



AVOKATI I POPULLIT

ALTERNATIVE REPORT ON THE
IMPLEMENTATION OF THE CEDAW
CONVENTION IN ALBANIA

2016 - 2020

**Prepared by the Ombudsperson of the
Republic of Albania for the presentation
before the United Nations Committee
on the Elimination of All Forms of
Discrimination against Women (CEDAW)**





The views and opinions expressed in this publication are those of the Ombudsperson and do not necessarily reflect the official policy or position of UN Women, other UN agencies or the Government of Sweden.



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LIST OF ACRONYMS

OP	Ombudsperson
ALUIZNI	Agency for Legalization, Urbanization and Integration of Informal Areas / Buildings AVT-Agency for Vocational Training
EU	European Union
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
RED	Regional Educational Directorate
DPB	General Directorate of Prisons (GDP)
CC	Constitutional Court
ECtHR	European Court of Human Rights
IEVP	Institution for the Execution of Criminal Decisions
INSTAT	Institute of Statistics
CEDAW Committee	Committee on the Elimination of Discrimination against Women
RoA Constitution	Constitution of the Republic of Albania
CIC	Civil Code
CrC	Criminal Code
CPC	Civil Procedure Code
EC	European Council
HPC	High Prosecutorial Council
HJC	High Judicial Council
AHC	Albanian Helsinki Committee
SCLA	State Commission for Legal Aid
CPD	Commissioner for Protection from Discrimination

MoSWY	Ministry of Social Welfare and Youth
MoHSP	Ministry of Health and Social Protection
MoJ	Ministry of Justice
MoFE	Ministry of Finance and Economy
MoARD	Ministry of Agriculture and Rural Development
NRMCDV	National Referral Mechanism for Cases of Domestic Violence
MoLSAEO	Ministry of Labor, Social Affairs and Equal Opportunities
MoESY	Ministry of Education, Sports and Youth
LA	Legal Aid
FLA	Free Legal Aid
NGO	Non-governmental Organization
UN	United Nations
UNDP	United Nations Development Programme
RoA	Republic of Albania
NSGE	National Strategy for Gender Equality and its Action Plan
SBS	State Bailiff Service
SSS	State Social Service
SoM	School of Magistrates
EPO	Emergency Protective Order
PO	Protective Order
DCM	Decision of Council of Ministers
CO	Concluding Observation
I PRO	Immovable Property Registration Office
LIPRO	Local Immovable Property Registration Office
SAC	State Agency of Cadaster
MTBP	Medium Term Budget Plan

PART I



REPORT SCOPE AND METHODOLOGY

- 1.1 This alternative Report, prepared by the Office of the Ombudsperson, in relation to the Albanian State Fifth Periodic Report to the CEDAW Committee, provides information about the extent the recommendations made by the said Committee to the Albanian State in the preceding periodic report have been implemented.¹
- 1.2 This is the second OP-drafted report submitted before the CEDAW Committee focusing on the monitoring of CEDAW Convention implementation by the Albanian State for the 2016-2020 period.²
- 1.3 The report presents the findings of the independent institution of OP-conducted monitoring and assessment of the legal and factual situation regarding the women's rights' situation during the monitoring period and provides a chance to the OP to bring before the CEDAW Committee a set of key recommendations in the following areas: a) access to justice and free state legal aid, b) machinery for gender equality gender-based violence, c) gender based violence against women d) women's social and economic rights and e) situation of women residing in rural areas and from disadvantaged groups. With reference to the above, the report's outline and analysis were informed by all Convention articles covering the respective issues.
- 1.4 The report explores the achievements, gaps and challenges marking the realization and protection of women's rights over the past four years. Recommendations are forwarded herein for the Albanian State to meet its obligations and public institutions at the central and local levels to improve the legal framework and public policies for the protection of women's rights and the enforcement of these rights.
- 1.5 The report was drafted in line with the shadow/alternative report rules of writing and methodology, as endorsed by human rights institutions at CEDAW Committee³. It mirrors the CEDAW Committee and National Human Rights Institutions cooperation spirit aiming at upholding, protecting, promoting and realizing women and girls' rights guaranteed by the CEDAW Convention⁴.
- 1.6 The report was informed by the CEDAW Committee guidance provided in its forty-seventh session, focusing especially on "concerns" and "recommendations" included in its Concluding Observations (COs). On these grounds, the report mirrors the OP's analytical approach in response to the extent each one of the concerns and recommendations made by the Committee have been addressed.
- 1.7 In order to assess the actual situation and state of women's rights, the entire OP activity in each of the areas covered herein for the 2016-2020 period has been thoroughly examined, concluding with findings upon analyzing a) requests and complaints filed with the OP; b) OP legal recommendations to state institutions; c) OP inspection reports; d) OP thematic and annual reports, including its legal opinions on amending the current laws so that the protection of women's rights becomes more wide-reaching.

1. Committee on the Elimination of Discrimination Against Women (2016), "Concluding Observations in the Fourth Albanian State Periodic Report", retrieved on 29 January 2020 in https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fALB%2fCO%2f4&Lang=en

2. First OP report "On CEDAW Convention implementation in Albania" was drafted in July 2016 and brought before the CEDAW Committee in its 64 session. (12 July 2016). The contents of this report may be retrieved at <https://www.avokatipopullit.gov.al/media/manager/website/reports/CEDAW-REPORT%20ON%20THE%20IMPLEMENTATION%20OF%20CEDAW%20CONVENTION%20IN%20ALBANIA.PDF>

3. <https://www.iwraw-ap.org/wp-content/uploads/2018/06/NGO-Participation-in-CEDAW-Part-1-and-2-Feb-2010.pdf>

4. Paper on the cooperation between the Committee on the Elimination of Discrimination against Women and National Human Rights Institutions, as approved by the CEDAW Committee in its 74th session. (21 October -8 November 2019).

The report explores the achievements, gaps and challenges marking the realization and protection of women's rights over the past four years. Recommendations are forwarded herein for the Albanian State to meet its obligations and public institutions at the central and local levels to improve the legal framework and public policies for the protection of women's rights and the enforcement of these rights.

- 1.8 From a methodological approach, the OP established a Working Group, which met multiple times to discuss the draft of the report. The Working Group also developed a set of questions addressed to different departments of the OP institutions to gather information on their field of expertise.
- 1.9 Other OP annual reports submitted with the Albanian Parliament, special reports covering the monitoring period and inspections or monitoring visits at residential centers were also considered while devising the report.
- 1.10 In addition to its own data and information, the OP took into account the reports of CSOs, international organizations monitoring the situation of women's rights in Albania, European Union progress reports for Albania, U.S. Department of State reports on situation of human rights in Albania, the Universal Periodic Review (UPR), and the High Commissioner for Human Rights reports, to get a fuller picture of the real situation in terms of progress analysis and concerning issues identification. All the above information has been considered as OP secondary sources of information for the purposes of this report.
- 1.11 The OP thematic and technical round tables organized during the monitoring period covering the report areas have been also regarded as complementary sources of information.
- 1.12 Lastly, the analysis takes account of key performance indicators employed by the Ministry of Health and Social Welfare (MoHSW)⁵ in monitoring and assessing the 2016-2020 National Strategy for Gender Equality, in line with strategic objectives and 6 data provided by the Institute of Statistics (INSTAT)⁷ for the period.

5. MoHSW is the main national institution charged with addressing gender equality issues.

6. 2016-2020 National Strategy for Gender Equality and its Relevant Action Plan, as approved by Decision of Council of Ministers No.733 dated 20.10.2016.

7. INSTAT is the main national institution in Albania charged with producing official statistics.

BACKGROUND

1. **The Albanian State ratified the CEDAW Convention in 1993⁸** and its Optional Protocol later in 2003⁹. The ratification of the convention showed the Albanian State's commitment to promote women and men's rights altogether.¹⁰ The Albanian State ratifying the Convention connotes its willpower to implement the principles foreseen under the Declaration on the Elimination of Discrimination against Women and to take the necessary measures to bring an end to all forms and manifestations of discrimination against women¹¹.
2. Upon ratifying the CEDAW Convention, the Albanian State took on the responsibility to report to the CEDAW Committee on progress towards the implementation of the Convention at least every 4 years, in line with its Article 18. Despite the first report being submitted 10 years after the ratification of the Convention¹², other Albanian State reports have been submitted every six years¹³. However, the reports submitted by the Albanian State have been nevertheless limited to 4-year periods.¹⁴
3. In July 2016, the CEDAW Committee reviewed the fourth periodic report submitted by the Albanian State¹⁵. The fifth periodic report has been scheduled for July 2020¹⁶, therefore it will build on CEDAW Committee findings and concluding observations made for the preceding reporting period (2016) and will include the 2016-2020 reporting period.
4. In line with the rules of procedure for reporting to the CEDAW Committee, the OP may lodge with the Committee shadow/alternative reports on the implementation of the Convention by state parties and/or the implementation of concluding observations made in the precedent reporting session¹⁷.
5. Additionally, in line with the Law on Ombudsperson, the OP assists the Albanian State to develop reports on human rights that are to be submitted with international organizations, in accordance with conventions on human rights and fundamental freedoms ratified by the Albanian State.¹⁸
6. The OP reporting to the CEDAW Committee is an example of the OP's institutional commitment to the protection of human rights and freedoms, in line with its long-term approach as a national human rights institutions, member to the Global Alliance of National Human Rights Institutions, International Ombudsperson Institute and European Network of National Human Rights Institutions¹⁹.
7. The OP has been awarded the highest tier of compatibility with the Paris Principles—so called "A Status".
8. In line with the said principles, the OP institution commits itself to promote and encourage that legislation, rules and national practices are aligned with international human rights instruments. As per the above, the OP is highly encouraged to monitor the international human rights law implementation and to assess the Albanian State extent of compatibility.²⁰
9. Addressing violations of women and girls' human rights and other lawful interests, coupled with providing equal opportunities to all vulnerable groups, has been already denominated as an OP strategic priority for the 2018-2022 period.²¹

8. Law No.7767, dated 9.11.1993 "On Accession to Convention on the Elimination of All Forms of Discrimination Against Women".

9. Law No.7767, dated 17.04.2003 "On RoA Accession to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women".

10. Convention on the Elimination of All Forms of Discrimination Against Women, Preamble.

11. Ibid.

12. The first Albanian State Report to CEDAW Committee dates back to 2002 and features a first and second report summary.

13. Third Albanian State Report was submitted in 2008, while the fourth report was submitted in 2014. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=AL&Lang=EN

14. Third Albanian State Report provided information on CEDAW Convention for the 2003-2007 period, fourth report focused on the 2010-2014 period and the fifth report will target the 2016-2020 period.

15. Approved by Decision of Council of Ministers No. 806, dated 26.11.2014, published in the RoA Official Gazette No.187/ 2014

16. No consultation was made for the Periodic Report that the Albanian State is about to submit with the CEDAW in July 2020 during its drafting stage.

17. Paper on the cooperation between the Committee on the Elimination of Discrimination against Women and National Human Rights Institutions Adopted by the Committee in its seventy-fourth session (21 October-8 November 2019), Chapter 3, Paragraph 22. The online version may be accessed at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/BAP/8997&Lang=en

18. Law no 8454 dated 4.2.1999 "On Ombudsperson" amended, Article 29.

19 2018-2020 Strategic Ombudsperson's Plan in the RoA, p.4.

20. Paper on the cooperation between the Committee on the Elimination of Discrimination against Women and National Human Rights Institutions Adopted by the Committee at its seventy-fourth session (21 October-8 November 2019). Chapter 2, Paragraph 17. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/BAP/8997&Lang=en

21. The 2018-2022 Strategic Ombudsperson's Plan in RoA may be retrieved at <https://www.avokatipopullit.gov.al/sq/our-plans>

10. Additionally, the report is in accordance with the OP strategic commitment to monitor human rights realization in Albania and to develop shadow reports targeting the situation of vulnerable groups (including women, victims of gender-based violence, elderly women, persons with disabilities, LGBTI women, Roma and Egyptian women etc.)²².
11. The OP institution limited the scope of report to a handful of concerning areas covered by the CEDAW Convention, which to its view, urge for the necessary measures to be adopted by the Albanian State not only in terms of improving the legal framework, public policies and institutional practices, but also shifting the overall social and cultural approach associated with women's role and their full equitable engagement in the society.
12. With reference to the above, the report highlights the key aspects featuring the situation of women's rights related to access to justice, gender equality machinery, gender-based violence, women access to economic and social rights and the situation of women residing in rural areas and those from disadvantaged groups. The OP assessment analysis for each area concludes with recommendations made on improving the situation in the long run.
13. The report is an OP institution daily activity output, including among others, receiving and handling complaints, carrying out inspections upon OP's discretion, conducting ex officio investigations, and monitoring violations of human rights at the national and local level.
14. The OP institution handled for the 2016-2019 period a total of 546 requests on restoration of the right to a fair trial, given the non-execution of court decisions within a reasonable and pre-determined time frame (57 filed by women on the protection of their family rights); and some other 320 complaints on the violation of their right to housing (114 complaints filed by women), with 13 recommendations made to public institutions on such right restoration.
15. Similarly, during this period, four inspections were carried out in the Correctional Facility for Women, National Reception Center for Victims of Trafficking, National Center for the Treatment of the Victims of Domestic Violence and Psychosocial Center Vatra.
16. The OP has exercised periodic inspections to Psychiatric Hospitals in Elbasan, Shkodra, Tirana and Vlora, concluding with inspection reports with findings to be addressed herein in order to issue recommendations on conditions and patients treatment improvement.
17. In the framework of access to justice, the OP has handled a total of 190 complaints (95 filed by women) for the 2016-2019 period and has made five recommendations on women's right to benefit economic assistance and have their electricity bills refunded.
18. About the right to social insurance, the OP handled 476 complaints in total (133 filed by women) and made 14 recommendations on such right restoration throughout the 4-year period.
19. Meanwhile, the OP monitored during the same period the situation of persons with disabilities by handling 194 relevant complaints (84 filed by women) and making 14 recommendations.
20. Protection of elderly women's rights has been already denominated as an OP strategic priority for 2016-2020, which led the OP to conduct 12 inspection visits in Retirement Homes.
21. In 2019, the OP got involved in the Project *"Monitoring and promoting equal social rights to disadvantaged groups at the national and local level in Kukës, Ebasan, Librazhd, Fier, Berat and Pogradec municipalities"*, implemented by ALTRI center, concluding with a monitoring report on economic assistance entitlement and guarantee of disabled persons' rights. Conclusions reached therein informed the assessment on the guarantee of such rights to women.
22. The OP's ongoing inspection exercises to public institutions embody its determination as an institution charged with protecting and improvement human rights in general and women's rights in particular at the central and local level.
23. This OP report is an added value to the real depiction of the women's rights in our country, the extent to which the Albanian State has met the obligations foreseen under the CEDAW Convention and the level the CEDAW Committee recommendations in Albania's fourth periodic report have been addressed.
24. The conclusions reached herein, especially the gaps identified in CEDAW Convention implementation, will serve as a good starting point for legal and sub-legal framework improvement, in tandem with the intervention and interaction upgrade among all law enforcement agencies operating in the field of women's rights in Albania.

22. The OP Strategy for the 2018-2022 period, Objective 1.4, Activity 1.4.4.

EXECUTIVE SUMMARY

INTRODUCTION

This report unfolds the findings of the Ombudsperson's Institution on CEDAW Convention implementation by the Albanian State for the 2016-2020 period. The report highlights the progress made in relation to a series of recommendations addressed by the CEDAW Committee in its Concluding Observations to Albania 2016 on a) access to justice and free state legal aid; b) challenges of the machinery for gender equality to guaranteeing women's rights and gender responsive budgeting; c) gender-based violence d) women's social and economic rights; and e) situation of women residing in rural areas and those from disadvantaged groups. Recommendations are forwarded herein on any addressed issue for the Albanian State to meet its obligations and public institutions at the central and local level to improve the legal framework and public policies on protecting women's rights and improving the factual guarantee of such rights.

A. ACCESS TO JUSTICE AND STATE LEGAL AID

Concerning issue 1: Guaranteeing women's access to justice by providing free legal aid (Recommendation No.13 a/b, CEDAW Committee, COs 2010-2016)

1.1 The legal framework on access to justice has been improved. Law No. 111/2017 "On Free Legal Aid Guaranteed by the State", in force since June 1st 2018 further expanded the category of vulnerable women eligible to benefit legal aid. All victims of domestic violence, trafficking and sexual abuse benefit free legal aid regardless of their personal income. However, sub-legal acts (unjustifiably) delayed approval and institutional mechanisms establishment beyond reasonable deadlines hindered the factual guarantee of legal aid to women, thus jeopardizing the legal aid system efficiency for many of them. There is no sufficient allocation of state funds to guarantee legal aid provision. Low awareness-raising, lack of legal clinics country-wide, multiple discrimination and unfavorable economic standing contribute to Roma and Egyptian, LGBTI, disabled and elderly women's having limited access to justice. The Ministry of Justice (MoJ) needs to step in the quickest possible and take all the necessary measures so that all vulnerable women get access to justice irrespective of their disability, education, economic standing, ethnic origin or social status.

Concerning issue 2: Enforcement of court decisions to ensure women's rights are guaranteed (Recommendation No.13 c, CEDAW Committee COs, 2010-2016)

1.2 Legal amendments made to the private bailiff service and Law No. 9669, dated 18.12.2006 "On Measures against Violence in Family Relations", despite their positive effects, failed to bring about a meaningful change when it comes to guaranteeing their rights through court decisions enforcement. However, the non-execution of court decisions on alimony from former spouses, child arrangement or property division is yet a distressing issue. The non-execution of court decisions granting Protection Orders (Pos) and Emergency Protection Orders (EPOs) further jeopardizes the lives of women victims of gender-based violence, thus giving room to domestic

violence to relapse. Responsible bodies, including bailiff service, need to intensify their responses so that court decisions guaranteeing women's rights are fully and timely executed. The legal framework in force gives priority to bailiffs' specialized training and capacity enhancement, as well as to the professional handling of requests filed by women. The MoJ needs to pay due attention to the ongoing monitoring of legal final court decisions granting EPOs/POs being enforced within defined time frames and to take measures so that sanctions apply to entities and/or bailiffs omitting to enforce/hindering the timely enforcement of court decisions.

Concerning issue 3: Displacing the burden of proof in gender-based discrimination cases (Recommendation No. 13/d, CEDAW Committee COs, 2010-2016)

1.3 The OP views the Albanian State initiative to provide for a reversed burden of proof by amending the provisions under the Labor Code and Administrative Procedure Code in a positive light. However, the principle of reversed burden of proof has not been reflected in the Civil Procedure Code (CrC). Judges do not opt all the times for a reversed burden of proof. This amendment to the CrC needs to be addressed and measures should be adopted to enhance court capacities in order for them to correctly implement legal provisions.

B. NATIONAL MACHINERY FOR THE ADVANCEMENT OF WOMEN

General Recommendation No.6 (1988), CEDAW Committee/ Recommendation No.15a

Concerning issue 1: Strengthening the machinery for gender equality with the adequate human and financial resources at the central and local level as well as guaranteeing cooperation among all GE promotion actors

1.4 The gender equality mechanism needs to be fundamentally strengthened. The Ministry of Health and Social Protection restructuring was shortly followed by the GE mechanisms reduction, in plain opposition to the Albanian State strategic objectives. Dedicated gender equality officers (GEO) are lacking in all ministries and municipalities of the country. At the local level, there is no clear-cut division of powers among GEOs, social workers and domestic violence coordinators. There is a need to add up budget allocations for gender equality programs and to earmark a budget share for GEOs capacity enhancement and continuous training.

Concerning issue 2: Including gender responsive budgeting in medium-term budgetary frameworks (Recommendation No.15/c, CEDAW Committee, COs 2010-2016)

1.5 During 2016-2018 the Albanian Government paid increased attention to GRB integration into strategic documents and legal and sub-legal frameworks. This added up the number of GRB-inclusive budgetary frameworks and led to more budget expenses being planned for the former's realization. However, the budget line for addressing gender inequality and fight against gender-based violence is nearly insignificant if compared to the overall annual institutional budget. No measurements to the impact of budget frameworks targeting gender equality, women/men situation improvement and poverty reduction for both genders are being made. No monitoring reports have been produced on GRB realization at the central and local level. **Institutions need to collect gender disaggregated data on any output they budget so as to ensure public funds are fairly and effectively used and detailed analyses of gender/political/financial/legal/institutional gaps hindering implementation are conducted. A gender analysis needs to be conducted by any budgetary institution as a preliminary stage to GRB drafting in order to identify the real needs, priorities, restrictions and issues concerning both men and women.**

C. GENDER-BASED VIOLENCE AGAINST WOMEN

Article 2 under CEDAW Convention; CEDAW Committee General Recommendation No. 35 on gender-based violence; Recommendation No. 23a, CEDAW Committee, COs 2010-2016.

