was approved, in the early stages of the new judicial map being proposed, the institution of the People's Advocate, closely followed the public discussions and debates

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<sup>264</sup> The international conventions in which the Butrint Park is included (the Paris Convention, the Ramsar Convention, etc.), stipulate that assistance may be provided as appropriate. However, it appears that such assistance was not requested.

around this topic held by the High Judicial Council and the Ministry of Justice. Due to the high sensitivity of this issue and considering complaints from citizens, especially those from vulnerable groups, an ex officio investigation of the case was initiated. At the end of the administrative investigation, *a recommendation was made to the relevant authorities to review the proposed judicial map in order to ensure citizens' access to justice in the context of due process rights.*

The People's Advocate assessed that the implementation of the new map does not improve access to justice; on the contrary, it undermines this principle, leading to increased costs for citizens and a reduction in the quality of services delivered. Over the past few years, in the context of the judicial reform in the country, there have been notable vacancies of judges at various levels, causing delays in citizens' trials and consequently violating the principle of a fair legal process, especially regarding trial within a reasonable time. Approving a judicial map that significantly reduces courts' number might result in a reform that further limits citizens' rights to having their cases resolved within reasonable timeframes.

Furthermore, increasing the distance for proceedings in the first and second instances, according to the new map, will significantly affect citizens' ability to follow legal processes, while increasing associated costs. The vacancies of judges is the most significant problem in the normal functioning of the courts. This situation makes it impossible to respect reasonable timelines in adjudicating cases, creating considerable delays in delivering justice.

In the opinion submitted to the Constitutional Court, the People's Advocate maintained that the approved judicial map undermines access to justice in interpretation of Article 42 of the Constitution, requiring its revision to ensure citizens' access to justice in both first instance (general jurisdiction and administrative courts) and appellate courts.

The Constitutional Court, on 27.12.2023, after considering the request and the claims presented by the applicants, as well as the counterarguments of the interested parties, decided by a majority vote to: *“Overturn the request. Regarding the claim of violating the individual's right of access to the court, the Court assessed that in the balancing of interests, the public interest of the common good has been respected, on the one hand, with the limitation of the right of access, on the other hand”.*

Balancing the right of the individual to efficiency, effectiveness, and quality in the delivery of justice services, as intended by the implementation of the new judicial map, with the limitation of the right of access to justice, the Court concluded that this intervention does not violate the principle of proportionality.

In comparing these consequences, it is particularly important to emphasize that individuals have the opportunity to exercise their constitutional right to access to the court despite the effects of judicial reorganization, which fundamentally has not made the exercise of this right impossible.<sup>265</sup>

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<sup>265</sup>Furthermore, see decision no. 70, dated 27.12.2023 of the Constitutional Court:

[https://www.gjk.gov.al/include\\_php/previewdoc.php?id\\_kerkesa\\_vendimi=3975&nr\\_vendim=1](https://www.gjk.gov.al/include_php/previewdoc.php?id_kerkesa_vendimi=3975&nr_vendim=1)

4.1.5. *“Amicus Curiae” opinion to the Constitutional Court regarding the constitutional case: ‘Review of the constitutionality of Article 377 of Law No. 7850, dated 29.7.1994 “On the Civil Code of the Republic of Albania”’*

On 20.09.2023, the Constitutional Court of the Republic of Albania conducted a preliminary review of the applications no. 9 (GJ) 2023 from the Fundamental Registry presented by the Supreme Court, and no. 11 (GJ) 2023 from the Fundamental Registry, presented by the Appeal Court of General Jurisdiction, concerning: “Abolition of Article 377 of the Civil Code, as incompatible with the Constitution of the Republic of Albania,” based on Article 21, paragraph 1, of Law No. 8577, dated 10.02.2000, “On the Organization and Functioning of the Constitutional Court of the Republic of Albania,” as amended. (Law No. 8577/2000)

By letter no. 866/5 Prot, dated 20.09.2023, “Notice of Referral for Review in Public Hearing and Consolidation of Cases,” the Assembly of Judges of the Constitutional Court decided on 20.09.2023 to consolidate these cases into a single case concerning: “Abolition of Article 377 of the Civil Code, as incompatible with the Constitution of the Republic of Albania,” and to summon the Parliament of the Republic of Albania, the Council of Ministers, the National Chamber of Notaries, and the People's Advocate as interested parties.

Based on the above and in compliance with the provisions of Law No. 8577, dated 10.02.2000, “On the Organization and Functioning of the Constitutional Court of the Republic of Albania,” as amended, and Law No. 8454, dated 04.02.1999, “On the People's Advocate,” as amended, this request was considered by the People's Advocate as a request for an Amicus Curiae opinion, which our institution submitted in writing to the Constitutional Court within October 2023.

Our institution’s opinion attempted to address not only the premises of an infringement or non-infringement of a fundamental human right, but also to provide a broader perspective from the viewpoint of the highest standard of legal implementation, considering that the People's Advocate is a constitutional body protecting the legitimate rights, freedoms, and interests of individuals. Guided by the principles of impartiality, confidentiality, professionalism, and independence, it operates in defence of human rights and freedoms as provided for by constitutional and legal provisions.

The People's Advocate ensures the institutional regulation of the rule of law by promoting standards of due legal processes across all three branches: legislative, executive, and judicial. As a mechanism of the rule of law, with flexible competencies, the People's Advocate helps maintain the foundations of the State. An infringement of one right, such as the “property right,” must not only pursue a legitimate aim but also be proportional in order to avoid creating an imbalance in the exercise of fundamental human rights.

Regarding the incompatibility of Article 377 of the Civil Code with the Constitution of the Republic of Albania, the People's Advocate supported the stance expressed by the Court of Appeal in Vlora and the Civil College of the Supreme Court that Article 377 of the Civil Code contradicts the Constitution and should therefore be abolished by the Constitutional Court. According to the People's Advocate, this article infringes upon several of the most important constitutional principles and is inconsistent with the provisions and judicial practice of the Constitutional Court and the European Convention on Human



Rights. The opinion submitted to the Constitutional Court analysed, among others, the following legal principles:

*Violation of the Principle of Legal Certainty.* According to our stance on the violation of this principle concerning Article 377 of the Civil Code, legal certainty implies, among other things, that the causes assessed by constitutional jurisprudence as leading to the violation of the principle of legal certainty are diverse. These causes include conceptual violations, knowledge of the legal norm, clarity of the norm, prohibition of retroactive application of the law, guarantee of no punishment without law, duration of judicial proceedings, non-violation of final decisions and the obligation to implement them, protection of legitimate expectations, and realization of effective judicial protection.

The existence of a legal norm in the legal system is not sufficient to meet the requirement of legal certainty, as the norm must also be clear. Uncertainty does not align with the purpose, stability, reliability, and effectiveness that the legal norm itself aims to achieve.<sup>266</sup>

Based on the constitutional standard as above, the People's Advocate assessed that Article 377 of the Civil Code, which regulates who may be entitled to benefit from a will, read in sync with Article 406 of this Code to the extent it interacts with this provision, currently does not conform to the principle of the rule of law from the perspective of legal certainty, clarity, comprehensibility, and coherence of the normative system.

Article 377 of the Civil Code, according to the opinion of the People's Advocate, presents as a fully restrictive, unclear, and problematic norm, and the restriction of the testator's freedom to designate an heir by will under Article 377 is highly intrusive and conditional. The Albanian testators, according to this article, find themselves in an absolute inability to dispose of their property by will to a third party outside their legal heirs, even for a minimal portion of their property. They are obliged to fully comply with the circle of heirs who are naturally or legally such, being forced not to include third parties in the will whom the testator, as an emotional and affective human being, has chosen to consider as such. The testator is required to respect legal boundaries and adjust their will according to that of the legislator, without guaranteeing this subject the legal certainty to dispose of their property autonomously based on affection, gratitude, factual situations towards third parties beyond this circle.

In our opinion, we also addressed the violation of the property right as a result of the violation of the principle of non-discrimination and equality of citizens, referring to the prohibitive and restrictive provisions of Article 377 of the Civil Code. According to the opinion presented by the People's Advocate, the right to freely dispose of property by will is considered a fundamental principle in testamentary law that should reflect the legislation's commitment to respecting the testator's individual autonomy. Thus, testamentary freedom is manifested through the freedom of form of the will, free content, or revocation of the will. This principle presupposes to be manifested also in what constitutes the essence of the will, the testator's *libertas testandi* to freely decide how and to whom their property will be disposed of.

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<sup>266</sup>See decisions no. 34, dated 20.12.2005, no. 14, dated 22.05.2006, no. 36, dated 15.10.2007 of the Constitutional Court of the Republic of Albania.

According to the stance presented, under the current Article 377 of the Civil Code, the testator can dispose of their property in favour of any individual or legal person only if they do not leave descendants, ascendants, brothers, or sisters. This provision, which at first glance seems to sanction the testator's freedom, in fact, constitutes the greatest restriction of their will. The People's Advocate considers that Article 377 of the Civil Code contradicts the fundamental right of property since it prohibits the testator, the legitimate holder of civil and constitutional rights, from freely disposing of their property in favour of third parties, even when respecting Article 379 “legal reserve” of this Code. Consequently, Article 377 creates a differential and contradictory regime in several aspects:

- differentiates the testator/owner, legitimate holder of civil and constitutional rights from the individual/owner, legitimate holder of civil and constitutional rights. The latter, unlike the testator and despite potentially having the same qualities, can freely dispose of their property through other accepted forms of property transfer, such as donation or sale;
- differentiates legal actions for property transfer, which, although unilateral, bilateral, mortis causa, or vitae causa, are all based on the autonomy of will of the parties;
- differentiates the testamentary heir/legitimate holder of civil and constitutional rights from the individual/beneficiary of property as a legitimate holder of civil and constitutional rights. The latter, unlike the testamentary heir and despite potentially having the same qualities, can freely benefit from property through any of the accepted methods of property acquisition, such as donation or sale;
- Article 377 entirely disrupts the balance between a) the right of individuals to freely dispose of property by will as with any other legal and valid act within the limits of Article 379 and the right of third parties to acquire this property through any method recognized by the Constitution and current legislation, and b) the right of family members to benefit a certain mandatory portion from the testamentary inheritance/mass of the deceased according to Article 379. The rights of individuals in group “a” appear legally minimal or not possible at all compared to the absolute totalitarian rights of group “b”, which are derived simultaneously from the institute of legal inheritance and Articles 377 and 379 of the Civil Code.

In the People's Advocate's opinion on the incompatibility of Article 377 of the Civil Code with the Constitution and other laws, we also addressed the violation of the right to respect for family life as a result of the violation of the principle of non-discrimination and equality of citizens. After a thorough analysis of this principle, we focused on the practice of the European Court of Human Rights and specific cases that affect the legal provision of the Civil Code.<sup>267</sup>

According to the opinion presented by the People's Advocate, Article 377 of the Civil Code, which nullifies the testator's right to dispose of their property and does not allow third parties to inherit based on “affection” rather than “blood,” despite respecting the rules of legal inheritance and legal reserve, results in unequal treatment of individuals with the same civil and constitutional rights. This unequal treatment is particularly evident in the legal impossibility for the testator's de facto partner, who, like a lawful spouse, shared a stable and continuous cohabitation based on love, respect, and mutual understanding, to inherit through a will.

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<sup>267</sup> *Beyeler v. Italy*, no. 33202/96, para. 100; *Fabric v. France* parag. 49 etc. ; *Marckx v. Belgium* para. 52-55; *Fabris v. France*; *Moretti and Benedetti v. Italy*; *Niemietz v. Germany*; *Abdulaziz v. United Kingdom*; *Keegan v. Ireland*, *Marckx v. Belgium*; *Brauer v. Germany*; (*Llafe v. Spain*); (*X, Y and Z v. United Kingdom*).

The People's Advocate considers that any legal restriction must be proportional, balancing public interest with the fundamental rights and freedoms of individuals. This principle of proportionality is supported by the notions of legal certainty and transparency. Additionally, these measures must be necessary, using the least harmful means for those whose constitutional or legal rights and freedoms are affected. The legal restriction imposed by Article 377 of the Civil Code, which excludes de facto partners and any third parties from both legal inheritance rights and testamentary inheritance, cannot be considered in line with the principles of proportionality, non-discrimination, and equality of citizens. In these conditions, Article 377 of the Civil Code (read together with Article 406) when prohibiting the testators from freely disposing of their property in favour of the de facto family, who, unlike the category of legal heirs, are deprived of the right to acquire property through a will, is disproportionate and entirely incompatible with the constitutional/conventional rights to respect for family life, non-discrimination, and equality of citizens.

As our opinion aimed to provide international standards, we made efforts to identify similar models in other countries, specifically analysing not only Albanian law since 1929 but also the legislation of several European countries<sup>268</sup>.

Comparing the legal provisions of Article 377 of the Civil Code of the Republic of Albania, the People's Advocate concluded that the article under constitutional review (and all articles affected by it, to the corresponding extent) does not comply with the requirement for legal certainty. The norm is unclear and does not align with the purpose, stability, reliability, and effectiveness it aims to achieve.

In the conclusion of the opinion, the People's Advocate assessed that Article 377 of the Civil Code (when read in conjunction with Article 406) is incompatible with the constitutional and conventional rights to legal certainty, the right to property, and the right to family life. This incompatibility arises from the violation of the principles of non-discrimination and equality of citizens, as well as the lack of proportionality.

Furthermore, regarding the issue under constitutional judgment, the People's Advocate considers that constitutional interpretation is needed for some incomplete and/or unclear provisions of the Civil Code related to testamentary inheritance in the context of Article 377, such as: (i) Article 374 of the Civil Code (whether the incapacity to acquire by will refers only to the conditions according to Articles 320, 322, 375, or also to inclusion in the ranks of legal inheritance in Articles 361-364 of the Civil Code), (ii) Article 384 of the Civil Code “Legacy and Charge/Burden” (testamentary disposition for minors following the logic of Article 377), and the legislator's orientation for unclear provisions directly or indirectly affected by Article 377 of the Civil Code as a result of the conclusions that will be drawn by the Constitutional Court regarding the declaration or not of this provision as unconstitutional.

It is worth noting that the Constitutional Court, by its decision dated 27.12.2023, supported the stance presented by the People's Advocate regarding the aforementioned issue, accepting the request and declaring Article 377 of the Civil Code incompatible with the Constitution and obligating the Parliament of Albania to fill the legal gap resulting from this decision within one year of its entry into force.

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<sup>268</sup>The Italian Civil Code, the German Civil Code, the French legal system.

**4.1.6. Monitoring the Accessibility of Infrastructure for Persons with Disabilities in Voting Centres**

In the framework of the 2023 Local Elections, with the aim of identifying existing potential problems and taking the necessary appropriate measures to guarantee the voting rights of persons with disabilities, the institution of the People's Advocate (General Section and representatives of Regional Offices in the cities of Shkodër, Kukës, Pogradec, Dropull i Poshtëm, Sarandë, Berat, Vlorë) monitored the accessibility of infrastructure for persons with disabilities in voting centres in several cities of Albania, according to the Work Plan approved by the People's Advocate, Mrs Erinda Ballanca.

***Findings from monitoring the Voting Centres***

The General Section monitored 510 Voting Centres located in 252 state buildings in the municipalities of: Tiranë, Lezhë, Lushnje, Divjakë, Fushë-Krujë, Durrës, Kavajë, Elbasan, Gramsh, Cërrik, Fier, Pukë, Fushë-Arrëz, Rrogozhinë, Vau i Dejës, Kamëz, Kashar, Vorë, Tiranë/Administrative Unit Dajt, and Kashar.

Representatives of the Regional Offices monitored 430 Voting Centres located in 169 state buildings in the municipalities of: Kukës, Sarandë, Shkodër, Malësi e Madhe, Berat, Kuçovë, Poliçan, Dimal, Pogradec, Maliq, Librazhd, Vlorë, Dropull/Administrative Unit Dropull i Sipërm, Dropull i Poshtëm, Pogon.

<b>Town</b>	<b>No. VC</b>	<b>No. of buildings</b>	<b>With ramp</b>	<b>a No ramp</b>	<b>Signage for the blind</b>
Lezhë	22	9	7	2	
Lushnjë	35	13	7	6	
Divjakë	13	4	4	-	
Laç	17	8	5	3	
Fushë-Kruja	15	13	7	6	
Durrës	89	61	55	6	
Kavajë	17	9	7	2	
Elbasan	33	16	11	5	
Grams	12	9	5	4	
Cërrik	14	9	7	2	
Fier	53	19	15	4	
Puka	5	5	3	2	
Fushë-Arrëz	4	4	2	2	
Rrogozhinë	7	7	5	2	
Vau i Dejës	4	4	3	1	
Kamëz	50	11	11	-	
Dajt	22	7	5	2	

Kashar	23	3	3	-	
Vorë	12	5	4	1	
Tirana	63	36	36	-	
Vlorë	72	25	15	10	
Pogradec	75	26	3	23	
Maliq	9	4	1	3	
Prrenjas	4	1	1	-	
Librazhd	6	4	1	3	
Berat	88	30	16	14	
Kukës	22	17	5	12	
Dropull	21	18	3	15	
Saranda	34	12	-	12	
Shkodër	99	32	18	14	
Total	940	421	265	156	

From the monitoring conducted in 421 buildings where 940 Voting Centres were located, 265 buildings were accessible on the ground floors for persons with disabilities (equipped with ramps at the entrances). However, 156 buildings lacked ramps at the entrances. Expressed as a percentage, it turns out that 59% of buildings, mainly educational, are not accessible for persons with disabilities.

In voting centres located on the second floor of buildings, there was no access for persons with disabilities as they were not equipped with elevators or internal ramps, except for two or three schools.

When Voting Centres were designated on the second floor, no specific measures were foreseen for the accessibility of persons with mobility and visual impairments, despite positive responses from some local government leaders for considering and implementing recommendations to guarantee the voting rights of persons with mobility and visual impairments.

It remains evident that an unresolved issue in all state buildings housing voting centres is the lack of infrastructure for visually impaired persons.

The People's Advocate emphasizes that the lack of appropriate facilities in voting centres, for voting by persons with disabilities, can be considered a restriction or obstacle to their right to vote.

#### *4.1.7. Independent Monitoring of the Rights of Foreign Emigrants*

In 2023, the institution of the People's Advocate, in its role as the National Mechanism for the Prevention of Torture, continued monitoring the borders through the implementation of a cooperation agreement signed with UNHCR. This was part of the joint project “Refugees and Asylum Seekers in Southeast European Countries”<sup>269</sup> aimed at border control and refugee protection in Albania, specifically in the southern regions (Gjirokastrë, Sarandë, Përmet) and southeastern regions (Korçë, Devoll, Bilisht).

<sup>269</sup> On December 29, 2023, the new Cooperation Agreement with UNHCR, for the year 2024, was signed.

### ***National overview of Migratory Inflows***

Albania is part of the Western Balkan Route where irregular migrants enter from the southern and south-eastern Albanian border with Greece. According to information from border police officers, the migratory groups arriving in Albania do not consider our country as a destination for permanent residence, and therefore very few of them seek asylum.

The remainder, through northern land border points, continue their journey towards Kosovo or Montenegro, aiming to enter EU countries. The influx of irregular migrants from the Middle East and North Africa who crossed the Greek-Albanian border decreased in 2023 compared to the previous three years (2020 – 2022).

According to border police data, around 2340 irregular foreign migrants were identified in the Korçë region from January to December 2023. Meanwhile, during the period January to December 2023, 903 irregular foreign migrants were identified in the Gjirokastër region, and 1344 irregular foreign migrants were identified in the territory of Saranda.

Flows of irregular migrants for 2023

Year	2023
The territory of Gjirokastra	903
The territory of Saranda	1344
The territory of Korça	2340

### ***Local Overview of Migratory Inflows, Korçë***

From January to December 2023, 2340 individuals were intercepted and accommodated at the Reception Centre in Kapshticë, of which 1463 entered Albanian territory for the first time and 877 were repeat entries.

High-risk migrant groups are women and children under 18 years. Statistics show that during this period, 105 children under 18 entered irregularly, 96 women over age of 18, and 30 females under age of 18.<sup>270</sup> Compared to recent years, there has been a continued decrease in inflows that began last year.<sup>271</sup> Due to the influx of irregular migrants over the past two years, the International Organization for Migration (IOM) made a new investment within the territory of the Kapshticë Transit Centre, adding two containers, increasing the Centre's accommodation capacity by 50 beds. Thus, the Centre's capacity increased from 60 beds in 2022 to 110 beds currently. The police staff at this centre, responsible for interviewing, selecting, and treating migrants, had no shortages.

Recommendations:

<sup>270</sup> With regard to citizenship, most of the migrants were from Syria, Iraq, Afghanistan, Palestine, Morocco, Algeria, etc.

<sup>271</sup> Specifically, in the year 2020, a total of 15,534 irregular migrants entered through the Kapshtica border, in the year 2021, the number was 13,228 and in 2022, there were 2,328 irregular migrants entering.

- improve the system and provide training for migration officers conducting selection interviews to identify categories of migrants seeking and deserving protection;
- in 300 cases, interviews were not accurately conducted by the border police, and the question of whether they wanted asylum in Albania was not asked;
- social centres and the reception centre in Babrru remain problematic as they continue not to accept asylum seekers. Only a few sporadic cases, which are advocated for, are accepted. This issue needs to be examined and addressed, and the Centre's capacity needs to be resolved;
- the lack of a translator for languages such as Dari, Farsi, etc., is an issue, especially since the trend of entries into the territory has been from Afghanistan. The translation has been carried out by FRONTEX translators;
- the facilities of GOS Kapshtica are not supplied with running water and the toilets and showers are not working.

### ***Local overview of Migratory inflows, Gjirokaštër***

According to the Regional Border Directorate of Gjirokaštër, 903 irregular migrants were caught near the green border and within the territory.<sup>272</sup> In border crossing point (BCP) Kakavijë and Tre Urat, there was a decline in the number of irregular migrants identified at the green border and in the territory in general compared to the previous year. Migrants have diverted their movement direction, entering the territory of Albania through the *Border Crossing Point in Qafë Botë* (under the jurisdiction of the Local Directorate of Border and Migration in Vlorë).

The increasing trend of irregular migrants is due to several factors, including an increase in the number of migrants arriving in Greece from the aforementioned countries and the establishment of camps by Greek authorities near the Albanian border, specifically in the regions of Janina and Thessaloniki. Migrants aim to cross the border (through routes or paths not controlled by border forces and FRONTEX), entering Albania and continuing towards other border points in the north of our country towards Kosovo or Montenegro, aiming to reach EU countries, considering Albania as a transit country.

