



**ANNUAL REPORT  
ON THE ACTIVITY OF PEOPLE'S ADVOCATE**

**2020**

## **PËRMBAJTJA**

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## **Foreword by the People's Advocate**

A legacy of ancient Greece is the conviction that democracy is participation, first and foremost. Participation in a democracy entails engaging in it.

Just like old Athenians, participation in a democracy means that all citizens have the inherent apparatus of critical thinking and the will to translate it into transformational action. It means having the urge to express your opinion, putting your will at the disposal of change and many other prerequisites that make democracy functional, effective and progressive.

However, participation in democracy must not just be demanded to the individual by the system, but it must rise as an individual's need for the system to create the right conditions for his participation. There can be no democracy unless there is civic participation, but caution is required so that citizens' participation and engagement lead to democracy as their output.

Right to vote is an instrument designed by societies to guarantee the participation of citizens in a democracy and, over the years, our societies have sought that this right be exercised in a well-informed manner.

Insight on these notions is crucial and they are materialized in a set of *check and balance*<sup>1</sup> mechanisms, such as the judicial system and independent institutions including the People's Advocate. Given that some of these institutions were not fully functional during 2020, citizens demanded our institutional position on their concerns more strongly.

Information is power. But its ability to generate energy is also an alarm bell to distinguish good from evil, truth from perception and essence from propaganda. The risk that the information becomes distorted and devoid of its primary aim – to inform – in order to become a shaper of false perceptions is too big. These perceptions place democracy and its inalienable prerequisite, i.e., the participation of citizens in it through the right to vote – into an existential challenge.

For sure, this is not the sole challenge to our societies. 2020 brought human lives under threat across the globe. The entire humanity had to renounce individual spaces of rights and freedoms and endure restrictions unimaginable before the pandemic Covid-19.

After over 12 months, it is still unclear how much of this contraction can be recovered and how.

Our times face us with multiple dilemmas, but the most essential one is: How to preserve democracy from being stripped of its democratic content? How shall we conserve its essence, its backbone? And how do we make citizens' right to elect and be elected unalienable, inviolable, unchangeable and uninterpretable?

These are not simple questions and answers indeed need more than just this introductory text. Considering this extract more of an invitation for reflection, I express the conviction that

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democracy will find its way over momentary revanche of restrictions or regress, just like truth finds its way over lies, good over evil and light over darkness

Fight to return to normality cannot be waged otherwise but keeping human rights at the center and at the core. And to create an idea where the People's Advocate must focus on the fight for the protection of these rights, here comes this report to you.

## CHAPTER 1

### Legal and institutional framework

The People's Advocate in line with the domestic legislation<sup>2</sup> and international law (particularly the Venice Commission and Paris Principles) is entrusted with a broad mandate based on international standards as the supreme national institution for the promotion, protection and prevention of the violation of human rights. This mandate is materialized in the jurisdiction and powers vested on this institution in the Constitution, the Law "On People's Advocate" as amended and individual laws.

With already 20 years of experience, People's Advocate operates in Albania alongside other independent or equality institutions, contributing to the improvement of good governance practices and guaranteeing the rights of citizens. It provides oversight of the administrative conduct of governing bodies and public authorities, and how the latter serve their citizens. In this day-to-day interaction, People's Advocate's objective is to ensure observance of fundamental individual rights and freedoms and to restore citizen's rights violated by the public administration officials. Good governance practices and the binomial interaction of public authority-citizens are ensured by using independent and impartial mechanisms to examine how the Government has acted. The 'check and balance' today is a basic principle of governance in all countries that aspire to have democratic systems of governance.

Institutional independence and powers of the People's Advocate are not privileges but safeguards to act with professionalism and dedication in mediating between the citizen and the public authority when the latter, by actions or omissions, allows the violation of individual rights and freedoms recognized by the Constitution. and laws. The institutional independence of the People's Advocate is guaranteed first and foremost by the constitutional and legal provisions governing its establishment and functioning and, secondly, by its administrative performance during these years.

In a society based on the principles of the rule of law, it is envisaged that an independent judicial system plays the role of the main and irreplaceable defender of individual rights. Meanwhile, the People's Advocate (Ombudsman) has been successful as an institution that represents a means of check and balance, despite being an extrajudicial institution. It acts as a unique agency in each country, assisting citizens who encounter difficulties with the public administration or authorities. Its operation is based on a set of universal principles such as independence, impartiality, professionalism and confidentiality.