Concerning issue 1: Improving the level of reporting on gender-based violence by providing free legal aid to women and making 24-hour helplines fully operational

1.6 The 2016-2020 period featured major changes made to legal frameworks on fighting and preventing gender-based violence. The OP fully supports a National Domestic Abuse Helpline for women and girls victims of violence and calls for such helplines to be established at the local level as well. However, these helplines are not operating on a full-time basis all over the country. Vulnerable and disadvantaged groups in particular are almost completely uninformed on these helplines' activity. The level of reporting on gender-based violence, especially on sexual harassment and sexual violence is considerably low. There are no gender disaggregated data on all forms of gender-based violence being periodically collected. The OP highlights that adequate amounts of financial funds need to be allocated in order for gender-based and domestic violence to be properly addressed. Employees charged with providing over-the-phone counseling to GBV victims should be trained. Free legal aid clinics should be established at every municipality and should be rendered easily accessible by all vulnerable women.

Concerning issue 2: Strengthening the GBV coordination mechanism (Recommendation No. 23 b/c , CEDAW Committee, COs 2010-2016).

1.7 The initiative to establish a Domestic Violence coordinated mechanisms network in Albania is not sufficient to guarantee women's protections from all forms of violence. More than half the number of overall municipalities lack Local Referral Mechanisms. The LRM limited financial support from the state budget and the frequent turnover of human resources are quite distressing. Allocation of sufficient funds and capacity enhancement of employees in domestic violence treatment centers is deemed necessary to violated women's rights protection and decent reintegration in the society.

Concerning issue 3: Strengthening the enforcement of court decisions granting POs and EPOs (Recommendation No. 23/d, CEDAW Committee, COs 2010-2016.)

1.8 The Law on Domestic Violence underwent several amendments to provide greater guarantees on DV victims' protection. The law provided for the preliminary protective order (PPO) in addition to PO/EPO. The 2016-2019 period features an increase of domestic violence victims requesting POs/EPOs. However, courts refraining from granting or limiting the instances of granting POs/EPOs for other forms of gender-based violence is quite distressing. In several cases, POs/EPOs are not enforced by authorities. The POs/EPOs enforcement needs to be monitored and sanctions must apply to all officers hindering/delaying POs/EPOs enforcement. Court should diligently reason all decisions granting POs/EPOs to avoid all vacuums possible which may lead to judicial decisions' delayed execution or non-execution. State Police officers handling domestic violence cases should be continuously trained on DV case identification, risk assessment and victim or perpetrator's interviewing.

D. WOMEN'S ACCESS TO ECONOMIC AND SOCIAL RIGHTS

Article 13 under CEDAW Convention, Recommendation No. 35/a, CEDAW Committee, COs 2010-2016

Concerning issue 1: Improving women's access to economic assistance and housing

1.9 Legal amendments during the 2016-2019 period improved considerably the legal situation of women in terms of economic services and social protection. The Law 59/2019 "On Social Assistance in the Republic of Albania" expressly defined victims of domestic violence and victims of trafficking as categories benefiting economic assistance. The ceiling of the economic assistance was removed in order to increase its profitability. Law No. 22/2018 "On Social Housing" expressly prioritized victims of domestic violence, victims of trafficking, and teenage mothers as categories benefiting housing services.

1.10 However, the lack of setting a minimum living level and the low level of economic assistance remain very fundamental problems in Albania. The economic assistance digitized system has brought about multiple uncertainties and confusion arising not only for disadvantaged women and girls, but also for public officials making use of it. There are no gender disaggregated data about economic aid and social housing beneficiaries, which has led to many difficulties when analyzing the situation of women and girls' rights protection in line with strategic objectives. Women residing mainly in rural areas in the suburbs, who do not have a house, are still having a hard time finding solutions to their situation. The number of victims of violence/trafficking benefiting social housing or rental bonuses is still low. Up to 2018, none of them benefited from social housing schemes. The approval of legislation on social housing should go along with budget increase and improvement of central government support for local governments with social housing projects. Economic assistance services should be further coordinated with employment boosting programs for vulnerable women and girls in line with the Albanian State strategic objectives.

Concerning issue 2: Women's access to property rights

Article 16 under CEDAW Convention; CEDAW Committee General Recommendation No. 21; Recommendation No. 35b, CEDAW Committee, COs 2010-2016.

1.11 Irrespective of legal provisions on granting women property rights equal to men, the practical implementation of the legal framework has not always led to such rights being protected. Joint property is occasionally not registered in the name of both spouses. Women residing in rural areas find the entitlement to such right much more difficult. As per the above, amendments made to Law No.111/2018 "On Notary" and Law No. 111/2018, "On Cadaster" aim at guaranteeing the gender equality principle and women's protection from gender-based discrimination and are regarded as positive developments. However, there are still issues related to capacity gaps among legal professionals and law enforcement officers, including their information and training on the new legal developments in the area of women's property rights and the effective application of the new legislation. There is also a growing need for women residing in rural and remote areas to be informed on legal amendments.

E. SITUATION OF WOMEN RESIDING IN RURAL AREAS AND

DISADVANTAGED GROUPS

Article 14 under CEDAW Convention; CEDAW Committee General Recommendation No. 36; Recommendation No. 37 a/b/c, CEDAW Committee, COs 2010-2016.

Concerning issue 1: Improving the situation of women residing in rural areas

1.12 The OP views all the legal measures and strategic policies adopted by the Albanian state during the 2016-2020 period focusing on women residing in rural areas' empowerment in a positive light. However, these women's access to rights, goods and services is still limited given the lack of infrastructure, gender-based discrimination, patriarchal mentality or lack of essential services especially in remote areas. For these women, informal employment is still problematic, along with the insufficient guarantee of their access to health services, free legal aid services and right to education. In addition, access to potable water supply of women residing in rural areas and Roma/Egyptian women is limited. There is a need to establish health care centers at all administrative units and improve the rural infrastructure so that accessibility and safety in these areas be upgraded. It is highly recommended that institutions at the central and local levels invest more efforts to raise the awareness of women residing in rural areas on their rights and legal guarantees.

Concerning issue 2: Empowering disadvantaged women

CEDAW Committee General Recommendation No. 18, 26, 27, 32

1.13 Disadvantaged women's rights and access to justice are far more limited if compared to other groups of women given the ineffective implementation of the legal framework in force. Despite legal improvements, most women from these groups still have to deal with major barriers when accessing employment, education, housing or social protection. Limitations are much more serious for disadvantaged women residing in rural areas. Lack of a legal framework on elderly women's rights protection in Albania leads to multiple barriers in the provision of legal guarantees. The situation is far more complicated for convicted women or women with mental health issues. There is a need to improve the access of women with disabilities, Roma and Egyptian, and elderly women to health care centers. It is necessary to increase the funds for improving the conditions and dignified treatment of convicted or detained women as well as of women hospitalized in mental health centers. There is an immediate need for a draft law on third age. In the meanwhile, Roma/Egyptian women should be enabled to climb higher in the education ladder and be economically empowered by including them in employment boosting schemes. Moreover, measures need to be adopted to lower the number of Roma/Egyptian women being sexually harassed or abused on grounds of gender.

PART II



ANALYSIS OF SPECIFIC AREAS

A. ACCESS TO JUSTICE AND STATE LEGAL AID

CEDAW Committee General Recommendation No. 33

Concerning issue 1: Guaranteeing women's access to justice by providing free legal aid (Recommendation No.13 a/b, CEDAW Committee, 2010-2016 COs)

BACKGROUND

- 1.1 The process of guaranteeing women's access to justice experienced a transitory period during the Albanian Government initiative to reform the justice system. Law No.10039, dated 22.12.2008 "On Legal Aid" was among the many laws undergoing fundamental reform in the framework of the justice reform.
- 1.2 The new Law 111/2017 "On State Legal Aid" entered in force on 1 June 2018, thus repealing the previous legal framework. The OP upholds that the new 2017 law was adopted in response to the rather limited scope of access to justice provided for under the previous legislation, so as to provide for a solution to issues emerging from the practical implementation of the 2008 law.
- 1.3 The OP institution took an active part in monitoring the reformation of law on legal aid, thus providing its own assistance through recommendations on adopting a new law in line with international standards. In the framework of enhancing vulnerable groups' access to justice, based on the recommendations of the European Commission against Racism and Intolerance, the OP commended the Minister of Justice and the Parliamentary Committee on Legal Affairs, Public Administration and Human Rights to expand the category of individuals benefiting from the new law by adding victims of discrimination²³. The recommendation was indeed reflected in the new law on legal aid.
- 1.4 The OP's report on women's access to justice explored all issues identified during the implementation of the two laws on free legal aid.²⁴ Until June 2018, requests filed by individuals on free legal aid were reviewed by the State Commission for Legal Aid (SCLA) at the Ministry of Justice (Moj). Meanwhile, upon the new law coming into force, such requests were transferred to the Legal Aid Directorate at Moj for review²⁵.
- 1.5 However, despite this provision, a series of requests on legal aid were initially filed with the OP. The OP has considered and addressed all requests filed with the institution to responsible mechanisms. Thus, during the 2016-2017 period, the OP transferred to SCLA 43 requests filed by individuals on benefiting free legal aid, of which 20 were submitted by women. The commission reviewed all OP transferred requests on a case-by-case basis. Meanwhile, during the 2018-2019 period, 68 requests were filed with the OP by individuals on benefiting free legal aid guaranteed by the state, of which 18 were submitted by women. The issues of requests filed by women consisted mainly of family (dissolution of marriage, alimony) and civil

23. The 2016 Annual Ombudsperson's Report may be retrieved at <https://www.avokatipopullit.gov.al/sq/list/publications/rraporte-vjetore-2/>

24. The OP report explores two periods: The first period, regulated by the previous 2008 law, targets -2016-June 2018, while the second period regulated by the new law on legal aid starts from 1 June 2018 till date.

25. The Legal Aid Directorate would take over the State Commission for Legal Aid foreseen under the 2008 law. See information presented below on this directorate operation. (Issues)

matters (damage infliction, division of property, acknowledgment of work seniority). Criminal cases have been rather few.

- 1.6 Considering women's access to justice as a fundamental right to the restoration of allegedly violated rights and freedoms, the OP institution reiterates its determination to continuously monitor the implementation of the law 111/2017 and the approval of sub-legal acts under discussion. The OP commits to make sure that the new law on free legal aid gets fully implemented, by making the necessary recommendations to the responsible institutions.

Positive developments:

- 1.7 The OP upholds that the new law 111/2017 "On Free Legal Aid Guaranteed by the State" is indeed a step forward in the framework of enhancing vulnerable groups' access to justice.
- 1.8 The new law on legal aid foresees a new scheme and a series of new mechanisms for free legal aid service administration.
- 1.9 The law provides for two types of legal aid: primary and secondary legal aid. The law providing for the exclusion of individuals benefiting legal aid from court fees and costs is also a positive development.²⁶
- 1.10 Law 111/2017 further expands the category of individuals benefiting free legal aid by including several categories of individuals irrespective of their personal income or property (Article 11 under the law)²⁷. Considering the large number of women victims of domestic violence, victims of sexual abuse and trafficking, the OP views the nomination of such categories as free legal aid beneficiaries in a positive light²⁸.
- 1.11 The OP welcomes the Albanian Government initiative to change the legal aid provision scheme. The OP institution endorses the Albanian Helsinki Committee observation that shifting from a centralized legal aid scheme controlled exclusively by SCLA (pursuant to 2008 law) to a decentralized scheme, thus transferring the power to review cases accordingly to competent courts all over the country, would facilitate vulnerable groups' access to justice²⁹. From 2016 till June 2018, vulnerable women had to address SCLA headquartered in Tirana to benefit legal aid. With regards to the above, legal aid provision was largely limited especially for women residing in rural areas and other cities in the country, given the physical distance (SCLA distance from their settlements), financial costs, or their failure to appear before the SCLA due to family status or marital relationships.
- 1.12 About minor girls' access to justice, the OP upholds that the adoption of the law 37/2017 "Juvenile Criminal Justice Code" on 1 January 2018 and 2018-2021 Juvenile Justice Strategy³⁰ are two positive developments in the framework of protecting children rights and improving girls' access to the justice system.
- 1.13 Additionally, from a legal perspective, the OP views the approval of the "2019-2023 Public Legal Education Strategy", aiming at raising the citizen awareness and enhancing legal education on the legislation in force and citizen rights, in a positive light. Law No. 111/2017 on Legal Aid Guaranteed by the State has been also included in the strategic objectives in the framework of informing individuals, especially vulnerable groups about their rights, how to benefit free legal aid and what procedures they should go through.

Practical issues and remaining challenges:

- 1.14 Despite the 2017 legal amendments, the OP shares its concern that women's access to justice remains still among the most serious issues in relation to women's rights protection and realization in Albania.
- 1.15 The establishment of free legal aid mechanisms provided for under law 111/2017 has been extensively delayed. Free Legal Aid Directorate (FLAD) was established de jure upon Prime Minister's Order No. 59,

26. This change to the law was made pursuant to the Albanian constitutional jurisprudence which through Decision of Constitutional Court No. 07.2013 highlights the Albanian State's obligation to cover the expenses of economically disadvantaged individuals. http://www.gjk.gov.al/Web/Vendime_per_fundimtare_100_1.php

27. 2008 law focused predominantly on "insufficient means" as a precondition to benefit free legal aid.

28. Law 111/2017 "On Legal Aid Guaranteed by the State", Article 11.

29. Albanian Helsinki Committee (2019) Study Report on Vulnerable Women's Access to Justice", p. 17.

30. Decision of Council of Ministers No. 541, dated 19.09.2018 "On Approval of the 2018-2021 Juvenile Justice Strategy and its Relevant Action Plan"

dated 25.03.2019³¹ when SCLA was already undergoing restructuring in June 2018.³² Moreover, the FLAD was made fully operational not earlier than October 2019.³³ The MoJ 8-month monitoring report revealed that until September 2019, the FLAD had only 4 employees out of the actual 25 foreseen in its organizational chart. Their number increased to 13 by the end of 2019.

- 1.16 The Law 111/2017 required the Council of Ministers, the MoJ, FLAD Director and the High Prosecutorial Council (HPC) to approve the sub-legal acts according to legal provisions for each body no later than three months from the law becoming effective. However, the approval of these acts is still ongoing³⁴ Most of them were approved in March 2019, beyond the foreseen legal time frames.³⁵
- 1.17 During the 2016-2018 period, the OP noted that a considerable number of requests on free legal aid were not completed due to unaffordable judicial expenses or bureaucratic processes.
- 1.18 Meanwhile, during the 2018-2019 period, women's access to justice was mainly limited by the vacuum produced when the establishment of new bodies on FLA administration and guarantee was on its way and lack of sub-legal acts. The issue is also highlighted in the MoJ monitoring reports. The 2019 monitoring report concluded that "disadvantaged women were partially provided with free legal aid"³⁶. Monitoring data indicate that out of 1000 planned legal aid provision instances for women during 2019, only 127 were actually delivered^{37,38}.
- 1.19 Legal aid is still largely provided by NGOs, with donor support. ³⁹ The OP institution expresses its concern that the state budget allocated to free legal aid service provision is insufficient. The budget stands at ALL 38 million for 2020.⁴⁰ Meanwhile, in other occasions, the budget allocated to free legal aid provision was not fully realized, although the figures were relatively higher compared to previous years. Similarly, the revised budget allocated to free legal aid provisions in 2019 totaled ALL 40 million⁴¹, of which 18 were earmarked for disadvantaged women ⁴²(compared to ALL 7.131 million in 2018). However, the MoJ monitoring reports for 2019 highlight that expenses on free legal aid targeting women during this year were realized only at 12,7 %.⁴³
- 1.20 The most disadvantaged groups in terms of access to justice are Roma women, Egyptian women, women with low levels of income and education, LGBTI women, and women victims of domestic violence. ⁴⁴Lack of information, unfavorable education and economic standing, physical distance, bureaucratic processes, or even multiple discrimination are among the factors influencing the lack of and/or restricted access to legal or social services, even more so when subject to violence.⁴⁵ The OP deems that the primary legal aid provision centers are not fully operational in Tirana, Elbasan, Fier and Durrës and are completely lacking in other cities.⁴⁶
- 1.21 In the meanwhile, the OP institution expresses its deep concern that legal aid provision is far less accessible by women with disabilities. Inability to physically access courts or other institutions makes it impossible for this category to receive such service. LA application forms inappropriate to this category are also a major issue.

31. Law 111.2017 provided for the directorate to be established no later than 3 months from its entry in force.

32. Ministry of Justice, 2018 monitoring report.

33. The body was foreseen to be established upon Prime Minister's Order No. 59, dated 25.03.2019 "On Approval of the Free Legal Aid Directorate Organization and Organizational Chart". However, the FLAD actual establishment was concluded in November 2019.

34. The OP notes that the draft act on fees and secondary legal aid lawyers designation on a rotational basis has not been approved yet. Moreover, the HPC has not approved yet the Regulation "On rules for guaranteeing mandatory defense and designating a legal aid lawyer on a rotational basis from the name list of lawyers providing secondary legal aid services in criminal proceedings".

35. Further information on issues regarding acts not approved yet.

36. The legal aid program delivers two outputs: Primary legal aid and free legal aid for needy women.

37. Ministry of Justice, "2019 Monitoring Report" may be retrieved at <http://www.drejtesia.gov.al/raportime/>

38. According to the MoJ, the output was not fully delivered due to SCLA restructuring and new institution establishment. See the MoJ Monitoring Report on Legal Aid 2019, Annex No.3 "Summative report on program output/performance accomplishment" at <http://www.drejtesia.gov.al/raportime/>

39. European Commission, Albania Progress Report, 2019 p. 30; GREVIO Baseline Evaluation Report 2017, Paragraph 204.

40. The budget allocated for FLAD totals ALL 76 million, of which ALL 38 million were earmarked for LA provision, which further divide into "primary/secondary legal aid" and "legal aid for needy women".

41. Law No.99/2018 "On 2019 Budget", Table 5 at <http://www.parlament.al/Files/ProjektLigje/20191025093449Ligji%20per%20buxhetin%20e%20viti%202019.pdf>. The Initial budget planned for the service earlier in the 2019 stood at ALL 54 million decreasing to ALL 40 million upon revision.

42. See Ministry of Justice, Monitoring Report, Legal Aid 2019 at <http://www.drejtesia.gov.al/raportime/>, Annex 3.

43. Out of ALL 18.000.000 expenditure planned in 2019 for legal aid provision to women, only 6.353.000, or 12.7%, were realized by the end of the year. See Ministry of Justice, Monitoring Report, Legal Aid 2019 at <http://www.drejtesia.gov.al/raportime/>

44. Milatovic.S, UNDP (2019) "Study on Access to Justice in Albania", p.8.

45. See Veizi.M (storytelling) at <https://www.youtube.com/watch?v=bt7PXk4IXoY>

46. The first primary legal aid provision center opened in Elbasan on September 2019 pursuant to Law 111/2017. However, the FLA Office at the MoJ has been functional even when the previous law was effective, with the support of Open Society Foundations in Albania, and is planned to be transferred under the MoJ administration. Fier and Durrës centers were established upon UNDP Albania support.

- 1.22 Additionally, the OP deems that lack of an online FLA provision system in the MoJ official website is another issue of concern. Beneficiaries are not enabled to apply online for FLA service. The register storing FLA requests and their handling is also lacking. The OP deems that lack of an accessible register recording FLA requests downgrades FLA provisions transparency. Moreover, lack of such register storing data aligned with state centers, legal clinics and NGOs does not allow for accurate data on the activity of these bodies and the number of FLA beneficiaries to be provided for service provision reporting and monitoring purposes.
- 1.23 Although Law 111/2017 entered in force in June 2018, the service is not structurally provided just yet by all state institutions. Likewise, the OP institution expresses its concern about the lack of training for employees in state institutions in order for them to gain a better knowledge on the legal and sub-legal acts.
- 1.24 The MoJ opening the public call for NGOs providing primary legal aid was rather late. As per the above, no NGO has been authorized by the FLAD on such service provision.
- 1.25 Citizen information on their right to benefit free legal aid and its procedural guarantee mechanisms are considerably low.⁴⁷ Although the Public Legal Education Strategy (PLES) was approved by early 2019, its action plan for making the strategy implementable and its objectives achievable has not been approved yet. Individuals should be informed about all services covered by free legal aid and their right to complaint in case of FLA refusal.
- 1.26 Although the FLA service decentralization in terms of national courts nearby women's residing areas reviewing complaints was viewed in a positive light, the quality of legal aid provision is yet to be monitored considering courts' increased caseload with reference to FLA requests.
- 1.27 The OP deems that changes made to the new Law 110/2018 "On Notary" invalidated vulnerable categories being "exempt" from notary fees (effective in the previous law), thus providing for these fees to be only reduced, may lead to women's restricted access to the justice system.⁴⁸ Moreover, the OP considers the practical guarantee of such right as a challenge to the Albanian State. Notary fees being reduced "where needed" places the application of legal guarantees at the notary's full discretion, which may lead to vulnerable individuals' unfair treatment, given that the Law on Legal Aid provides for them as beneficiary categories on grounds of their social status, completely detached from their needy situation. Moreover, the National Notary Chamber has not approved any rules yet ever since 2018 on the actual guarantee of such right in terms of fee reduction or procedures that vulnerable individuals should follow in any case.