### ***Recommendations:***<sup>273</sup>

- voluntary return procedures to Greece must be carried out through a protocol with the Greek side;
- identifying and registering irregular migrants by the border services and conducting selection procedures according to rules, as well as discouraging any return of migrants to the Greek territory during night hours;

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<sup>272</sup> 7 744 (seven hundred and forty-four) migrants entered for the first time; 159 (one hundred and fifty-nine) were repeat offenders, who were in conditions of voluntary departure; 840 (eight hundred and forty) were males, 29 (twenty-nine) were females, and 30 (thirty) were minors, of whom 29 (twenty-nine) were unaccompanied and 1 (one) was accompanied by family members. The selection process was conducted in accordance with standard operating procedures by the Migration Sector for a total of 903 (nine hundred and three) migrants; Voluntary Execution Deportation Orders were issued for 852 (eight hundred and fifty-two) migrants. 4 (four) migrants sought asylum in the Republic of Albania, and 10 individuals were detained in Q.M. Karreç-Tirana with a Deportation Order.

<sup>273</sup> These recommendations also apply to the area of Saranda

- the training of border police forces in respecting the rights of migrants and ensuring their safety, especially during operations to pursue smugglers, is crucial. According to monitoring, smugglers often do not stop for police patrols, which frequently leads to road accidents;
- regarding the reception centre that has been put into operation in Qafë Botë, it is important to ensure that the project provides for human resources responsible for the maintenance and proper functioning of this centre.

### *Local overview of Migratory Inflows, Saranda*

A total of 1344 illegal foreign nationals were identified<sup>274</sup> in the border territory and within the territory, of which 187 were females, 1157 males, and 172 minors accompanied by their families. All these individuals were first-time entrants, with 132 persons seeking asylum.<sup>275</sup>

Eight cases of unaccompanied foreign minors were referred to Child Protection Workers (CPW) of the Konispol Municipality. Four were accommodated in the Gjirokastrë Municipality Social Centre, and four were accommodated at the “Arsis Centre” in Tirana.

The main entry direction remains the Qafë Botë - Katajeto sector. There is a slight increase in the number of illegal foreign nationals who chose the territory covered by Sarandë Police Station as their transit route. Compared to the same period in 2022, where the number of illegal foreign nationals was 1161, there is an increase of approximately 183 more illegal foreign nationals. Medical assistance was provided when necessary, and in cooperation with the “Caritas Albania” organization based in Gjirokastrë, food, clothing, and accommodation were provided. With the opening of the “Transit Reception Centre” at BCP Qafë Botë, more suitable accommodation was ensured for these categories.

For the three geographical areas mentioned above, the following issues exist regarding the treatment of unaccompanied minors and/or potential victims of trafficking:

- there is no National Referral Mechanism for cases of individuals with specific needs such as: separated or unaccompanied children, potential victims of trafficking;
- there is no national centre for the treatment of unaccompanied children of irregular migrants;
- there is no instruction from the Minister of Interior for the long-term accommodation of unaccompanied minors;
- the centres lack the conditions for long-term housing for unaccompanied minors;
- the Asylum referral system needs to be improved;
- there is no list of licensed translators and psychologists;
- there is a lack of psychological support in temporary centres;
- there is a lack of female personnel (police officers, translators, psychologists);
- the movement of personnel in some of the Child Protection Units within Municipalities from one sector to another is frequent. In cases of assistance to unaccompanied minors, this creates problems with the qualification of staff that needs continuous training;

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<sup>274</sup> Foreign nationals caught within the border territory as well as further inland, according to nationality, were mainly Syrian 95, Algerian 2, Afghan 657, Moroccan 9, Iraqi 6, Iranian 233, Nepalese 60, Palestinian 8, Somali 2, Russian 1, Pakistani 123, Indian 11, Sudanese 13, Bangladeshi 112, Egyptian 2, Chinese 6, etc.

<sup>275</sup> The majority of them were Afghan citizens (126), Iranian (5) and 1 with Russian citizenship. A total of 16 Deportation Orders and 1196 Voluntary Execution Deportation Orders were issued.



- there is no medical staff to identify cases that may be carriers and transmitters of infectious diseases.

<b>Indicators</b>	<b>Region</b>	<b>Target</b>	<b>Progress</b>
<i>Monitoring migrant selection and interviewing procedures</i>	<b>Tiranë, Gjirokastrë and Korçë</b>	<b>1300 persons per year</b>	<b>1330</b>
<i>Monitoring visit at the border and reception places</i>	<b>Tirana, Gjirokastrë and Korçë</b>	<b>390 visits</b>	<b>420</b>
<i>Recommendations to the Border and Migration Department</i>	<b>NPM/Experts</b>	<b>4</b>	<b>3</b>
<i>Analytical reports on migratory inflows</i>	<b>Tiranë, Gjirokastrë and Korçë</b>	<b>4</b>	<b>5</b>
<i>In-depth interviews with migrants</i>	<b>Tiranë, Gjirokastrë and Korçë</b>	<b>600</b>	<b>530</b>
<i>Joint annual reports to UNHCR</i>	<b>Tiranë, Gjirokastrë and Korçë</b>	<b>12</b>	<b>12</b>

#### 4.1.8. Annual conference

On December 15, 2023, the Annual Conference of the People's Advocate was held with the theme “75th Anniversary of the Universal Declaration and the 25th Anniversary of the Constitution of Albania: The Evolution of Human Rights in Albania.” This conference aimed to reflect on the progress made over the past 75 years, recognize the challenges, and envision the future of human rights in Albania. Invited as panellists at the Conference were the Deputy Speaker of the Parliament of Albania, Ermonela Felaj, the President of the Constitutional Court, Holta Zaçaj, the Minister of Justice, Ulsi Manja, the Permanent Coordinator of the United Nations in Albania, Fiona McCluney, the Head of the Council of Europe Office in Tirana, Gulia Re, other representatives from Parliament, state institutions and independent bodies, representatives from the diplomatic corps, foreign organizations in our country, civil society, and the media.

The conference was opened by the People's Advocate, Erinda Ballanca, who emphasized in her message that “The identification and delineation of new rights, or the shaping of many socio-economic rights,

have brought the need to look again at constitutional provisions and see if they pass the test of compatibility with the contemporary reality of human rights. The challenges and complexities of the 21st century require a reassessment of our constitutional framework to ensure that it is appropriate, responsive, and inclusive.”

It was also highlighted that “The inclusion of social objectives in the Constitution of the Republic of Albania, in another chapter, that of effective rights, is today a necessity. Effective environmental rights, human rights issues, technological progress, all these are rights that must be enshrined in the Constitution in the appropriate chapter so that they have the necessary guarantee. The new catalogue of human rights must protect vulnerable groups, so that no one is left behind on the path to progress.”

The conference was held in two discussion sessions where in the first session the panellists addressed the topic “25th Anniversary of the Constitution of Albania - The need for Constitutional interpretation and steps for legislative improvements”, while in the second session, the topic: “The Role of United Nations Agencies – from the promise of Human Rights 75 years ago, to current achievements and challenges” These panels focused on evaluating the journey of human rights in Albania since the adoption of the Universal Declaration of Human Rights in 1948, recognizing achievements and key moments, identifying and discussing the challenges and human rights issues faced by individuals in Albania, emphasizing the role of the People's Advocate in addressing these concerns, and the need for engagement in a constructive dialogue on strategies and initiatives to further advance human rights in Albania, emphasizing the importance of cooperation between state institutions, decision-makers, and the international community.

The Annual Conference of the People's Advocate served as a platform for discussion, knowledge sharing, and collaboration to ensure a more just and equal future that respects the rights of all citizens, as well as fostering a collective commitment to advancing human rights and building a society that values the dignity and well-being of every individual.

## CHAPTER V

### COOPERATION

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#### *5.1 Cooperation with Public Administration Institutions and the level of implementation of the recommendations of the People's Advocate*

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In addition to the protection of human rights, one of the primary goals of the People's Advocate is to develop what is known as the culture of good governance. This notion includes good management of public property, transparency, and accountability of the public administration to the citizens. The People's Advocate, through its recommendations, strives to set the standard for the functioning of the Public Administration, making it understand its true role towards the citizens, and realize that the real reason for its existence is to serve the citizens in the pursuit of their rights. In our work, we have found that creating a human rights culture in Albania requires close cooperation with public administration bodies, civil society, international institutions both within and outside the country, academic circles, and the media, as well as raising public knowledge and awareness about their rights.

The function and mission of the People's Advocate are to examine issues that arise as a result of mismanagement in the public administration. The primary instrument the People's Advocate uses to achieve results is through recommendations. After reviewing and investigating various issues, the People's Advocate mediates and, through its recommendations, aims to solve problems on a legal basis. The solutions achieved by the People's Advocate aim to improve the standards and quality of public administration services.

The opinions and recommendations of the People's Advocate aim to reflect the most important issues related to human rights standards in Albania. Experience has shown that solving an individual case often highlights a systemic problem in the field of human rights, prompting the responsibility of public administration bodies.

The level of implementation of recommendations by public administration institutions has been and remains a constant concern for the institution of the People's Advocate. Beyond the positive steps and initiatives observed over the years, much remains to be done in this direction, not only by public administration bodies at the central and local levels (especially regarding the implementation of recommendations) but also by the Albanian Parliament as the legislative body where the reports prepared by the institution of the People's Advocate are presented and discussed. This is why the institution of the People's Advocate continuously monitors the level of implementation of recommendations addressed to public administration bodies by preparing updated information that becomes part of periodic or annual reports.

The implementation by public administration institutions of recommendations issued by independent institutions is the best indicator of the implementation of the organic law and the relevant regulatory framework, as well as the fulfilment of the latter's institutional mission, guaranteeing the authority and independence of these institutions. In this sense, the role of Parliament, which oversees both the executive

and independent institutions, to ensure that the former implements the recommendations of the latter, is considered very important.

#### *5.1.1. Implementation Rate of recommendations*

During the year 2023, the institution of the People's Advocate has addressed a total of 266 recommendations to public administration bodies, including the central and local ones. From the total number of recommendations, the level of their implementation until February 2024 results as follows:

- Recommendations accepted and implemented fully: 31 recommendations or 12%
- Recommendations accepted and implemented partially: 116 recommendations or 44%
- Recommendations accepted but not implemented: 26 recommendations or 10%
- Recommendations rejected: 23 recommendations or 9%
- Recommendations without response: 56 recommendations or 21%
- Recommendations in the process of implementation: 14 recommendations or 5%

The total of 31 recommendations, or 12%, that were accepted and implemented fully includes those recommendations for which institutions have provided a response that fully addressed all points made by the People's Advocate and have fully implemented those points.

The total of 116 recommendations, or 44%, that were accepted and implemented partially includes those recommendations for which institutions have provided a response addressing the points of the recommendations made by the People's Advocate, either fully or partially, and have implemented them only in part.

The total of 26 recommendations, or 10%, that were accepted but not implemented includes those for which institutions provided a response accepting the points of the recommendations in principle but did not fully or partially implement them.

The total of 23 recommendations, or 9%, that were rejected includes those recommendations for which the public administration institutions responded that their implementation is rejected.

The total of 56 recommendations, or 21%, that were unanswered includes those for which, although the procedural administrative deadlines had passed, there was no response from the institutions.

The total of 14 recommendations, or 5%, that are in the implementation process includes those recommendations whose implementation has been reported as in progress by the institutions.

The recommendations made by the institution of the People's Advocate often address multiple specific issues. Consequently, a single recommendation to public administration bodies may contain several sub-recommendations for resolving specific issues. In the 266 recommendations addressed during 2023, a total of 1,275 sub-recommendations were included.

#### *5.1.2. The ratio of Implemented recommendations to Accepted recommendations by institutions*

For the purpose of reporting this indicator, the calculation will be based on the total number of accepted recommendations and those fully implemented. Out of the total 266 recommendations addressed, the number of accepted recommendations is 173, while the number of fully implemented recommendations is 31.

The ratio of implemented recommendations to those accepted by the institutions is as follows:

$$R_{ACC} = \frac{31 \text{ recommendations fully implemented}}{173 \text{ recommendations accepted}} * 100 = 18\%$$

### *5.1.3. Cooperation within the European Integration process*

The European Union is based on and develops through a genuine commitment to the protection and promotion of human rights, democracy, and the rule of law. Guaranteeing fundamental rights is one of the fundamental principles of this organization. The development of human rights has significantly progressed through the rulings of the European Court of Justice and the most important documents addressing these issues.

In accordance with its constitutional mandate, the institution of the People's Advocate, as one of the key actors in the national system for the protection of human rights, has highly valued this process by cooperating with all state structures responsible for following and implementing obligations. This is done through providing meaningful contributions that play an important role in respecting human rights and strengthening the rule of law, as premises for the country's integration into the European Union.

The institution of the People's Advocate continues to contribute to this entire process through direct participation in the Inter-institutional Working Groups (IWGs) established in accordance with the chapters of the acquis, particularly noting the commitment and contribution offered within the framework of Chapter 23, which covers several areas under the general umbrella of the Judiciary and Fundamental Rights. This chapter is essential for pre-accession efforts and holds special importance during membership negotiations, where strict conditions and specific stages are set along with monitoring by the European Union. Additionally, participation and concrete contributions have been offered for Chapter 19.<sup>276</sup>

As reported in the annual report for 2022, from October 25th to 28th of 2022, an evaluation mission was conducted by experts contracted by the European Commission to monitor independent institutions and assess their effective functioning, with the People's Advocate being one of the institutions monitored.

At the end of October 2023, the draft report prepared by the relevant experts was presented, on which the institution of the People's Advocate expressed positive evaluations and considerations regarding what was emphasized and highlighted, while also reserving the right to make comments and clarifications on some specific elements, not only to avoid misunderstandings that may arise but also to provide an accurate and updated picture of the data and specific situations addressed in this report.

The People's Advocate considers this report a very valuable tool not only for identifying and accurately portraying the legal and institutional environment in which the institution operates but also for providing a series of concrete recommendations for the proper addressing of issues. These recommendations create

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<sup>276</sup>Social Policies and Employment.

a more meaningful space for action and the exercise of the mandate in accordance with European and international standards in the field of human rights.

During 2023, the institution of the People's Advocate has participated and contributed within the framework of joint EU-Albania meetings, notably contributing to the 14th meeting of the EU-Albania Subcommittee on Justice, Freedom, and Security, held on June 14-15, 2023, via the Webex platform, on issues mainly related to:

- the right to life, prevention of torture and ill-treatment, and the prison system;<sup>277</sup>
- protection of minorities;
- children's rights;
- the rights of persons of the LGBTI community;
- inclusion of the Roma/Egyptian community;

Additionally, the institution of the People's Advocate has contributed to the process of drafting the National Program for European Union Membership (NPEUM) 2024 - 2030, the National Plan for European Integration (NPEI) 2024-2026, the Rule of Law Roadmap, and the preparation of the Albanian Government's Contribution to the European Commission's Report on Albania for 2023.

The People's Advocate has continued to actively participate in the meetings and reports developed by the National Council for European Integration (NCEI) as the highest national advisory structure for European integration to the Albanian Parliament. The aim is to promote and ensure inclusive cooperation between political forces, public institutions, and civil society, as well as to increase transparency in decision-making on integration issues.

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## 5.2 *International Cooperation*<sup>278</sup>

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The international approach of the institution of the People's Advocate, in collaboration with domestic and international actors, constitutes one of the most important aspects of institutional engagement in fulfilling its constitutional mission of protecting and promoting human rights. The institution of the People's Advocate continues to place special importance on establishing and strengthening relationships with peer institutions, organizations, and other international human rights networks. In this regard, the calendar of international activities for 2023 marks an increase in the presence of the People's Advocate and its representatives in various activities such as training sessions, webinars, working meetings, or conferences, organized by peer offices and international human rights organizations at both international and regional levels. Active participation at high levels of representation has facilitated, among other things, the exchange of best practices in strengthening National Human Rights Institutions (NHRI) as

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<sup>277</sup>Focusing on implementing the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

<sup>278</sup>In more detail, the international activities of the institution of the People's Advocate can be found at the link: <https://20%202023.pdf>

strong, effective, and independent bodies, which are essential for guaranteeing the promotion and protection of these rights. Specifically, some of the main activities in the field of international cooperation are as follows:

On March 13-14, 2023, the People's Advocate, Mrs. Erinda Ballanca, along with the Commissioner of the General Section, Mrs. Vilma Shurdha, participated in the ENNHRI board meeting and General Assembly, which took place in Geneva. This meeting included representatives from 40 European National Human Rights Institutions, where the report on ENNHRI's recent activities to achieve its goal of strengthening, promoting, and protecting human rights across Europe was discussed. Additionally, members discussed ENNHRI's study on the implementation of the Recommendation of the Committee of Ministers of the Council of Europe on National Human Rights Institutions.

The meeting in Geneva continued with the General Assembly and Annual Conference of the Global Alliance of National Human Rights Institutions (GANHRI), which took place on March 14-16. Among other things, the meeting served as an opportunity to mark the 30th anniversary of the Paris Principles and the global network of National Human Rights Institutions, as well as the 75th anniversary of the Universal Declaration of Human Rights, highlighting the primary importance of human rights and emphasizing the actions taken by NHRIs today to address urgent human rights issues faced by communities around the world. The annual conference provided the opportunity to reflect on the current state of human rights, identify challenges, priorities, and opportunities, and create conditions for new reflections on the importance of the Universal Declaration and the Paris Principles in today's context.

Following the ongoing activities of the European Union Agency for Fundamental Rights (FRA) and in the context of Albania's participation as an observer member in this agency, an online meeting was held on March 29, 2023, with national experts on the EU Charter of Fundamental Rights. The People's Advocate and representatives of the institution participated in this meeting. During the meeting, new FRA data and findings on the implementation of the Charter at the national level were presented.

The People's Advocate participated in the board meeting of the European Network of National Human Rights Institutions (ENNHRI), which took place on May 15-16, 2023, in Berlin. The meeting was co-organized with the German Institute for Human Rights, and ENNHRI members discussed issues related to reviewing ENNHRI's progress and charter, long-term objectives, and the accreditation of network members.

On May 24-25, 2023, the 12th Conference and General Assembly of the Association of Mediterranean Ombudsmen (AOM) was held in Pristina, where the People's Advocate and other representatives of the institution participated. The conference theme was "Integrity and Independence of Ombudsman Institutions: Resilience through Challenges" and served as an opportunity to discuss the types of threats to the independence of Ombudsman institutions, best practices, and effective responses to these threats. The People's Advocate, Mrs. Ballanca, also participated as the chair of the first discussion panel on "Independence as an essential element for an effective Ombudsman institution." At the conclusion of the activities, AOM members adopted the "Pristina Declaration," focusing on shared positions aimed at strengthening future cooperation and activities.

The institution of the People's Advocate was represented by the Commissioner of the Section for the Promotion and Protection of Children's Rights, Mrs. Olta Aliaj, at the seminar organized by the European

Network of Ombudspersons for Children,<sup>279</sup> held on May 29-30, 2023, in Stockholm, Sweden. The seminar, led by the Swedish Ombudsman for Children, discussed the role of Independent Human Rights Institutions/Children's Rights Institutions in protecting and promoting children's rights and strengthening the capacity to respond to crises such as economic, health, climate, and war crises.

The People's Advocate participated in the high-level symposium on human rights organized online on June 5-6, 2023, by the Austrian Federal Ministry for European and International Affairs in collaboration with the UN High Commissioner for Human Rights. In the successive panels, attended by human rights defenders from around the world, topics such as “the universality of human rights”, “new technologies in relation to human rights”, and “human rights as solutions to current challenges” were discussed<sup>280</sup>.

The People's Advocate, Mrs. Ballanca, participated in the next board meeting of the European Network of National Human Rights Institutions (ENNHRI), held on August 29-30, 2023, in Oslo, Norway. The discussion program included decision-making on amendments to ENNHRI's charter, the strategic plan for 2024, member institution engagement, prioritizing thematic areas, and final preparations for the General Assembly on the occasion of the organization's 10<sup>th</sup> anniversary.

On September 13-14, 2023, a conference on “Protecting fundamental rights in forced return operations: European perspectives” was held in Rome, Italy, attended by the People's Advocate and the Commissioner of the National Mechanism for the Prevention of Torture, Mr Ahmet Prenci. The main objective of the conference, organized by the Italian Guarantor for the Rights of Persons Deprived of Liberty, was to discuss the protection of fundamental human rights during forced return operations in Europe, within the framework of a project on implementing a forced return monitoring system financed by AMIF<sup>281</sup>. During the conference, the People's Advocate gave a speech, sharing the institution's experiences and the role of the National Mechanism for the Prevention of Torture in protecting fundamental rights during forced return operations.

The Commissioner for the Protection and Promotion of Children's Rights, Mrs. Olta Aliaj, participated in the 27th Annual Conference of the European Network of Ombudspersons for Children (ENOC) and the organization's General Assembly. The meeting was held on September 19-21, 2023, in Brussels, Belgium, focusing on strengthening independent institutions dedicated to protecting and promoting children's rights, considering their starting points and potential developments from various perspectives.

On September 27-28, 2023, the 13th meeting of the Council of Europe (COE) Cooperation Platform, the EU Agency for Fundamental Rights (FRA), the European Network of National Human Rights Institutions (ENNHRI), and the European Network of Equality Bodies (EQUINET) on Economic and Social Rights, and the ENNHRI Working Group on Social, Economic, and Cultural Rights took place in Helsinki, Finland. The Commissioner of the General Section, Mrs. Vilma Shurdha, and representatives from this section participated in these meetings.

The People's Advocate, Mrs. Erinda Ballanca, and other representatives of the institution participated in the General Assembly and high-level conference of the European Network of National Human Rights Institutions (ENNHRI) on “Advancing Human Rights, Democracy, and the Rule of Law in Critical Times

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<sup>279</sup> ENOC.

<sup>280</sup> Globalization, digitalization, migration and climate change.

<sup>281</sup> Asylum, Migration and Integration Fund 2014-2020.



in Europe: The Role of National Human Rights Institutions (NHRIs) and ENNHRI,” held on October 9-10, 2023, in Brussels, Belgium.

Mrs. Ballanca delivered the opening speech at the high-level meeting, which focused on the main challenges faced by NHRIs in Europe, supporting environmental defenders, freedom of expression, peaceful assembly, and association. This discussion panel was held in the context of the Network's work to protect NHRIs, as well as in the context of increased activities on climate change, protection, and promotion of human rights. The activities coincided with the 10th anniversary of the creation of the European Network of National Human Rights Institutions.

On October 18, 2023, in Geneva, Switzerland, the 86th Session of the Committee on the Elimination of Discrimination against Women (CEDAW) was held, attended by the People's Advocate, Mrs. Erinda Ballanca, and the Commissioner of the General Section, Mrs. Vilma Shurdha. Part of the agenda of this important activity included the review of Albania's Report on the implementation of the United Nations Convention on the Elimination of All Forms of Discrimination against Women. The institution of the People's Advocate prepared an Alternative Report on the Implementation of the CEDAW Convention in Albania, which presents the institution's findings on the implementation of the CEDAW Convention by the Albanian state during the years 2016-2020.