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<sup>2</sup>Articles 60-63 of the Law no. 8417 dated 22.11.1998 "Constitution of the Republic of Albania", as amended. Law no. 8454 dated 04.02.1999 "On the People's Advocate" as amended.

In addition to protecting human rights, one of its main goals is to develop what is called a *culture of good governance*. This notion entails the good administration of public property and transparency and accountability of public administration to citizens. People's Advocate, through its recommendations, seeks to point to the functioning standards for the Public Administration, making it understand its true role towards the citizens, i.e., that the real reason for its existence is to be in service of citizens in realizing their rights.

In our efforts, we found that creating a culture of human rights in Albania requires close cooperation with public administration bodies, civil society, international institutions at home and abroad, academia and the media, as well as increasing public knowledge and awareness of their rights.

The function and mission of People's Advocate is to address issues arising from mismanagement in public administration. The daily instrument through which the People's Advocate aims to achieve results is the recommendation.<sup>3</sup> After reviewing and investigating various cases, People's Advocate takes up the mediator role and tries through recommendations to solve the problems on legal tracks. Solutions so achieved aim to bring improvements in the standards and quality of public administration services to citizens.

By *mismanagement* is meant the conduct, so the actions and omissions of an official in violation of the Constitution, applicable laws and generally accepted moral norms in our State. By striking down on this phenomenon, People's Advocate promotes good governance and integrity in the public administration.

People Advocate's opinions and recommendations aim to reflect the most important matters related to human rights standards in Albania. Experience has shown that the resolution of an individual case, in fact, often highlights a systemic problem in the field of respect for human rights, thus promoting the responsibility of public administration bodies.

### ***Finalization of the accreditation and rating with "A" status***

The re-accreditation of People's Advocate with "A" Status marked the commitment and fulfillment of international standards adopted by the UN General Assembly in the Resolution 48/134 dated 20.12.1993<sup>3</sup> which sets out the standards that Member States must implement to guarantee an effective protection system for Human Rights. This Resolution is widely known as the *Paris Principles* which lay down the standards underlying the functioning of the National Institutions for the Promotion and Protection of Human Rights (NHRIs).

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<sup>3</sup>Other instruments include public statements and positions as means to meet public expectations <https://www.legal-tools.org/doc/b38121/pdf/>.

The National Human Rights Institutions are subject to re-accreditation every four years, in order to be conceived and act in accordance with these principles, as guiding institutions in the promotion and protection of Human Rights. Re-accreditation is conducted by the Global Alliance of National Human Rights Institutions (GANHRI), which operates as an independent organization with the support of the United Nations.

People's Advocate was first accredited with "A" status in 2004 and re-accredited in 2008 and 2014 with the same status. By official letter of 15 August 2019, the People's Advocate was notified by the GANHRI that it is being evaluated by the Accreditation Subcommittee (SCA), a process expected to be concluded in March 2020 *but postponed to December 2020 due to the pandemic*, in accordance with the relevant procedures of international accreditation institutions.

The re-examination of the documentation submitted by People's Advocate in October 2019 required a maximum commitment on the part of the staff, not only in reporting the work done for the period 2014-2019, but also in addressing professionally the recommendations from the previous accreditation by the Accreditation Subcommittee.

In the course of GANHRI procedures, the Accreditation Subcommittee held the accreditation review session virtually and rendered its decision in the report published for the meeting organized on 7-18 December 2020.<sup>4</sup> This report states that:

*"The Accreditation Subcommittee (SCA) recommends that the People' Advocate be re-accredited with A status. SCA appreciates the AP efforts to promote and protect human rights in Albania. It encourages the institution to continue these efforts. SCA underlines that the National Human Rights Institutions (NHRIs) accredited with A status must take reasonable steps to enhance their effectiveness and independence, in accordance with the Paris Principles and the recommendations made by the SCA during this review".*

The official document "Chart of the Status of National Institutions Accredited by the Global Alliance of National Human Rights Institutions" published in its official website on 20 January 2021 includes the official notice for the accreditation of the People's Advocate.

The recommendations accompanying the accreditation decision will be one of the most important challenges for the People Advocate in the future. The tasks or recommendations presented after the completion of this (re)accreditation process are directed primarily to the respective States and their representative institutions (government, assembly) and to national human rights institutions (Ombudsman). This is because the status given to a national institution reflects and is the clearest indicator of the role and importance that the respective State gives to such an institution.