Recommendations:

- 1.28 The OP recommends the Ministry of Justice to take measures in order to expedite the approval of sub-legal act on lawyers' designation on a rotational basis and their remuneration, given their paramount importance to the full implementation of Law 111/2017 "On Legal Aid Guaranteed by the State". The HPC is therefore recommended to approve the Regulation "On guaranteeing mandatory defense and designating a legal aid lawyer on a rotational basis from the name list of lawyers providing secondary legal aid services in criminal proceedings". The MoJ is recommended to efficiently coordinate round tables in order for these acts to be consulted with the National Bar Association and Ministry of Finance.
- 1.29 The MoJ is recommended to expedite the NGOs authorization process to provide primary legal aid in line with the provisions of the Law No. 111/2017. Allocation of sufficient funds to NGOs providing such services is also highly recommended.
- 1.30 The OP calls for MoJ and other state institutions to take measures on the implementation of Public Legal Education Strategy (PLES). As per the above, the OP recommends the MoJ to approve the soonest possible the PLES Action Plan and to include therein specific activities that guarantee the improvement of women's access to justice.
- 1.31 Vulnerable women should be also made aware of the multiple opportunities to benefit FLA and procedural mechanisms they should resort to in order to benefit de facto of such aid. To this aim, the MoJ must arrange awareness-raising campaigns on the new FLA law in cooperation with active field NGOs. The MoJ should

47. UNDP (2019) "Study on Access to Justice in Albania"

48. Article 76 under Law No. 110/2018 "On Notary" expressly provides for that the "National Notary Chamber, upon MoJ endorsement, shall approve the rules on fee reduction applicable to legal aid beneficiaries, pursuant to the legislation in force and only when needed".

consider all categories of vulnerable women so as the disseminated information be accessed by all groups irrespective of their disability, level of education, economic standing and social status.

- 1.32 The MoJ is recommended to take measures directed to staff FLAD in order for it to become fully operational in the framework of FLA provision.
- 1.33 The MoJ is recommended to approve the soonest possible the name list of lawyers members to NBA designated to provide free legal aid for 2020. Moreover, the MoJ is recommended to take measures, in cooperation with the National Bar Association, to ensure the capacities of lawyers providing FLA, especially lawyers dealing with rights and treatment of women victims to domestic violence, victims of trafficking in humans, discrimination, minor girls in conflict with the law or minors victims of trafficking are enhanced. Additionally, the NGOs authorized by MoJ to provide legal aid services are recommended to undergo trainings.
- 1.34 The MoJ, in cooperation with the Albanian School of Public Administration is recommended to take measures on the training of employees at the central and local level on service provision compliant with the FLA Law.
- 1.35 The School of Magistrates is recommended to take measures to ensure judges become subject to continuing trainings on FLA Law interpretation, thus enabling them to take decisions based on the law.
- 1.36 Adoption of legal measures is highly recommended to enable vulnerable FLA beneficiaries to benefit notary fee reduction/exemption to be prescribed in the Law 111/2017 (with the ultimate goal of coming into alignment with the law "On Notary") and/ or other public acts ⁴⁹ (expert report, psychologist reports etc.).
- 1.37 The FLA centers are required to take measures to ensure data on requests filed by them are loaded in real time. Data are recommended to be disaggregated by gender and by subject of their request. The recommendation applies to NGOs authorized by the FLAD to provide legal aid services and to legal clinics at universities. In the meanwhile, the MoJ is recommended to establish a unified system for collecting data from each center, NGOs or legal clinics, so as to establish an accurate database on the number of legal aid beneficiaries disaggregated by gender, social status, age and subject of request.

Concerning issue 2: Execution of court decisions to guarantee women's rights Recommendation No. 13 c, CEDAW Committee COs 2010-2016

BACKGROUND

- 2.1 The execution of court decisions guarantees the right to fair trial, as enshrined under Article 42 in the Constitution of the Republic of Albania and Article 6 in the European Convention on Human Rights. The ECtHR, emphasizing the importance of execution of final court decisions on human rights protection, highlights that "the right to a fair trial would be illusory if a Contracting State's domestic legal system allowed a final, binding judicial decision to remain inoperative to the detriment of one party⁵⁰". The above should be construed in terms of non-execution of POs/EPOs for women victims of gender-based violence.
- 2.2 The OP has continuously highlighted in its annual reports the need for court decisions to be enforced, considering it as a fundamental right affecting the establishment, strengthening and development of a judicial system accessible by all.⁵¹
- 2.3 Moreover, international mechanisms view the non-execution of court decisions on protection of women's rights in Albania, especially those granting protective orders to victims of gender-based violence, as an ongoing concern. According to GREVIO expert group⁵², Albanian authorities should pay due diligence to the non-execution of court decisions granting POs in the framework of protecting victims of domestic violence (overwhelmingly women). In its 2017 Baseline Evaluation Report, the expert group ranked the

49. The previous provision on reducing and even excluding vulnerable categories benefiting FLA from notary fees should be upheld. Article 28 under repealed Law No. 7829, dated 01.06.1994 "On Notary", as amended expressly sanctions that: "Should the individuals be unable to afford the expenses required for all notary activities to be carried out, he/she may be completely or partially exempted from such fees by the notary him/herself, or upon National Bar Association decision".

50. See ECtHR "Hornsby vs. Greece", Application No.18357/9, dated 19 March 1997.

51. Annual Ombudsperson's Report, 2018, p. 36 <https://www.avokatipopullit.gov.al/media/manager/website/reports/Raport%20Vjetor%202018.pdf>

52. GREVIO is the independent expert body responsible for monitoring the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by the Parties. Albania ratified the Istanbul Convention on 4 February 2013. The first GREVIO report for Albania was put out in 2017.

efficiency of protective order mechanism, their non-execution and reactive response of responsible bodies, including the bailiff service among the key concerning issues.⁵³

- 2.4 Upon reviewing the requests filed by individuals on the enforcement of court decisions during the 2016-2019 period, the OP institution concluded that the total requests handled during the period was 546, of which 51 were filed by women. Moreover, the OP review concludes that women/girls asked for the OP to intervene in order to restore their right to a fair trial given the non-execution of civil court decisions within reasonable or foreseen legal time frames.
- 2.5 In terms of subject, the OP has handled for the 2016-2019 period 17 complaints filed by women about the non-execution of final court decisions on alimony by former spouses; 11 complaints about the non-execution of final court decisions on obligation to resort to a specific course of action; 3 complaints about the non-execution of final court decisions on child arrangements; 10 complaints about the non-execution of final court decisions on monetary liability of state or private entities; 2 complaints about the non-execution of final court decisions on property division and 8 complaints about bailiff actions for enforcing women or girls to settle their liabilities.⁵⁴
- 2.6 The OP has prioritized the review of complaints about the non-execution of court decisions filed by women, by recommending measures that should be adopted in order for court decisions to be timely and fully executed. With reference to complaints on housing issues, the OP would like to mention that the institution had to intervene with the Bailiff Service in one case about the execution of the complainant's right to access her dwelling place. Likewise, the OP handled 4 complaints filed by women requesting the institution to intervene with Tirana municipality on adoption of measures to not evict them and their families from social houses. In one case, the OP reviewed a complaint filed by a woman on preventing her house from being demolished to give way to a public project.⁵⁵
- 2.7 The OP considers the verdict of guilty about the criminal offense "denial of livelihoods", provided for under Article 125 in the Criminal Code, as an indicator to the non-execution of court decisions (mainly on women's rights protection), which has brought about the criminal liability of litigants. With reference to MoJ Year Book, 340 cases were reviewed for the period 2016-2018, of which 110 individuals were punished by fine⁵⁶ or imprisonment up to two years.

Positive developments

- 2.8 The OP considers the amendments to the Law No. 10.031, dated 11.12.2008 "On Private Bailiff Service" by the Albanian Government as a step forward. The OP highlights that some of the changes made and the novelties the law brings in are a response to issues highlighted over the years related to FLA provision. Therefore, the OP welcomes the establishment of the National Bailiff Training Center as foreseen by the amended law. This center's establishment aligns with the OP findings in its annual reports, lining bailiffs' inadequate professional capacities and skills, their limited knowledge of the law, or the bailiff's misinterpretation of court summarized decisions as main issues concerning the bailiff service.⁵⁷ In the framework of women's rights protection, the amendments grow in importance especially when it comes to court bailiffs handling POs/EPOs enforcement, or other cases on alimony enforcement.
- 2.9 The OP views the first-time adoption of the Bailiff's Code of Ethics, considered so far as a significant set of norms guiding the bailiff's code of conduct when providing bailiff services, foreseeing the respectful treatment of vulnerable categories, including women victims of domestic violence, victims of trafficking, women with disabilities and other disadvantaged groups, in a positive light.
- 2.10 The establishment of the bailiff management electronic system is regarded as quite progressive in the framework of enhancing bailiffs' transparency and efficiency in their day-to-day activities. The soonest the system is made operational, the quickest will accurate data on bailiff actions and status of requests on final court decision execution be generated. The OP considers gender-disaggregated data loaded into the system as a necessity.

53. See GREVIO Baseline Evaluation Report Albania 2017, Paragraph 183-6 accessible at <https://rm.coe.int/grevio-first-baseline-report-on-albania/16807688a7>

54. The above data pertaining to the 2016-2019 period were collected and processed by the OP institution.

55. Information processed by the OP institution for the 2016-2019 period.

56. See the 2016, 2017, 2018 MoJ Statistical Year Book at <http://www.drejtesia.gov.al/statistika/>

57. Lack of professional bailiffs is another issue the OP has highlighted in its reports for the 2016-2019 period.

- 2.11 The OP upholds that the Law 111/2017 “On Legal Aid Guaranteed by the State” providing for the beneficiaries’ right to be exempted from the execution order enforcement fee enhances the access of the least economically and socially advantaged groups to bailiff services, thus enabling the enforcement of court decisions to their interest.
- 2.12 Similarly, changes made to Law No. 9669, dated 18.12.2006 “On Measures Against Violence in Family Relations” provide for the exemption of POs/EMPOs requesters from the order enforcement fee payable to the state bailiff service, in line with the legislation in force on legal aid guaranteed by the state⁵⁸. Amendments thereof provide for the MoJ obligation to take measures to ensure bailiffs’ training and specialization on PO enforcement.
- 2.13 According to amended provisions under law against domestic violence, the court decision on granting an EPO is an executive title therefore cannot be appealed. The decision should be immediately enforced by police bodies, in cooperation with the bailiff service and social service office at the local government unit the victim or other individuals involved reside or dwell.⁵⁹

Practical issues and remaining challenges:

- 2.14 The OP upholds that the non-execution of final court decisions limits women’s access to justice, making the restoration of their rights impossible, thus deepening their vulnerability. The non-execution of court decisions granting POs, and EPOs in particular, further jeopardizes the lives of women victims of gender-based violence, thus giving room to domestic violence to relapse.
- 2.15 Regardless of legal changes, bailiffs’ specialized training and professional capacities enhancement on the legal framework in force and the professional and unbiased handling of all enforcement requests filed by women are still lined among the main issues concerning the bailiff service. The OP institution has continuously expressed its concern about bailiffs’ partial knowledge on the civil and procedural legislation in force, which in turn affects the guarantee of citizen’s procedural rights.⁶⁰
- 2.16 While conducting its operations, the OP noted that the main reasons underlying the non-execution of court decisions protecting women’s rights were the debtor’s insolvency due to unemployment, lack of property, or the court omitting to specify in its final court decision how the obligation will be executed (decision on alimony enforcement); bailiffs delaying their bailiff actions with no prior request from creditor women, lack of bailiffs’ knowledge on the legal framework on domestic violence (decision on POs/EPOs), and debtors changing their place of dwelling or leaving the country (decisions on child arrangements).
- 2.17 Upon review of court decisions on monetary liability from state institutions, the OP noted that in the framework of decision execution, the deferral of execution processes, or the partial (in installments) execution of monetary liabilities, although such thing is nowhere to be provided for in the court decision, are quite problematical. On the other hand, the OP would like to mention that deferred PO/EPO execution has brought about irreparable effects to women’s lives and health. The OP upholds that deferral of monetary liability execution or their partial execution leads to adverse effects and damages to vulnerable women and their families.
- 2.18 There is no official minimum living level or unseizable salary defined, which is another issue identified for many years now by the OP when it comes to the execution of final court decisions on enforcing the debtor to settle his/her monetary liability. On these grounds, bailiff actions adopted to enforce the executive title on debtor’s monthly income, compromises the debtor’s living standards. Omission to determine the minimum living level renders Article 533 under the Civil Procedure Code inapplicable by the Bailiff Service.⁶¹ The OP has identified cases when the debtor’s personal income (entire salary) have been seized with no legal provision on the minimum living level, which has made these individuals encounter difficulties to support their families (mainly women and children). Similarly, such situations have lead to family members conflicting with one-another, thus making room for domestic violence phenomena to appear, or increasing the number of requests filed by women on marriage dissolution. In case of debtor female family heads, the lack of such legal provision renders their social and economic standing much more difficult.

58. Law No. 47/ 2018 “On some amendments and addenda to law no. 9669, dated 18.12.2006, “On measures to violence in family relations”, as amended, Article 15.

59. Ibid, Article 18.

60. Ombudsperson’s Annual Report, 2018, p.36 accessible at <https://www.avokatipollit.gov.al/media/manager/website/reports/Raport%20Vjetor%202018.pdf>

61. Ibid, p.36.

2.19 Following the same line of reasoning, the OP declares its critical stance on the lack of a legal provision designating housing as a livelihood that cannot be seized during the executive title enforcement process. In case of women victims of violence in family relations, the seizure of the dwelling place due to the debtor's (who happens to be the perpetrator) liability, negatively impacts their housing condition, thus rendering them more vulnerable. In many occasions, female family heads, part of vulnerable groups (victims of violence in family relations, unemployed or in difficult financial situation) are distressed by banks urging them to pay their late fees or loans, thus putting their essential, social and economic rights at risk. Same holds true for the lack of a legal provision that designates the economic assistance or health treatment aid of debtor women as livelihood that cannot be seized for court decision enforcement purposes.⁶² As per the above, the OP would like to highlight the lack of an operational system focusing on bailiffs' procedural violations in order to boost their performance and accountability. They also lack transparency when carrying out their activities.

Recommendations:

- 2.20 Bodies required by the law with providing bailiff services and the timely execution of final court decisions are recommended to cooperate with one another, so that the new law in force be implemented. Moreover, adoption of legal measures on changing and improving the law on state bailiff service to align it with the law on private bailiff service is recommended.
- 2.21 The online bailiff system should be made operational the soonest possible and bailiffs should be granted access to the necessary public registers to efficiently deliver their bailiff services.
- 1.22 The Moj is recommended to draft an action plan and take measures on bailiffs' legal education, focusing mainly on POs/EPOs. There is also a need to adopt measures to raise the bailiffs' awareness on the importance of cooperation with police bodies or social service offices at local government units. As per the above, the Moj is recommended to provide clear communication protocols and coordinate the actions of police bodies, bailiff offices and social service offices at the local level.
- 1.23 The Moj is recommended to adopt measures to ensure the ongoing monitoring of the execution of final court decisions granting POs/EPOs within legal time frames. Additionally, sanctions should apply to individuals and/or bailiffs omitting to execute court decisions granting POs/EPOs or hindering their timely execution.
- 1.24 Legal measures should be adopted in order for the law to foresee economically disadvantaged/vulnerable debtors having their liabilities stemming from the final court decision refunded by the state and establishing a new creditor-debtor relationship between the state and the debtor. This provision is essential especially if dealing with decisions on alimony, whose non-execution may bring adverse effects to the creditors and their families' lives and members.

Concerning issue 3: Reversing the burden of proof in gender-based discrimination cases (Recommendation No. 13/ d, CEDAW Committee COs 2010-16)

BACKGROUND

3.1 The principle of the reverse of the burden of proof from the plaintiff to the defendant is in line with international standards and European directives, in the framework of victims of discrimination protection. This principle was underpinned, although not completely mirrored, by the Law 10 221, dated 4.02.2010 "On Protection against Discrimination". Article 36/6 referring to procedural rules for handling complaints against discrimination filed with the court provides for the plaintiff's obligation to submit evidence supporting his/her claim and informing the court decision on the discriminatory behavior, and then shifts the burden of proof to the defendant, who is obligated to establish that facts are not indicative of discrimination pursuant to the law on protection from discrimination.⁶³

62. Ibid, p.37.

63. Law 10221, dated 4.2.2010 "On Protection from Discrimination" Article 36 (6).

- 3.2 The provision for reversing the burden of proof placed on the plaintiff is laid down in the Labor Code of the Republic of Albania, as amended in 2015. According to this code, should a particular person claim that his/her right to equal exercise of the right to employment and occupation is violated, the complaint procedure shall be employed, as defined in the special law on protection from discrimination. As per the above, the Code provides for that in all complaint procedures, should the plaintiff submit facts supporting his/her claim that he/she was prevented from exercising his/her right to employment and occupation, the defendant shall be obligated to establish that the principle of equal treatment has not been violated.⁶⁴
- 3.3 Additionally, the expressed sanctioning of reversing the burden of proof in discrimination cases is applicable even in the framework of the Administrative Procedure Code. Article 82, Paragraph 2 therein expressly sanctions that “should the litigant submit evidence supporting his/her claim for discriminatory behavior which may in turn give rise to the assumption that discrimination has occurred, the other litigant and/or the public body shall be bound to establish that facts are not indicative of discrimination, irrespective of the public body’s obligation to make available to litigants the evidence in his/her possession”.

Positive developments:

- 3.4 The OP views the Albanian State initiative to provide for a reversed burden of proof by amending the provisions under the RoA Labor Code and Administrative Procedure Code in a positive light. Moreover, the OP highly esteems the active role that the Commissioner for Protection from Discrimination (CPD) took on through his recommendations to include this provision in each of the above-referenced laws.

Practical issues/ remaining challenges:

- 3.5 The OP would like to bring to the attention that the law on protection from discrimination applies to both the public and the private sector. Although changes to the Labor and Administrative Procedure Code to include the provision on the burden of proof conversion are considered positive, the OP is still distressed about this provisions not being reflected in the Civil Procedure Code. Amendments made to the latter in 2017 left the principle of “burden of proof” provided under Article 12 unchanged, thus upholding the classical principle of “burden of proof” according to which “the litigant claiming her right shall be bound to submit evidence supporting her claim in line with the law”.
- 3.6 Additionally, upon reviewing the law on protection from discrimination, the OP upholds that the principle foreseen therein, more than shifting the burden of proof from the victim to the defendant, provides for a split of the burden of proof between both litigants during the court review of discrimination cases.

Recommendations

- 3.7 In order to regulate and align the displacement of burden of proof in discrimination cases even in the private sector, it is necessary to add such a provision in the Civil Procedure Code.⁶⁵
- 3.8 It is also highly recommended that provisions under the law on protection from discrimination be reviewed in order to fully align them with the principle of reversed burden of proof.
- 3.9 The OP finds it reasonable for the High Judicial Council to take measures, in cooperation with the School of Magistrates, on the training of judges about the correct implementation of provisions on reversed burden of proof in order not to burden the plaintiff when there are discrimination allegations raised by the latter.