The People's Advocate, Mrs. Erinda Ballanca, and other representatives of the institution participated in the high-level conference on “The right to good administration: myth, aspiration, or reality?” co-organized by the Maltese Ombudsman and the Association of Mediterranean Ombudsmen (AOM), held on October 31 - November 1, 2023, in Malta. The conference focused on good administration and was designed in the format of several plenary sessions, the first of which was chaired by Mrs. Ballanca, who addressed the role of the People's Advocate as an institution that must ensure that public administrations remain fair and accountable. At the end of the meeting, the “Malta Declaration on Good Administration” was adopted.

The Parliamentary Commissioner for Human Rights of Ukraine (UPCHR), the Danish Institute for Human Rights (DIHR), the Global Alliance of National Human Rights Institutions (GANHRI), and the Office of the High Commissioner for Human Rights (OHCHR) co-organized an international conference on “Torture and Other Ill-treatment: The Role of National Human Rights Institutions,” held on November 6-8, 2023, in Copenhagen, Denmark. The People's Advocate, Mrs. Erinda Ballanca, and the Commissioner of the National Mechanism for the Prevention of Torture, Mr Ahmet Prençi, participated in this conference. The People's Advocate chaired one of the panels, addressing the role of NHRIs in protecting marginalized groups from torture and ill-treatment, as well as various aspects of torture prevention, victim rehabilitation, and legal frameworks.

The People's Advocate, Mrs. Ballanca, participated in the European Network of Ombudsmen (ENO) conference organized by the European Ombudsman, Mrs. Emily O'Reilly, on “Protecting Human Rights: Migration and Artificial Intelligence,” held on November 9, 2023, in Brussels, Belgium. The conference focused on how the European Union handles migration, the implications of artificial intelligence (AI) in decision-making, and how public administration interacts with citizens.

On November 15, 2023, an online webinar was organized by the Moroccan Ombudsman Institution and the International Ombudsman Institute on “The Recommending Power of Ombudsmen and the People's

Advocate to Support Administrative and Legal Reform,” in which the People's Advocate, Mrs. Erinda Ballanca, participated. In her speech, she emphasized the institution's commitment to actively making recommendations that have had a real impact on consolidating the legal and administrative framework in Albania. Additionally, the role of the People's Advocate as a proactive institution was highlighted, particularly in the Mediterranean context, showcasing Albania's leadership in encouraging regional cooperation.

The European Network of National Human Rights Institutions (ENNHRI) organized a capacity-building meeting on Artificial Intelligence<sup>282</sup> on November 30 - December 1, 2023, in Ljubljana, Slovenia. The meeting served as a space for exchanging ideas and experiences among ENNHRI members and as a good opportunity to analyse Artificial Intelligence, strengthen NHRIs' capacity around it, and human rights through the exchange of ideas and joint work, developing knowledge about potential challenges and opportunities. The People's Advocate, Mrs. Erinda Ballanca, participated in this meeting.

### ***Regional Cooperation***

A delegation from Albania, led by the People's Advocate, Mrs. Erinda Ballanca, and comprising the Commissioner of the National Mechanism for the Prevention of Torture, Mr Ahmet Prençi, and the General Director of Prisons, Mr Admir Abrija, conducted a working visit on June 23, 2023, in Pristina, Kosovo. This meeting was held as part of institutional cooperation aimed at exchanging experiences and best practices in the treatment of persons deprived of liberty.

The Commissioner of the National Mechanism for the Prevention of Torture, Mr Ahmet Prençi, participated in the regional conference titled “Security for People and Borders, the Fight against Migrant Smuggling, and Their Protection on the Western Balkans Route,” held on October 26-27, 2023, in Belgrade, Serbia. The conference, financially supported by the European Union, focused on exchanging experiences and opportunities to improve the regional response to the fight against human trafficking, the protection of migrants, and the creation of independent national mechanisms to monitor the respect for human rights at state borders.

The Commissioner of the General Section, Mrs. Vilma Shurdha, participated in the one-day regional conference on “Hate Crimes and Hate Speech: Challenges and Solutions in Response,” organized by the OSCE in Tirana, on November 21, 2023. This conference provided an opportunity for practitioners in the region to discuss the interconnection between hate crimes and hate speech, focusing on challenges and solutions in response.

A high-level delegation from the institution of the People's Advocate, led by Mrs. Ballanca, attended a reception organized by the Ombudsman of Montenegro on the occasion of the 20th anniversary of the establishment of the Protector of Human Rights and Freedoms of Montenegro, on December 11, 2023, in Podgorica, Montenegro. This was part of efforts to strengthen cooperation with peer institutions for the protection and promotion of human rights in the region and beyond.

Human Rights Day marked another important event in Albania with the organization of the Annual Roundtable of the Organization for Security and Cooperation in Europe (OSCE). This event, held on

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<sup>282</sup>Also known as “*The ENNHRI Co-Lab*”.

December 12, 2023, brought together National Human Rights Institutions and Civil Society Organizations to convey their messages and highlight challenges on the 75th anniversary of the Universal Declaration of Human Rights. The People's Advocate, Mrs. Erinda Ballanca, participated in this event, emphasizing the ongoing commitment to promoting and protecting fundamental human rights in Albania.

On October 12, 2023, in Tirana, the People's Advocate hosted the Secretary General of the Congress of Local and Regional Authorities of the Council of Europe, where they discussed the human rights situation at the local and regional levels, the implementation of the decisions of European Court of Human Rights (ECHR) by the Albanian state, and the role of local self-government bodies in promoting, respecting, guaranteeing, and protecting human rights.

The institution of the People's Advocate has continued its cooperation with the Council of Europe Office, the EU Delegation in Tirana, the OSCE Presence in Albania, the Office of the UN Resident Coordinator, and relevant agencies such as UNHCR, UNICEF, UN Women, and UNFPA. Through these collaborations, including contributions, joint activities, and projects, the People's Advocate has been able to increase institutional capacities, enhance its presence on the ground, and carry out a series of awareness-raising activities.

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### *5.3 Cooperation within Projects*

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#### ***Agreement with UNHCR***

The People's Advocate continued to implement the Cooperation Agreement with UNHCR throughout 2023 for monitoring migrant crossing points, strengthening their rights, and ensuring these rights are respected. Two experts from the institution of the People's Advocate, at the border crossing points of Gjirokastër and Kapshticë, and a part-time expert in the city of Tirana continued systematic monitoring of the borders, monitoring the selection procedures of irregular migrants, periodic reporting of findings, and addressing solutions to encountered issues. In December 2023, a new Cooperation Agreement for 2024 was signed, which will cover more activities as the funds provided by the donor are greater compared to the previous year.

#### ***Project “Sereny”***

Throughout 2023, the People's Advocate also continued the implementation of the project funded by the European Union Justice Programme titled “Strengthening Approaches for Preventing Radicalization of Young People in Prisons and Probation Services” among seven EU member states (Italy, Spain, Austria, Slovenia, Germany, France, and Belgium) and Albania. The aim of this project was to strengthen the approach to preventing the radicalization of young people (18-29 years old) in prisons and probation services at the European level, according to international standards and the European Parliament resolution of 5 October 2017 on prison systems and conditions (2015/2062(INI)).

The degrading conditions of prisons, overcrowding, and mistreatment are factors that can contribute to increased radicalization in the prison system. In this context, young prisoners aged 18-29 are considered vulnerable and at risk of radicalization as they are still in the process of developing their identities. This project focused on staff at detention institutions and probation services as well as other involved actors

(policymakers and Ombudsmen) to ensure that the problem of radicalization among young detainees is effectively addressed by professionals and decision-makers.

The planned research activities combined with awareness activities and sharing of best practices provided the targeted groups with knowledge on the macro and meso levels (national legislation and practices of prison administrations and probation services) and on the micro level, i.e., the individual dimension involved in radicalization processes. Every specific program targeting a particular group of prisoners, such as those considered 'radicalized', must adhere to the same human rights standards and international obligations that apply to all prisoners.

In 2023, the third phase of the project “Analysis of the Individual Dimension of Radicalization of Young People” was conducted, which included interviewing young people in prisons, interviewing employees in direct contact with prisoners, and preparing a guide and final assessment report. The project concluded in October 2023.

#### ***Project under the Instrument for Pre-Accession Assistance in the EU (IPA)***

Throughout 2023, the implementation of the project “Support for the People's Advocate Office and Promotion of Human Rights in Albania” continued. The twinning project began implementation in June 2022 and concluded in June 2023<sup>283</sup>.

As previously reported, the project aimed to support the institution of the People's Advocate in Albania in further aligning national legislation, specifically law no. 8454, dated 04.02.1999 “On the People's Advocate”, as amended, with EU legislation in the field of fundamental human rights and freedoms, promoting the principles of the rule of law, human rights, and good governance through increased efficiency in legal control in the work of public administration bodies.

The expectations and results of the project's implementation included the harmonization of national legislation with EU legislation<sup>284</sup>, international obligations and EU best practices, the capacity building of the People's Advocate institution as a National Human Rights Institution in the implementation of its promotional mandate, and providing recommendations for improving the case management system of the People's Advocate according to successful models and practices of EU member states.

#### ***Project for Improving the Case Management System (Doculive System)***

As previously noted, since September 2022, in partnership with UNFPA<sup>285</sup> in Albania, we have been implementing a project to enhance the case management system (Doculive System) of the People's Advocate. This system involves the management and processing of cases and complaints submitted to the institution of the People's Advocate, processing data, and producing various statistics related to citizens' rights violations and the responsible institutions for not respecting these rights. The project is being implemented by the Indian company “Wishtree” and is expected to conclude in the coming months. However, it is worth noting that technological challenges are significant, and substantial investments in digitalization are needed.

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<sup>283</sup> We recall that the project was developed in cooperation with the Board of the Ombudsman of Austria, the Ludwig Boltzmann Institute for Human Rights and Fundamental Freedoms, Austria and the People's Advocate of Albania.

<sup>284</sup> Draft amendments for the Law on the People's Advocate have been prepared.

<sup>285</sup> United Nations Population Fund.

### ***Project “SERVRIGHT”***

In June 2023, through an agreement signed with the European Network of National Human Rights Institutions (ENNHRI), the People's Advocate received a small grant for implementing the project “Protecting Human Rights in the Digitalization of Public Services in Albania – SERVRIGHT.”

The purpose of this project relates to the fact that the process of digitalizing public services as part of the national e-governance strategy, aimed at improving the delivery of public services, increasing efficiency, reducing bureaucracy, and increasing transparency, inevitably has significant implications for human rights. While digitalization can improve access to public services and reduce corruption, it can also create new forms of exclusion and discrimination, particularly for vulnerable groups lacking access to technology or digital skills. Therefore, the People's Advocate has an important role in ensuring that the digitalization of public services in Albania is developed in compliance with human rights standards, including research, providing advice and recommendations, monitoring and reporting, and engaging with stakeholders to protect human rights standards in this context.

In this regard, it is important that the Albanian state ensures that the digitalization of public services is developed in compliance with human rights standards, including privacy, non-discrimination, transparency, and accountability.

Through this project and its main activities, the institution of the People's Advocate aimed to conduct a thorough analysis of the impact of digitalizing public services in Albania, concluding with the drafting of a specific report to be shared with Parliament, central government institutions, and all other interested parties. To achieve this goal, on February 29th of 2024, a meeting was held in Tirana with all interested actors, representatives from public institutions, civil society, representatives of vulnerable groups, etc., where the prepared report was discussed, and recommendations for further improvement were provided.

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## ***5.4 Public Appearances of the People’s Advocate in Exercising its Promotional Mandate***

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### ***5.4.1. The importance of the public communication of the People’s Advocate***

Increasing the public presence of the People's Advocate marks a significant success in improving transparency and accountability in the justice system. Through various initiatives such as public meetings, official social media pages, and delivering open speeches, the People's Advocate has managed to extend the boundaries of transparency and provide an open platform for citizens to report and address their issues.

The public presence of the People's Advocate encourages responsibility and accountability in public administration and promotes the rule of law and the protection of citizens' rights, making the public a crucial partner in strengthening democracy and the rule of law.

In every public presentation, the People's Advocate has highlighted its proactive role in supporting citizens through its interventions and recommendations. Additionally, in all public appearances, this

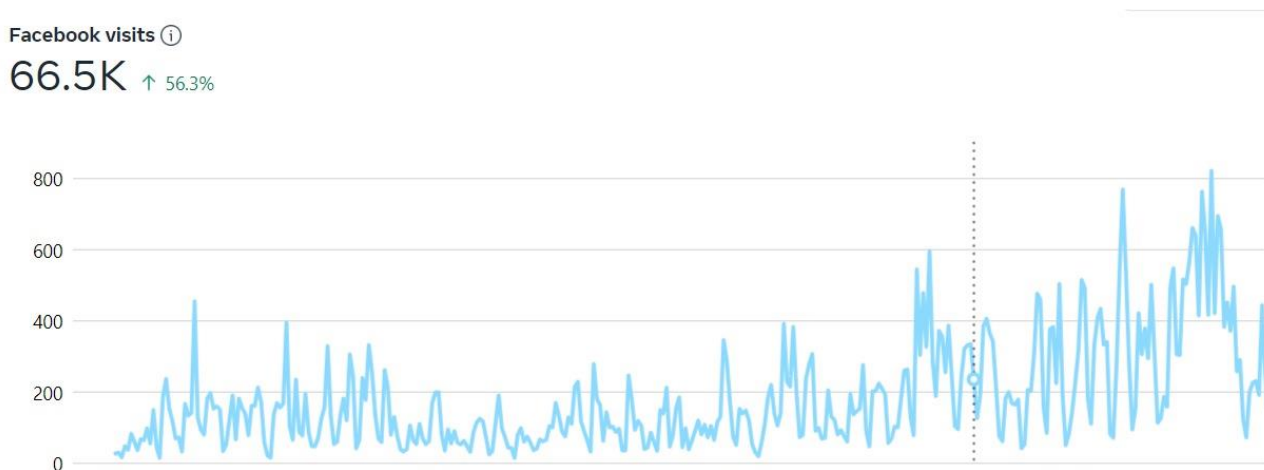
institution has focused on educating the public about their rights and providing guidance on how they can benefit from the services and assistance offered by the People's Advocate.

The public appearances of the People's Advocate at forums addressing important social issues have also been of particular importance. In such activities, through its presence, the institution has encouraged discussions to ensure justice and equality for all citizens.

#### 5.4.2. Social Media

The presence of the People's Advocate on social networks, especially on Facebook, represents a significant development in the use of technology to improve communication and interaction with citizens. Through the official Facebook page, the People's Advocate provides important information about its mission, functions, and activities, ensuring that citizens are informed about their rights and marking important national and international days, as well as other events significant for the protection of citizens' rights.

For the year 2023, the official Facebook page of the People's Advocate continued to see a steady increase in visitors and followers, growing from 9,286 to 9,500 people, indicating public interest and support for the institution's work and messages.



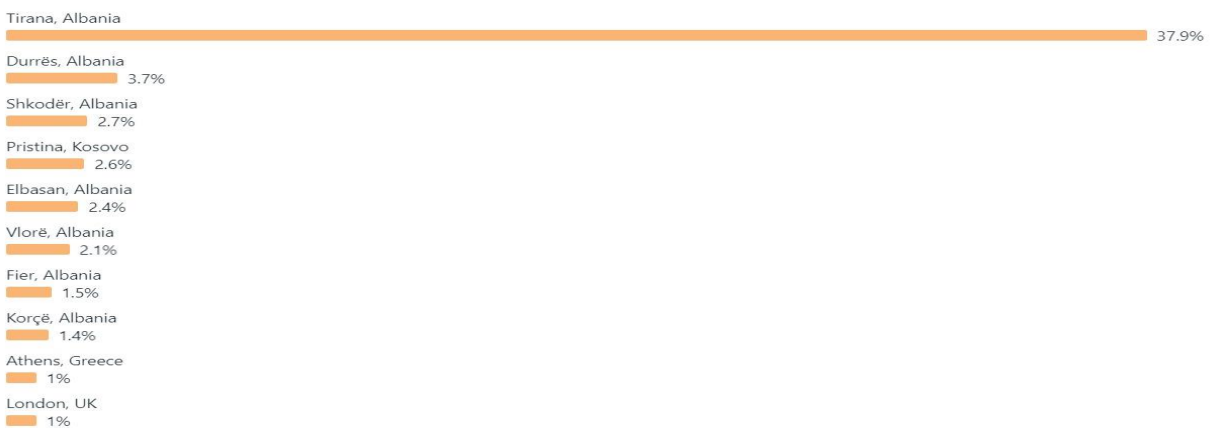
In 2023, the official Facebook page of the People's Advocate noted a shift in the gender percentage of its followers. With a representation of 39.9% female and 60.1% male, the page's audience shows a change in gender preferences in following the People's Advocate's content and messages on this social network. This summary of figures should help us adapt a communication strategy as a potential opportunity to further develop the connection with this segment of the public and to improve the awareness and engagement of men and boys in the topics addressed by the People's Advocate.

#### Age & gender <sup>i</sup>



It is important to note that the age group 25 - 44 years old continues to dominate the audience, accounting for a high percentage of followers. This fits with a known trend on social networks, where this age group shows great interest in social and political issues.

#### Top cities



It is also important to mention that the majority of followers are from the capital, a factor that can be interpreted as an indicator of the strong influence People's Advocate in the main urban area of the country. Furthermore, the official Facebook page of the People's Advocate in 2023 was an important communication channel where, continuously and in real-time, transparency was ensured regarding decisions and the very important role this institution played in organizing and overseeing the selection process of candidates for the High Judicial Council and the High Prosecutorial Council from the ranks of the lawyers and civil society.

**“Facts through figures”** is a special section on the official Facebook page of the People's Advocate, where various data and statistics related to the institution's activities are published. This section provides a clear and detailed perspective on the number of complaints received, requests processed, as well as interventions and recommendations made by the People's Advocate in addressing administrative issues and citizens' rights. Through this section, citizens have the opportunity to receive updated and verifiable information regarding the institution's performance and impact on society.

#### *5.4.3. Presence and Public Reactions to Current Events in Traditional Media*

In an analysis of the presence of the People's Advocate in traditional media, it has been observed that during 2023, the People's Advocate gave over 10 comprehensive thematic interviews. These interviews were conducted on major national media platforms and other television channels with an inclusive audience. The content of these interviews focused on current issues, providing a platform to discuss and raise awareness about citizens' rights and interests.

Televised announcements through captions on the country's most important news channels ensured that the message of the People's Advocate reached a broad audience. News headlines broadcast in news editions have provided clarity on the issues the People's Advocate has addressed, prompting discussions and reflections in public opinion<sup>286</sup>.

Public engagement has helped improve the transparency of the work of the People's Advocate and has increased public awareness of its essential role in protecting democracy and human rights. The continuous media presence aimed to enhance the institution's impact and credibility in the eyes of the public. Immediate reactions from the People's Advocate on serious events that require a proactive approach, through comments on topics, analyses, and specific events in investigative programs, have provided its point of view on various issues of public interest.

The People's Advocate's open policy with the media includes a direct and transparent approach to important current issues. By communicating openly and clearly, the People's Advocate serves as a voice for the citizens and enhances transparency and accountability in its activities. Through interviews, comments, and analyses, the People's Advocate has offered its views on various legal and social issues, helping to raise citizens' awareness and clarify important societal issues.

#### *5.4.4. Official public activities*

The annual conference of the institution of the People's Advocate<sup>287</sup>, in collaboration with the Office of the Permanent Coordinator of the UN in Albania, "75th Anniversary of the Universal Declaration of Human Rights and the 25th Anniversary of the Albanian Constitution: The Evolution of Human Rights in Albania," was an important activity extensively covered by the media. This event was broadcast in real-time, while online news portals provided wide audience coverage of the discussions held at the conference. The message of the People's Advocate about the importance of respecting human rights was widely spread and became part of public dialogue.

Internationally, the People's Advocate has participated in conferences, forums, and high-level meetings to promote the values of justice and transparency globally and to build new connections with other international organizations.

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<sup>286</sup> For more information, please refer to the official website of the People's Advocate.

<sup>287</sup> For more information, please refer to the official website of the People's Advocate.



The public appearances of the People's Advocate are an important tool in promoting justice and transparency in our society. They help strengthen citizens' trust in state institutions and serve as a testament to the commitment of the People's Advocate to protecting and representing their interests.

## CHAPTER VI

### SUPPORT SERVICES

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#### *6.1 Management of Human and Administrative Resources*

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The management of human and administrative resources represents an important aspect of the functioning, performance, and progress of a national human rights institution. To ensure that public institutions operate in accordance with national and international standards and acts in the field of human rights, *continuous support with human and financial resources for these institutions is essential.*

The Paris Principles require that National Human Rights Institutions (NHRIs) are adequately staffed. Similar to financial resources, this requirement is included in the Venice Principles and is also recognized by the European Commission's recommendation for equality bodies. The lack of sufficient staff weakens the ability of NHRIs to effectively carry out their activities and fulfil their mandates. In this regard, the European Commission's 2023 Progress Report for Albania highlighted the need for the further strengthening of the human and administrative capacities of the institution of the People's Advocate.<sup>288</sup> The continuous strengthening of these capacities has been and remains one of the challenges of the institution of the People's Advocate, at the same time appreciating the support that has been given so far in this regard.

As previously emphasized, the manner of approving the structure and organization of the institution is explicitly provided for in Law No. 8454, dated 04.02.1999, "On the People's Advocate", as amended.<sup>289</sup> Unlike many independent constitutional institutions and other independent institutions established by law, the structure and organization of the institution are determined by the People's Advocate, which provides the necessary flexibility to adapt and respond appropriately to the functions and duties of the institution. In recent years, the structure and organization of the institution have undergone periodic changes aimed at increasing efficiency and adapting to the rules and procedures provided by the current legal framework in the field of civil service. These changes have aimed to reflect a stable structure over time, relatively homogeneous with the structures and categorizations of employees in other state institutions, and to meet the standards in terms of formatting the units of the structure.

In the context of presenting additional budget requests for 2024, during the hearing session<sup>290</sup> held with the Parliamentary Committee of Laws, Public Administration, and Human Rights, the following were requested:

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<sup>288</sup>The Peer Review Mission of the European Commission, conducted in Tirana from October 25th to 28th, 2022, emphasized the need for further strengthening the capacities of the People's Advocate institution and highlighted the importance of effective functioning and monitoring of independent institutions. For more details on the recommendations made, please refer to the following link:

[https://www.avokatipopullit.gov.al/media/manager/website/reports/FINAL%20Report%20on%20PA%20\\_Advance%20Peer%20review%20mission.pdf](https://www.avokatipopullit.gov.al/media/manager/website/reports/FINAL%20Report%20on%20PA%20_Advance%20Peer%20review%20mission.pdf)

<sup>289</sup>In article 35, paragraph 3.

<sup>290</sup>November 2023.