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<sup>4</sup><https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20December%202020%20%2024012021%20-%20En.pdf>

## CHAPTER 2

### Implementation of the 2019 Assembly Resolution by the People's Advocate

The Assembly of Albania evaluated the PA activity for 2019 and adopted a Resolution on 9.7.2020 where it recommends to the People's Advocate to take a set of measures related to the exercise of its constitutional and legal functions. In view of this Resolution, the People's Advocate undertook the following actions:

**1. Complete the data entry process for addressed recommendations, update the data in real time and systematically monitor the implementation of recommendations.**

Pursuant to the Assembly's Decision no. 134/2018, "On the approval of the Annual and Periodic Monitoring Manual", the People's Advocate continued to regularly inform the Assembly (electronically and in writing) on the recommendations it addressed to public institutions and their status of implementation (last report enclosed to official letter no. 72, dated 11.02.2021 covers the period January-December 2020). PA continues to periodically post the recommendation (full text) in real time on its official website, divided according to the areas of rights of violations, as well as the possibility of their access by infringed rights, simultaneously respecting the rules governing transparency and protection of personal data. The register of recommendations in the Transparency Section is updated periodically with the relevant data (number, title, institution addressed, recommendation status, etc.).

Meanwhile, the register of complaints/requests received from citizens has continued to be updated regularly, by including their status. This register is public and accessible on the official website of the People's Advocate in the link:

<https://www.avokatipopullit.gov.al/sq/article/transparency>

**2. Take measures to fully include all the PA recommendations to executive institutions and central/local bodies into the Government Gateway on the official website of the Assembly; report to the Assembly on the degree of implementation of recommendations by central/local institutions; and indicate this degree of implementation on the official website of the Assembly.**

As for this point of the Resolution, it is important to inform that *all the PA recommendations for 2019 and 2020 have been posted on the Government Gateway*, together with the official responses by institutions to which the recommendation was addressed. Also, we updated the status of response(s) for each recommendation, thus ensuring a track record for their implementation by the institutions.

The information entered indicates whether the issue raised in the recommendation is *pending, fully implemented, partially implemented, not implemented; rejected or unanswered*.

It should be noted that this is a continuous update following each response received, thus promoting transparency and efficient evaluation of the progress/state of play of the implementation of the PA recommendations.

In any case, we are waiting for public administration bodies to reflect on these recommendations.

### **3. Enhance engagement in protecting the interests of Albanian citizens residing abroad by strengthening cooperation with counterpart institutions**

Based on Article 8/2 of the Constitution of the Republic of Albania, according to which "The Republic of Albania protects the rights of its citizens with temporary or permanent residence outside its borders", the People's Advocate considers that Albanian institutions have the duty to continuously look after our citizens abroad and in particular in those deprived of liberty in other countries.

Precisely this purpose led the People's Advocate to initiate the establishment of a network among Albanian institutions to address, discuss and solve human rights issues and protect Albanian citizens abroad. As mentioned in the previous report, regrettably, this initiative could not be finalized as it found no reaction by the two key institutions, respectively the Ministry of Justice and the Ministry for Europe and Foreign Affairs.

However, engagement and contacts with our counterparts to strengthen cooperation on issues related to the protection and promotion of human rights, including the protection of the interests of Albanian citizens residing abroad, have been and remain a priority of the institution. Due to the unusual situation caused by the pandemic, we did not have cases/complaints or information on the violation of human rights of Albanian citizens living abroad during 2020. Meanwhile, our official website has the official contact details of the Ombudsman in some major European countries where most Albanians live and work, in order to guide them to complain to these institutions for alleged violation of their rights by State institutions.

### **4. Find suitable mechanisms for comprehensive information of citizens concerning the powers and nature of requests/complaints that may be addressed to this institution**

People's Advocate has improved the effectiveness of the information of citizens on their rights and their coaching, orientation and treatment of complaints on their problems, and has strived to improve information mechanisms on the PA powers.

The media (visual and print) and social networks are undoubtedly very important supporters of the People's Advocate in fulfilling its promoting mandate. The PA has maintained a proactive

approach to media by opening two-way communication channels, with the PA activities covered and broadcast by the media and the media questions found prompt response by our institution.