64. The RoA Labor Code, Article 9, as amended with Law No.136/2015, dated 5.12.2015, Paragraph 9 and 10.

65. See the Annual Report of the Commissioner for Protection from Discrimination, 2018, accessible at <https://kmd.al/wp-content/uploads/2019/03/RAPORTI-VJETOR-2018.pdf>

B. NATIONAL MACHINERY FOR THE ADVANCEMENT OF WOMEN

General Recommendation No.6 (1988), CEDAW Committee⁶⁶ Recommendation No.15a

Concerning Issue No. 1: Strengthening the machinery for gender equality with the adequate human and financial resources at the central and local level, as well as guaranteeing cooperation among all GE promotion actors

BACKGROUND

- 1.1 The machinery for gender equality in Albania is made up of several bodies operating at the central and local level.⁶⁷ At the ministerial level, the Law on Gender Equality in Society designates the minister charged with gender equality affairs as the authority responsible for law and state programs targeting gender equality implementation. During 2016-2020, the task was assigned to the Minister of Social Affairs and Youth (June 2017- September 2017) and then to the Minister of Health and Social Protection (September 2017-ongoing).⁶⁸ The minister performs the task he/she is charged with by taking on a leading position at the National Council of Gender Equality and the Sector of Policies and Strategies for Social Inclusion and Gender Equality at the MoHSP.⁶⁹ The MoHSP deputy minister has been designated as the National Coordinator for Gender Equality ever since 2018.⁷⁰
- 1.2 The National Council for Gender Equality was established as an advisory body at the responsible authority, led by the Minister of Health and Social Protection and composed of 9 representatives from line ministries and 3 other civil society representatives. NGOs play an active role in the assessment of governmental policies in the field of gender equality and legal framework aiming at improving the economic, social and cultural situation of women and men.
- 1.3 Moreover, in order to meet the obligations foreseen under the law on gender equality in an efficient manner and to enable gender integration at all central and local institutions, the law on gender equality foresees the employment of gender equality specialized officers at every ministry and local government unit. According to OP data, 11 gender equality officers were employed for 2019 at the ministry level out of 15 ministries in total. In the meanwhile, 60 gender equality officers were employed at relevant municipalities, out of 61 in total.
- 1.4 At the municipal level, the majority of GEOs serve also as local coordinators for domestic violence case management. In other cases, GEOs are also responsible for other tasks related to child, people with disabilities and minority groups' protection⁷¹.
- 1.5 At the parliamentary level, the Sub-committee on Gender Equality and Prevention of Violence against Women was established on December 2017 at the Committee on Health, Labor, and Social Affairs.⁷²
- 1.6 Additionally, the Law on Protection from Discrimination provided for the establishment of the Commissioner for Protection from Discrimination as an independent public body, vested with ad-hoc powers on GE promotion and protection from gender-based discrimination. Currently speaking, there are 4 CPD offices operational in Tirana, Korça, Shkodra and Fier. The CPD has been quite active in protecting both women and men from discrimination exercised by public and private authorities. The CPD reviewed 206 requests filed by women during the 2016-2019 period, the majority of which addressed discrimination in the field of goods and services, right to education, or ban of discrimination in employment.⁷³

66. CEDAW Committee General Recommendation No.6: Effective National Machinery and publicity, approved by the Committee on the Elimination of Discrimination of Women in its 70th session, 1988, accessible at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbol-no=INT/CEDAW/GEC/5828&Lang=en

67. Basic laws supporting the machinery for gender equality are: Law No. 9770, dated 18.12.2008 "On Gender Equality in Society" and law "On Measures against Violence in Family Relations", as amended. Law No. 10.221, dated 4.2.2010 "On Protection from Discrimination"

68. Decision of Council of Ministers No.508, dated 13.09.2017, Paragraph e.

69. See the National Report on Implementation of Platform for Action +25, April 2019, p. 6. Full electronic text may be retrieved online at <http://shendesia.gov.al/barazia-gjinore/>

70. See Prime Minister's Order No. 31, dated 12.2.2018 "On Designating the National Coordinator for Gender Equality".

71. UN Women and UNDP (2016). Albania Gender Brief 2016. Prepared by Monika Kocaqi, Ani Plaku and Dolly Wittberger. UN Women, Albania, f. 16.

72. See DCM No.113/2017 "On Establishment of "Committee on Gender Equality and Prevention of Violence against Women"

73. Data retrieved from CPD annual reports for 2016, 2017 and 2018 may be accessible at <https://www.kmd.al/raporte-vjetore/>.

- 1.7 The OP, given its standing as an institution dedicated to human rights protection, has been designated in principle as part of the machinery for GE in Albania, based on the fact that the right to protection from discrimination is among the individual's fundamental rights. However, in sharp distinction from the CPD, the OP is limited to guaranteeing protection of women's rights only in event of violations involving public bodies. As per the above, in the framework of avoiding powers to overlap and strengthening the cooperation among institutions protecting human rights, the OP signed the Memorandum of Understanding with the CPD in May 2018 on institutionalizing relationships among parties, so as to settle the conflict of competing powers between the OP and CPD due to the content of laws regulating their activities in the framework of guaranteeing human rights and freedoms".⁷⁴ The model has further strengthened the protection of women and men's rights with both institutions engaging in multiple initiatives, by deploying their common human resources in their regional offices.⁷⁵

Positive developments:

- 1.8 The OP views the Albanian State's commitment to accomplish the SDGs Agenda 2030 and approve the Resolution on promotion, implementation and monitoring of this agenda through participatory processes in a positive light. Gender equality and women's empowerment are strongly emphasized in the document. The OP institution's role in the Agenda implementation and monitoring is quite specific given its engagement in the protection and upholding of human rights, which have in turn informed SDGs.
- 1.9 The OP considers the approval of the 2016-2020 National Strategy for Gender Equality and its relevant Action Plan upon stakeholders' consultation as a forward step. The strategy takes into account the obligations imposed on the Albanian State from its membership to the CEDAW Convention and CEDAW Committee Concluding Remarks in 2016.⁷⁶
- 1.10 NSGE highlights the importance of strengthening the National Mechanism for Gender Equality and consolidating the network of full time GEOs in the framework of promoting gender equality and including gender integration in national policies.⁷⁷
- 1.11 Moreover, at the local level, the OP considers seven municipalities signing of the European Charter for Equality of Women and Men in Local Life and the five municipalities approving 2018-2020 Local Plans on Gender Equality as quite interesting.
- 1.12 The OP upholds that the Albanian Parliament approving in 2018 the Resolution on acknowledging and supporting the activity of human rights defenders in the promotion, encouragement and protection of human rights and fundamental freedoms is paramount to the strengthening of cooperation among field actors.

Practical issues and remaining challenges:

- 1.13 The OP has organized several round tables with representatives from public administration, civil society and stakeholders in the field of women's rights protection from gender-based discrimination. By highlighting the importance of making legal changes to protection of women's rights during the 2016-2016 period, the OP considered the strengthening and making law enforcement mechanisms operational a necessity.⁷⁸
- 1.14 Restructuring of the Ministry of Health and Social Protection in 2017 reduced the number of previous bodies responsible for GE in opposition to Objective 4.1 under the 2016-2020 NSGE to strengthen and guarantee the sustainability of Gender Equality sector. Inclusion of the sector in a wider directorate covering social inclusion and disability in addition to GE affairs is also in opposition to Albanian State's strategic objectives

74. Memorandum of Understanding between OP and CPD signed on 28.05.2018.

75. Annual Ombudsperson's Report, 2019, p. 25.

76. See the National Report on Implementation of Platform for Action Beijing +25, April 2019, p. 62. Full electronic text may be retrieved online at <http://shendetesia.gov.al/barazia-gjinore/>

77. See Strengthening of National Mechanism for Gender Equality is part of the Strategic Objective No. 1 under the 2016-2020 National Strategy for Gender Equality. Strategy content may be retrieved at <https://www.un.org.al/sites/default/files/SKGJB-AL-web.pdf>

78. On 11 July 2019, the OP, in cooperation with the Commissioner on Protection from Discrimination and UNDP in Albania, the OP organized a round table with representatives from the public administration, private sector, civil society and unions with the topic: "Principles, policies and standards for a safe workplace".

to establish an efficient GE mechanism⁷⁹. The OP upholds that the restructuring of the sector has led to greater workload volumes, but has also changed/expanded the GE specialists profile at MoHSP, thus overwhelming the GE sector coordinating and monitoring role.

- 1.15 The financial gap of 37.2% when NSGE was approved is another issue, with the MoHSP providing no detailed information on measures for the implementation of activities under the Strategy and budgetary gap reduction.
- 1.16 The OP is critical of the machinery for GE not staffing gender equality officers at all ministries and municipalities of the country.⁸⁰ Moreover, the OP would like to express its deep concern on GEOs being attached on a part-time basis and charged with more responsibilities than provided for under the law on gender equality. GEOs training on gender equality is another issue.
- 1.17 Lack of human resources is added the lack of sufficient financial resources, contributing to the efficient operation of GE bodies. The OP is well aware that the issue is limited to the state's financial situation. However, the OP would like to remind the authorities that the Paris Principles and principles set forth by the Venice Commission call for a national human rights institution that is sufficiently staffed and has in place a flexible organization and adequate financial resources to fully, independently and effectively perform its obligations and activities.⁸¹
- 1.18 The independent bodies (OP/CPD) are not guaranteed their budget and the parliament has not limited their budget trimming. When the 2019 budget was being drafted, the OP made several reasoned suggestions on several financial addenda and human resources increase, which were nevertheless disregarded by the relevant parliamentary committees during draft budget discussions. Moreover, these bodies, given their obligation to report the Parliament, may face several governmental restrictions and pressures when exercising their activities.⁸²
- 1.19 Lack of necessary capacities, premises, and infrastructure at the local OP and CPD offices is another issue encountered, which hinders the enhancement of vulnerable women and girls' access in the framework of protection from gender discrimination. Their limited availability renders the full access of women and girls victims of gender-based discrimination and violation of rights by public/private bodies impossible.
- 1.20 The EC has considered the strengthening of the institutional mechanism for child rights protection, victims of domestic violence, gender equality and social and health care services mainly at the local level as a future challenge to Albania.⁸³

Recommendations:

- 1.21 The responsible authority is recommended to cooperate with the Department of Public Administration in order for them to take measures to staff all ministries with GEOs. It also recommended that the contractual terms of reference for such officers be determined in full compliance with the GEO duties.
- 1.22 GEO at the local level is recommended to exercise his/her activity on a full-time basis, and have his/her powers separated from the social workers or domestic violence coordinators.
- 1.23 The MoHSP is recommended to adopt measures to increase budget allocations to gender equality programs and forecast the budget needed to cover the continuing GEO capacity enhancement and training.
- 1.24 The NCGE powers are recommended to be reviewed and its decision-making role in promoting gender equality and gender integration into all policies and programs to be further enhanced.
- 1.25 The MoHSP is recommended to take measure in cooperation with ASPA to train the GEOs attached to the administration at the central and local level in order for them to exercise their activities the most efficiently.
- 1.26 The MoHSP needs to take measures to strengthen the coordination among bodies part of the national gender equality mechanism at the central and local level, and independent women and girls' rights protection institutions.
- 1.27 All actors part of the Machinery for GE are recommended to coordinate their activities and enhance their cooperation on gender equality issues and women's right advancement.

79. See the 2016-2020 National Strategy for Gender Equality and its relevant Action Plan, Strategic Objective No. 4, p. 20 reading: "Guaranteeing sustainability of the strengthened and effective Gender Equality Sector, in line with its coordinating and monitoring role". Expected outcome: The GE Sector at the MoHSP will turn by the end of 2020 into an efficient and consolidated body, in line with its coordinating and monitoring role, and will have its specific budget increase by 3% on an annual basis.

80. At present, there is no GEO attached to 4 line ministries and 1 municipality.

81. Annual Ombudsperson's Report, 2018.

82. Annual Report of the Commissioner for Protection from Discrimination, 2018, p. 74.

83. European Commission, Albanian Progress Report, 2019, p.23.

Concerning issue 2: Including gender responsive budgeting in medium-term budgetary frameworks

Recommendation No. 15/ c, VP Committee COs 2010-2016

BACKGROUND

- 1.28 Drafting of gender-responsive budgets has been one of the lines of the OP activity during the reporting period in the framework of enhancing the OP institutional engagement in pursuing the SDGs Agenda 2030 and the 2018 Parliamentary Resolution on OP activity assessment. The OP, supported by UN Women Albania, performed a monitoring exercise in 2019 on budgeting against gender-based and domestic violence in Albania for 2018, based on the principle that the efficient implementation of policies and legislation against violence should be associated with their relevant budgets, in order for them to have a real impact on the elimination of this phenomenon and mitigate gender inequalities in society.
- 1.29 Inclusion of the gender perspective in the budget planning renders budgeting more effective and transparent, as well as promotes economic growth and extreme poverty reduction for both women and men. The OP upholds that failure to address gender issues during public budget drafting and analysis, and failure to consider the special needs or priorities of girls and women, including the limitations/difficulties they are faced with in their daily lives, brings about adverse effects to the promotion of gender equality and women's advancement in their social, economic and cultural life.
- 1.30 The OP institution has considered in its 2016-2019 annual reports the inclusion of gender perspective in the public budgets of paramount importance, by recommending the need to raise the awareness of the central and local power on gender priorities budgeting. To this aim, the OP has highlighted the need for municipalities to foresee and apply for funds in order to support the establishment and operation of social services for victims of domestic violence, special needs shelters, psycho-social and legal services for victims, or rehabilitation programs for perpetrators, as well as to meet other obligations provided for under the law.⁸⁴
- 1.31 The legal basis for the integration of gender perspective in budgetary frameworks from central level institutions (ministries) consists of the DCM No. 465 dated 18.07.2012 "On Gender Perspective Integration in the Medium-term Budgetary Framework" The Ministry of Finance and Economy (MoFE) has issued several instructions on GRB inclusion into medium-term budgetary frameworks. The budgetary frameworks should, when possible and in line with such instructions, mirror policy goals in full alignment with the strategic goals for achieving gender equality defined under the NSDI and other cross-cutting and sectoral strategies.⁸⁵
- 1.32 At the local level, Law 67/2017 "On Local Self-governance Finance" provides for that at least one of the program objectives at the local level should address gender inequality issues or full achievement of gender equality, thus clearly identifying outcomes and other measurable gender-based indicators.⁸⁶ This obligation was also included in MoFE Instruction No. 23, dated 30.07.2018 "On Standard Procedures for Drafting the Medium-term Budgetary Frameworks in Local Governance Units".⁸⁷
- 1.33 Data on GRB have been produced ever since 2015, given the gender analysis of Medium-term Budgetary Frameworks drafted by line ministries. According to MTBF data, out of 84 budgetary frameworks in 2016-2018, only 20 frameworks are GRB-inclusive, which is equal to 1.73% of budget expenditure. In 2017-2019 the number increased to 24 (equaling 2.3% of budget expenditure), while in 2018-2020, 28 budgetary frameworks inclusive of GRB were identified, equaling 2.4% of budget expenditure.⁸⁸
- 1.34 The OP monitoring exercise for 2018 concluded that the majority of budgetary frameworks aiming at gender equality achievement and fight against domestic violence and gender-based violence are related to victims of domestic violence sheltering programs, economic assistance, local coordinators for domestic violence payments, legal aid, boost of women employment and their economic empowerment.

84. Annual Ombudsperson's Report, 2016, 2017.

85. MoFE Instruction No. 7, dated 28.2.2018 "On Standard Procedures for Drafting Medium-term Budgetary Framework", Appendix 5. Full instruction content may be accessed at http://financa.gov.al/wp-content/uploads/2019/02/Udhezimi_nr.7_date_28.2.2018_Per_procedurat_standarde_te_perqatitjes_se_PBA.pdf

86. Law 67/2017 "On Local Self-governance Finance", Article 36 "Local Medium-term Budgetary Framework", Paragraph 4, Subparagraph c.

87. Paragraph 6/e under the above-referenced Instruction. Full instruction content may be retrieved at <http://financa.gov.al/wp-content/uploads/2019/02/Udhezimi-standart-i-PBA-vendorit.pdf>

88. National Report on Implementation of Platform for Action Beijing +25, April 2019, p. 49.

Positive developments

- 1.35 The Albanian Government has engaged in a series of initiatives during the 2016-2018 period on GRB introduction to strategic documents and legal and sub-legal framework. The OP views the inclusion of gender responsive budgeting in the 2016-2020 National Strategy for Gender Equality; 2015-2020 Public Finance Management Strategy and its inclusion for the first time ever in the 2015-2020 National Strategy for Development and Integration in a positive light. Moreover, the OP considers the Albanian Government including “gender responsive budgeting” among the five main governmental priorities to speed up progress for women and girls over the last five years as highly positive.⁸⁹
- 1.36 The OP considers the inclusion of the principle of gender equality in Law No.9936, dated 26.06.2008 “On Budget System Management in the Republic of Albania” as very positive as well.⁹⁰ The principle will guarantee women and men equal opportunities and access to rights and in-kind benefits.
- 1.37 At the local governance level, the OP considers the inclusion of “speeding up and achieving GE through local financial resources” as part of goals under the Law 67/2017 as quite positive. In this regard, the forecast of expenses related to DV helpline or free kindergartens and nurseries for children of victims of domestic violence in the local budgets can be viewed with great interest.⁹¹
- 1.38 In terms of budgetary frameworks, the OP is positive about budgetary frameworks becoming more GRB-inclusive (from 20 in the 2016-2018 period to 28 in the 2018-2020 period) and the increase of their overall % to the budget expenditure (from 1.73% for the 2016-2018 period to 2.4% for the 2018-2020 period).
- 1.39 With regards to capacity enhancement, the OP is quite positive about the technical and financial assistance provided by international organizations to boost the initiatives of institutions at the central and local level to include GRB in medium-term budgetary frameworks.⁹²
- 1.40 In the framework of improving abused women’s well-being, the OP considers legal changes in 2016 providing for economic assistance entitled to women in order to avoid domestic maltreatment and violence as very positive. (Economic assistance expenses are forecast in the MoHSP budgetary funds as part of GRB). Another significant measure adopted for the 2018 budget was the determination of the number of abused women and the value of EA fund dedicated to them. The number of female family heads benefiting economic assistance was also identified, thus facilitating the targeting of this category of women which may in turn further benefit other social services such as vocational education, employment through employment offices and social housing.⁹³

Practical issues and remaining challenges:

- 1.41 The OP is concerned with the Ministry or Municipality cooperation in the framework of data collection for budget programs, including GRB. In some cases, ministries have not provided information⁹⁴, even after OP requests. In other instances, the information has been provided after the applicable deadlines. Furthermore, the OP raised the issue of being provided a full MTBF document by institutions (not specified regarding GRB programs), making it almost impossible to generate accurate data and identify measures that these institutions have taken to include GRB in their budget programs.⁹⁵
- 1.42 The OP has found that authorized employees and gender staff do not maintain or manage data disaggregated by gender for every program, which leads to challenges in measuring progress and planning gender based objectives in the future.
- 1.43 The OP expressed concerns regarding the lack of any gender impact measuring for planned budget programs. There is no gender disaggregated data on the number of beneficiaries for each planned output and service users. In addition, no assessment analysis on how and how much the realization of budget framework expenditures has impacted the achievement of gender equality, the improvement of the

89. National Report on Implementation of Platform for Action Beijing +25, April 2019, p. 4.

90. The principle of “gender equality” was also added to the Law “On Budget System Management in the Republic of Albania” upon changes made in 2016. For further details, please refer to Law No. 57/2016 “On Several Amendments and Changes to Law No. 9936, dated 26.06.2008 “On Budget System Management in the Republic of Albania””.

91. See Vora Municipality budget (2018). For further information please refer to the report on the monitoring of budgeting against gender-based violence and domestic violence in Albania for 2018, developed by Blerina Xhani and Agustela Nini-Pavli upon UN Women support.

92. UN Women in Albania was among the most important actors providing technical and financial assistance to GRB inclusion.

93. For further information please refer to the report on the monitoring of budgeting against gender-based violence and domestic violence in Albania for 2018, developed by Blerina Xhani and Agustela Nini-Pavli upon UN Women support.

94. During the OP monitoring of GRB inclusion in 2018, only 3 out of 5 ministries cooperated and provided information.

95. Monitoring and budgeting against gender based violence and domestic violence in Albania report for 2018, developed by Blerina Xhani and Agustela Nini-Pavli with the support of UN Women Albania, to be published

situation of men and women, and the reduction of poverty for each gender. To date, no monitoring has been undertaken regarding the actual implementation of the GRB at the central and local level.