- approval of a “Deputy Commissioner” position in the Section of the National Mechanism against Torture (NPM) and,
- inclusion of employees with temporary contracts (representatives of regional offices) in the institution’s structure and organization.

With the approval of Law No. 66/2023, “On the 2024 State Budget”, it was found that the total approved number of employees for the institution in 2024 is 66 (sixty-six), up from 59 (fifty-nine). These additions concern the approval of the reasoned request for the inclusion of regional offices as part of the institution's organization. This approval aligns with the need to change the mode of operation of these offices, emphasized by both the GANHRI Accreditation Subcommittee<sup>291</sup>, during the finalization of granting “A” status to the People's Advocate institution (December 2020), as well by the European Commission Assessment Mission on Monitoring Independent Institutions and Their Effective Functioning<sup>292</sup>, which recommended that the employees of the regional offices of the People's Advocate be part of the institution's structure and organization. The People's Advocate has welcomed this improvement.

These changes have now been reflected in the new structure of the institution, approved by Order No. 2 of the People's Advocate, dated 03.01.2024, “On the approval of the structure, organization, and categorization of job positions of the institution of the People's Advocate “, respecting the same principles and standards followed during the drafting of organizational structures of state administration institutions, in full compliance with Decision No. 893, dated 17.12.2014, “On the approval of the rules of organization and functioning of auxiliary cabinets, internal organization of state administration institutions, as well as detailed procedures for the preparation, proposal, consultation, and approval of internal organization”, as well as with Decision of Council of Ministers No. 325, dated 31.05.2023, “On the approval of the salary structure, salary levels and other allowances over salary for the deputy minister, cabinet officials, prefect, deputy-prefect, civil servants, and employees in some public administration institutions”, as amended, based on Appendix No. 12, which includes the representatives of regional offices under the title “Specialist”, category IV-II.

In public administration, civil servants are considered part of a well-prepared, professional elite body, recruited to serve the public interest and be accountable for actions taken in the interest of citizens. Recruitment is the main and most important activity where the purpose and ambition of the law for “creating a sustainable, professional civil service based on merit, moral integrity, and political impartiality” are concretely implemented.

In this aspect, it should be emphasized that during 2023, in accordance with the recruitment provisions of the civil service legislation, several vacant positions were announced by the institution<sup>293</sup>, considering resignations, transfers to other duties within public administration, or suspension of status for various reasons.

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<sup>291</sup>Global Alliance of National Human Rights Institutions.

<sup>292</sup>October 2023.

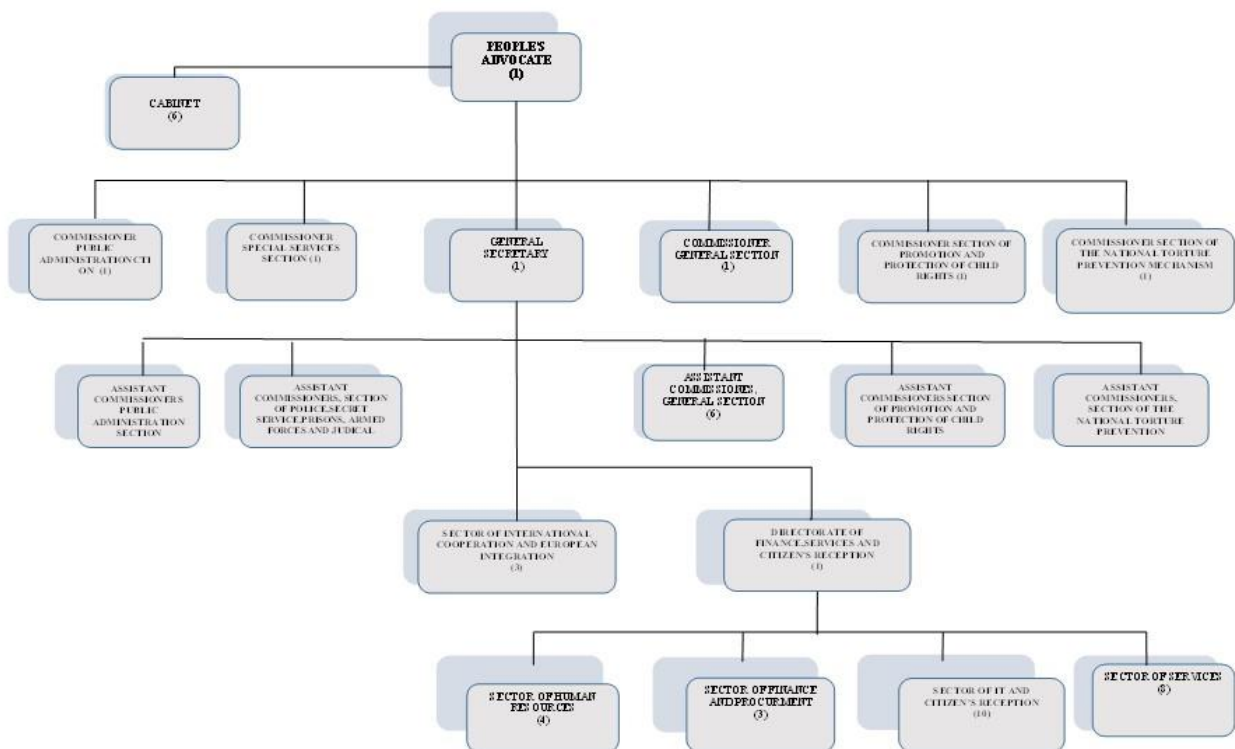
<sup>293</sup> 6 positions.

Additionally, in May 2023, the Civil Service Oversight Commissioner<sup>294</sup> initiated the supervision process in the institution of the People's Advocate regarding the implementation of Law No. 152/2013 “On the civil servant”, as amended. The purpose of the supervision was:

- monitoring, control and evaluation of the implementation of law no. 152/2013 “On the civil servant”, as amended, and the by-laws issued based on and for its implementation;
- presenting the findings and facts identified as irregularities in the implementation of the civil servant law to those responsible for managing the civil service, including the human resources unit and the head of the institution;
- Warning the institution and setting tasks for improving the situation within a reasonable time, according to the provisions of Article 15 of Law No. 152/2013 “On the Civil Servant,” as amended.

After completing the review of documents and necessary paperwork, a supervision report was prepared regarding the administration of the civil service in the institution of the People's Advocate. The report evaluated the legality of procedures followed during the application of Law No. 152/2013 “On the Civil Servant,” as amended, and its implementing by-laws. It also provided recommendations for improving the administration of the civil service. For 2023, the institution's structure, approved by Internal Order No. 10, dated January 27, 2023, “On the Approval of the Structure, Organization, and Categorization of Job Positions in the institution of the People's Advocate”, as amended, is as follows:

**Appendix no. 1**



<sup>294</sup> Based on the powers provided for in Article 11, points 1, 14 and 15, of Law No.152/2013 "On Civil Servants", as amended.

**Appendix no. 2**

<b>Title of the function</b>	<b>Number of Employees (59)</b>	<b>Category/Class</b>
<b>People's Advocate</b>	<b>1</b>	Law no. 8454, dated 04.02.1999, as amended
<b>The Cabinet</b> - Cabinet Director - Adviser - Secretary	<b>6</b> 1 4 1	I-2 I-3 Appendix no. 5
<b>Secretary General</b>	<b>1</b>	I-1
<b>Section for Central Administration Bodies, Local Authorities and Third Parties acting on their behalf</b> - Commissioner - Deputy Commissioner - Deputy Commissioner	<b>7</b> 1 3 3	Law no. 8454, dated 4.2.1999, as amended I-4 II-1
<b>Section for Police, Secret Service, Prisons, Armed Forces and Judiciary</b> - Commissioner - Deputy Commissioner - Deputy Commissioner	<b>5</b> 1 2 2	Law no. 8454, dated 4.2.1999, as amended I-4 II-1
<b>General Section</b> - Commissioner - Deputy Commissioner - Deputy Commissioner	<b>7</b> 1 4 2	Law no. 8454, dated 4.2.1999, as amended I-4 II-1
<b>Section for Protection and Promotion of Children's Rights</b> - Commissioner - Deputy Commissioner - Deputy Commissioner	<b>4</b> 1 2 1	Law no. 8454, dated 4.2.1999, as amended I-4 II-1

<p><b>Mechanism for Prevention of Torture, Cruel, Inhuman, or Degrading Treatment or Punishment</b></p> <ul style="list-style-type: none"> <li>- Commissioner</li> <li>- Deputy Commissioner</li> <li>- Deputy Commissioner</li> </ul>	<p><b>6</b></p> <p>1</p> <p>2</p> <p>3</p>	<p>Law no. 8454, dated 4.2.1999, as amended</p> <p>I-4</p> <p>II-1</p>
<p><b>Directorate of Finance, Services and Reception of Citizens</b></p> <ul style="list-style-type: none"> <li>- Director</li> </ul> <p><b>Human Resources Sector</b></p> <ul style="list-style-type: none"> <li>- Head of Sector</li> <li>- Human Resources Specialist</li> <li>- Protocol Specialist</li> <li>- Archivist/Librarian Specialist</li> </ul> <p><b>Services Sector</b></p> <ul style="list-style-type: none"> <li>- Head of Sector</li> <li>- Driver of the Head of Institution</li> <li>- Driver</li> <li>- Mid-level Technician of Various Specialties</li> <li>- Cleaning worker</li> </ul> <p><b>Finance and Procurement Sector</b></p> <ul style="list-style-type: none"> <li>- Head of Sector</li> <li>- Finance Specialist</li> <li>- Procurement Specialist</li> </ul> <p><b>IT and Citizen Reception Sector</b></p> <ul style="list-style-type: none"> <li>- Head of Sector</li> <li>- IT specialist</li> <li>- Citizen Services Specialist</li> </ul>	<p><b>19</b></p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>2</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>2</p>	<p>II-2</p> <p>III-1</p> <p>IV-1</p> <p>IV-1</p> <p>IV-1</p> <p>III-1</p> <p>Class VI</p> <p>Class IV</p> <p>Class VI</p> <p>Class I</p> <p>III-1</p> <p>IV-1</p> <p>IV-1</p> <p>III-1</p> <p>IV-1</p> <p>IV-1</p>
<p><b>Sector for International Cooperation and European Integration</b></p> <ul style="list-style-type: none"> <li>- Head of Sector</li> <li>- Specialist</li> </ul>	<p><b>3</b></p> <p>1</p> <p>2</p>	<p>III-1</p> <p>IV-1</p>

## 6.2 Overview of Income and Expenses

Based on Law No. 84/2022, dated 24.11.2022, “On the 2023 State Budget,” Instruction No. 2 of the Minister of Finance, dated 06.02.2012, “On Standard Procedures for Budget Implementation,” as amended, and the Supplementary Instruction of the Minister of Finance No. 2, dated 19.01.2023, “On the Implementation of the 2023 Budget,” as amended, the performance of the budget products for the People's Advocate institution, according to the approved budget program for 2023, is presented as follows:

Program - “Advocacy Service”

The budget allocated for this program<sup>295</sup> is based on the Program Policy Statement (PPP) prepared during the 2023-2025 Medium-Term Budget Program (MTBP) process and aims to achieve the objectives and product outcomes defined and approved in the Medium-Term Budget Program document (2023-2025).

### ***Report on Actual Program Expenditures of the Program by Item, for the year 2023***

By Law No. 84/2022, dated November 24, 2022, “On the 2023 State Budget,” the allocated funds, along with changes made during the year for the functioning of the People's Advocate institution, are presented by item in the following tables:

Table for Planning and Realization of budget Funds for 2023

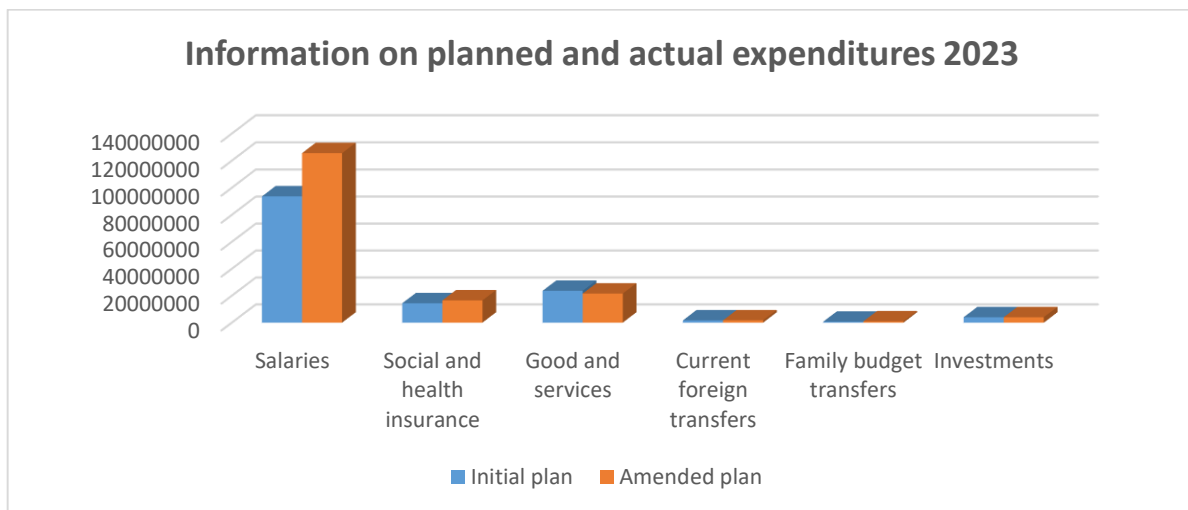
<b>No. Log.</b>	<b>Title</b>	<b>Initial Plan 2023</b>	<b>Additions and reductions</b>	<b>Revised Plan 2023</b>	<b>Actual 2023</b>
600	Salaries	93,600,000	31,930,000	125,530,000	122,401,718
601	Social and Health Insurance	14,400,000	2,100,000	16,500,000	15,990,136
602	Other Goods and Services	23,600,000	-2,000,000	21,600,000	17,926,111
605	Foreign Current Transfers	1,700,000	12,000	1,712,000	1,706,288
606	Family Budget Transfers	700,000	238,000	938,000	355,612
231	Investments	4,000,000	0	4,000,000	3,737,036
	<b>TOTAL</b>	<b>138,000,000</b>	<b>32,280,000</b>	<b>169,650,000</b>	<b>162,116,901</b>

<sup>295</sup>The only program of the institution of the People’s Advocate

**Table of Actual Expenditures for 2023**

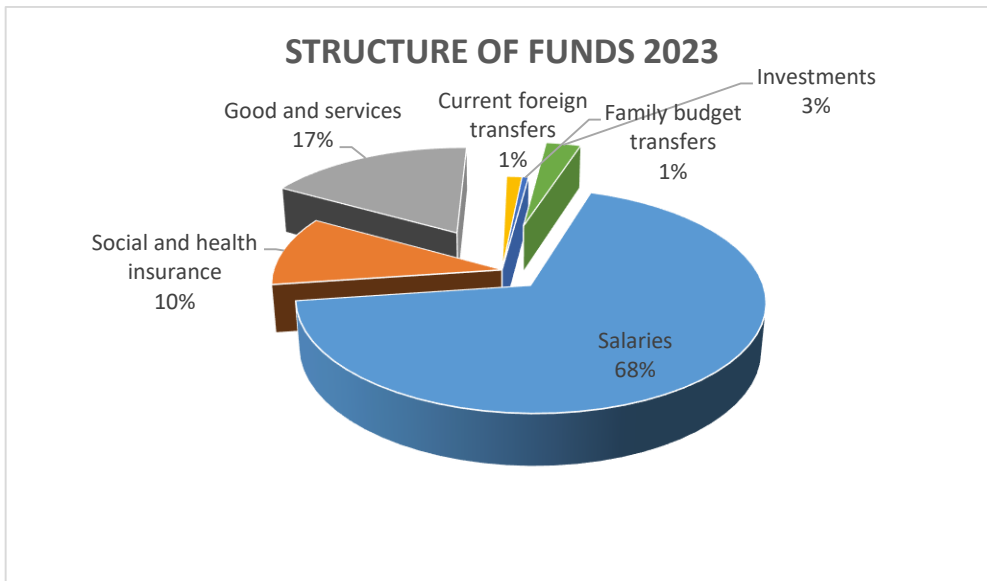
No.	Title	Revised Plan 2023	Actual 2023	Difference	Realization in %
1	Salaries	125,530,000	122,401,718	3,128,282	97.51
2	Social and Health Insurance	16,500,000	15,990,136	509,864	96.91
3	Other Goods and Services	21,600,000	17,926,111	3,673,889	82.99
4	Foreign Current Transfers	1,712,000	1,706,288	5,712	99.67
5	Family Budget Transfers	938,000	355,612	582,388	97.51
6	Investments	4,000,000	3,737,036	262,964	93.43
	<b>TOTAL</b>	<b>170,280,000</b>	<b>162,116,901</b>	<b>8,163,099</b>	<b>95.21</b>

**Table of Planned and Actual Spending 2023**





**Table of Structure of Funds for 2023<sup>296</sup>**



**Table of Approved Funds over the Years**

No.	Years	Approved					
		600-601	602-606	231	Nr.of employees		Total
		Salaries and insurance	Operational expenses	Investments	Assistant/Commissioners	Subtotal	
1	2015	75,500	16,000	4,000	21	51	95,500
2	2016	84,500	17,000	4,000	21	55	105,500
3	2017	84,500	18,000	4,000	21	56	106,500
4	2018	94,500	17,500	4,000	21	56	116,000
5	2019	104,500	18,600	2,000	21	56	125,100
6	2020	98,500	17,000	1,000	21	56	116,500
7	2021	98,500	17,500	3,000	21	56	119,000
8	2022	102,500	22,700	4,000	22	57	129,200
9	2023	108,000	26,000	4,000	25	59	138,000

**1. Personnel Expenses**

The realization of the salary fund reflects the structure and organization, internal and external movements. The allocated fund for 2023 to cover personnel salary expenses was 93,600,000 ALL, changed by Normative Acts No. 3, dated 12.03.2022, “On some changes and additions to the law 'On the 2023 budget'“, to 125,530,000 ALL, while the realization is 122,401,718 ALL or 97.51% of the revised budget, and social and health insurance was planned at 14,400,000 ALL, changed by Normative Acts No. 3, dated 12.03.2022, “On some changes and additions to the law 'On the 2023 budget'“, to 16,500,000 ALL, while the realization is 15,990,136 ALL or 96.91% of the budget. Both items together,

<sup>296</sup> It is noted that 79% of the budget consists of salaries and social security contributions, resulting in limited funds for carrying out the promotional role.

personnel salary and social and health insurance (600+601) for 2023 are realized at 97.44% of the revised budget and constitute 85.36% of the institution's actual budget.

During 2023, the average number of employees was 55 from 59 employees, which was the approved limit by the aforementioned law. The non-realization of this expenditure item is due to the non-completion of the organic structures as a result of vacant positions created at the end of 2022 and during 2023.<sup>297</sup> It should be noted that during the staff recruitment procedures for the Information Technology (IT) Sector, there were difficulties and a lack of interest due to the financial compensation for these positions. The salaries for IT roles not only significantly lag behind those in the private sector but also vary considerably within the public administration, where certain institutions offer much better financial incentives for similar positions.

This has caused real difficulties not only in terms of the realization of recruitment procedures (where we have been forced to re-announce the call for expressions of interest several times) but also in the inability to attract the necessary expertise for these positions.

## 2. Expenses for Other Goods and Services

The allocated fund for goods and services expenses (item 602) for the period January - December 2023 was 21,600,000 ALL, while the realization was 17,926,111 ALL or 99.67% of the budget. For this period, operational expenses were mainly used for payments for office supplies, cleaning materials, electrical materials, promotional materials, supply with other office materials, electricity, water, Albtelecom, Vodafone, postal service, vehicle insurance, expenses for vehicle maintenance, domestic and foreign per diems, expenses for building maintenance, expenses for maintenance of equipment and technical devices, reception and farewell expenses for foreigners, expenses for organizing the 2023 annual conference, as well as paid tax expenses.

The fund for foreign current transfers (item 605) for 2023 was 1,700,000 ALL, changed by “Fund Transfer for 2023” to 1,712,000 ALL, while the realization is 1,706,288 ALL or 99.67% of the revised budget.

For 2023, these funds were used to pay membership fees in time to international organizations, which the institution of the People's Advocate is a member of, according to the table below:

No	Name of organisation	Membership fees over the years								
		Currency	Amount in year							
			2016	2017	2018	2019	2020	2021	2022	2023
1.	Association of Mediterranean Ombudsmen (AOM)	Euro	750	750	750	1,000	1,000	1,000	1,000	1,000
2.	Association of Francophone Ombudsmen and Mediators (AOMF)	Euro	650	750	900	900	900	900	900	900
3.	European Network National Human Rights Institutions (ENNHRI)	Euro	3,000	3,000	4,000	4,000	4,000	4,000	4,000	4,000

<sup>297</sup> Positions filled according to the provisions of the civil service law, the provisions of the Labor Code, as well as vacancies filled by the Parliament of Albania (e.g., Commissioners).

4.	European Network of Children's Ombudsmen(ENOC)	Euro	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100
5.	Evropean Ombudsman Institute (EOI)	Euro	350	350	350	350	350	350	350	350
6.	Global Alliance of National Human Rights Institutions (GANHRI)	CHF	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
7.	International Ombudsman Institute (IOI)	Euro	750	750	750	750	750	750	750	750

The fund for family and individual budget transfers (item 606) for the period January - December 2023 was 700,000 ALL, changed by “Fund Transfer for 2023” to 938,000 ALL, while the realization is 355,612 ALL or 37.91% of the revised budget.