Furthermore, the official reactions of the People's Advocate in sensitive cases to the public opinion are constantly present in the media, through press releases and statements on the PA official website or social media. There are dozens of interviews and appearances of the People's Advocate, the Commissioner of the Section for Protection and Promotion of Children's Rights, the Commissioner of the General Section and the Commissioners of the NPM Section, on various national or regional channels.

The PA official website<sup>5</sup> was entirely redesigned in 2018. This website is updated constantly and provides more room and interaction for all the 5 PA sections and a better coverage of activities. It is also more user-friendly for citizens to file their complaints online and gives examples of handled cases.

*The mobile application “Avokati i Popullit” launched in 2018 has created an interactive bridge between the user and the institution by sending real-time notifications to users about the status/progress of their complaint handled by our staff. It also includes basic information on how the People’s Advocate operates, and which civil rights are protected by our institution, as well as examples of positive changes based on PA recommendations. For more information, please refer to our answer in paragraph 9.*

The People's Advocate continues to expand on social media (*Facebook page*) with currently over 8,150 regular followers, a substantial increase year-on-year (20% increase in 2020 compared to 2019). Each section has its own Facebook page that is constantly updated. The institution updates its website with periodic information on outreach activities to be close to citizens in any case of violation of their fundamental individual rights. In addition, through the *Messenger* application, the PA staff receives public complaints and also advises and guides citizens as appropriate.

It should be noted that the PA produced a video in May 2020 as a simple explanatory tool of “*What the People's Advocate is*”. The video is published on the official website and the Facebook page of the institution, and also in the sections<sup>6</sup>.

The People’s Advocate underlines that this was a difficult year to implement the programs and activities under the Communication Strategy approved by the institution since 2018.

**5. Increase engagement in the frame of the Memorandum of Understanding with the Commissioner for Protection from Discrimination (CPD), undertake concrete initiatives under this MoU and report systematically to the Albanian Assembly the initiatives launched and concrete results achieved in the field of human rights.**

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<sup>5</sup>[www.avokatipopullit.gov.al](http://www.avokatipopullit.gov.al).

<sup>6</sup><https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/multimedia/shpjegues-i-thjesht-far-sht-avokati-i-popullit-482/>

We should initially note that the ECRI recommendations to equality bodies are addressed to structures set up with a clear mandate to combat racism, intolerance, and discrimination. These recommendations direct efforts towards setting standards that must be upheld by the equality bodies in terms of their establishment, powers, independence and accessibility. These recommendations seek *inter alia* to ensure that equality bodies cooperate and coordinate amongst them (if more than one such structure is in place) and with other human rights institutions, including the national human rights institutions/Ombudsman.

This cooperation is necessary to maximize their overall impact under their equality promotion mandate. They should also ensure the broadest coverage of equality issues, address correlated matters and avoid overlapping efforts/actions. Coordination and co-operation comprise dialogue in the planning process, joint initiatives in their work and solid constant communication.

Based on the above MoU, it was agreed to support the local offices in those geographical areas where they are established and operate, in order to serve as joint contact points in receiving public requests/complaints and forwarding them for follow-up and handling according to the violated rights.

Both institutions are committed to conducting joint training events for the professional development of representatives of local offices, seeking to promote a new culture and higher standards in the delivery and quality of services.

For this purpose, a joint training event with all representatives of the regional offices of both institutions (7 PA regional offices and 3 CPD ones) took place by late May 2020 concerning procedures and practices for the reception of complaints. Based on the MoU and the training event, the PA<sup>7</sup> regional offices received 24 *complaints* during the reporting period that belonged to the CPD offices.

During this period, joint events and meetings between representatives of the regional offices from both institutions took place in locations where they operate. The aim was to strengthen cooperation and address the correlated cases.

In addition, both institutions are active participants under the MoU on the establishment of the “*No Hate Alliance*”<sup>8</sup> whose objective is to engage key actors engaged in preventing hate speech to coordinate and join efforts, raise awareness and advocate as a common front against this phenomenon.

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<sup>7</sup>Regional offices in Berat, Saranda, Vlora and Pogradec.

<sup>8</sup>This Memorandum was signed under the Joint Program between the EU and Council of Europe - “Horizontal Facility for the Western Balkans and Turkey 2019-2020”, with the participation of the People’s Advocate; the Commissioner for Protection from Discrimination; the Audio-visual Media Authority and the Albanian Media Council.