- 1.44 The OP monitoring analysis has identified lack of authorized employees capacities regarding the identification of policies and programs required to achieve gender equality and women advancement. There are no data and records of gender analysis results before the MTBF development. The lack of a preliminary gender analysis renders the identification of actual needs and program planning to minimize/eradicate gender inequality inefficient. This leads to ineffective use of public funds.
- 1.45 At the local level, municipalities are unable to produce appropriate midterm budget framework documents, which negatively impacts GRB program reflection in all Local Government Units.⁹⁶
- 1.46 In addition, the OP has found that authorized employee have low awareness of gender issues and budget and policy impact on gender.
- 1.47 Furthermore, expenditures to address gender inequality and to fight gender based violence are an almost inconsiderable budget item of the total institution annual budget.⁹⁷ For example, the OP monitoring of GRB inclusion in the mid term budget framework of the MoHSP found that expenditures for objectives supporting gender issues (part of the social inclusion program) or expenditures for women professional training and women employment stimulation schemes comprise 0.01 % of the total Ministry budget. In the meantime, expenditures for one parent families and women victims of violence part of the “social housing” program comprise only 0.03% of the total Ministry budget. When considering the 2016-2018 Ministry of Justice MTBF, expenditure planning to provide optimal conditions of female convicts, to improve their professional skills as part of the social reintegration program, comprises 0.87% of the total Ministry budget.⁹⁸ In addition, expenditures including GRB only reflect some legal obligations and the obligations stemming from the NSGE. A considerable part of the activities provided in the Strategy, are not included in the budget planning of the central institutions and in general no expenditures are planned for awareness raising activities, the establishment of specialized services for victims of violence, rehabilitation programs for perpetrators, capacity development for staff in fields like public order, health and education, improvement of school curricula on violence issues and youth and student awareness raising.⁹⁹

Recommendations

- 1.48 Improve awareness raising of public institutions on the importance of including the gender perspective in their budgets and increasing the projected budget for the promotion of gender equality and improving the position of women and girls.
- 1.49 Relevant central and local level institutions should, in cooperation with the Albanian School of Public Administration, take measures to train gender staff and authorized employees in relation to gender responsive budget and gender mainstreaming in public budgets.
- 1.50 The MoFE should review its relevant indicator set for measuring budget framework results disaggregated from a gender perspective. In addition, institutions should record gender disaggregated data for any output budgeted, so that public funds are appropriately and effectively used and to allow for detailed gender gap/policy/financial/legal and institutional analysis hampering implementation¹⁰⁰
- 1.51 Any budgetary institution, should undertake a gender analysis prior to developing their GRB to identify as accurately as possible specific needs, priorities, restrictions, and issues of both men and women, while also undertaking a preliminary analysis of the subjects that would benefit/lose out from new/existing programs.
- 1.52 The engagement of gender workers in regard to gender inequality identification in the areas where intervention is required, with regard to the analysis of causes and consequences of these inequalities and proposing measures and programs to combat identified inequalities through public policy, should be strengthened. In addition, there is a need for their close interaction with authorized employees in developing the GRB to cost proposed measures and objectives.
- 1.53 Any institution should develop the GRB for every budget cycle to improve the position, wellbeing, economic development and to reduce the poverty of both men and women.

96. Monitoring and budgeting against gender based violence and domestic violence in Albania report for 2018, developed by Blerina Xhani and Agustela Nini-Pavli with the support of UN Women Albania, to be published.

97. Ibid.

98. Data referenced to are taken by the monitoring the OP undertook with the support of UN Women in Albania about the inclusion of GRB and addressing gender based violence in Albania in 2018.. For more information, please see “the monitoring and budgeting against gender based violence and domestic violence in Albania in 2018 report”, developed by Blerina Xhani and Agustela Nini-Pavli with the support of UN Women in Albania,

99. Monitoring and budgeting against gender based violence and domestic violence in Albania report for 2018, developed by Blerina Xhani and Agustela Nini-Pavli with the support of UN Women Albania, to be published.

100. Ibid.

C. GENDER BASED VIOLENCE AGAINST WOMEN

Article 2 of the CEDAW Convention; General Recommendation No. 35 of the CEDAW Committee on gender based violence, Recommendation 23a of the CEDAW Committee, COs 2010-2016.

Concerning issue No. 1: Improved gender based violence reporting through the provision of free legal aid to women and the operation 24 hour phone lines

BACKGROUND

- 1.1** Gender based violence remains one of the most concerning areas in Albania, requiring quick and effective intervention to protect the rights of Albanian women, focusing on the protection of their health and life. Considering gender based violence as one of the most serious women rights violations, the OP has been willing to promote the highest level of human rights guarantee, aiming for a society where gender based violence is not tolerated.¹⁰¹
- 1.2** Also, gender based violence has been considered to be an area of concern for the Albanian state by the European Commission. In its progress report (2018), the Commission points out to the Albanian government that more effort is needed in taking measures to fight gender based violence.¹⁰² The GREVIO group of experts maintains the same line when assessing legal steps taken by the Albanian government and raises concerns noting that the government should be more active, especially regarding combating violence against women that are part of disadvantaged groups such as Roman and Egyptian women, LGBTI women, elderly women and women in rural areas.¹⁰³
- 1.3** The most recent data on gender based violence collected and processed by INSTAT in Albania for 2018, show that 1 in 2 women or 52.9% have been at least once a victim of GBV, 47% of women have experienced violence from their intimate partner, 18% of women were victims of sexual harassment, 1 in 5 women experienced physical and/or sexual violence, and 18.2% had experienced non-partner violence.¹⁰⁴ In the meantime, data from police institutions show that for the 2016-2018 period a total of 4163 (2016), 4547(2017) and 4951 (2018) domestic violence cases have been recorded. The OP points out that these are only the officially recorded cases, and are based on the voluntary victim reporting.

Positive developments:

- 1.4** At the national level, the OP supports the establishment of the 116 117 National Counseling Line for women and girls victims of violence and the de jure start of the 24/7 operation of this line in 2017. In 2017, the National Counseling Line received 1489 calls and conducted 636 face-to-face counseling sessions; whereas in 2018 received 2540 calls were received (on average 7 calls per day) and 708 face-to-face counseling sessions were held.¹⁰⁵ At the same time, the OP supports the funding of this line by the MoHSP at the national level and by a number of municipalities at the local level (e.g the Municipality of Tirana).
- 1.5** In the meantime, at the local level, free of charge phone line services have been established at the relevant municipalities as part of the Coordinated Referral Mechanism in the local units where they are implemented. Furthermore, the OP supports the provisions of phone services and counseling by NGOs specialized in the area of gender based violence.
- 1.6** The OP recognizes the changes provided in the new law No. 111/2017 "On State guaranteed legal aid" regarding the inclusion of domestic violence and gender based violence victims among the categories benefiting from this law.¹⁰⁶

101. OP, opinions on "the Draft Law proposal for some changes and additions to Law No. 9669 dated 18.12.2006 "On measures against violence in domestic relations", as amended, dated 23.02.2018

102. European Commission, 2018 Progress Report, pg. 28.

103. GREVIO Baseline Report Albania, 2018.

104. INSTAT (2019) "Violence against women and girls in Albania", Population based survey 2018. For the complete document, please visit <http://www.instat.gov.al/media/6121/publikimi-dhuna-ndaj-grave-dhe-vajzave.pdf>

105. See statement of Minister of Health and Social Protection during the parliamentary session on amendments on "Law on Measures against domestic violence" accessible at <https://javanews.al/shume-strehezave-per-grate-e-trafikuarat-dhe-mbeshtetje-qendrave-sociale/>

106. Law No. 111/2017 "On state guaranteed legal aid", article 11.

- 1.7** The OP positively recognizes the initiative of the Assembly of the RoA to adopt the SPLE, as an opportunity to improve the awareness of women and girls in relation to their rights and the services they may seek to benefit free aid and counseling in cases of GBV.
- 1.8** In the framework of raising the awareness of women and girls, the OP recognizes the MoHSP led coordination of activities and awareness raising campaigns in the context of the global 16 Activism Days campaign against gender based violence (November 25th - December 10th). The awareness raising campaigns against DBV organized with the initiative of the State Police are also of interest.
- 1.9** The OP positively recognizes the 2016-2018 MTBF projections of the MoHSP for expenditures related to the 116 117 line service provision and those for the women and girls counseling line.

Practical issues and remaining challenges:

- 1.10** The OP is concerned with the persistent lack of awareness among women regarding the existence of the national 116 117 help line as a tool that can be used to report and seek assistance. According to a UN Women study on sexual harassment and other types of gender based violence in public spaces in Albania, conducted in cooperation with IDRA Research & Consulting in 2018, more than 90% of the respondents in Korça and Shkodra had no information on the existence of the national help line, and in most cases the failure to report gender based violence cases was directly connected to the women not knowing where they could report the incident.¹⁰⁷In addition, the study highlighted the low level of violence reported to authorities, especially with regard to sexual harassment and sexual violence. The study found that of the 286 women and girls who claimed to have suffered one of these forms of violence, only 16% had sought help and assistance from state institutions.¹⁰⁸ The sexual violence non-reporting phenomenon is also identified in the 2017 GREVIO report on Albania, according to which, the data on other types of violence against women, such as sexual violence, almost deny the existence of these forms of violence, leading to these forms being uncontrolled and shrouded in taboo and highly under-reported.¹⁰⁹ In this regard, the OP is critical of the fact that the MoJ has failed to adopt the Action Plan for the implementation of the SPLE, which would start GBV and rights of victims of violence awareness raising activities for women and girls.
- 1.11** According to the INSTAT survey, the reasons for lack of sexual violence and gender based violence reporting include, among other things, the lack of trust in institutions, fear of threat from perpetrators, disrespectful treatment of women reporting violence, economic dependence, or low awareness level of women regarding reporting possibilities, etc.¹¹⁰ While women in urban areas are more likely to report GBV, the reporting level of GBV phenomena experienced by remote or rural area women is much lower, because of the mentality and cultural development in these areas, the lack of information on services they can seek, the lack of free legal aid services, or the lack of referral mechanisms for violence in these areas.¹¹¹
- 1.12** The low reporting level is also a result of the fact that a part of the requests submitted by GBV victims are not considered with respect and professionalism by the relevant staff at the local and central levels, while there are no provisions for civil and/or criminal sanctions for failing to address such requests in compliance with the law.
- 1.13** In addition, in a number of cases, police structures continue to address GBV as an issue of private domain, avoiding their intervention in cases reported and diverting the resolution of the dispute to reconciliation between the family members.
- 1.14** In the absence of state counseling structures, the high counseling and legal aid provision workload for violated women in rural and remote areas is covered by various NGOs, in the framework of their projects. In addition, during the reporting period, the OP institution has shown special interest in addressing complaints of violence from family members. The OP has provided assistance to women, victims of gender based violence, advising them to seek services from the police structures and the courts to obtain Protection Orders in accordance with legal provisions.¹¹² In addition, in its annual reports, the OP has recommended increasing the number of legal clinics to enable access to free legal aid, especially for violated women and women from vulnerable groups.

107. IDRA Research and Consulting "Report on sexual harassment and other forms of gender based violence in public spaces in Albania", page 49.

108. Sexual harassment and other forms of gender based violence in public spaces in Albania, pg. 22

109. GREVIO baseline Report Albania, 2017, paragraph 38.

110. INSTAT, page 34

111. For more, see the findings comparison for GBV reporting in urban and rural areas in the IDRA Research and Consulting "Report on sexual harassment and other forms of gender based violence in public spaces in Albania".

112. Annual OP Report, 2016/2017.

- 1.15 In addition, the OP monitoring and interviews with NGOs show that phone line services at the local level are not operational in all municipalities. In addition, the majority of these lines are operational only 8 hours per day, considering also that the majority of them are managed by the municipality social workers.¹¹³ In some cases, these phone lines do not provide their services free of charge.
- 1.16 Furthermore, the majority of phone lines are supported by donors and NGOs. In the meantime, the state budget funds allocated to the national line and other counseling lines are very low, further impacting their full time and full capacity operation.
- 1.17 With regard to women and girls with disabilities and victims of violence, the Committee on the Rights of Persons with Disability considers the lack of effective tools to restore their rights, such as compensation, rehabilitation, or social reintegration, to be a concern.¹¹⁴

Recommendations:

- 1.18 Addressing gender based violence and domestic violence effectively, requires the allocation of necessary funds to meet all obligations stemming from international human rights instruments, and domestic legislation and policies¹¹⁵. In regard to what discussed above, expenditures for domestic violence and gender based violence should be included in central and local level public budgets.
- 1.19 The MoHSP, MoJ and other organizations that are part of the Referral Mechanism should take measures to include awareness raising campaigns in their budget planning, with the aim of improving GBV reporting.
- 1.20 Additional human resources and sufficient funds should be allocated at the central and local level to guarantee that GBV victims have complete access at any time to counseling phone lines.
- 1.21 Institutional gender equality mechanisms should implement the law regarding measures for domestic relations violence, including the disability perspective, while also considering the special risks and greater barriers faced by women with disabilities that are victims of violence.¹¹⁶
- 1.22 With the aim of guaranteeing the most effective assistance services possible to GBV victims and treating them with respect and dignity, measures should be taken for specialized training and capacity development for staff charged with GBV victims' phone counseling.
- 1.23 The MoJ should take measures to establish free legal aid centers in all municipalities, so that they can be accessed by all vulnerable groups covered by law 111/2017. In addition to the free legal aid service, psychological assistance should also be provided to GBV victims, considering their situation and the consequences that the violence may have caused to the psyche of these victims.
- 1.24 The MoHSP and local institutions should take measures to raise the awareness of women and girls regarding the operation of counseling lines and services provided in legal aid centers, focusing especially on women in rural and remote areas.

Concerning issue No. 2: Strengthening the role of the coordination mechanism for protection from gender based violence

Recommendation No. 23 b/c. CEDAW Committee, 2010-16 COs.

BACKGROUND

- 1.25 The strengthening of local referral mechanisms and adding/improving specialized support services for the protection from and treatment of gender based violence cases and domestic violence cases, is part of the 2016-2020 National Strategy on Gender Equality (NSGE).

113. This finding is also recognized by the Albanian state in the information submitted to the GREVIO group of experts in the framework of the first Albanian reporting to this Committee. See, Report submitted by Albania pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report). Received by GREVIO on 16 January 2017 GREVIO/Inf(2017)1, pg. 51.

114. See Concluding Observations, Committee for the Rights of Disabled Persons, 14 October 2019, paragraph 31.

115. Monitoring and budgeting against gender based violence and domestic violence in Albania report for 2018, developed by Blerina Xhani and Agustela Nini-Pavli with the support of UN Women Albania, to be published.

116. See Concluding Observations, Committee for the Rights of Disabled Persons, 14 October 2019, paragraph 32.

- 1.26** At the legislative level, in December 2017, the Albanian Parliament adopted resolution No. 1, dated 04.12.2017 “On punishing violence against women and girls and improving the effectiveness of preventive legal mechanisms”. In the framework of this resolution, the parliamentary sub-committee on Gender Equality and Domestic Violence (GEDV subcommittee) organized a series of technical round tables and hearing on the functioning of violence referral mechanisms.
- 1.27** Furthermore, during the 2018-2019 period, the OP has organized a series of round tables with representatives from various organizations stressing the need for strengthening institutional mechanisms protecting women from GBV. In June 2019, the OP organized the first consultation table on the development of an integrated law to include all gender based forms of violence, in cooperation with the UNDP. Among other things, the round table stressed the need for this law to provide for an expansion of coordination mechanisms against GBV and for the strengthening of their capacities.
- 1.28** Furthermore, in July 2019 and in cooperation with the CPD and UNDP Albania, the OP organized a consultation table with representatives of the public administration, the private sector, civil society and trade unions considering the topic of: “Principles, policies, and standards for a safe working environment”. During the event, and after noting the most relevant changes in the Albanian legislation for a safer working environment protecting women from harassment and sexual harassment in the workplace, the OP stressed the need to strengthen law enforcement mechanisms and making them a reality.
- 1.29** With the aim of resolving the issue at the legislation level, the Office for Coordination against Domestic Violence started operations at the national level in November 2017, under the leadership of the MoHSP and the Ministry of Internal Affairs, to be the main case referral organization for domestic violence cases and issues.¹¹⁷ The National Domestic Violence Victims Center has been established under the State Social Service to welcome victims and provide support services. The OP has found that to be accepted in this center, victims should be holding a PO or IPO, and this is in contrast from non-public centers, which accept and counsel victims of violence even in cases when they have not obtained such orders.
- 1.30** The first sexual violence crisis management center “Lilium”, focusing on providing 24/7 one stop shop emergency services, was established in 2018 to address emergency cases and provide short term services. In this center services are provided to sexual violence survivors and their family members for short periods of time ranging from 24 to 72 hours.
- 1.31** At the local level, domestic violence and gender based violence cases are still addressed through the Coordinated Referral Mechanisms.¹¹⁸ OP data shows that by the end of 2019 CRMs were established in 39 out of the 61 municipalities of the country. Welcome centers for GBV victims and emergency shelters to provide shelter and other services to women and girls victims of violence have been established with support from NGOs. A number of them are able also provide long term services for victims of violence (such as paying for rent after the beneficiaries leave the center).¹¹⁹
- 1.32** The OP has been active in monitoring social care services standards for services provided to domestic violence victims. During the 2016-2018 period, in the quality of the National Mechanism for the Prevention of Torture, Cruel, Inhuman, or Degrading Treatment or Punishment, the OP has inspected a number of service provision centers, shelters and in conclusion stressed the need to further improve conditions in which victims of violence are treated.

Positive developments

- 1.33** The OP welcomes amendments to the law No. 9669/2008 “On measures against domestic relations violence” regarding the provision of separate responsibilities for each institution that is part of the CRM.
- 1.34** The OP recognizes the social services and police structures as the most active within the CRM for the treatment of DV and GBV.
- 1.35** The OP assesses positively the initiative undertaken by a number of municipalities to guarantee that victims of violence benefit from the social housing rent bonus. The example of the Municipality of Tirana, which in 2019 allocated the housing bonus to three women and continued procedures to provide this bonus to three other women should be commended.

117. See National Beijing +25 Action Plan Report, 2019.

118. The CRM is established pursuant to DCM No. 334 dated 17.2.2011 “On the work coordination mechanism for the referral of domestic relations violence cases and its processing” and pursuant to Article 8, paragraph 8 of Law No. 9669, dated 18.02.2006 “On measures against domestic relations violence”

119. For example, the “Të ndryshëm dhe të barabartë” (Different But Equal) Center, operating within the Municipality of Tirana.

- 1.36** In addition, the OP appreciates the efforts of a number of NGOs to provide long term support services, even after beneficiaries have left the center and up to their complete rehabilitation. A positive example in this regard, is the "Different but Equal" and "Vatra" Centers during the 2016-2019 period, which helped to pay for the social housing of a number of former beneficiaries of the national center.
- 1.37** During the inspection of victims of violence treatment centers, the OP expressed its positive position regarding the efforts made in these centers to provide a warm social environment for women and girls victims of violence and the initiatives they have undertaken for their social reintegration through the provision of vocational courses, training, employment or sheltering of victims until they overcome their vulnerable situation.

Remaining practical issues/challenges:

- 1.38** The OP is concerned about the lack of Local Referral Mechanisms (LRM) in about half of the municipalities of the country. This has made access to these facilities and benefiting the services they provide almost impossible, especially in rural and remote areas. Furthermore, even in municipalities where these mechanisms are established, they have not always been functional and effective in treating and managing GBV cases. Various monitoring reports developed by national and international NGOs have brought to light the issue of coordination among institutions composing the mechanism. A part of them try to resolve cases on their own seeking to take credit and showcase them as institutional success stories, thus failing to cooperate with the other institutions in the LRM, which are necessary for the protection of victims of violence. This had led to many referred violence cases not being treated adequately, quickly and efficiently, thus risking the rights of violated women.¹²⁰
- 1.39** LRMs have been almost completely inexistent in peripheral areas. Lack of services at the local level, emergency centers and financial resources required to support victims has challenged their adequate protection.¹²¹
- 1.40** Another issue is also the lack of signed coordination agreements between the LRM members in some Municipalities and the failure to establish Steering Committees based and to share responsibilities in accordance with these agreements.¹²²
- 1.41** Limited financial state budget support for the LRM has impacted the effectiveness of this structure.
- 1.42** In addition, the OP is concerned regarding the frequent staff turnover of the LRM. Replacing specialists that have addressed and managed concrete cases of violence impacts the time required to treat cases. On the other hand, frequent staff replacement impacts the violence case treatment effectiveness, considering the fact that the new employees do not have the required capacity and training for GBV cases.
- 1.43** With regard to the victims of violence rights, the OP expresses its concerns that the daily food allowance funded by the government for victims of violence¹²³ in the amount of ALL 330, is insufficient when considering the food price increase in recent years. Furthermore, this allowance was set in 2012 and from that moment has not been adjusted by any measure.
- 1.44** With regard to the inspection at the National Center for the Treatment of Victims of Domestic Violence (NCTVDV), the OP is concerned with the failure to implement previous OP recommendations, which were made with the aim of improving conditions for domestic violence victims' treatment. Thus, the DV victims sheltered in this center continue to lack a heating system, safe transport and a guarantee of life security, since no surveillance camera system has been installed indoors or outdoors. The OP also stressed the need to maintain a special complaint record for NCTVDV beneficiaries, developed in line with international standards guaranteeing the right of the victims to complain.
- 1.45** Since the organizational chart does not include a full time legal employee and full time psychologist, legal and/or psychological counseling for victims of violence was impossible, especially as regards civil or criminal court cases of divorce, division matrimonial assets, etc. Furthermore, the lack of a full time psychologist make the psychological treatment of violence victims with the aim of socially reintegrating them more difficult.
- 1.46** In line with the above, the OP continues to consider the internal strengthening of the LRM and the lack of effective LRM functioning across the municipalities where they have been established, a challenge for the Albanian State.