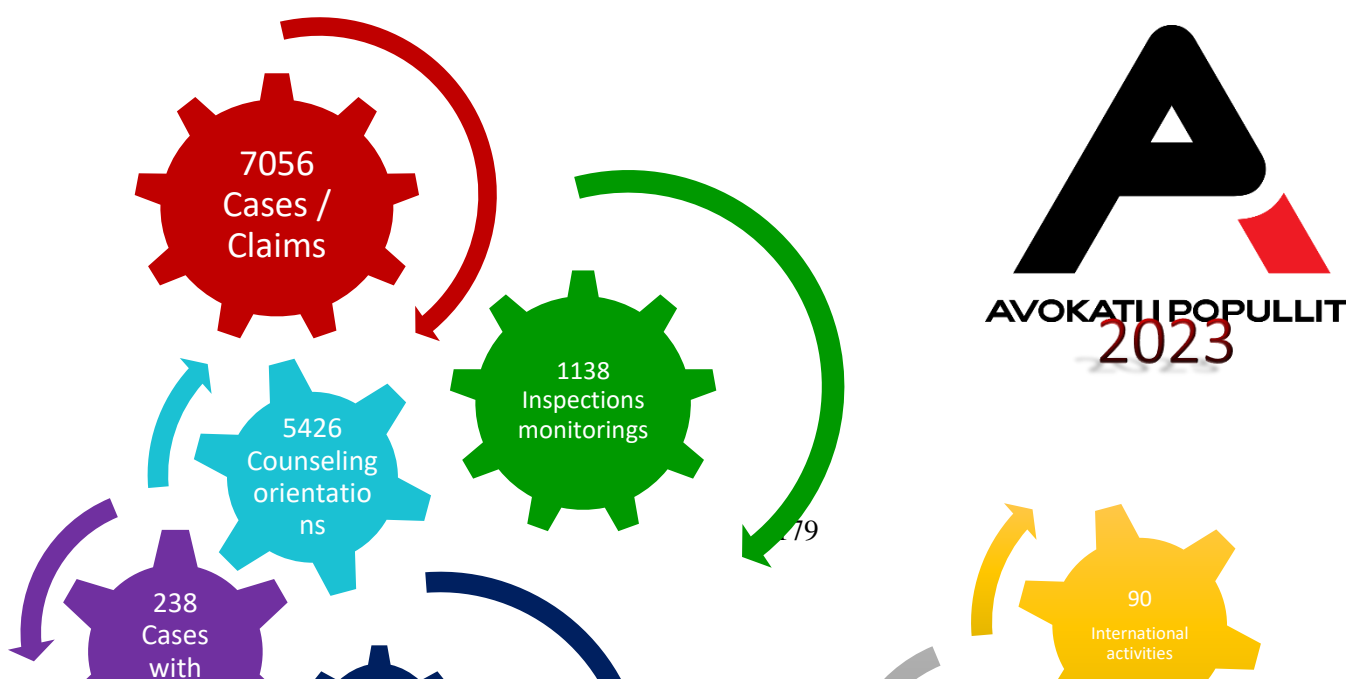
### 3. Investment expenditures

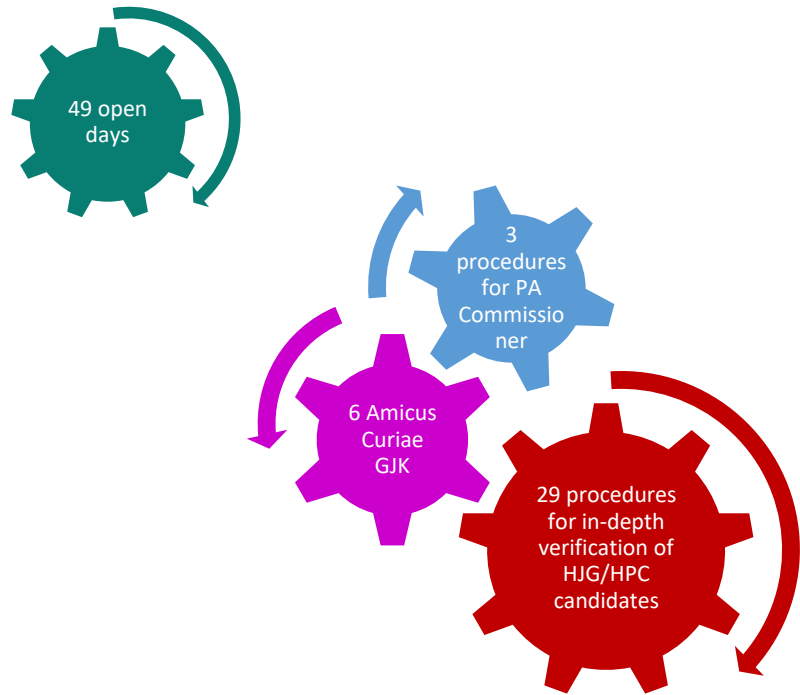
The investment fund allocated by the state budget is 4,000,000 ALL, while the realization is 3,737,036 ALL or 93.43%.

Project	Code of Project	Plan	Actual	%
Purchase of air cinditioners	M660011	500,000	498,576	99.72
Purchase of computer equipment+server	M660009	2,900,000	2,825,960	97.45
Purchase of office furniture	M660001	600,000	412,500	68.75
		4,000,000	3,737,036	93.43

## CHAPTER VII

### THE PEOPLE'S ADVOCATE IN FIGURES 2023





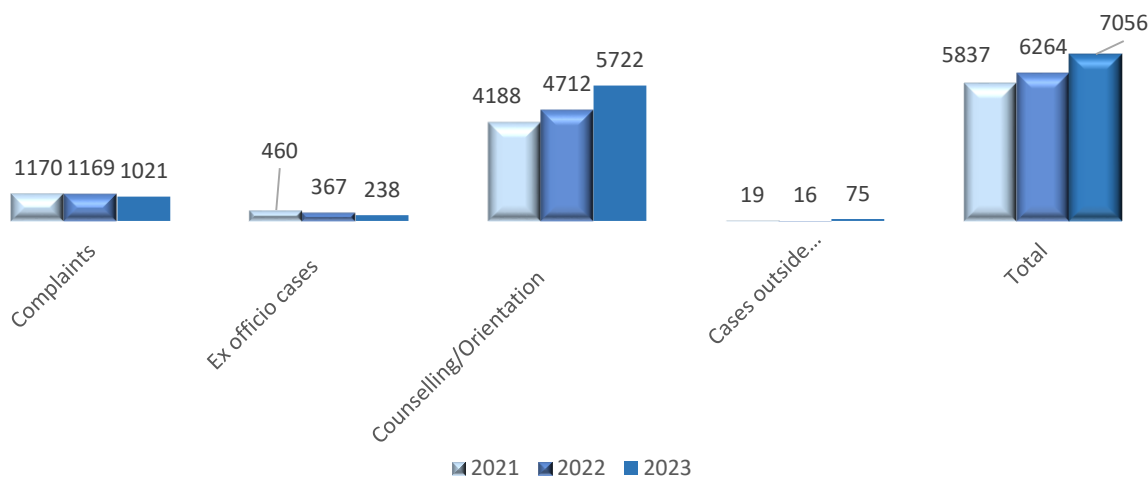
During the exercise of its mandate in 2023, the institution of the People's Advocate received complaints/requests from citizens regarding alleged violations of fundamental rights and freedoms through:

- Physical submission at the central office headquartered in Tirana;
- Physical submission at the 7 regional offices located in the cities of Berat, Dropull, Fier, Kukës, Pogradec, Sarandë, Shkodër, and Vlorë;
- Postal service;
- e-mail;
- Social networks;
- Mobile application;
- The institution's official website;
- Telephone.

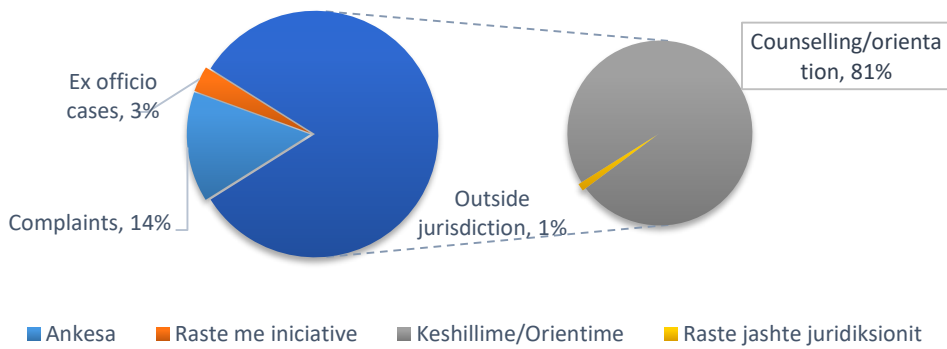
In 2023, the institution of the People's Advocate handled a total of 7056 cases/requests, which is 792 cases more than the previous. Specifically:

- 1259 were within the jurisdiction and competence of the institution;
  - 1021 cases were complaints/requests;
  - 238 cases were handled on the institution's own initiative.
- 75 cases were outside the jurisdiction;
- 5722 cases were handled in the form of advice and guidance on the legal avenues s that citizens should follow for the further treatment of their cases.

**CASES FILED WITH THE PA AND REGIONAL OFFICES OVER 2021-2023**

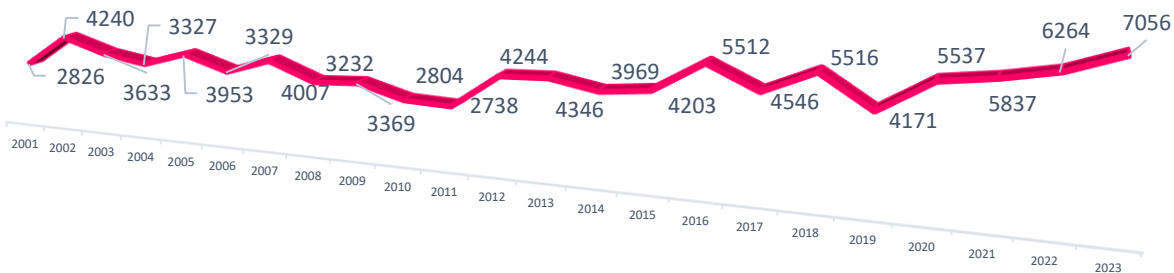


Graphic presentation of the cases submitted by citizens at the central office and the 7 regional offices of the People's Advocate.



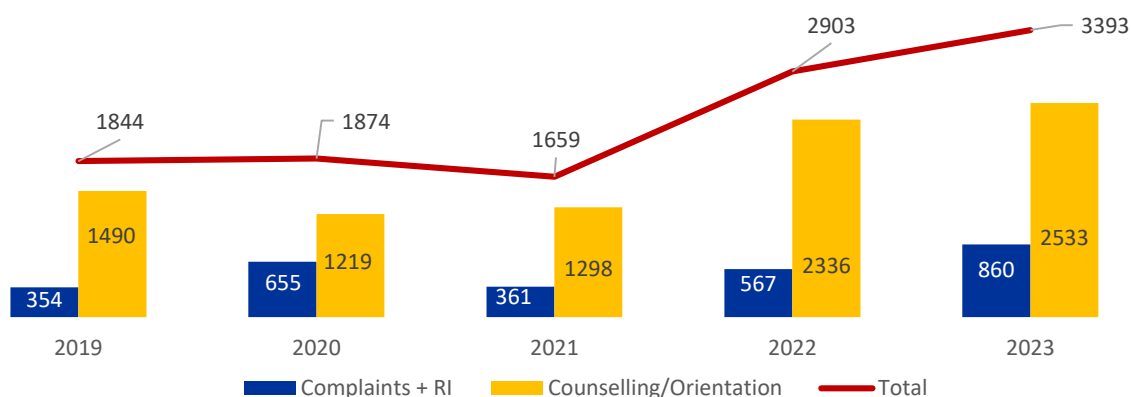
Graphic presentation of the distribution of cases submitted to the People's Advocate in 2023

### CASES OVER THE YEARS



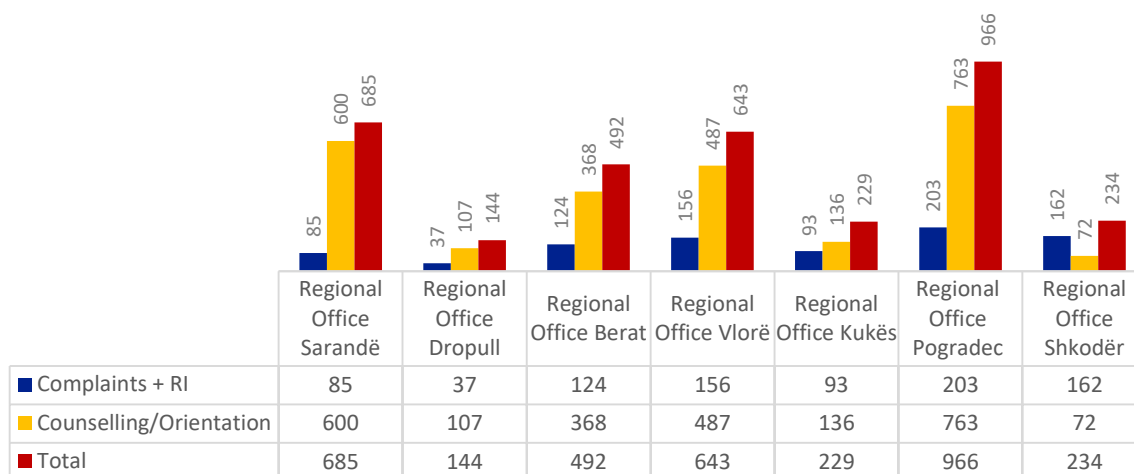
Graphic presentation of cases handled over the years by the institution of the People's Advocate.

### DATA FROM REGIONAL OFFICES OVER 2019 - 2023

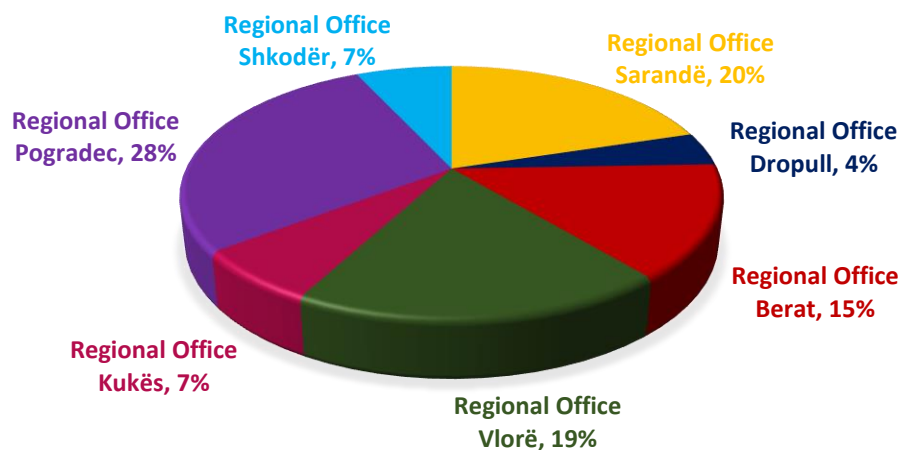


Graphic presentation of data from regional offices for the years 2019-2023.

### DISTRIBUTION OF CASES BY REGIONAL OFFICES 2023



Graphic presentation of the distribution of cases by regional offices for 2023.

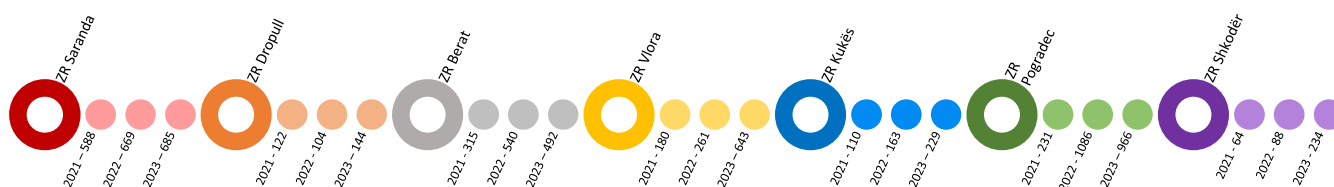


Graphic presentation of the cases submitted to the regional offices of the institution of the People's Advocate in percentages.

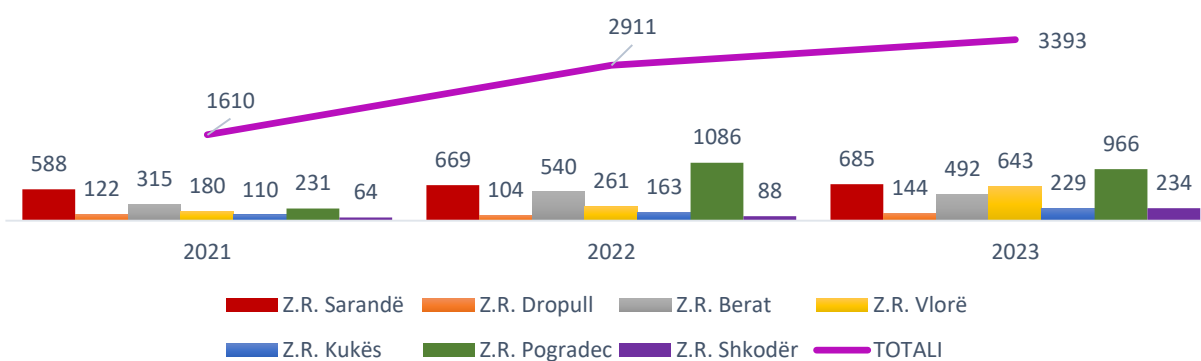
Below is a comparative overview of the complaints received by the Regional Offices for the years 2021, 2022 and 2023.

<b>Total complaints + K/O</b>	<b>Year</b>	<b>RO Sarandë</b>	<b>RO Dropull</b>	<b>RO Berat</b>	<b>RO Vlorë</b>	<b>RO Kukës</b>	<b>RO Pogradec</b>	<b>RO Shkodër</b>	<b>TOTAL</b>
	2021	588	122	315	180	110	231	64	1,610
	2022	669	104	540	261	163	1,086	88	2,911
	2023	685	144	492	643	229	966	234	3,393
<b>Difference</b>		2%	38%	-9%	146%	40%	-11%	166%	17%

The graphic presentation of the data in the above table is as follows:

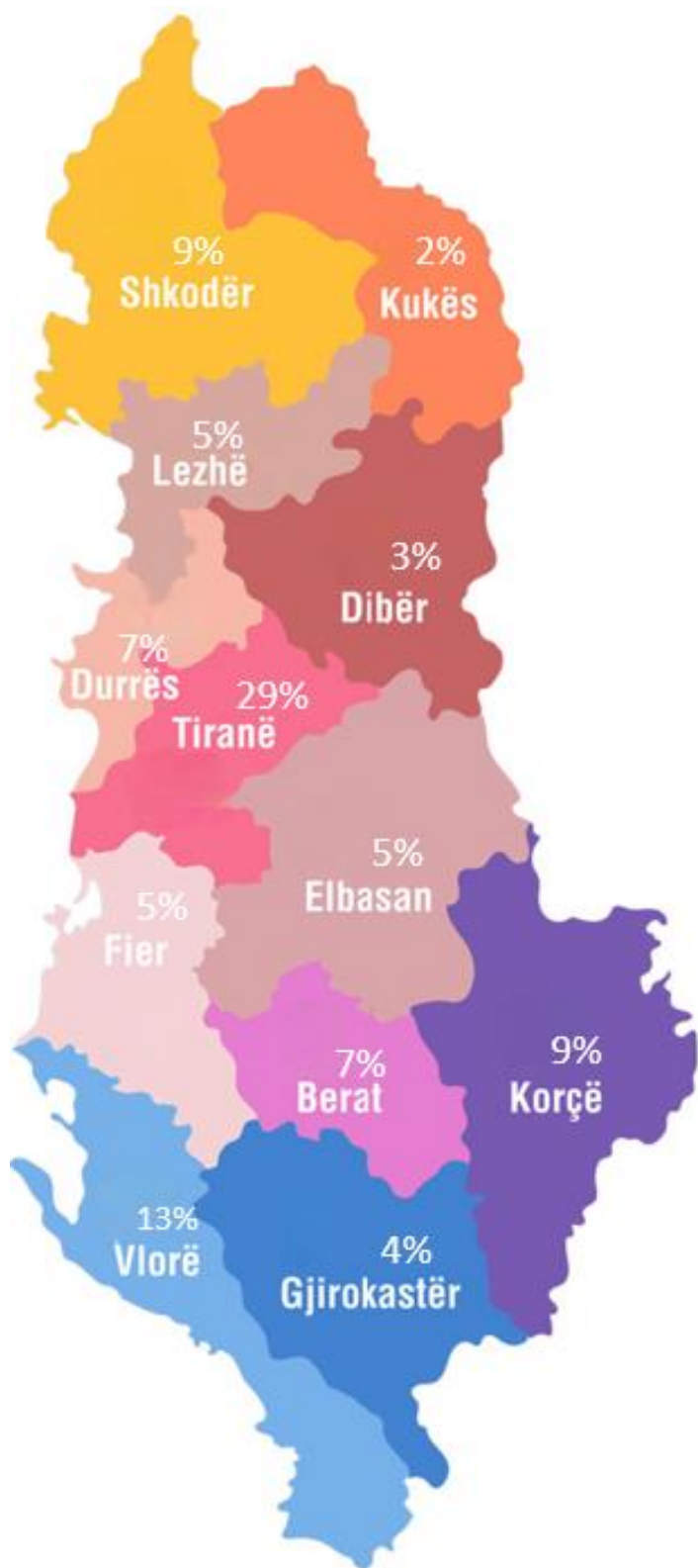


### COMPLAINTS AND C/O YEARS 2021-2023



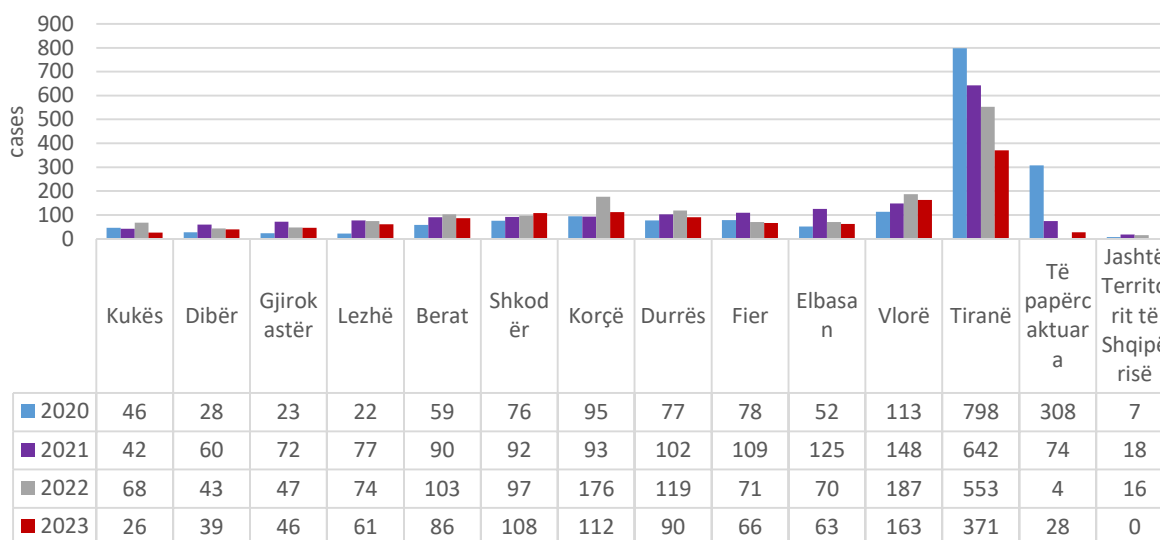
Below is a graphic representation of the distribution of 1259 cases reviewed by the institution of the People's Advocate according to districts and cities for the year 2023.