**6. The National Preventive Mechanism against Torture (NPM) ought to monitor the implementation of the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), and report timely to the Albanian Assembly on the need to address recurring issues or matters that warrant the Assembly's engagement**

Regarding the implementation of this recommendation, we inform that the National Preventive Mechanism against Torture (NPM) has been monitoring in its regular inspection visits - since the publication of the CPT report in September 2019 – the steps taken by the institutions to implement the CPT recommendations and re-brought to their attention the measures that need to be implemented by the competent bodies to fully address them.

In doing so, the PA took stock of the response given by the Albanian Government on the CPT recommendations and considered that its remit includes the monitoring of the implementation and effectiveness of measures taken according to this response.<sup>9</sup>

Pursuant to Article 31.1 of Law no. 8454, dated 04.02.1999 "On People's Advocate" as amended, and given the commitments taken on by the Albanian Government under its response of 27 February 2020 concerning the CPT Report following their visit to Albania on 20-30 November 2018<sup>10</sup>The PA asked the institutions tasked with the implementation of these recommendations to provide detailed information on the concrete measures taken so far and their state of play.

In reference to above, official letters "*Request for information on the implementation of the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*" were sent to the Ministry of Health and Social Protection<sup>11</sup>, the General Director of State Police (copying the Minister of Interior<sup>12</sup>) and the General Director of Prisons (copying the Minister of Justice<sup>13</sup>).

After receiving their responses<sup>14</sup> and based on factual findings, the NPM will draft a special report for the Assembly, with the relevant findings and recommendations.

**7. Increase real engagement in monitoring the protection and observance of child rights, gender equality, rights of national minorities and the LGBTI community, and report**

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<sup>9</sup>Response by the Albanian Government was sent on 27 February 2020.

<sup>10</sup>See link: <https://rm.coe.int/16809cb571> "Response of the Albanian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT on its visit to Albania)" from 20 to 30 November 2018 CPT/Inf (2020).

<sup>11</sup>Letter prot. no. K4/M4-2 dated 11.12.2020.

<sup>12</sup>Letter prot. no. K4/M4-3 dated 11.12.2020.

<sup>13</sup>Letter prot. no. K4/M4-4 dated 11.12.2020.

<sup>14</sup>There was no reply by the respective institutions until 31.12.2020. Last incoming replies are in January-March 2021.

**periodically to the Albanian Assembly on the findings and recommendations to address the identified problems.**

➤ *Child rights*<sup>15</sup>

2020 is a peculiar year due to the pandemic, so, the analysis of the constitutional and legal function of the Commissioner for the Protection and Promotion of the Child Rights at the PA narrowed down on the conduct and administration of power by the State administration bodies in these aspects:

- smooth functioning;
- compliance with the law;
- good management.

People's Advocate handled 195 *complaints/submissions/cases* in 2020, out of which 155 were initiated proactively and 15 *complaints were presented directly by children*. In addition, PA conducted 11 *inspection visits* and 66 *promotional activities*, and made 98 *specific recommendations* addressed to the relevant State institutions.

Based on the PA administrative practice, the main issue in child rights in 2020 remains *the violation of the right to life* for a healthy physical, mental, moral, spiritual and social development, and the enjoyment of a healthy life without poverty-imposed deprivations. This breach inhibits the best interests of the child and leads to the violation of other rights such as the right to education, the right to protection against all forms of violence, and the right to health care.

Concerning *the protection of the child rights*, the PA drafted two important documents in 2020 that seek to promote the exercise of child rights and their integration in the education curricula in compliance with the constitutional:

1. Manual on child rights integration in education curricula.
2. Tool on Child Rights Impact Assessment (CRIA) of Environmental Policies and Laws.

For more information on the protection and promotion of child rights, please refer to Chapter 3, paragraph 3.16.

➤ *Gender equality, LGBT and minority rights*

The lockdown and social distancing measures in force during the reporting thwarted many events planned to be carried out by the General Section (e.g., open days in municipalities; meetings with

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<sup>15</sup>For more information see Chapter 3, paragraph 3.15.

disadvantaged groups such as abused women and girls; female heads of households; meetings with LGBTI, Roma and Egyptian persons, etc.), because of the obligation to comply with the protocols set by the Ministry of Health and Social Protection and the Institute of Public Health.

In these new conditions, the General Section had to adapt its outreach activities to the vulnerable groups by giving the necessary information - on gender equality, gender-based and domestic violence, the rights of the LGBTI, Roma and Egyptian communities – through the official website and social media (Facebook). People’s Advocate posted its publications/statements/opinions on the observance of human rights and the contact details (such as phone numbers and e-mail addresses) of the competent institutions tasked with guaranteeing the rights and to vulnerable groups.