120. International Organization for Migrations (IOM) (2019) Mechanisms against violence and trafficking: Synergies and synergy development, pg. 38. The complete text can be accessed on https://mb.gov.al/wp-content/uploads/2018/01/15-08-31-07-39-24Mekanizmat_kunder_dhunes_dhe_trafikimit_-_Raport.pdf

121. Ibid.

122. See for example, the case of the CRM of the Municipality of Berat referenced in Hasanbelliu. A. (2017) "Functioning of the National Domestic Violence Referral Mechanism" accessible on http://www.asp.al/pdf/A.Hasanbelliu_-_Mekanizmi_kombetar_i_referimit_te_dhunes_ne_familje.pdf.

123. See Instruction No. 5, dated 01.08.2012 of the MoLSAEO "On the food expenses allowance in public residential and community social care institutions"

Recommendations

- 1.47 The OP considers steps to establish LRMs and put them into operation across the municipalities of the country a necessity.
- 1.48 Measures should be taken to increase budget spending for LRM operations and the Violence Cases Coordination Office, with the aim of improving the efficiency and quality of the services provided by CRM structures.
- 1.49 At the same time, the capacities of local DV coordinators should be improved and their responsibilities should be separated from the functions of the Child Protection Unit employee or the gender employee at the local level.
- 1.50 In cooperation with Albanian School of Public Administration (ASPA) and donors, the MoHSP should take measures to provide training for all local staff that are part of the LRM structures on the treatment of gender based violence cases.
- 1.51 Prosecution structures and bailiffs offices should cooperate closely with the police and other LRM structures to better manage GBV cases.
- 1.52 The municipalities across the country should take measures to have cooperation agreements signed among the LRM bodies.
- 1.53 The OP recommends that the MoHSP take measures to change the Instruction of the Minister of Labor, Social Affairs and Equal Opportunities No. 5, dated 01.08.2012 "On the food expenses allowance in public residential and community social care institutions" and increase the daily food allowance.
- 1.54 The State Social Services should take measures to improve the National Center for the treatment of victims of Domestic Violence (NCTVDV) staffing with positions such as a full time psychologist, legal specialist, and social worker, while also developing and implementing a complaint and requests record for national welcoming center for the treatment of DVs beneficiaries.
- 1.55 The MoHSP should take measures to increase budget projected expenditures for DV victim training centers, to improve victim treatment conditions.
- 1.56 The MoHSP should strengthen cooperation with donors to fund other centers or to open new centers in remote municipalities and areas, with the aim of increasing the accessibility of violated women in rural and remote areas to these centers.
- 1.57 The MoHSP and the Municipalities should take measures to train the specialized DV victims training center staff on the specific features related to the treatment of violated women and girls, to enable the awareness raising and dignified reintegration of the latter in the society.
- 1.58 Measures should be taken to open new sexual violence victims risk management centers at the municipality level.

Concerning issue No. 3: Strengthening enforcement of Protection Orders (PO) and Immediate Protection Orders (IPO) court decisions

Recommendation No. 23/d, CEDAW Committee, 2010-16 COs.

BACKGROUND

- 1.59 The granting of PO and IPO is a guarantee provided by Law No. 9669, dated 18.12.2006 as amended "On measures against domestic relations violence". However, the de jure granting of these orders by the court does not guarantee the protection of the DV victim. In this regard, the immediate action of the relevant authorities responsible for enforcing the PO/IPO is critical.
- 1.60 In 2018, the DV Law underwent significant changes with the aim of providing better protection guarantees for DV victims. The OP has been actively involved in the draft amendments consultation process and has provided its recommendations for the improvement of the law. The OP has stressed the need to increase local government mobilization in providing fast and effective protection and to improve guarantees for child rights protection in cases of verified domestic violence cases.¹²⁴

124. Letter of the OP, dated 23.2.2018 addressed to the MoHSP with subject line "On changes and additions to Law No. 9669 dated 18.12.2006 "On measures against violence in domestic relations", as amended.

- 1.61** According to Law No. 47/2018 on some additions and changes to the DV Law, the court decision granting a protection order is now final and an executive order starting from the date it is issued. Along with the immediate protection order, the court also issues an order for the execution thereof. The decision is executed immediately by the State Police structures in cooperation with the judicial bailiff's service and the local social services offices covering the permanent or temporary residence of the victim and other individuals named in the decision.
- 1.62** In the 2016-2018 period, the General State Police Directorate has recorded 2207, 2593 and 3037 requests respectively. During the same period, the number of recorded violence cases was 4163, 4547 and 4951 respectively, showing that approximately ½ of the victims of violence have sought PO/IPO as a measure for their protection. There are no official data regarding the gender of individuals that have sought PO/IPOs, however monitoring from various NGOs shows that the majority of them are women/girls.
- 1.63** According to a High Judicial Council (HJC) report, in the period between 01 January 2016 and 30 April 2017, first instance courts have considered a total of **6307 domestic violence cases, of which 5179 in the first instance and 1128 in the second instance**. The highest number of cases was adjudicated by the Tirana District Court (1390 cases), while the lowest number was adjudicated by the Tropoja District Court (18 cases).¹²⁵ In 283 cases, the granting of a PO/IPO has been rejected by the court, while 1245 cases have been dismissed.¹²⁶
- 1.64** In addition, according to the MoHSP, for the period covering 2016, 2017 and up to July 2018, the state General Directorate of the Bailiff's Service has recorded and executed a total of 352 PO decisions and 89 IPO decisions.¹²⁷

Positive developments

- 1.65** The OP recognized the efforts of the Albanian state to adopt legal measures and harmonize the DV Law with the obligations stemming from the Istanbul Convention. At the same time, the OP recognizes that the majority of the changes reflected in the DV Law come as a response to the concerns and recommendations made by the GREVIO group of experts, during their first assessment of the Istanbul Convention implementation by the Albanian state, 2017. In the opinion of the OP, changes made to Law No. 9669/18.12.2006 *"On measures against domestic relations violence" broaden the protection of domestic relation violence victims*.¹²⁸ In addition to the PO/IPOs, changes also foresee the granting of an Order for preliminary measures for immediate protection (PMIMO), by structures responsible for treating domestic violence cases at the State Police. These orders are granted when the risk assessment shows that the violence perpetrated threatens the life, health and freedom of family members. PMIMO stays in effect until the court makes a decision on whether to grant a PO/IPO.
- 1.66** The OP supports the provision of the DV Law, allowing the court to foresee protection measures for children that have experienced violence or were present when domestic violence was perpetrated in the immediate protection order and/or protection order, upon its own discretion.
- 1.67** The OP appreciates the increased number of PO/IPO requests during the 2016-2019 period and the closing gap between the number of PO/IPO request and the number of recorded domestic violence cases. In this regard, the OP continues to believe that better awareness raising among women and girls on all forms of GBV and protection possibilities for them, are critical in increasing the number of victims accessing relevant authorities to be granted PO/IPOs.

Practical issues/remaining challenges:

- 1.68** Even with amendments to the DV Law, the OP continues to be concerned with the lack or restriction of PO/IPOs for other forms of gender based violence, with the exception of domestic violence, such as stalking, and with the obligation for the victim to file a complaint in order for sexual harassment or violence criminal

125. High Council of Justice "Report on the domestic violence court cases situation", 2018

126. Ibid.

127. State information follow up report.

128. Letter of the OP, dated 23.2.2018 addressed to the MoHSP with subject line "On changes and additions to Law No. 9669 dated 18.12.2006 "On measures against violence in domestic relations", as amended.

proceedings to start.¹²⁹ In addition, the lack of medical reports, which are not issued by the health sector pursuant to the legal provisions, deteriorates the position of women and girls when considering the burden of proof.

- 1.69** Another concern is the lack of official data on POs and IPOs issued by courts and lack of disaggregation by gender and age, in the MoJ statistical almanac. This issue has also been identified previously by the GREVIO groups of experts, during the first assessment of the Istanbul Convention implementation by the Albanian state in 2017.¹³⁰
- 1.70** With regard to children of DV victims, it has been found that authorities do not undertake ex officio risk assessments for children to identify whether there is a need to also obtain a protection order for the children themselves, as provided by the amendments made to the DV Law in 2018.
- 1.71** In addition, the OP expresses concern that the lack of PO enforcement by the authorities, remains a challenge in the Albanian reality. Lack or untimely execution of the PO by relevant authorities, bailiffs, police, social services and the lack of coordination among these structures lead to increased danger to the life or health of the victim of violence, which in some cases has resulted in fatal situations for DV victims.
- 1.72** The OP is concerned with the courts not always considering the expert opinion of social workers from shelters and treatment centers for women and girls victims of violence, which exacerbates the burden of proof of the victims in cases of violence.
- 1.73** The OP is concerned with the lack of capacities among all judicial bailiffs in the context of executing PO/ IPOs. In some cases, their lack of legal knowledge has led bailiffs to ask victims holding PO/IPOs to pay the fees for the execution of protection orders. In other cases, the execution of a PO is not possible because of the measures the court provides in the order granted (for example in some cases the PO contained the obligation to maintain a 2 meter distance between the perpetrator and the victim within the residence). Regardless of the legal changes, a portion of the judges do not have information on all measures they can provide in a PO/IPO.

Recommendations:

- 1.74** Responsible authorities at the local level and the MoJ should monitor the execution of PO/IPOs and should enforce the obligation to hold accountable employees that have hindered/delayed the execution of PO/ IPOs.
- 1.75** The HJC should continuously monitor compliance with legal adjudication time frames for granting IPO/POs, to eliminate unnecessary trial hearing delays and to strengthen the role of the HJC in enforcing sanctions for judges failing to comply with legal time frames.
- 1.76** Courts should be careful when reasoning decisions on granting IPO/POs, to avoid their decisions becoming a cause of delay and/or failure to execute judicial decisions by public employees responsible for such execution.
- 1.77** The MoJ should take measures to deliver professional and skill building training to judicial bailiffs on the execution of POs.
- 1.78** The MoHSP, in cooperation with the Albanian School of Public Administration, the School of Magistrates, the Psychologist Order, and the Social Worker Order, or accredited organizations and agencies, should take measures to provide training on topics related to matters of domestic violence, for all relevant administrative, law enforcement and judicial authorities.
- 1.79** The MoJ should take measures to coordinate work to retain and collect statistical gender disaggregated data regarding PO/IPOs and their annual implementation.
- 1.80** The MoI should take measures to train State Police employees that will handle domestic violence cases, to enhance their capacities of domestic violence case identification, risk assessment, and victim and perpetrator interviewing, as well as other aspects of PO/IPO execution.
- 1.81** The courts should take under advisement the opinions and explanations provided by State Police representatives and/or local domestic violence case referral specialists during PO/IPO hearings.

129. GREVIO Baseline Report, Albania 2017, pg. 8.

130. GREVIO Baseline Report, Albania 2017, pg. 23.

D. WOMEN ECONOMIC AND SOCIAL RIGHTS

Article 13 of the CEDAW Convention, Recommendation 35/a of the CEDAW Committee, 2010-2016 COs.

Concerning issue No. 1: Improved access to economic assistance and housing services for women.

BACKGROUND

- 1.1** Women rights to benefit from economic assistance and housing services are two of the most sensitive OP activity areas. Considering these as vital rights, the restrictions or delays of which could adversely impact women legal rights, or could exacerbate the vulnerability of women and girls, the OP has played an active role bringing legal and other recommendations for the speedy resolution of all complaints brought by vulnerable women and girls.
- 1.2** For the OP, the access of women victim of GBV, trafficking, and women from the Roma and Egyptians communities and other disadvantaged groups to economic assistance and housing services, is of special importance. As a result of the highly vulnerable situation of these categories in need, the lack or restriction of economic and social services, not only adversely impacts the standard of living for these groups, but also lays the basis for their discrimination with regard to the goods and services provided.
- 1.3** In addition, the OP annual reports have pointed out that even though “guaranteeing housing” is one of the social objectives guaranteed by the Constitution of the Republic of Albania, it remains one of the poignant issues faced by women, especially those from disadvantaged communities.¹³¹
- 1.4** One of the strategic objectives of the National Social Protection Strategy 2015-2020 was to ensure that women benefit from Economic Assistance (EA) and Social Housing (SH) programs. The provision of adequate protection for women that are heads of families, domestic violence victims, or other disadvantaged groups has also been one of the main priorities of this strategy.¹³²
- 1.5** During 2016-2019, the OP has reviewed a considerable number of complaints addressed by women, in relation to the right to benefit economic assistance. Thus, of the 48 complaints on access to economic assistance reviewed the OP in 2016, 29 were filed by women; of the 24 total complaints in 2017, 12 were filed by women; of the 80 complaints reviewed by the OP in 2018, 28 were filed by women, and of the 38 complaints reviewed in 2019, 26 were filed by women. The data clearly show that with the exception of 2018, approximately 50% of the complaints filed with the OP in relation to economic and social rights, were filed by women. The complaints were mainly related to exclusion from the economic assistance benefits scheme, delays in EA disbursement, exclusion from financial compensation for electric energy expenses, economic assistance benefits for DV and trafficking victims, termination of economic assistance, etc.
- 1.6** As regards the right to housing, a total of 320 complaints have been reviewed and answered by the OP during the 2016-2019 period, of which 114 were filed by women. Disaggregated by year, the complaints are as follows: 145 total complaints reviewed in 2016, of which 48 (33%) filed by women; 77 total complaints reviewed in 2017, of which 23 (30%) filed by women; 55 total complaints reviewed in 2018, of which 27 (49%) filed by women; and 43 total complaints reviewed by the OP in regard to the right to housing in 2019, of which 27 (37%) were filed by women.
- 1.7** In addition, considering the identification of issues related to vulnerable groups benefiting from the economic assistance and housing rights, during this period the OP has been active in developing legal recommendations to improve the necessary legal framework in this area and to facilitate application procedures in social protection systems for vulnerable groups. In December 2016, the OP called upon the MoSWY to take immediate measures in defining the minimum living standard, while considering the legal changes related to the state social objectives. This recommendation of the OP was a result of its assessment that the lack of a minimum standard of living is a considerable barrier for the development of state social policies for groups in need, including women.¹³³

131. See OP 2017 annual report.

132. National Social Protection Strategy 2015-2020 accessible at http://shendetesia.gov.al/wp-content/uploads/2018/06/Strategjia_Kombetare_per_Mbrojtjen_Sociale_2015-2020.pdf

133. See OP 2016 annual report.

1.8 Accurate annual data collection and analysis of the number of beneficiary families with women as heads of family, was not available during the development of this report, because the gender criteria is missing from the MoHSP list of indicators concerning beneficiary families. The data generated by this institution only identifies the total number of families benefiting from the Economic Assistance scheme. In addition, the Medium -Term Budget Plan (MTBP) detailing for this institution does not specify the number of families with women as heads of families that are planned for coverage with EA, out of the total number of families projected. However, the monitoring report for 2018 of the National Strategy on Gender Equality shows that the number of families benefiting economic assistance, according to the Economic Assistance Information Management System, including the number of families benefiting from the 6% Fund allocated to the municipalities, was 63,660, of which Families headed by Men 57,197 and Families headed by Women 6,463. For the same year, the Social Protection program supported with cash from the EA scheme a total of 122,300 women, of which 3,961 were disabled women, 377 were victims of violence and 10 were trafficking victims.¹³⁴

Positive developments

- 1.9** The OP recognizes the efforts of the Albanian government in the framework of the economic and social protection system reform. In this regard, Law 59/2019 “On social assistance in the Republic of Albania” was adopted in July 2019, abrogating preceding Law No. 9355, dated 10.3.2005 “On social assistance and services” as amended. In addition to other categories, the law designates victims of domestic relations violence, who are not treated in social care institutions and victims of trafficking after they leave social care institutions, and up to the moment they become employed, as an economic assistance beneficiary category, through the validity period of the protection order or immediate protection order.¹³⁵
- 1.10** The OP recognizes the innovations of the law with regard to removing the economic assistance ceiling with the aim of increasing its benefits, and removing the discretion of the municipality council to develop beneficiary lists for this assistance. Even though the new law introduces the application of the 6% block-scheme¹³⁶, the decision to award this assistance, upon assessing the social and economic situation of the families excluded from the economic assistance scheme, is made by the Municipality Council increasing their discretion in deciding beneficiaries.
- 1.11** In the legislative context, the OP has positively assessed the adoption of law No. 22/2018 “On social housing”. The OP has played an active role in submitting opinions and comments on this law. We note the inclusion in this law of the OP recommendation about local government units, which should annually project in their social housing programs, no less than 5% of their openings in any program to be provided to families declaring to belong to the Roma minority, and the recommendation to develop new housing programs, through the provision of a rent bonus wholly funded by the relevant local unit, for all families benefiting from the economic assistance scheme and families without financial revenue.
- 1.12** The law, defines domestic violence victims, trafficking victims, and girls that have become mothers as priority subjects to benefit housing services.

Practical issues/ remaining challenges

- 1.13** During the reporting period, the OP has continuously raised the issue of the absence of a minimum standard of living in Albania and the low amount provided as economic assistance.
- 1.14** The OP notes that the new law on Economic Assistance gave way to the implementation of the scoring system through an electronic register across the country for economic assistance, which has brought about many issues. OP considers problematic the fact that from the implementation of the new scoring system approximately 30% of the potential beneficiaries are being excluded from the beneficiaries list (most of which are women or families in difficult living conditions.)

134. See MoHSP (2018) “National Gender Equality Strategy and Action Plan Monitoring Report 2016-2020”, pg. 21.

135. Law No. 59/2019 “On social assistance in the Republic of Albania”, Article 7.

136. See Instruction No. 5 dated 17.02.2017 “On using the conditional fund for the economic block- assistance up to 6 percent”, as amended.

- 1.15** In addition, the OP is of the opinion that the digital economic assistance system has led to unclarity and confusion not only for women and girls in need, but also for public officials using it.¹³⁷ The OP has found that because of confusion and inaccurate application of Instruction No. 5 dated 17.02.2017 “On the use of the conditional fund for the economic assistance block scheme up to 6 percent”, as amended and the new law on Economic Assistance by the municipalities, families in need have been excluded from some financial benefits, which were of vital importance to them. In this regard, the OP has reviewed the complaint filed by citizen SH.M regarding refusal of the right to benefit financial compensation for electric energy expenses for citizens that are excluded from the economic assistance system, but who benefit from the block assistance conditional fund of up to 6%.¹³⁸
- 1.16** During its monitoring activity, the OP has found that the State Social Service and local government units do not maintain and process gender disaggregated data with regard to economic assistance and social housing beneficiaries, which results in challenges when analyzing the economic and social rights situation of women and girls, in accordance with strategic objectives.
- 1.17** As regards the right to housing, the OP notes the following main challenges: failure to provide solutions for homeless women, who are unable to afford living expenses, unless subsidized by local government or through soft loans; housing of the Roma community members, who in some cases have been forcefully removed from their dwellings; procedural delays of housing matters by state structures. A portion of the requests that have identified the above mentioned issues were filed by homeless women. The most serious issues refer to the restriction of this right, mainly in rural areas, but also in the outskirts of cities.¹³⁹ Furthermore, the OP has identified low levels of benefits from the social housing right or the rent bonus for women victims of DV or trafficking. By 2018, none of them had ever benefited by social housing schemes.
- 1.18** Also, the OP is concerned about the lack of awareness among homeless women regarding meeting legal criteria to benefit from housing programs.¹⁴⁰

Recommendations:

- 1.19** The OP is of the opinion that legislation development in the social housing field should be coupled with increased budgets and support provided by the central government to local government units, through social housing projects.
- 1.20** Measures should be taken to enhance implementation and improve the performance of social assistance programs in the framework of meeting strategic priorities and complying with the legislation in force.
- 1.21** The MoHSP and the Municipalities should take measures to develop the capacities of public officials in social assistance and housing programs for vulnerable women and girls and they should also take measures to train them on the new EA legal package and social housing.
- 1.22** Measures should be taken at the local level to improve vulnerable women and girls information and awareness regarding the criteria, procedures and relevant documentation required to benefit economic assistance, prioritizing women from remote and rural areas.
- 1.23** Municipalities in the jurisdiction of which the Economic Assistance will be applied, should take measures to facilitate the application process to enter the economic assistance scheme, through better cooperation of the local structures with groups in need.
- 1.24** Local level employees and municipality council should take measures for the timely provision of Economic Assistance to guarantee the rights of vulnerable subjects in compliance with international standards.
- 1.25** Municipalities should take measures to seriously address with the adequate attention any complaints filed by subjects not benefiting from social assistance and housing programs, and they should provide reasoned decisions of why the legal requirements were not complied with, to guarantee the right to complain that these subject have in relation to municipality council decisions.
- 1.26** Municipalities should increase planned spending for the inclusion of GBV and trafficking victims in social housing programs.