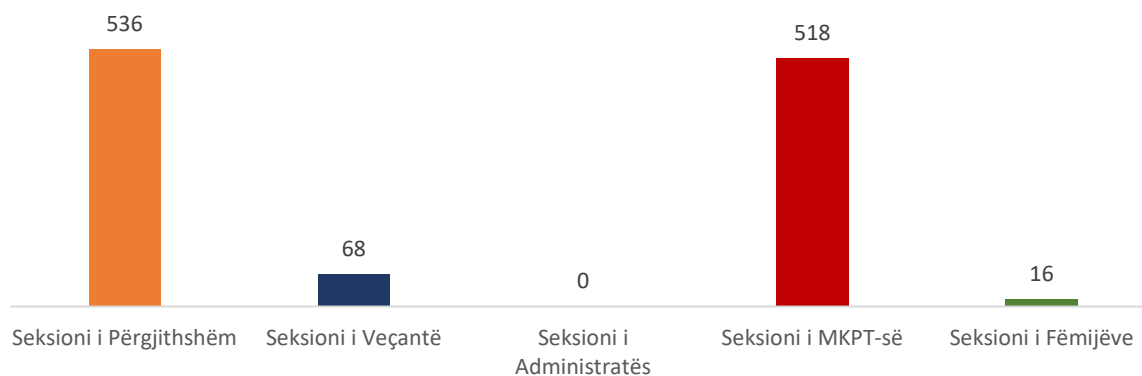
	1
Tiranë	362
Vlorë	85
Shkodër	84
Sarandë	74
Durrës	73
Berat	68
Pogradec	65
Fier	48
Korçë	44
Elbasan	44
Lezhë	40
Të papërcaktuara	28
Gjirokastrë	28
Lushnjë	18
Kurbin	18
Dibër	18
Malsi e Madhe	17
Kuçovë	17
Krujë	17
Kukës	15
Mat	14
Tepelenë	11
Peqin	8
Tropojë	7
Pukë	7
Përmet	7
Gramsh	7
Bulqizë	7
Kavajë	5
Rrogozhinë	4
Librazhd	4
Has	4
Delvinë	4
Mirditë	3
Devoll	2
Skrapar	1
Kolonjë	1
Jashtë Shqipërisë	0
Mallakastër	0

### DISTRIBUTION OF COMPLAINTS ACCORDING TO REGIONS 2020-2023



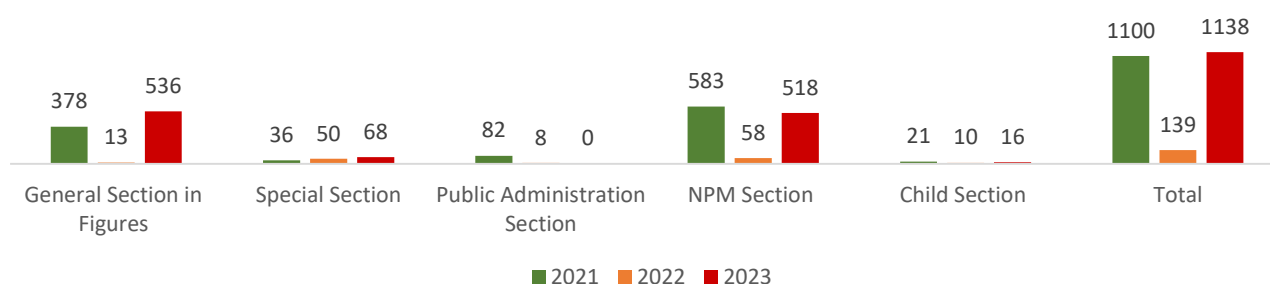
Graphic presentation of the distribution of cases reviewed by the institution of the People's Advocate in the years 2020-2023 by districts.

### INSPECTIONS/MONITORINGS 2023



Graphic presentation of the distribution of inspections/monitorings by the Sections of the People's Advocate in 2023.

### INSPECTIONS/MONITORINGS 2021-2023

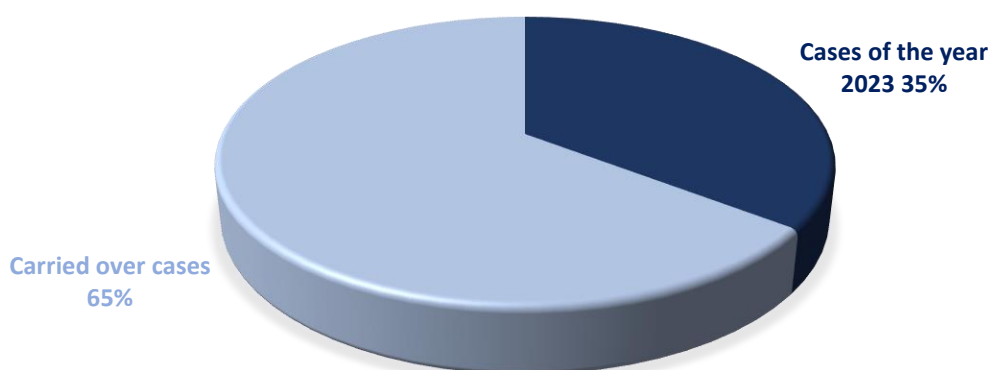


Graphic presentation of the distribution of inspections/monitoring by the Sections of the People's Advocate in the years 2021-2023.

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During the exercise of its activities in 2023, the institution of the People's Advocate completed the administrative investigation for 1591 cases of alleged violations of fundamental rights of individuals. Of these, 563 cases or 35% were cases submitted in 2023, and 1028 cases or 65% belong to cases submitted in previous years.

#### CASES FOR WHICH ADMINISTRATIVE INVESTIGATIONS WERE COMPLETED IN 2023



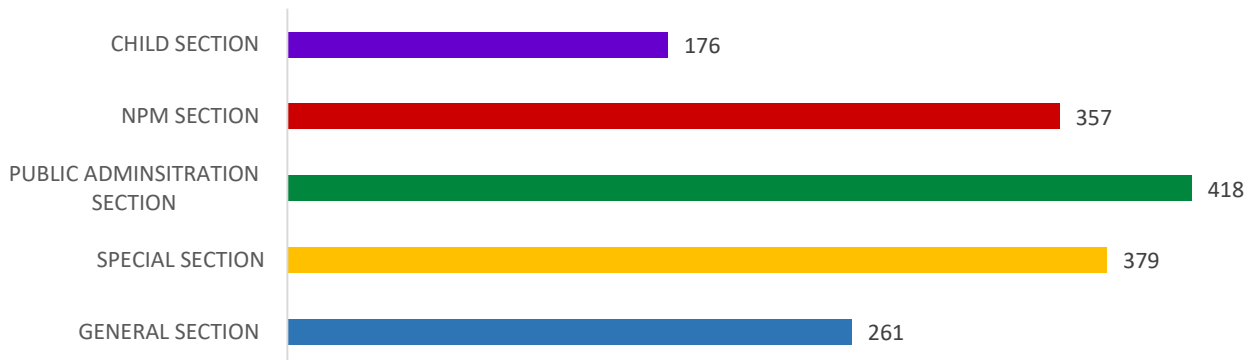
Graphic presentation of the cases for which the administrative investigation was completed in 2023.

For these 1591 cases for which the administrative investigation has been completed, it was found that:

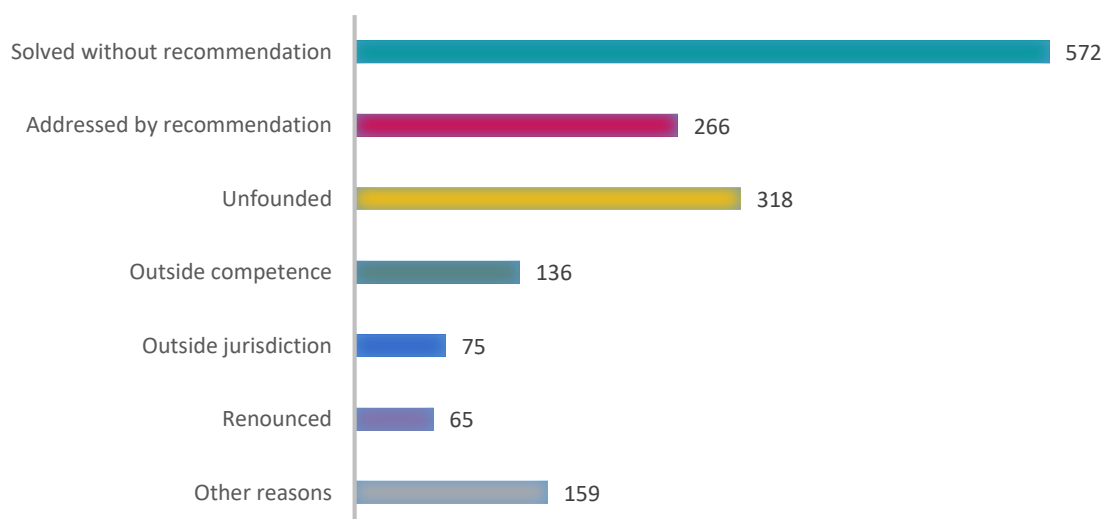
- For 572 cases or 36%, the violations or problems identified during the investigation were addressed without the need for intervention by recommendation;
- For 318 cases or 20%, the cases were found to be unfounded;
- For 266 cases or 17% of them, the administrative investigation was completed after the violations were addressed through recommendations;
- For 65 cases or 4%, the administrative investigation was completed due to the withdrawal of the complainant;
- For 75 cases or 5%, the administrative investigation was closed due to the case being outside the jurisdiction;
- For 136 cases or 9%, the administrative investigation was completed as they were found to be cases outside the competence of the institution of the People's Advocate.

- For 159 cases or 10%, the administrative investigation was completed for other reasons (e.g., the complaint was merged with another complaint, the file was closed after responses to the recommendations, etc.).

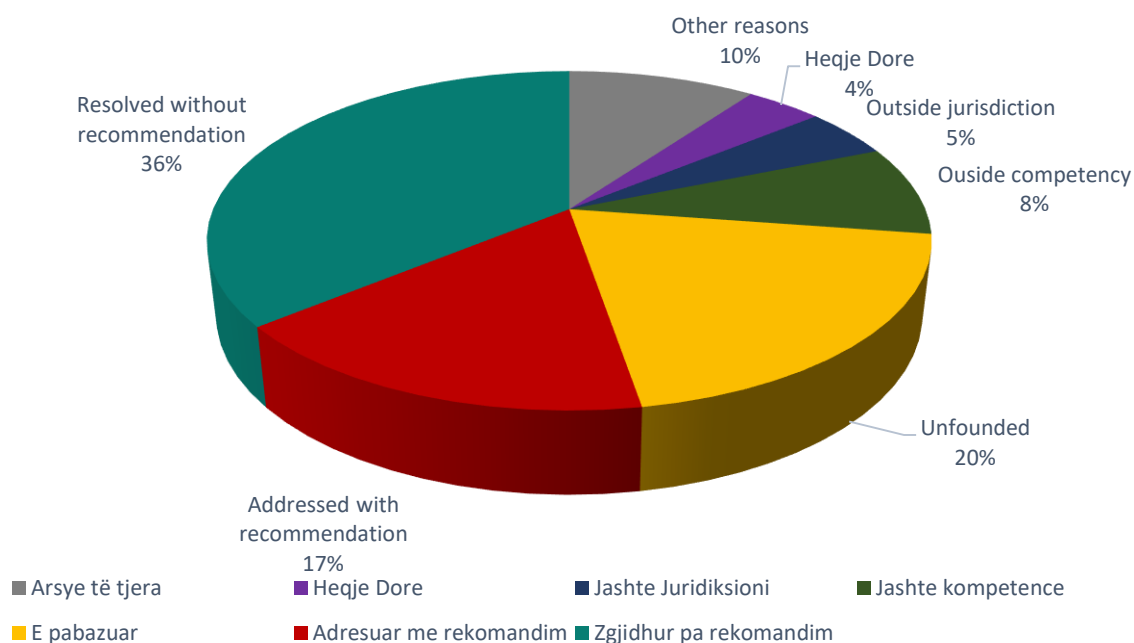
### CASES CLOSED DURING 2023 ACCORDING TO PA SECTIONS



### THE MANNER OF CONCLUDING CASE INVESTIGATIONS, YEAR 2023

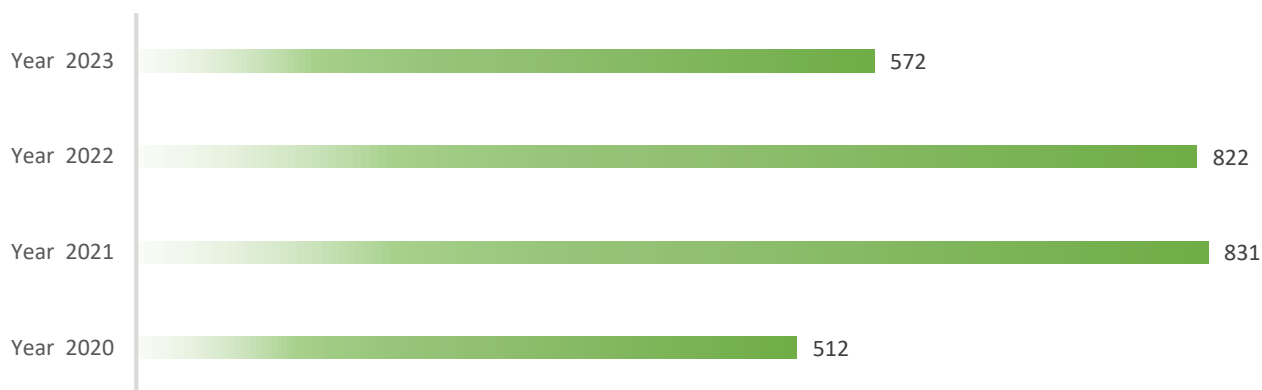


Graphical representation of the manner of concluding the investigation of cases during the year 2023



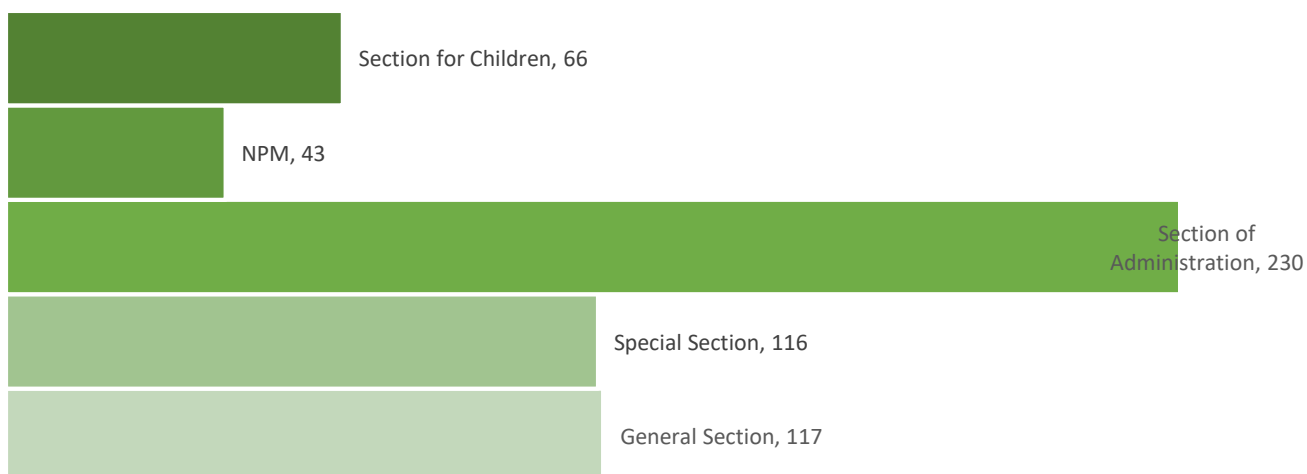
Graphic presentation of the manner of concluding case investigations in %.

### THE NUMBER OF CASES FOR WHICH ADMINISTRATIVE INVESTIGATIONS WERE COMPLETED IN THE YEARS 2020-2023 RESOLVED WITHOUT A RECOMMENDATION



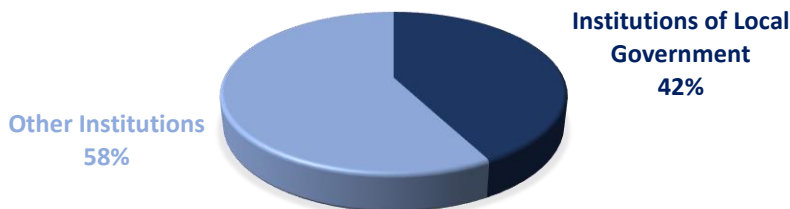
Graphic presentation of the number of cases resolved in favour without the need for intervention by recommendation in the years 2020 - 2023.

### CASES RESOLVED WITHOUT RECOMMENDATION IN 2023 BY SECTIONS OF THE PEOPLE'S ADVOCATE



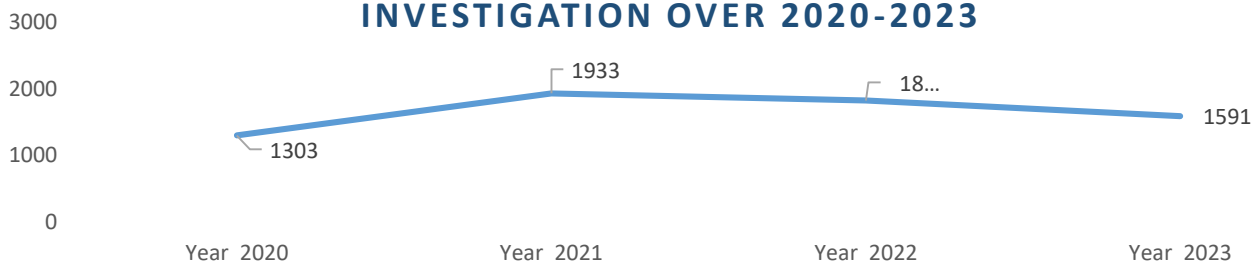
Of the total 572 cases resolved in favour of the citizen without the need for intervention by recommendation, it was found that 242 cases, or about 42%, belong to cases initiated against local government bodies.

**CASES FOR WHICH ADMINISTRATIVE INVESTIGATIONS WERE COMPLETED IN 2023 ACCORDING TO TYPE OF INSTITUTION**



Graphic presentation of cases resolved in favour without the need for intervention by recommendation, according to type of institution.

**NUMBER OF CASES WITH COMPLETED ADMINISTRATIVE INVESTIGATION OVER 2020-2023**

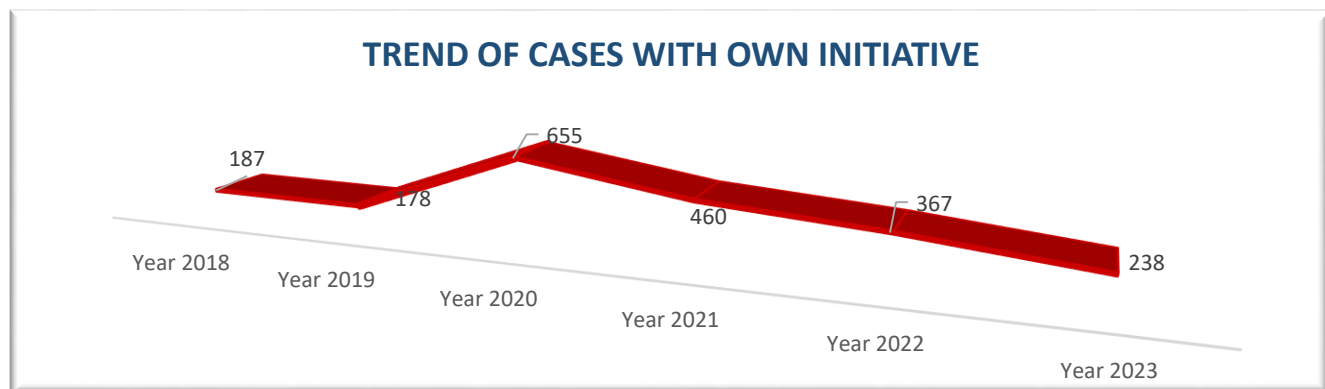


Graphic presentation of the number of cases for which the administrative investigation has been completed in the years 2020-2023.

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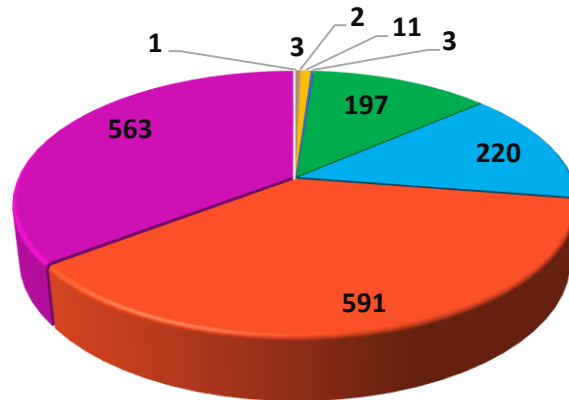
During 2023, the institution of the People's Advocate handled on its own initiative, based on indications from the media, investigative programs, social networks, etc., 238 cases of violations of the fundamental rights of individuals.

**TREND OF CASES WITH OWN INITIATIVE**



Graphic presentation of the trend of cases handled on its own initiative in the years 2018–2023.