Online meetings and forums with representatives of human rights organizations dealing with women's rights and LGBTI, Roma and Egyptian communities served as a good platform for discussion and information sharing during the pandemic, focusing on their rights, service delivery by the competent institutions, hate speech on the media and social networks, problems faced by communities and so on.

An online consultative meeting with civil society representatives on the rights of the LGBT community in Albania took place *on 16 September*. This meeting was organized by the People’s Advocate - pursuant to Article 30 of its organic law – in the context of the co-operation between the PA and the civil society organizations, with the aim to share opinions about the situation of LGBTI human rights and freedoms.

An online event was organized in co-operation with the LGBTI Alliance and the Commissioner for the Protection from Discrimination *on 05 November 2020* to present the findings of a study on the "Situation of the LGBTI community during the COVID-19 pandemic".

Another online meeting with representatives of NGOs dealing with women’s rights and against gender-based violence was held *on 10 December 2020* to present the findings of the Alternative Report on the Implementation of the CEDAW Convention in Albania. *For more information on the monitoring of the protection and observance of women’s rights and LGBTI community rights, please see Chapter 3, paragraph 3.21.*

Concerning ***the protection of minority rights***, the PA examined individual complaints and attached particular importance to giving recommendations with solutions to systemic problems raised by complainants. Specifically, the following recommendations were prepared and sent:

- Recommendation to conclude the process of issuing bylaws to Law no. 96/2017 “On protection of national minorities in the Republic of Albania”, addressed (by official letter no.

K1/I10-2 dated 25.02.2020) to the Head of the Council of Ministers and the Chairperson of the Central Election Commission. No reply received yet.

- Recommendation “On taking immediate and imperative measures for the Roma and Egyptian communities”, basically to identify the real number of Roma and Egyptian individuals and families in need within the territory of the administrative units administered by municipalities. This recommendation was sent to all municipalities by official letter no. K1/I15-2 dated 04.04.2020.
- Recommendation to conclude the ratification of the European Charter for Regional or Minority Languages (by official letter no. K1/I74-2 dated 10.09.2020), addressed to the Speaker of the Assembly and the Prime Minister of the Republic of Albania. No reply received yet.
- Recommendation to take further measures to cover the financial costs of providing protective barriers (masks) against the spread of COVID-19 to the Roma and Egyptian communities. This recommendation was sent to all municipalities (by official letter no. K1/I171-2 dated 19.11.2020).

We participated in many online events organized by different NGOs on the protection of the rights of national minorities, in order to discuss and analyze the situation of their rights.

Prior to the outbreak of the COVID-19 pandemic, the General Section had planned to conduct several inspection visits in locations with the biggest concentration of national minority communities. Due to the pandemic restrictions, we have been conducting *online* activities with many associations and centers that represent these minorities.

So, on *13 November 2020*, we organized a meeting on the rights of Roma and Egyptian minorities, focusing on the implementation of the *National Action Plan for the Integration of the Roma and Egyptians 2016-2020*, the education of Roma and Egyptian children and the overall living conditions of the Roma and Egyptian communities under the COVID-19 pandemic situation.

On *18 December 2020*, we conducted an online training in co-operation with the Roma Veritas Albania targeted to Roma youth on the topic *"Introduction to the People's Advocate institution and functioning"*. This training will be followed by other sessions.

Finally, in order to complete and improve the legal framework on the protection of minority rights, the PA gave opinions, remarks and suggestions on the four draft DCMs implementing the Law no. 96/2017 "On protection of national minorities in the Republic of Albania". *For more information on the monitoring of the protection and observance of minority rights, please see Chapter 3, paragraph 3.23.*

**8. Revise the PA institutional structure and organization to meet legal obligations and institutional objectives, so that functional duties are delivered effectively and in compliance with European recommendations on equity bodies.**

It is broadly acknowledged that human resource management plays an essential role in the development of a country and particularly in strategically important activities implemented by the public administration. Human resource management is a crucial part of the management process. Moreover, it should be steered towards capacity development of employees, on-the-job support, effective management approaches that engage and commit the staff towards a sustainable institutional development and successful performance.