137. For more see the OP report on the “Monitoring of economic assistance disbursement and upholding of the rights of disabled persons”, October 2018.

138. See for example, OP letter with reference No. 201801142/8, addressed to the Administrator of Administrative Unit No. 5, Tirana, with subject line “Recommendation to take measures for the provision of financial compensation for electric energy expenses for citizens SH.M, starting from the arising of the right to receive this benefit, since January 2018”

139. See OP 2018 annual report.

140. See OP 2017 annual report.

- 1.27 The OP believes that the legal framework on social assistance and social services should include in the category of subjects treated with priority, in addition to the DV victims, the victims of other forms of gender based violence, with the aim of harmonizing the entire applicable legal framework with the Istanbul Convention.
- 1.28 The MoHSP should take measures to estimate and define the minimum standard to living, for a more effective implementation of the legal framework.
- 1.29 Measures should be taken at the central and local level to coordinate Economic Assistance services with employment promotion programs for vulnerable women and girls, in accordance with the Albanian state strategic goals in this field.

Concerning issue No. 2: Women access to property rights

Article 16/h of the CEDAW Convention; General Recommendation No. 21 of the CEDAW Committee, Recommendation 35/b of the CEDAW Committee, 2010-2016 COs.

BACKGROUND

- 1.30 Improving the access of women to property rights has been one of the most concerning areas in the framework of women economic empowerment and poverty reduction. The OP notes that the limited access of women to property rights is an issue passed down through the years in the Albanian reality. Regardless of legal provisions that have been in place for the protection of women property rights, placing them in equal footing to men, the implementation of the legal framework in practice has not always resulted in the protection of this right.
- 1.31 Data collected and analyzed by various studies show that the situation of women in rural areas is especially less favorable. The main factors contributing to this situation were limited knowledge of women about their property rights, problems and deficiencies in the legislation (as it is the case of cohabitation), inaccuracies in judicial and administrative practices, and lack of monitoring of the implementation of law in respecting gender equality.¹⁴¹
- 1.32 Guaranteeing access to property rights was one of the elements of the Cross Cutting "Reform in the property rights field 2012-2020" Strategy, based on which the "access of women to property" is a necessary guarantee for the economic empowerment of women and the improvement of the living standards. In the context of protecting women's rights, this Strategy laid down the following: Respecting and promoting gender equality in the property registration process and respecting gender equality rights in making decisions on property matters.¹⁴² In addition, improved access to property rights for women was also an objective of the National Strategy on Gender Equality 2016-2020 and its Action Plan.
- 1.33 According to the Ministry of Justice (Moj), women property rights have not been fully guaranteed/protected. The Moj recognizes that one of the reasons for this is the legalization process and the lack of a harmonized legal framework on property rights. In most cases, women have been unable to benefit from transitory processes to have equal property rights with men. An inherited issue was also the lack of property registration in the names of both spouses. Practically if a woman applied, or her husband applied on her behalf, with the ALUIZNI offices to legalize the residence they possessed together in as a joint property, and if there was a divorce, or even worse a divorce as a result of domestic violence, this property was automatically registered only in the name of the husband in the Immovable Property Registration Office, even though it should have been registered in both names, and the wife was thus left without any property to her name.¹⁴³

141. Conclusion reached in the "Property rights of women in Albania" study, second edition, 2016, developed with the support of UN Women and the funding of the Swedish Government, and referenced in the Cross Cutting "Reform in the property rights field 2012-2020" Strategy

142. The Cross Cutting "Reform in the property rights field 2012-2020" Strategy is accessible at https://www.drejtësia.gov.al/wp-content/uploads/2017/11/Strategjia_Reforma_ne_fushe_e-te-drejtave_te_pronesise.pdf

143. See Moj, Remarks of the Minister of Justice at the Conference on women's rights <http://www.drejtësia.gov.al/newsroom/lajme/ministrja-gjonaj-bashke-per-te-drejtat-e-grave-dhe-kunder-dhunes/>

Positive developments

- 1.34** The OP recognizes the legal initiatives undertaken by the Albanian government to improve the legal framework protecting women's property rights. In this regard, the OP recognizes the inclusion changes focused on guaranteeing gender equality and the protection of women from gender based discrimination in law No. 111/2018 "On Notary Publics".
- 1.35** More concretely, law 111/2018 provides that notary acts related to the alienation of immovable property should obligatorily include the statement of the matrimonial property regimes, expressly noting the presumption of matrimonial co-ownership when the property has been obtained during marriage and when the spouses have not defined separate ownership regimes by contract. In addition, article 112 of the law provides for the obligation of the notary public to include, when issuing an inheritance certificate, the clause providing that the inheritance certificate cannot, regardless of the circle of inheritors at the moment of registration with the institution responsible for the registration of immovable property, threaten the portion of the spouse that is presumed to be a co-owner of the properties obtained during marriage.
- 1.36** In protecting women's rights, the provision of the law in article 127 entitled "*Procedures for the transfer of the immovable property covered by the matrimonial property regime*" is also relevant. Under this article, in the cases of alienation or recognition of ownership on the immovable properties or of the real rights on them for the natural person, the notary attaches to the relevant notary act the family and/or marriage certificate of the purchasing party. The notary makes the relevant description in the contract citing, as purchaser/co-owner the non-present spouse, ipso jure, due to gaining the ownership rights during marriage, pursuant to the provisions of the Family Code.
- 1.37** The provision on the obligation of the notary when finding that the immovable property acquired during the marriage, for which the notary act on the alienation or the recognition of the ownership on the immovable objects or the real rights is sought, is registered only in the name of one of the spouses and, the spouse presumed as the co-owner has passed away, to issue the inheritance certificate for the presumed co-owner spouse and to register the inheritors in the ownership certificate, for which the property alienation or recognition is sought, is also of relevance.
- 1.38** In the same context, the OP positively recognizes the provisions of law No. 111/2018 "*On the Cadaster*" regarding the protection of women's property rights. In this regard, of interest is the provision in Article 45 "Registration of properties for legal communities and other cases of benefiting ownership by law", which provides for the registration of the property acquired during marriage in both names of the spouses, when the subjects are subject to the legal community regime. This measure avoids the practice of immovable property registration in the name of the family head and limits the numerous practical cases of transferring ownership of the family immovable property from the head, who in practice does not obtain or does not deem it reasonable to obtain the spouse's consent.
- 1.39** This same rights mentioned above a provided by the law to the registration of legalized properties, and for the registration of the undertaking, order and promise of sale contract, when the latter aim to transfer the ownership of the facility under construction in the future.¹⁴⁴

Practical issues and remaining challenges:

- 1.40** Since both laws have been in effect for less than 1 year, the OP points out to the need to strengthen capacities to monitor their effective implementation. The MoJ is yet to undertake any assessment of the impact that these law might have had on improving women's access to property rights.
- 1.41** The OP data shows that a portion of the notary publics, especially in remote and rural areas, are still not aware of the legal changes that the new law "On Notary Publics" has introduced in regard to the promotion of gender equality in property rights. Furthermore, some of them continue to develop notary acts based on the same standards provided in the previous legislation. The same issue is true for the State Cadaster Agency employees, handling the registration of the property record data. In order to eliminate the discrimination of women with regard to property rights access, resulting from the inaccurate implementation of the applicable legal framework, the OP believes that the challenge for the coming years will be to develop

144 Law No. 111/2018 "On Cadaster" article 45, paragraph 3.

the capacities of law professionals and employees that have the obligation to implement the law, through information and training on the changes in the legal framework in the women property rights field and its accurate implementation.

- 1.42** In addition, the OP considers the lack of awareness raising campaign organization for women on the changes and the law "On Notary Publics" and the law "On Cadaster" have brought about with regard to their property rights, to be another issue. The awareness raising of women in rural and remote areas especially regarding legal changes remains a considerable challenge.

Recommendations

- 1.43** The National Chamber of Notary (NCN) Should take measures to train notaries across Albania on the changes of the law referring to the access of women to property rights and legal communities.
- 1.44** The State Agency of Cadaster (SAC) should take measures to train specialists on the implementation of the law "On Cadaster" with reference to the registration of legal community properties and other forms of obtaining ownership.
- 1.45** The MoJ should take measures to improve monitoring capacities for the law "On Cadaster" and to develop monitoring indicator portfolios.
- 1.46** The Albanian National Chamber of Notaries (ANCN) should take measures to monitor the uniform implementation of the law by all notaries across the country and enforce disciplinary measures in cases of violation.
- 1.47** The School of Magistrates should train magistrates, judges and prosecutors on the changes to the laws mentioned so that the access of women to property rights is improved and the laws are correctly applied during their property law judicial proceedings.
- 1.48** The ANCN and the SAC should strengthen their cooperation to enable effective coordination among them to the services of recognizing and registering the property right of women.

E. SITUATION OF WOMEN IN RURAL AREAS AND DISADVANTAGED GROUPS

Concerning issue No. 1: Improvement of the situation of women in rural areas

Article 14 of the CEDAW Convention; General Recommendation No. 36 of the CEDAW Committee, recommendation 37 a/b/c of the CEDAW Committee, 2010-2016 COs.

BACKGROUND

- 1.1 Women in rural areas are a key agent to achieving the economic, social and environmental changes needed for the development of the country. They make up approximately half of the population in rural areas (45.6%).¹⁴⁵ Women are over represented in the informal work sector and are the majority of women in rural areas are employed in the agriculture sector. According to the INSTAT study, 42.3% of women work in this sector.¹⁴⁶ In rural areas, employment opportunities beyond the agriculture sector are very scarce and women have found it almost impossible to find employment opportunities compared to men.¹⁴⁷
- 1.2 However, even with the importance of women in the family and community in rural areas, they continue to suffer access restrictions to rights, goods and services, because of the lack of infrastructure, gender discrimination, patriarchal mentality, or lack of accessible services, especially in remote areas.
- 1.3 The OP has continuously noted the need for more attention and initiatives at the political and legal level to improve the situation of rural women in the society.

Positive developments

- 1.4 The OP recognizes the legal measures and strategic policies adopted by the Albanian state during the 2016-2020 period, especially focusing on the economic empowerment of women in rural areas.
- 1.5 In line with the CEDAW Committee recommendation, the Albanian government has included the economic empowerment of rural women in its strategic objectives. The most relevant strategy in this regard, is the National Strategy on Gender Equality 2016-2020. Based on this strategic document, the Albanian state has undertaken obligations regarding (i) the improvement of the life of rural women through the reduction of unpaid work for women in the agriculture sector; (ii) the increased access of rural women to services like daycares and kindergartens; (iii) improved formalizing of work in the agriculture sector for women; (iv) better access to quality health services; (v) increased number of farmer women in subsidy schemes and extension services, and guaranteed property rights over agricultural land.¹⁴⁸
- 1.6 In order to take measures to improve the access of rural women to employment, DCM No. 56 dated 31.01.2018 "On defining concrete categories of disadvantaged groups" lays out that social enterprises contribute to the social protection and support of disadvantaged individuals and groups through employment and facilitation to access to the labor market. In the letter of the DCM "women living in rural areas" are part of disadvantaged groups.
- 1.7 In addition, the OP appreciates the legal measures undertaken by the Albanian state during the reporting period, to promote and support enterprises established by women in rural areas. The adoption of the "Action Plan to support women entrepreneurs 2014-2020"¹⁴⁹ has been of relevance in this regard. Support for women in rural areas was one of the five pillars of the plan.
- 1.8 The OP recognizes the role of the Ministry of Agriculture and Rural Development in taking measures that address poverty reduction and economic empowerment, especially for women in rural areas. Guidelines for use of the Fund for Agriculture and Rural Development for National Schemes foresees 5 (bonus) points for women applying for Investment Schemes. During the reporting period, 5 women applicants have benefited from these scheme.¹⁵⁰

145. See INSTAT "Population gender report" in Women and Men 2016, Tirana.

146. INSTAT "Women and Men", 2018.

147. See FAO "Gender equality, Agriculture and rural development in Albania", 2016, pg. 8. The publication is accessible at <http://www.fao.org/3/a-i5413o.pdf>

148. National Gender Equality Strategy 2016-2020 and its Action Plan, Strategic Objective 1.3.

149. Developed with the support of UN Women and adopted with Order of the Minister of the Ministry of Economic Development, Trade and Entrepreneurship, no. 339, dated 19.06.2014

150. National Beijing +25 Action Plan Report, 2019.

- 1.9 The joint instruction with the Ministry of Finance and Economy (MoFE) No. 11 dated 21.06.2018 “On procedures and method of administration of the program for agriculture and rural development fund” creates opportunity for rural women to apply for National Support Schemes.
- 1.10 With regard to access to education, the Strategy for Pre-University Education Development 2014-2020 foresees measures to improve access to education for children in disadvantaged or vulnerable situations, including children in rural areas. These measures include free transport for all children attending a kindergarten or school at a distance of more than 2 kilometers from their residence, assignment of assistant teachers for children with disabilities, coverage of housing and education costs for residential schools, and the provision of scholarships and free meals, etc.

Practical issues and remaining challenges:

- 1.11 In its 2019 report the European Commission (EC) expressed its concerns regarding the percentage of women in the informal market and without the necessary social protection, especially in the textiles and shoe industries. The Commission also expressed concern regarding the lack of disaggregated data on the number of rural women working in the informal sector.¹⁵¹
- 1.12 In addition, the OP has found in its reports, that mainly in rural areas but also in the outskirts of towns, there is a considerable number of families facing extreme hardship and needs in securing housing, because they have no ability to pay or to benefit from social housing programs that are currently provided by the local government in cooperation with the central government.¹⁵²
- 1.13 Furthermore, since the majority of women contribute the family care, access to water supply is of vital importance. According to the OP reports, rural areas are not supplied or are partially supplied with drinking water, thus posing a great challenge for basic needs necessary for the residents.¹⁵³
- 1.14 Another issue is guaranteeing rural women access to health care services. According to OP reports “the elderly living in rural areas have less opportunity to get adequate health care services, because of lack of access to health care services.¹⁵⁴
- 1.15 Other studies¹⁵⁵ show restricted access to property rights for rural women. Also, rural women have had less opportunities to benefit from free legal aid services and access to justice. By June 2018, the Legal Aid State Committee (LASC) was only focused in Tirana, limiting the opportunities to benefit legal aid to a great measures for women in rural areas, because of physical accessibility limitations (distance of the LASC from their place of living), financial cost, or restrictions to appear in front of the LASC because of family status, or marital relations. In the meantime, even with the entry into effect of the new law 111/2017 on SGLA, access of rural women to benefit LA is more limited because facilities providing LA services have not been established in their areas of residence.
- 1.16 With regard to the right to education, studies show that girls in rural areas have less access to education services as a result of issues with education infrastructure in remote areas, the big distance of schools from their residences, or the lack of transport, and the feeling of insecurity they and their families experience. As regards higher education, the high financial cost is one of the main factors restricting the rights of rural women to complete higher education.¹⁵⁶
- 1.17 In the context of the right to access credit and bank loans, the OP continues to consider the access of rural women to equal opportunities with men, a challenge. According to UN Women, many women in these areas do not have direct access to financial revenue, because household revenue is managed by the male spouses or because the property is registered in the name of their husbands or father in law. Without any financial means or capital it is almost impossible for rural women to apply for bank loans.¹⁵⁷

151. European Commission, Albania 2019 Progress Report, pg. 21.

152. See OP Annual Report, 2017, pg. 49

153. See OP Annual Report, 2017, pg. 60

154. OP 2016 annual report.

155. For more read, “Women’s property rights in Albania”, second edition, 2016, developed with the support of UN Women and the financial support of the Swedish Government, pg. 42-44.

156. For more read, “Women’s property rights in Albania”, second edition, 2016, developed with the support of UN Women and the financial support of the Swedish Government, pg. 70-71.

157. Ibid, pg. 78.

Recommendations:

- 1.18 Considering the legal provisions in force on guaranteeing the rights of rural women, all relevant central and local institutions should take measures to effectively implement applicable laws.
- 1.19 The MoJ should take measures to establish legal clinics in rural and remote areas to improve access to justice and the protection of women's legal rights in these areas.
- 1.20 The MoHSP should take measures to raise the awareness of rural women about the National Counseling Line, institutions and centers they can access to report GBV episodes and for guarantees provided by the law for their protection. In addition, in order to increase GBV reporting levels, awareness raising of rural women should be undertaken for them to understand all forms and methods of GBV manifestation.
- 1.21 The municipalities should take measures to improve rural infrastructure to enhance access and safety in these areas.
- 1.22 Local Government Units should take measures to enable drinking water supply to rural and remote area families to improve the access of women to drinking water.
- 1.23 The OP raises the need to establish health care centers in all administrative units to improve the access of women to these centers.
- 1.24 The OP recommends that the MoHSP take measures to raise rural women awareness of reproductive health and family planning, to avoid uncontrolled pregnancy interruptions in these areas.
- 1.25 The OP recommends that at the local level Municipalities take measures to organize information meetings with rural women to inform them on their rights and the elimination of gender stereotypes regarding the role of rural women in the family.

Concerning issue No. 2: Empowering women in disadvantaged groups

General recommendation No. 18, 26, 27, 32 of the CEDAW Committee ¹⁵⁸

BACKGROUND

- 1.26 During the 2016-2020 reporting period, the OP has focused its activity on the respect of rights of women from disadvantaged groups.
- 1.27 In the quality of the National Mechanism for the Prevention of Torture, Cruel, Inhuman, or Degrading Treatment or Punishment, the OP has conducted inspections at the Institution for the Execution of Criminal Decisions (IEVP) 325 "Ali Demi" in Tirana, to monitor and make recommendations to improve conditions and rights for convicted/detained women. During the 2016-2019 period the following number of women served their sentences at this institution respectively 60 (2016); 87 (2017); 70 (2018) and 82 women (2019)¹⁵⁹.
- 1.28 When referring to the elderly women's rights situation monitoring, it should be noted that the OP has conducted a total of 12 inspections at the Home for the Elderly in the 2016-2019 period and made valid recommendations for the improvement of their situation in the future. Of relevance in this regard was the repeated OP recommendation on the need to develop a draft law "On the improvement of life quality and meeting third age needs", which is yet to be considered by referring institutions.
- 1.29 In addition, the OP has conducted 3 inspections at Social Care Institutions regarding the protection of persons with disabilities and has reviewed the following respectively: 74 complaints, of which 14 were filed by women (2016); 30 complaints, of which 11 were initiated by women (2017); 122 complaints, of which 51 were filed by women (2018); and 33 complaints, of which 8 were filed with the OP by women (2018). The OP has made 14 recommendations for central and local level public institutions for the improvement of the standard of living of these persons and the protection of their rights.
- 1.30 Being of the opinion that the free movement of persons with disabilities is a potential precondition to complete integration in the society, the OP has played an active role in regard to construction compliance

158. Recommendation texts can be accessed on <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx>

159. Data collected by the OP.

in a number of institutions. During the monitoring period, the OP has issued recommendations for the Director of the Kukes Health Center to take measures and provide building facilities for persons with disabilities, and the Director of the Shkodra Regional Hospital to provide a ramp at the main entrance of this hospital. The OP appreciates the fact that its recommendations were taken into account and have been implemented.¹⁶⁰

- 1.31 The OP has also focused its activities on improving the treatment conditions and the protection of rights for women that are admitted in psychiatric hospitals in Albania, as they are included in the disadvantaged women group because of their vulnerable psycho-social condition. During the 2016-2019 period, the OP has conducted continuous inspections to improve treatment and conditions for women admitted in psychiatric hospitals in Tirana, Vlora, Elbasan, and Shkodra. During the 2016-2019 monitoring period, the Tirana psychiatric hospital was providing care for 345 women (2016), 341 women (2017); 370 women (2018) and 337 women (2019); the Shkodra psychiatric hospital was caring for 139 women (2016); 151 women (2017); 153 women (2018) and 151 women (2019) and the Vlora psychiatric hospital was caring for 268 women (2016); 234 women (2017); 231 women (2018) and 235 women (2019).
- 1.32 In the meantime, the protection of Roma and Egyptian women has been considered a continuous challenge for central and local authorities, in OP annual reports, especially as regards their rights to housing, economic assistance, education and health care. During the 2016-2019 period, the OP has reviewed 7 requests related to housing that were filed by Roma women, and the OP has made its relevant recommendations in these cases. In the context of the legal measures, the OP has played an important roles in completing the legal framework on the recognition of minorities in our country, in line with the provisions of the Framework Council of Europe Convention "On the protection of minorities"¹⁶¹. More concretely, at the end of 2013 the OP recommended that a legal initiative to adopt a law providing for a de jure definition and recognition criteria for minorities, in line with the provisions of this convention, be taken.¹⁶² This recommendation was accepted and implemented with the adoption of Law No. 96/2017 "On the protection of national minorities in the Republic of Albania".