**CLOSED CASES BY YEAR**



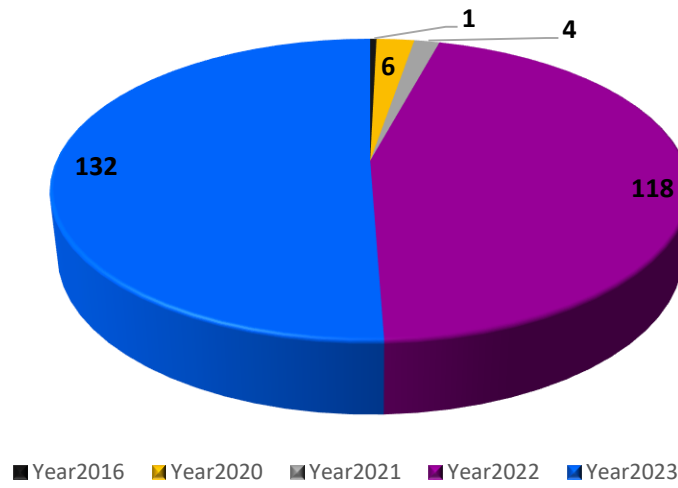
■ 2014 
 ■ 2015 
 ■ 2016 
 ■ 2018 
 ■ 2019 
 ■ 2020 
 ■ 2021 
 ■ 2022 
 ■ 2023

YEAR	2014	2015	2016	2018	2019	2020	2021	2022	2023	TOTAL
Cases closed by year	1	3	2	11	3	197	220	591	563	1591

**CASES CLOSED BY SECTIONS 2014-2023**

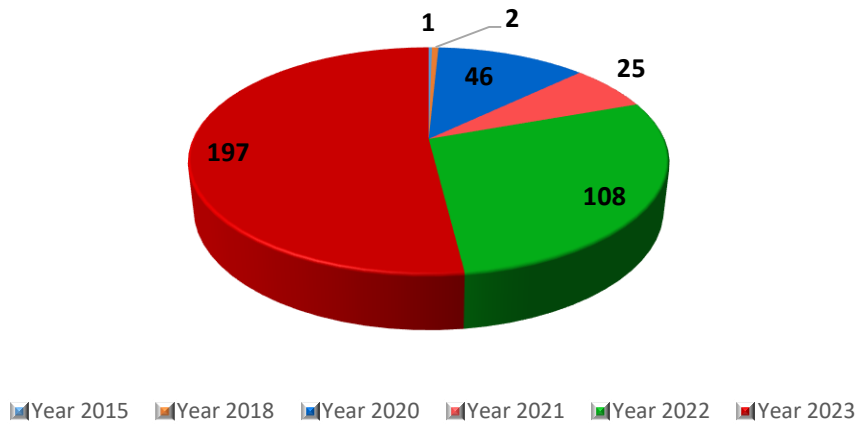
Year	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total
General Section			1				6	4	118	132	261
Special Section		1			2		46	25	108	197	379
Administration Section	1	2	1		2	1	24	76	163	148	418
NPM					7	2	107	94	115	32	357
Children's Section							14	21	87	54	176
TOTAL	1	3	2	0	11	3	197	220	591	563	1591

### GENERAL SECTION



Year	2016	2020	2021	2022	2023	Total
General Section	1	6	4	118	132	261

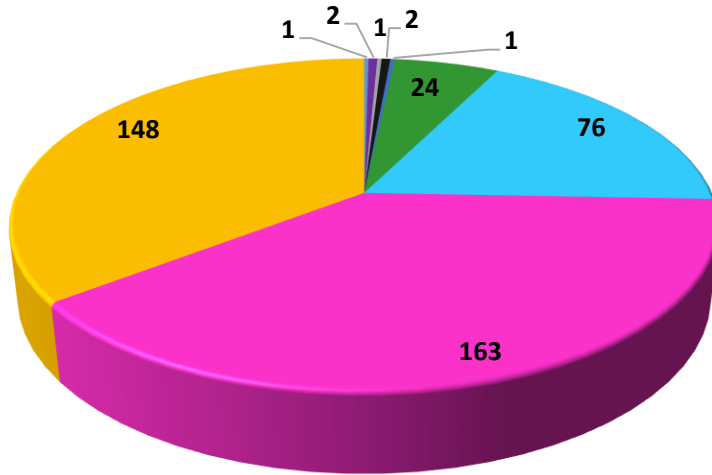
### SPECIAL SECTION



Year	2015	2018	2020	2021	2022	2023	Total
Special Section	1	2	46	25	108	197	379



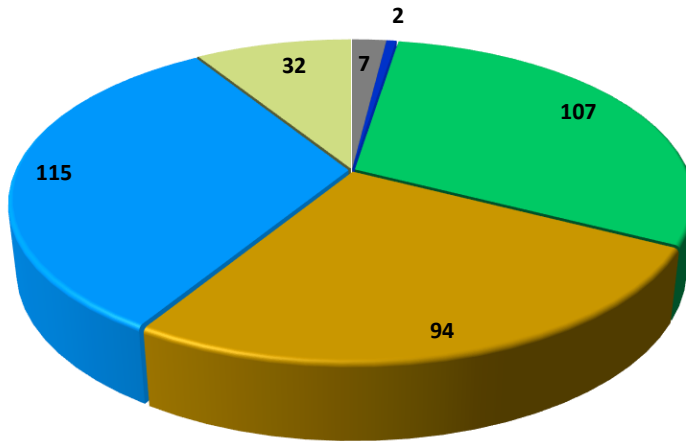
### SECTION OF ADMINISTRATION



■ Year 2014 
 ■ Year 2015 
 ■ Year 2016 
 ■ Year 2018 
 ■ Year 2019 
 ■ Year 2020 
 ■ Year 2021 
 ■ Year 2022 
 ■ Year 2023

Year	2014	2015	2016	2018	2019	2020	2021	2022	2023	Total
<b>Administration Section</b>	1	2	1	2	1	24	76	163	148	418

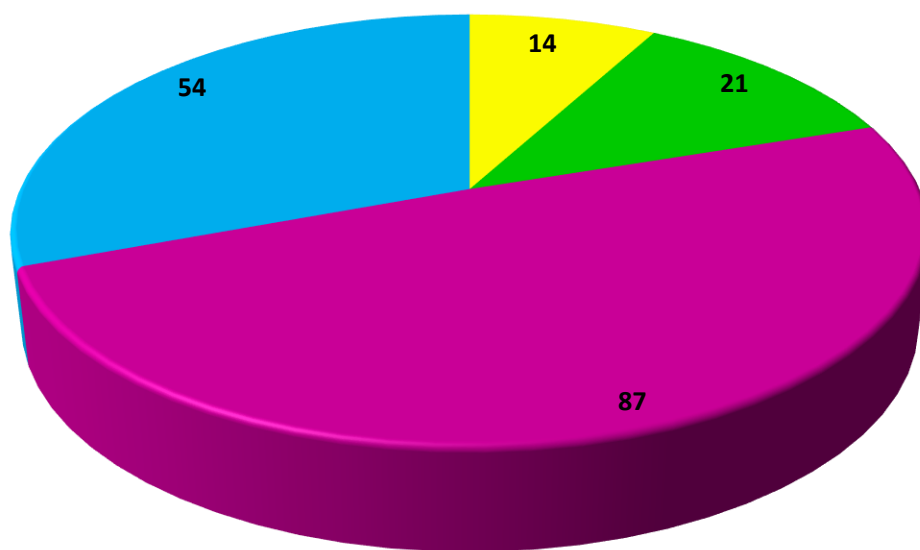
### NPM



■ Year 2018 
 ■ Year 2019 
 ■ Year 2020 
 ■ Year 2021 
 ■ Year 2022 
 ■ Year 2023

Year	2018	2019	2020	2021	2022	2023	Total
<b>NPM</b>	7	2	107	94	115	32	357

### CHILDREN'S SECTION



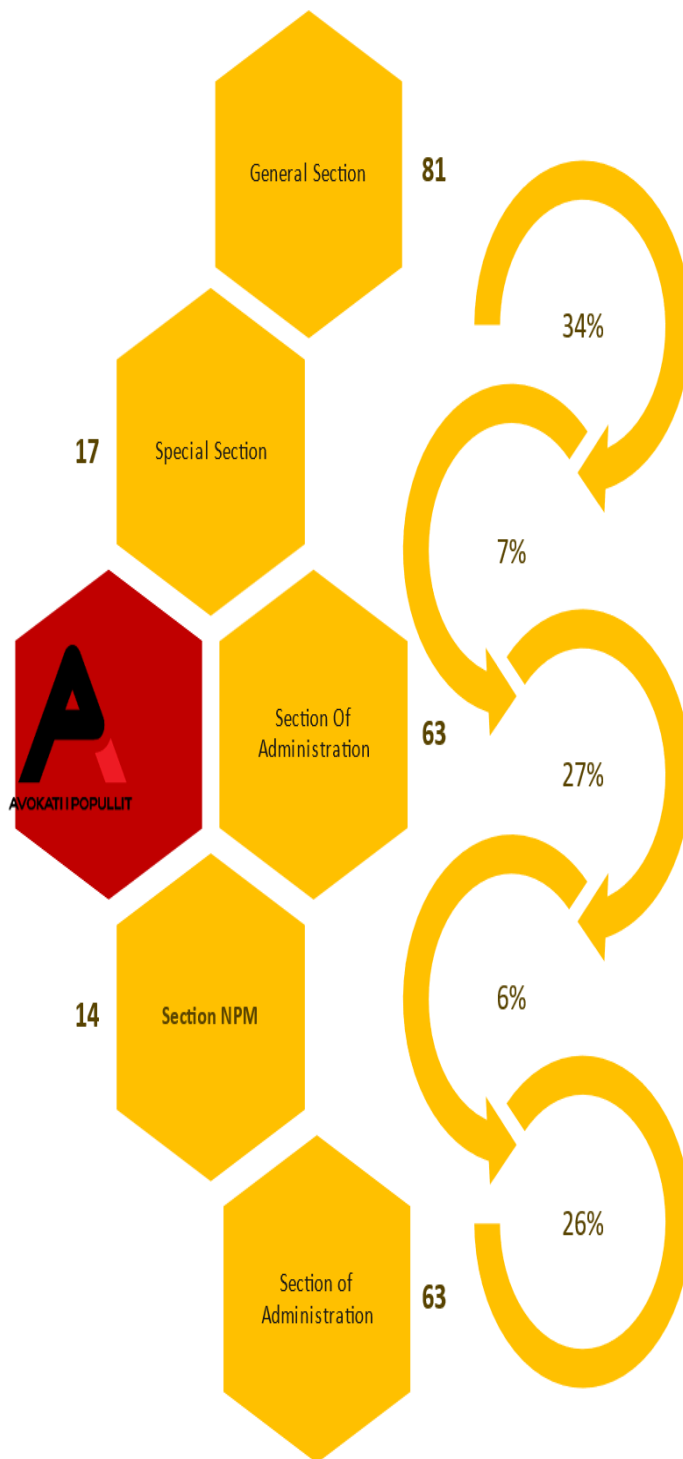
■ Year2020 ■ Year2021 ■ Year2022 ■ Year2023

Year	2020	2021	2022	2023	Total
<b>Children's Section</b>	<b>14</b>	<b>21</b>	<b>87</b>	<b>54</b>	<b>176</b>

Graphic presentation of cases handled on its own initiative by the Sections of the institution of the People's Advocate for 2023, expressed in number and %.

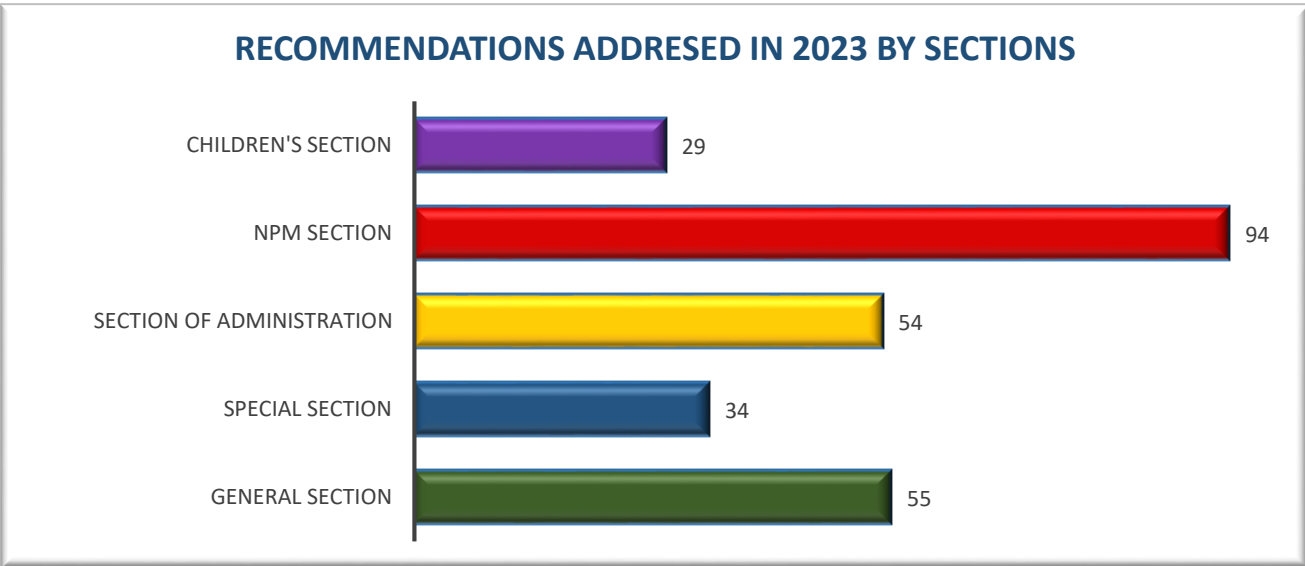
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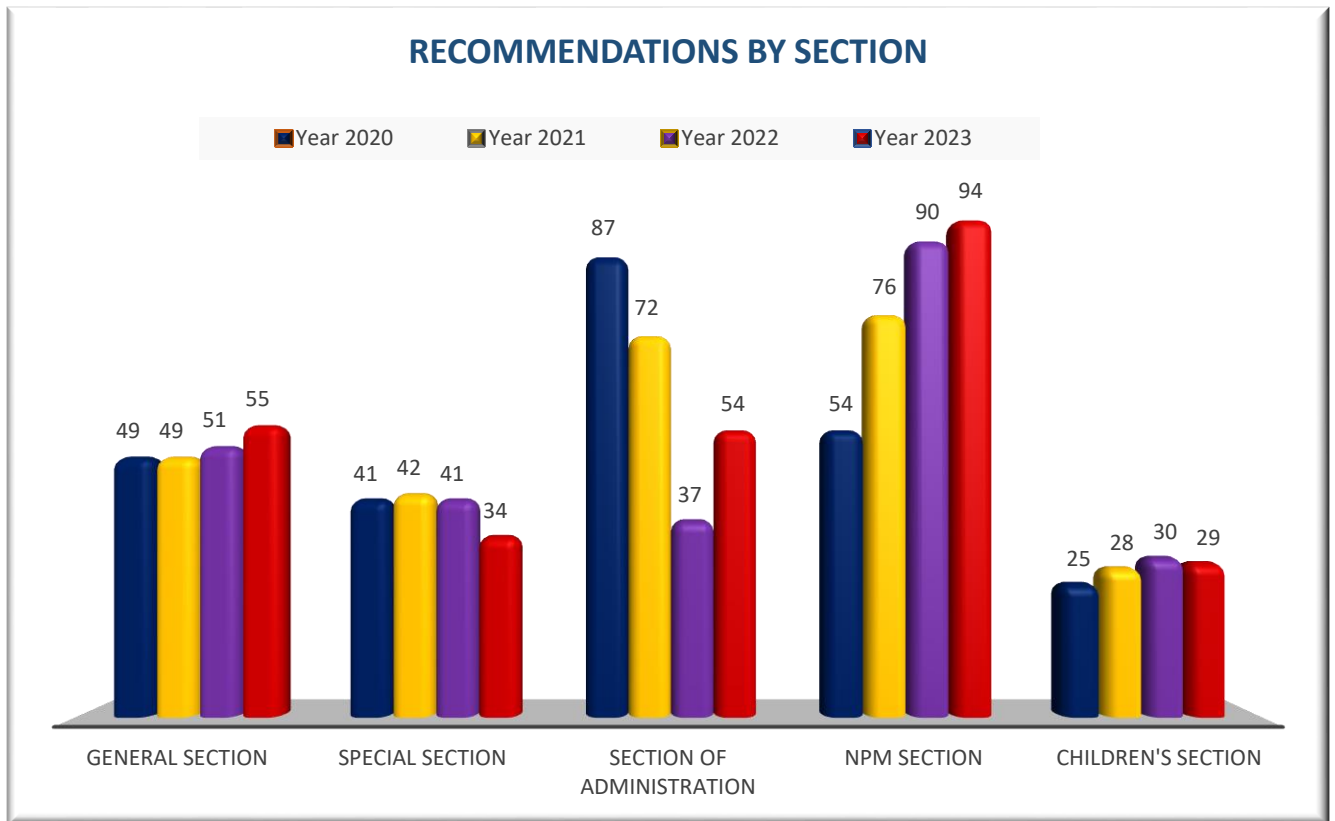
During the exercise of its mandate in 2023, the institution of the People's Advocate addressed a total of 266 recommendations to public administration bodies, including central and local ones, where 198 recommendations pertain to cases of 2023 and 68 recommendations pertain to cases carried over from previous years.





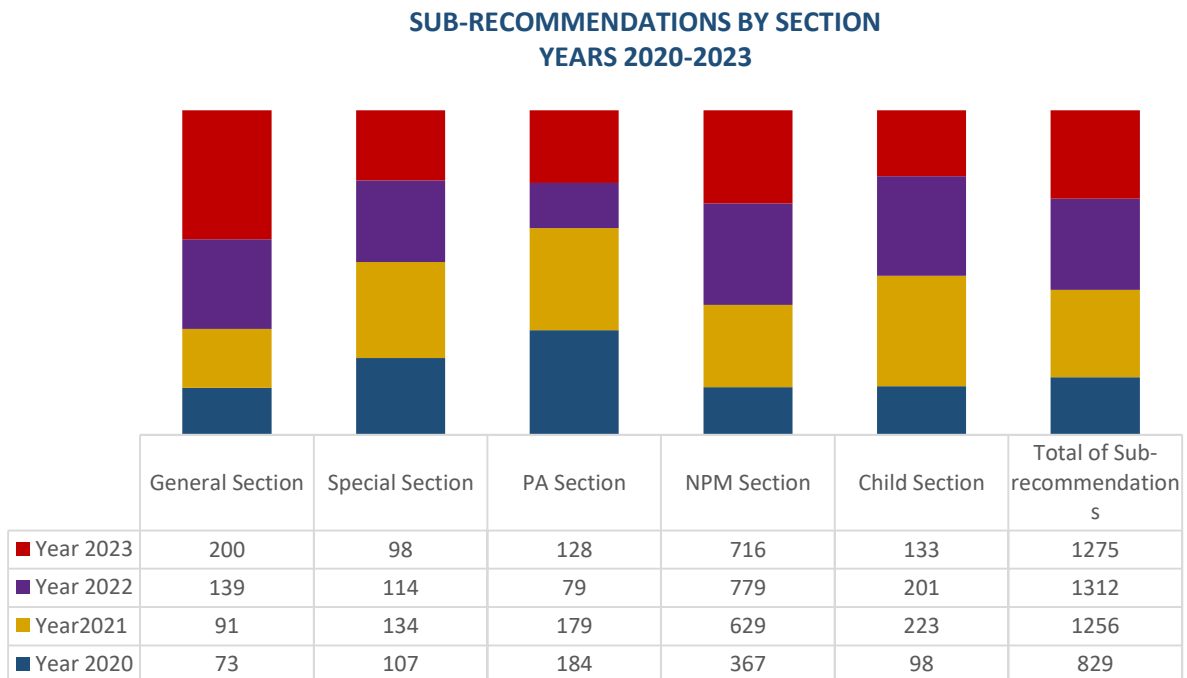
Graphic presentation of the trend in number of recommendations addressed by the institution of the People’s Advocate over the years.





Graphic presentation of the recommendations addressed over the years by the respective sections.

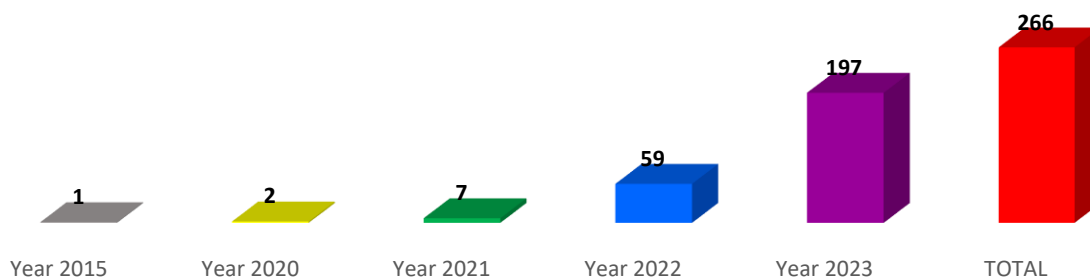
The 266 recommendations encompass 1275 sub-recommendations.



Graphic presentation of the number of sub-recommendations by section and year over 2020 – 2023.

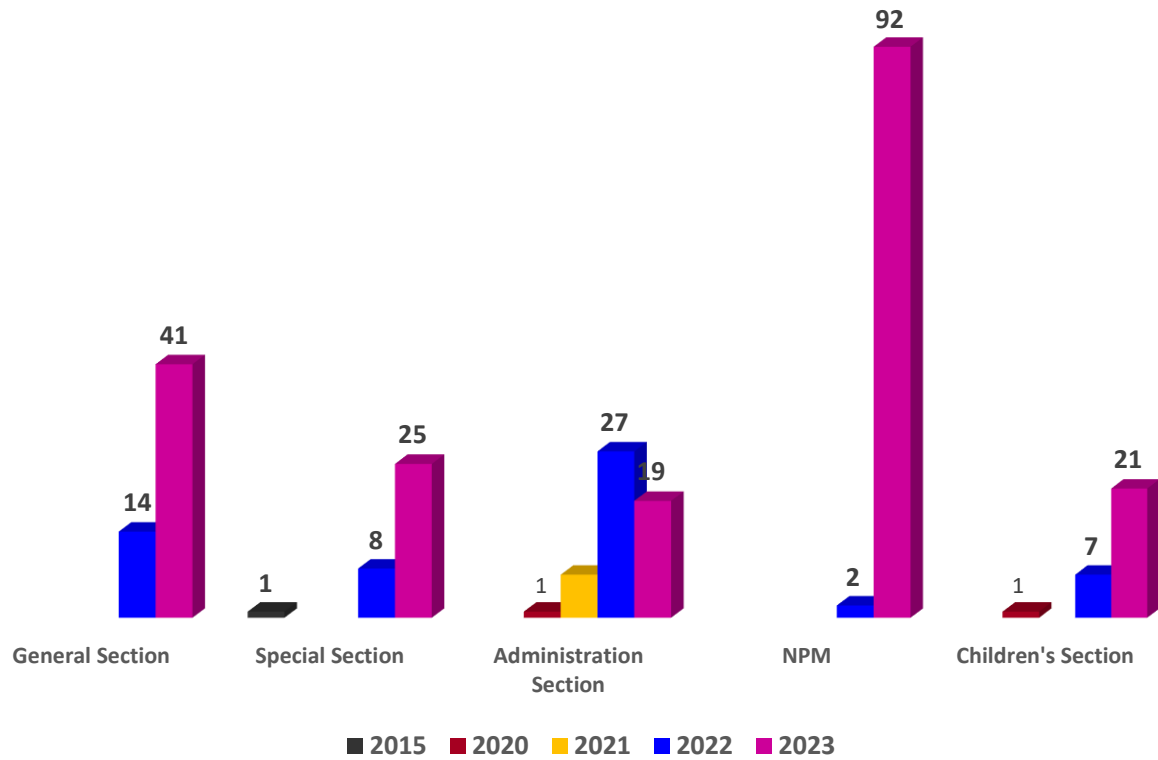
As can be seen in the chart below, of the 1275 sub-recommendations by the institution of the People's Advocate during the exercise of its mandate in 2023, 34% of them were implemented by the receiving institutions, 18% were partially implemented, 33% were not implemented, 9% have not yet received a response, and 5% were rejected.