For this reason, human resource management at the People's Advocate constitutes a systematic approach towards these goals:

- *Continuous development and recruitment of suitable to better serve the organizational and institutional objectives, in line with the legislation on civil service;*
- *Ensuring equal opportunities to training and career development;*
- *Staff motivation.*

Designation of an effective organizational structure compliant with the principles of the legislation on civil service calls for a restructuring methodology that is in line with the established principles applicable to the entire public administration.

Approval of the organizational and institutional structure is explicitly provided for in Article 35(3) of Law no. 8454 dated 04.02.1999 "On People's Advocate", as amended. Unlike many independent constitutional bodies established by law, the PA organizational and institutional structure is designated by the PA itself.

Designation of the administrative structure by the institution itself is considered a crucial factor of its independence. The flexibility to set up its own structures and adapt them to better match the tasks and duties is very important to the smooth operation of an independent constitutional institution such as the People's Advocate.

This is the reason why the Constitutional Court, when interpreting the independence of the constitutional bodies in terms of their structure, emphasizes *inter alia* that "... the organizational independence finds expression also in their right to design and determine their structure and organization themselves, in line with established criteria...".

By "established criteria" is meant those rules stipulated by the legislation on the civil service which are binding on all State bodies whose activity is carried out within the realm of civil service, including the People's Advocate.

Since its establishment in 2000, the PA structure and organizational set-up has been subject to frequent changes aiming to increase efficiency and adapt to the rules and procedures provided in the legal framework of civil service. These changes also aimed at ensuring a time-resistant

structure, relatively homogeneous to staff classifications and structures of other State bodies, and at meeting the standards underlying a structure composed of units, directorates and sections.

These changes mostly involve the supporting structures of the institution, because the organic law itself stipulates (Article 31, Law no. 8454 dated 04.02.1999 "On People's Advocate" as amended) the number and naming of sections, while the PA has the right to establish *special subsections* based on needs. This right has proven virtually impossible to implement *due limited human resources*.

The PA has an urgent need for additional human resources, given the total number of approved staff, the assessment of current units and structures, and issues and gaps in human resource management. We have constantly brought this need to the attention of the Assembly in the last couple of years (particularly requests and proposals made during the discussion on the 2019 draft budget).

These repeated requests with needs and arguments were disregarded. So, the PA structure had to be changed several times to match the existing capacities. We sought to maximize their performance in addressing the concerns/problems, and shape them to respond at best to the PA mission and goals.

Latest changes in the institutional structure were approved by the People's Advocate Order no. 42 dated 18.02.2020 amending Order no. 252 dated 22.11.2018 "On the approval of the structure, organizational set-up and job classifications of the People's Advocate", as amended, which aimed at a better operation of supporting services (citizens reception and services unit).

## **9. Upgrade the application "Avokati i Popullit" to increase its effectiveness and citizens' awareness of their rights.**

As we previously informed, we launched the application named *Avokati i Popullit* to increase public access. This smartphone application is an additional tool for the public to report violations of human rights and corruption. In this context, we are constantly improving the internal complaint handling process so that citizens receive professional and timely responses.

The application is particularly useful to citizens not living in Tirana and those who do not have a computer. They can easily send complaints via their mobile phone and track the status. The application was facilitated thanks to the support of the United States Agency for International Development (USAID) through the project "Transparency in the Health System".

People's Advocate promoted this application countrywide through an information and awareness-raising campaign, as an easy tool to file complaints. After the initial launch, we saw the need to

maintain it through updates compatible with new Android and iOS versions and uploads of new versions of App Store and Play Store.

The mobile application accessible on all android platforms was improved this year by adding fields of rights in which citizens can insert their concerns and be informed about the status of these complaints. So, *complaints filed by this application represent 9% of the total complaints, or 53% more than in 2009.*

**10. Take concrete steps to inform citizens on the People's Advocate powers, at the regional level where offices operate, by conducting informative/awareness-raising sessions through the engagement of employees of regional offices focused on marginalized groups who lack proper access to information on the mechanisms in place for the realization and protection of human rights.**

The smooth operation and effectiveness of the PA's local offices is at the attention of the Albanian Assembly and international organizations that seek to support a NHRI such as the People's Advocate in discharging at best its constitutional and legal functions.

Regional offices are part of the PA's vision to protect and promote citizen's rights by imbuing a new culture and higher standards in service delivery and quality; they foster citizen's access in timely filing with PA their complaints against actions and omissions of the public administration. The regional offices are important contact points with citizens, bridging the distance and bringing the PA closer to citizens.