Positive aspects:

Regarding the rights of women with disabilities: Article 6 of the CEDAW Convention

- 1.33 The OP has welcomed the adoption of law No. 93/2014 "On the inclusion and access of persons with disabilities" and the start of its implementation. The law aims to improve the integration of persons with disabilities and their equal treatment. Under this law, Decision of Council of Ministers no. 708, dated 26.08.2015 "On reporting types, frequency and method for disability statistical data by responsible central and local level state structures" was adopted, requiring gender-based disaggregation of indicators for issues of persons with disabilities. At the strategic level, the OP also welcomes the adoption of the National Action Plan for Persons with Disabilities 2016-2020.
- 1.34 As regards better access for persons with disabilities to their social and economic rights, the OP commends the adoption of the National Strategy on Social Protection 2015-2020¹⁶³, which addresses issues related to the economic assistance scheme and disability. According to data from 2017, 112 unemployed job seeking women with disabilities are part of the economic assistance scheme.
- 1.35 Expenditures for disability payments have increased considerably in recent years and make up the main portion of Social Protection expenditures. Thus, according to 2017 data, the number of persons receiving disability payments has increased by almost two thirds (63.7%) to over 160,000 persons¹⁶⁴.

160. OP Annual Report, 2018, pg. 51

161. Letter of the OP No.K1/I62-9 dated 23.12.2013 addressed to the Prime Minister's Office.

162. The Framework EC Convention "On the protection of minorities", was ratified with law No. 8496 dated 3.06.1999.

163. Adopted with DCM No. 1071, dated 23.12.2015

164. http://differentandequal.org/wp-content/uploads/2016/10/Strategjia_Kombetare_e_Mbrojtjes_Sociale1.pdf

Regarding women/girls serving sentences in Institution for the Execution of Criminal Sentences (IEVP) no. 325 Tirana:

- 1.36 The OP commends the positive spirit between the detained/convicted women and the institution staff as well as non-use of physical violence or psychological pressure use against this category.
- 1.37 The OP appreciates the efforts of the IEVP No. 325 “Ali Demi” staff in Tirana, in both avoiding conflict between the women/girls themselves, and to enable dignified living conditions within the institution.
- 1.38 The OP appreciates the opportunities created within the institution for women/girls to become engaged in activities and vocational courses, like the social assistance, seamstress/embroidering courses, parenting and psychological programs. In addition, the OP appreciates the employment opportunities created within the institution for these women. During the inspection, the OP found that remanded/convicted women/girls worked mainly as cleaners, warehouse clerks, seamstress, laundry room staff, etc.

Regarding women/girls getting mental health care at psychiatric hospitals:

- 1.39 In the framework of a comprehensive approach, the OP believes that the legal and institutional framework in the mental health services field provides the possibility of an integrated mental health services system, implying a regional services network.¹⁶⁵

Regarding women from the Roma and Egyptian communities:

- 1.40 The OP recognizes the adoption of Law No. 96/2017 “On the protection of national minorities in the Republic of Albania” and the reflection of AP recommendations in this law. The removal of distinctions between national and language minorities in the new law and the recognition of nine minority groups is important.¹⁶⁶
- 1.41 As regards strategic policy, the inclusion of objectives to protect the Roma/Egyptian community in Law No. 22/2018 “On social housing”, Law 111/2017 “On state guaranteed legal aid”, the National Action Plan of the Integration of the Roma and Egyptian Communities 2016-2025, the Strategy for Social Housing 2016-2020, and the NGES and Action Plan 2016-2020, are positive developments.

Practical issues and remaining challenges:

Regarding persons with disabilities:

- 1.42 The Albanian state has yet to adopt the Optional Protocol of the Convention of the Rights of Persons with Disabilities. In addition, both the National Strategy on Gender Equality and the Law “On the Protection from Discrimination” lack the notion of multiple discrimination with regard to the discrimination of women with disabilities, based on their gender and disability.
- 1.43 The implementation and the results of the National Plan for Persons with Disabilities has yet to be monitored with regard to enhanced access of these subjects to the rights provided therein.¹⁶⁷
- 1.44 Additional policy challenges are related to the evaluation of disability criteria, the review of the payment levels for women with disabilities pursuant to international standards and increased access for this category to social and health services.¹⁶⁸ Another issue is the limited access of women and girls with disabilities to employment.¹⁶⁹

165. The Ombudsperson, Letter No. doc 201900645/2 with subject line “Recommendation to improve patient conditions and treatment in the “Ali Mihali” Psychiatric Hospital in Vlora.

166. Concluding observations of the combined ninth and twelfth periodic report at the Committee for the Elimination of Racial Discrimination, adopted by the Committee in its ninety seventh Session, 2019, paragraph 4.

167. See Concluding Observations of the Committee on Persons with Disabilities for Albania, 24 October 2019, paragraph 13, accessible at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/ALB/CO/1&Lang=En

168. Ombudsperson (2019) “Monitoring report in disbursement of economic assistance and the respect of disabled persons rights”, pg. 20-24.

169. See Concluding Observations of the Committee on Persons with Disabilities for Albania, 24 October 2019, paragraph 43, accessible at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/ALB/CO/1&Lang=En

- 1.45 Despite the Albanian efforts to ensure access to education for persons with disabilities, the European Commission continues to consider the education service provision quality for persons with disabilities, especially children who cannot hear, a challenge. In addition, even though the number assisting teachers for these persons was increased (from 700 in 2017/2017 to 944 in 2018/2019), the challenge lies with developing their professional capacities on training children with disabilities.¹⁷⁰
- 1.46 Another issue is related to the lack of compensation for urban and interurban transport costs for persons with work related disabilities, or those with the status of the blind, as a result of missing secondary legislation required to implement this provision. In the context of the rights of women with disabilities, the OP is of the opinion that the restriction of this right adversely impacts their economic situation, further deepening their vulnerability.¹⁷¹

Regarding women/girls serving sentences in I EVP 325 Tirana:

- 1.47 The OP is concerned with the lack of willingness on the part of some public institutions to take measures for the implementation of OP recommendations to improve the rights situation for vulnerable women. During the inspection of the I EVP 325 in Tirana (2018), the OP found that a portion of the previous recommendations made by the OP for the improvement of conditions and treatment of women/girls serving sentences in this institution, had yet to be implemented.
- 1.48 The OP is critical of the utterly inadequate health care treatment conditions for convicted women/girls. As regards isolation rooms used for women/girls under disciplinary measures, the OP is of the opinion that the lack of basic furniture in these rooms (chair/table) and placement for a given time in these rooms would lead to conditions of degrading and inhumane treatment of convicts for these women/girls.
- 1.49 The OP considers the issue of a portion of the convicts not completing the compulsory 9 year education to be a challenge. With regard to this issue, the OP is critical of the lack of cooperation between the Ministry of Education Sports and Youth (MoESY), the Tirana Education Directorate, and the I EVP "Ali Demi" with regard to the legal obligations set forth in law No. 8328, dated 16.04.1998 "On the rights and treatment of convicted and remanded persons".

Regarding women/girls getting mental health care at psychiatric hospitals:

- 1.50 The OP has identified gaps regarding the need for investment to improve the material conditions to achieve the provision of quality mental health services. The OP is critical of the lack of adequate medical and support staff in these institutions.
- 1.51 The inadequate implementation/violation of article 28 of law no. 44/2018 "On mental health" regarding the admission of persons with mental health conditions that have committed criminal acts, and for which the court has decided "compulsory treatment in a medical institution" in normal mental health institutions. The treatment of these persons in normal (not special) institutions leads to issues not only related to the limited capacities in the hospital themselves, but also with regard to the security of women admitted in these institutions.
- 1.52 In regard to other cases, the OP is concerned with the lack of internal complaint systems, which in the assessment of the OP threatens transparency and accountability for individual cases that are treated in the institution, and removes the possibility to submit complaints/requests to national human rights protection institutions or specialized NGOs.¹⁷²
- 1.53 In addition, the OP is concerned with the infrastructure conditions of mental health services in public institutions, the majority of which are provided in degraded conditions.

170. European Commission, Albania 2019 Progress Report, pg. 29.

171. OP Annual Report, 2018, pg. 50

172. OP letter No. doc 201900527 "Recommendation to immediately intervene to implement the National Strategy for Mental Health Action Plan, to improve patient conditions and treatment in the psychiatric services of the "Mother Teresa" UHC, Tirana.

Regarding the rights of elderly women:

- 1.54 The OP believes that the situation of elderly women in Albania is not good. This situation is exacerbated further in the context of a missing legal framework for the protection of the elderly in Albania.
- 1.55 Improving their access to health care services, especially in rural and remote areas remains a challenge. The OP is concerned about the low pension level for this category of vulnerable women.
- 1.56 In addition, the OP sees with concern the lack of sufficient residential and day care centers for elderly women in Albania.

Regarding women from the Roma and Egyptian communities:

- 1.57 The OP is very concerned about the situation of Roma women access to safe housing. Particularly, these situations that could be a risk to life and health, especially for elderly women, women with disabilities or children that are part of the community.
- 1.58 The OP has identified discriminatory treatment as one of the challenges faced by Roma and Egyptian women with regard to benefiting rights/goods/services at the same level and quality as other women.
- 1.59 The OP considers the limited access of Roma and Egyptian women to free legal aid services and their limited knowledge of the applicable legal framework and their rights to be a challenge.
- 1.60 The OP is concerned about the access of Roma/Egyptian women to employment and unemployment payments and economic assistance scheme, considering also the difficulties faced by this category in applying for these schemes.

Recommendations:

Regarding women with disabilities:

- 1.61 Albania should accede to the Optional Protocol of the EC Convention on the Rights of People with Disabilities as soon as possible.
- 1.62 The MoHSP should take measures to monitor and evaluate the implementation of the 2016-2020 Action Plan on Inclusion of Persons with Disabilities to assess the remaining gaps on improving the situation of women with disabilities in the coming years.
- 1.63 The MoHSP and the Commissioner for Protection against Discrimination (CPD) should take measures to include the notion of "multiple discrimination" in the Law "On the protection from Discrimination", Strategies and Action Plans.
- 1.64 The MoHSP should take measures to improve the access of women with disabilities to health care centers. In this regard, Municipalities should also plan for the establishment of health centers and Consultation Clinics accessible to women with disabilities in rural and remote areas.
- 1.65 The Moj should take measures to improve the access of women with disabilities in rural and remote areas to Free Legal Aid and should develop accessible documentation for them.

Regarding women/girls serving sentences in IEVP 325 Tirana:

- 1.66 The General Directorate of Prisons should take measures to secure adequate funding for the complete reconstruction of IEVP 325 facilities in Tirana, so that the only institution for the execution of criminal decisions housing women in Albania can provide dignified conditions and treatment for convicted or detained women.
- 1.67 The MoESY and Regional Education Directorate of Tirana should take measures to guarantee the timely implementation of Article 43 of law No. 8328 dated 16.04.1998 "On the rights and treatment of convicts and persons remanded" as amended and the General Prisons Regulation to ensure the provision of compulsory 9 year education for women/girls in the IEVP No. 325 in Tirana.

Regarding women/girls getting mental health care at psychiatric hospitals¹⁷³:

- 1.68 The MoJ and the MoHSP should take immediate measures to implement article 28 of law No. 44/2012 “On mental health” establishing special medical institutions for the treatment of persons with mental health conditions that have committed criminal acts, and for which the court has decided compulsory medical treatment in a medical institution, and for persons for whom the court has ordered temporary admission to a special medical institution.
- 1.69 There is a need to change and improve the protection and care for the patients admitted in these hospitals, dictated by the increasing number of mental illnesses/conditions, typologies, age groups affected, and geographic spread.
- 1.70 The MoHSP should take measures to review and evaluate necessary changes in the National Strategy on Mental Health and its Action Plan to provide and improve treatment in accordance with international standards.

Regarding elderly women:

- 1.71 Measures should be taken to improve the quality of life for elderly women and there should be an initiative to develop a draft law for this purpose.
- 1.72 Measures are required to improve the access of elderly women to health care centers, by increasing the number of these centers, especially in rural and remote areas.
- 1.73 Measures should be taken to increase pensions for women and to increase the number of residential and day centers for elderly women.

Regarding Roma/Egyptian women and other national minorities:

- 1.74 The Law On the Protection from Discrimination should be amended with the aim of including in the law the notion of multiple discrimination as a form of discrimination subject to which might be women from the Roma/Egyptian communities.
- 1.75 The process for the ratification of the European Charter for Regional or Minority Languages should be started and completed.
- 1.76 In addition, the OP recommend that measures be taken to guarantee the right to housing for women from the Roma/Egyptian communities across the country, along with measures to improve their access the legal aid services.
- 1.77 At the same time, the OP notes the need to improve the education level of Roma/Egyptian women, and their economic empowerment through inclusion in employment promotion schemes.
- 1.78 The OP raises the need to implement measures to decrease the number of Roma/Egyptian women that fall victim to sexual harassment or gender based violence. At the same time, more work is required at the central and local level to raise awareness among the women of this community regarding their rights and legal protection guaranteed in all areas of life.

173. OP Letter No. doc 201701677/2 “Recommendation to improve conditions and treatment for patients in the “Sadik Dinci” Psychiatric Hospital, Elbasan; OP Letter No. doc 201701726/2 “Recommendation to improve conditions and treatment for patients in the Shkodra inpatient mental health Services; OP Letter No. doc 201602296/2 “Recommendation to improve conditions and treatment for patients in the “Ali Mihali” Psychiatric Hospital, Vlorë; OP Letter No. doc 201900766/2 “Recommendation to improve conditions and treatment for patients in the “Sadik Dinci” Psychiatric Hospital, Elbasan; OP Letter No. doc 201800067/2 “Recommendation to improve conditions and treatment for patients in the “Ali Mihali” Psychiatric Hospital, Vlorë; OP Letter No. doc 201701637/2 “Recommendation to improve conditions and treatment for patients in the “Xhavit Gjata” Psychiatric University Hospital, Tirana; OP Letter No. doc 201900527 “Recommendation to immediately intervene for the implementation of the Action Plan of the National Strategy for Mental Health, and to improve conditions and treatment for patients in the “Mother Teresa” UHC, Tirana.

Bibliography

REPORTS/PUBLICATIONS

- OP Annual Report (2016)
- OP Annual Report (2017)
- OP Annual Report (2018)
- Istanbul Convention Shadow Report AWEN (2016)
- Balli. B (2015), "Reducing violence against women, focusing on the LBT community in Albania" Study
- Çani. B, Ballhysa. N, Fortuzi. S, Kalem. F (2015) "Invisible violence - an observation of the phenomenon of violence against women and girls with disabilities in Albania" Study.
- ECHR "Hornsby v Greece" request No. 18357/91, dated 19 March 1997
- ECHR "Qufaj Co. shpk v Albania" request No. 54268/00, October 2003.
- GREVIO report on legislative measures and others which implement the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, GREVIO (2017).
- Hasanbelliu. A (2017) "The Functioning of the National Domestic Violence Referral Mechanism"
- INSTAT (2016) Men and Women in Albania
- INSTAT (2018) Men and Women in Albania
- INSTAT (2019) "Violence against women and girls in Albania"
- HCJ (2018) "On the situation of domestic violence judicial cases"
- CPD Annual Report (2016)
- CPD Annual Report (2017)
- CPD Annual Report (2018)
- Kocaqi. M, Plaku. A and Wittberger. D UN Women and UNDP (2016). Gender Brief Albania 2016.
- Albanian Helsinki Committee (2019) "Vulnerable Group Access to Justice" study report
- Metaj. E (2015) Final report: Analysis of the Coordinated Community Response functioning against domestic violence at the local level in Albania"
- Milatovic. S, UNDP (2019) "Study on access to justice in Albania"
- Ministry of Justice (2016) Statistical Almanac
- Ministry of Justice (2017) Statistical Almanac
- Ministry of Justice (2018) Statistical Almanac
- Ministry of Justice (2019) "Monitoring report for first 8 months of 2019"
- MoHsP (2019) National Report on the Implementation of the +25 Action Platform, April 2019
- MoHSP "Domestic relations violence situation report", 2017
- International Organization for Migrations (IOM) (2019) Mechanisms against violence and trafficking: Synergies and synergy development
- UNDP (2016) "Public perception of gender equality in Albania"
- Pogace. P (2019)"Access to justice for vulnerable categories", Avokatia Magazine, issue no. 33
- Gender Based Violence Monitoring Network (2019) Shadow report on UPR recommendations related to violence against women
- Gender Based Violence Monitoring Network (2019) Shadow report on Convention
- UN Women (2016) "Women property rights in Albania" second edition.
- UNDP (2019) "Access to justice in Albania study"

LEGISLATION

- Law No. 93/2014 "On Persons with Disabilities Inclusion and Accessibility.
- Law No. 136/2015, "On Some Amendments and Additions to Law No. 7961, dated 12/07/1995 "Labor Code of the Republic of Albania"
- Law No. 104/2014 "On some additions and amendments to Law No. 7703 dated 11.5.1993 "On Social Insurance in the Republic of Albania", as amended,

- Law No. 111/2018, "On Cadaster"
- Law No. 15/2019 "On Employment Promotion"
- Law No. 65/2016, "On Social Enterprises in the Republic of Albania",
- Law No. 47/2014, "On some amendments and additions to Law No. 9355, dated 10.03.2005, "On social services and assistance"
- Law No. 121/2016 "On Social Care Services in the Republic of Albania",
- Law No. 22/2018 "On social housing";
- Law No. 47/2018, "On some amendments and additions to Law No. 9669, dated 18.12.2006 "On measures against domestic relations violence", as amended.
- Law No. 111/2017 "On legal aid guaranteed by state"
- Law No. 35/2017 "On some additions and amendments to Law No.7905, dated 21.3.1995 "Criminal Procedure Code of the Republic of Albania"
- Law No. 139/2015 "On local self governance"
- Law No. 96/2017 "On the protection of of national minorities" adopted by the Assembly of Albania in October 2017
- Law No. 57/2016 "On some additions and amendments to Law No. 9936 dated 26.6.2008 "On the budget system management in the Republic of Albania", as amended,
- Law No.7767 dated 9.11.1993 "On membership in the Convention "On the elimination of all forms of discrimination against women"
- Law "On the Ombudsperson"
- Law No. 68/2017 "On local self-governance finances";

SECONDARY LEGISLATION:

- DCM No. 708, dated 26.08.2015 "On reporting types, frequency and methods for disability statistics by relevant state structures at the central and local level"
- DCM No. 740, dated 12.12.2018 "On defining immediate financial assistance for mothers with newborns and the procedures for provision of the assistance"
- DCM No. 198, dated 2.4.2014 "On some changes and additions to decision No. 27, dated 11.1.2012 of the Council of Ministers "On the employment promotion program for women in special groups"
- DCM No. 73 dated 27.1.2016 "On some changes and additions to the Decision No. 27, dated 11.1.2012 of the Council of Ministers "On the employment promotion program for women in special groups"
- DCM No. 56, dated 31.1.2018 "On defining concrete disadvantaged groups categories".
- DCM No. 592, dated 10.9.2014 "On the establishment of the fund for the support of women entrepreneurs"
- DCM No. 955, dated 7.12.2015 "On defining criteria, procedures, the documentation and amount for economic assistance benefits"
- Joint Instruction of the Ministry of Internal Affairs and the Ministry of Health and Social Protection No. 912, dated 27.12.2018 "On the procedures and the model for the order on preliminary immediate protection measures"
- Joint Instruction of the Minister of Internal Affairs and the Minister of Health and Social Protection No. 866, dated 20.12.2018 "On the procedures and model for risk assessment in domestic violence cases"
- Order of the Prime Minister No. 31, dated 12.2.2018 "On appointing the national gender equality coordinator"

STRATEGIC DOCUMENTS:

- National Social Protection Strategy 2015-2020
- National Strategy for Employment and Skills 2014-2020;
- National Gender Equality Strategy 2016-2020
- 2018 Progress Report of the European Commission for Albania
- Action Plan for the support of women entrepreneurs 2014-2020
- National Action Plan for the Integration of Roma and Egyptian Communities in the Republic of Albania 2016-2020
- "National Action Plan for LGBT Persons in the Republic of Albania 2016-2020"
- National Plan for Persons with Disabilities
- Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence
- Strategic Plan of the Ombudsperson in the Republic of Albania 2018-2022