### RECOMMENDATIONS



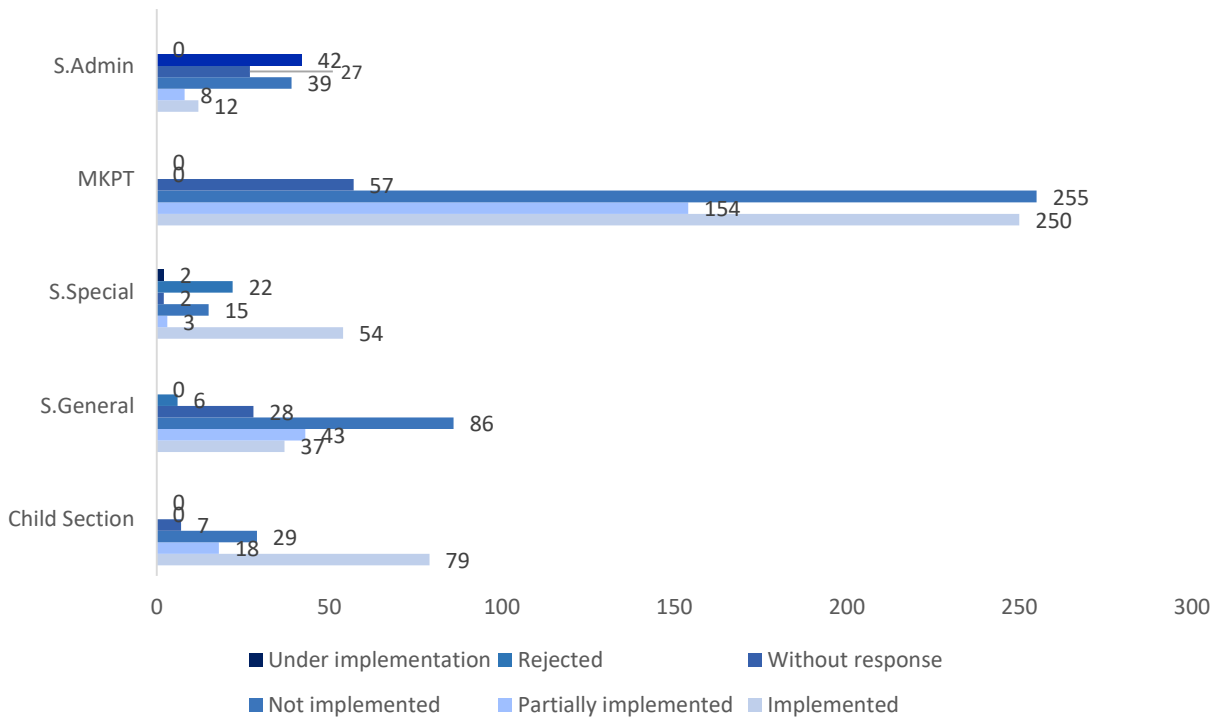
YEAR	YEAR 2015	YEAR 2020	YEAR 2021	YEAR 2022	YEAR 2023	TOTAL
No. of Recommendations	1	2	7	59	197	266

## Recommendations by Sections 2015-2023

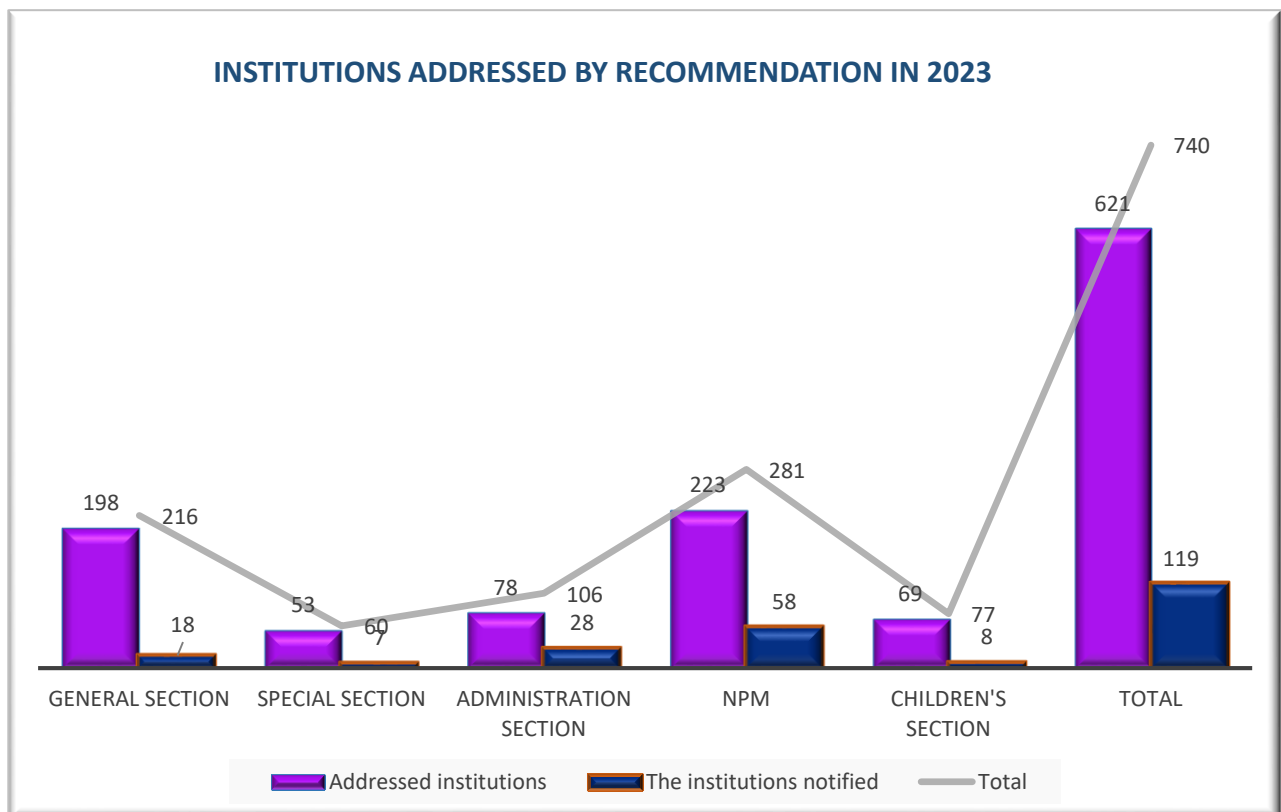


Year	2015	2020	2021	2022	2023	Total
General Section				14	41	55
Special Section	1			8	25	34
Administration Section		1	7	27	19	54
NPM				2	92	94
Children's Section		1		7	21	29
<b>Total</b>						266

## IMPLEMENTATION OF SUB-RECOMMENDATIONS BY SECTION



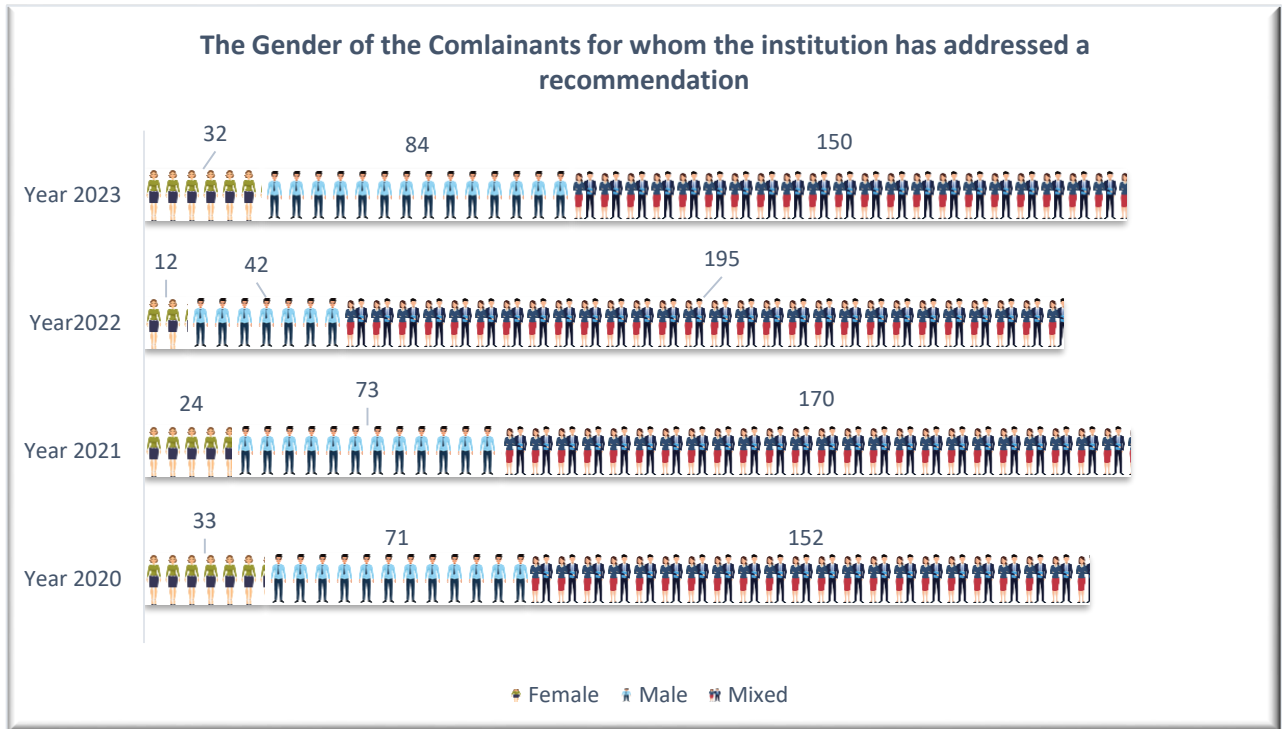
Graphic presentation of the implementation of sub-recommendations for 2023



Graphic presentation of the number of addressed and notified institutions by Section.

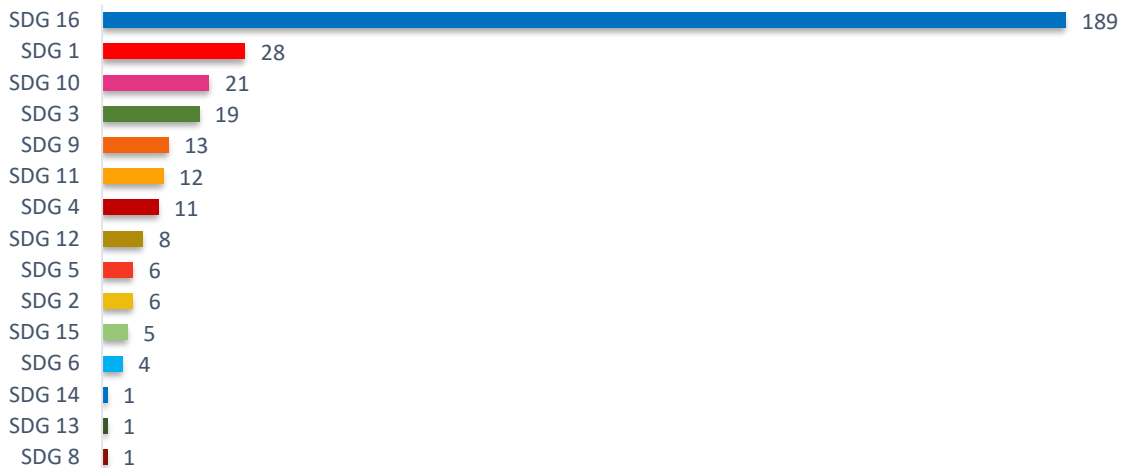
Graphic presentation of the recommendations addressed in the years 2020-2023 according to the gender of the complainant.





The distribution of recommendations made by the institution of the People's Advocate according to the 17 Sustainable Development Goals (SDGs) approved by the UN General Assembly in 2015<sup>298</sup> is as follows:

### RECOMMENDATIONS 2023 BY SDG



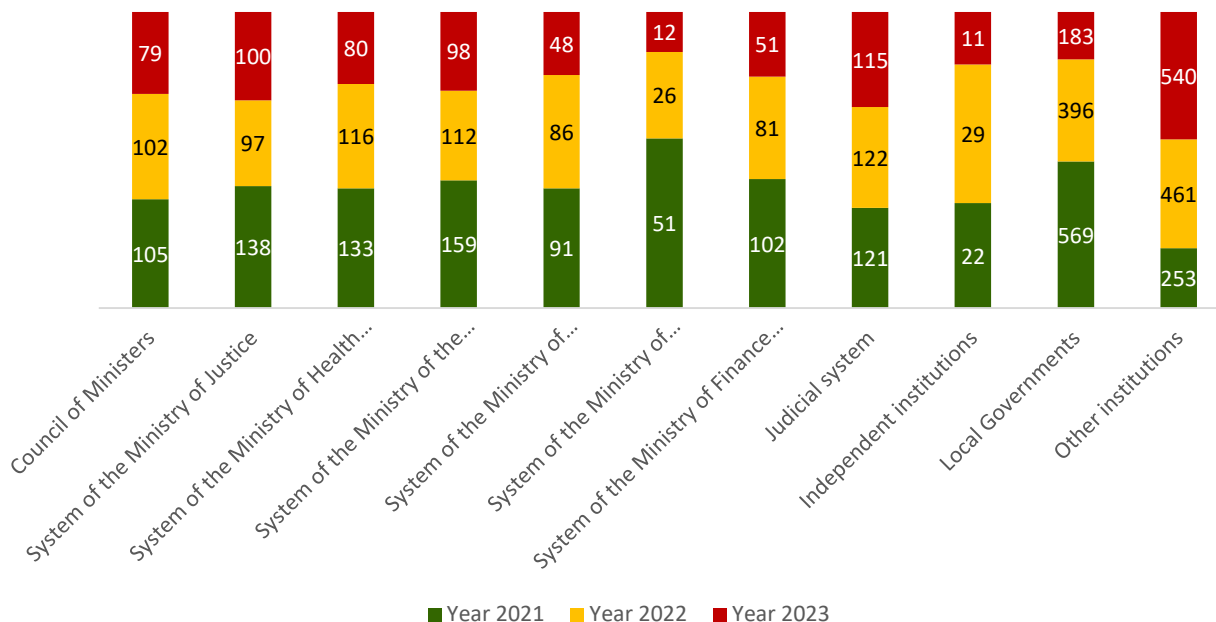
Graphic representation of the distribution of recommendations according to the SDGs



<sup>298</sup>For more information on SDGS -> [Read SDG](#)

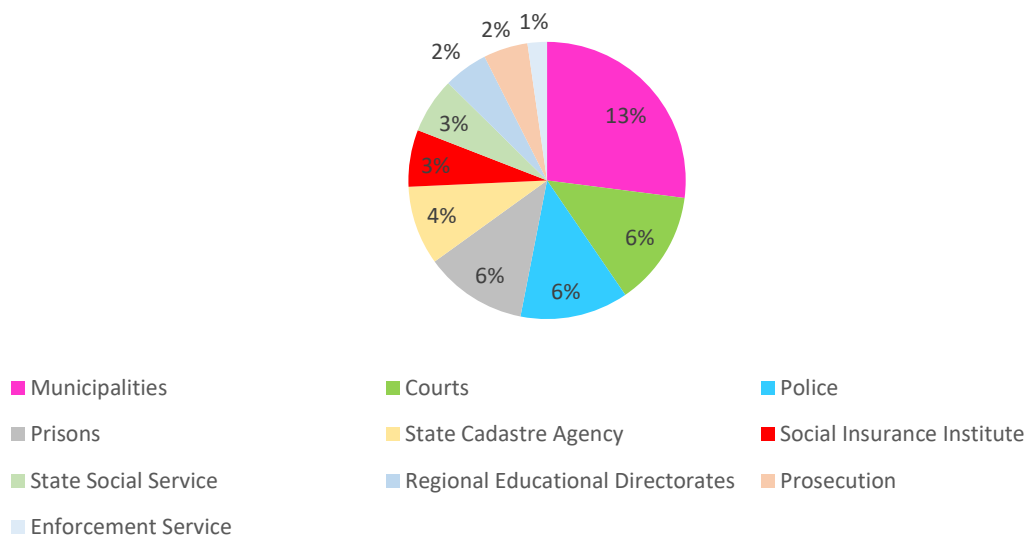
Graphic presentation of cases registered in 2023, according to the main areas of rights.

### DISTRIBUTION OF CASES REGISTERED IN 2023 ACCORDING TO INSTITUTIONS

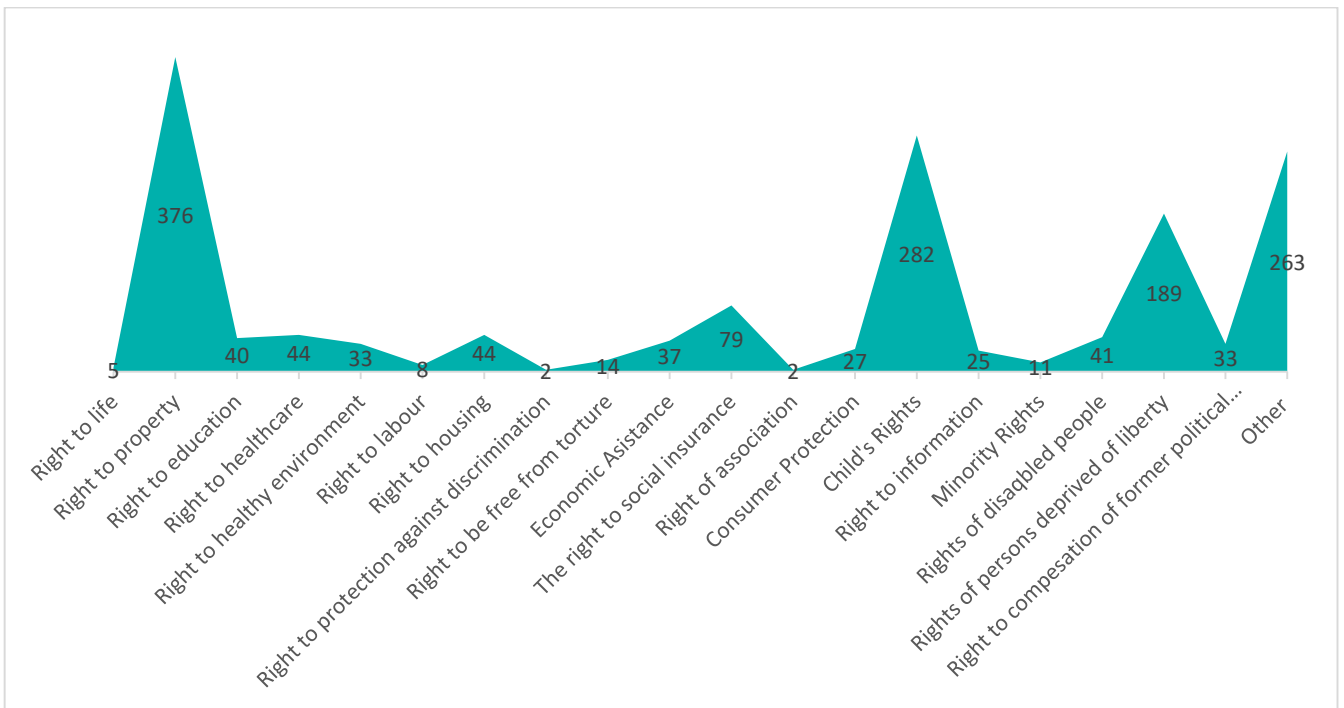
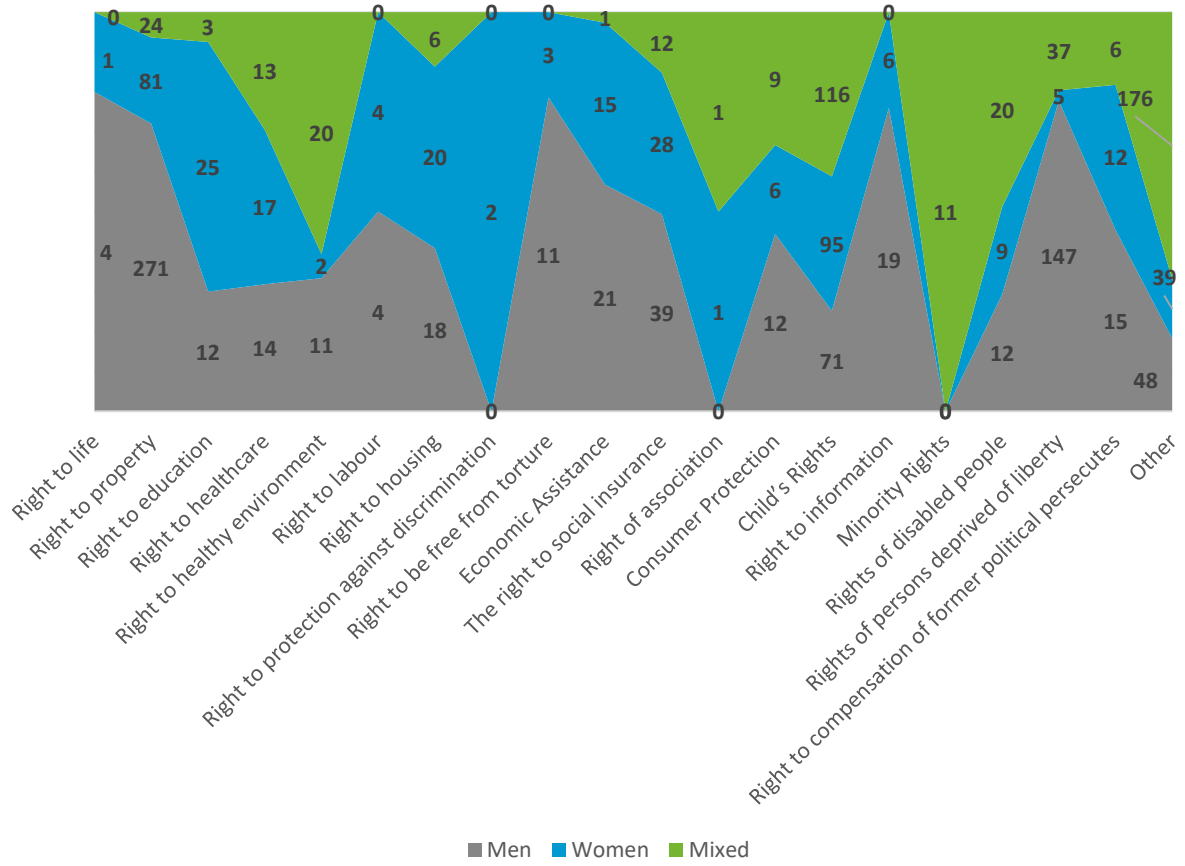


Graphic presentation of cases registered in 2023, according to the system of institutions.

### INSTITUTIONS WITH THE BIGGEST SHARE OF COMPLAINTS 2023



### CASES BY FIELD OF LAW



Graphic presentation of the cases registered for investigation by the institution of the People’s Advocate according to the alleged right violation, 2023.

### CLAIMS BY FIELD OF RIGHT 2021-2023