Regional offices continued to consolidate PA's valuable presence closer to citizens, thanks to the constant efforts of the regional representatives in the field. They provide citizens with information on the role and functioning of the PA, on how complaints are received and timely sent to the experts according to sections, and how replies are sent to citizens within the shortest time possible.

Promotional campaigns and outreach efforts of regional representatives have been an important part of their daily duties, aiming to build public trust in the PA, not just as a goal to be achieved, but rather as a responsibility and satisfaction. Outreach work is based on individual monthly plans for each representative, which indicate the activities implemented and the problems encountered. Specifically, we single out the following promotional events:

- *12 joint events with CSOs (regional offices in Shkodra, Dropull, Kukës, Pogradec and Vlora);*
- *9 promotional events in the TV/radio (regional offices in Dropull, Shkodra, Kukës and Pogradec);*
- *4 events in pre-university educational institutions (regional offices in Dropull and Kukës);*
- *10 events in various local institutions (regional offices in Dropull, Kukës and Pogradec).*

The PA regional offices proved to be very effective and up to the PA expectation, in terms of PA promotion and protection of human rights in all geographical areas these offices operate. An indicator of the effectiveness of the PA regional offices – that in turn strengthens public trust in them – is the ever-growing number of complaints.

*From the total 3,759 cases received, 1,721 were forwarded by regional offices, or 46% of the total number of complaints filed with the People’s Advocate this year.*

The table below shows the cases (complaints, proactive cases, counseling/guidance) for the period January-December 2019 and 2020, reported by the 7 regional offices.

<b>Cases by Regional Offices (Jan-Dec 2019 &amp; 2020 )</b>			
<b>Regional Office</b>	<b>2019</b>	<b>2020</b>	<b>Difference %</b>
RO Saranda	328	342	4%↑
RO Dropull	115	95	-17.0%↓
RO Berat	296	365	23%↑
RO Fier/Vlore	361	172	-52%↓
RO Kukës	139	184	32%↑
RO Pogradec	206	427	107%↑
RO Shkodra	78	136	78%↑
Total	1532	1721	
			31.5%↑

The comparison shows an increase of the total number by 31.5%.

It must be highlighted that the representatives of the seven Regional Offices undertook an independent administrative investigation *in October 2020* in some kindergartens, 9-year schools and general high schools in their geographical areas. The objective was to objectively assess the compliance with the Instruction no. 289 dated 04.05.2020 of the Ministry of Health and Social Protection "On the approval of the guidelines on measures against COVID-19 to be put in place by the educational institutions".

The administrative investigation focused on the evaluation of the documentation and administrative procedures followed by the competent authorities and mechanisms to guarantee - in line with the applicable legislation - the effective exercise, observance and promotion of human rights, and the special protection of the child.

PA regional offices (pursuant to the PA Order) *monitored 59 elementary and high schools and 2 kindergartens.*

The inspection methodology used by the PA representatives to ensure accurate and objective evaluation comprised:

- Monitoring the premises of the educational institutions.
- Interviews and discussions with the directorate/administration of the educational institution;
- Filling in an inspection questionnaire/form.
- Taking pictures of the premises to document the presence (or not) of measures taken on signs, informative posters, sanitizers, masks, running water and hand soap, etc.

The PA regional offices monitoring educational institutions on measures taken against COVID-19 concluded that the Ministry instruction had been strictly followed by most of them. In any case, 2020 was the year of social distancing and teleworking.

#### **11. Periodically report to the Assembly of Albania on the nature of requests/complaints addressed at the local level.**

Local Government is one of the main areas of PA public engagement for the protection of the rights and legitimate interests of Albanian citizens by local government units (LGUs). In this regard, the PA has played a proactive role as an essential element for good governance, protection of the individual against administrative abuse, and strengthening public trust in services provided by the regional and local level.

The focus of the PA work and activity has surely been the handling and mediation in solving complaints by individuals and entities, according to problems related to illegal or irregular actions or omissions of the public administration at central, regional and local level.

Out of the total number of *1,797 complaints/cases registered with PA during 2020, roughly 520 of them (circa 30% of cases)* were addressed to regional institutions and LGUs.

These complaints raise the following problems:

- property rights;
- housing problems (including problems created by the earthquake);
- unemployment;
- termination of unemployment aid;
- healthy environment;
- child rights;
- issues concerning disabled persons;
- pandemic-related complaints (in education, health, etc.) most of which involve public services provided by the municipalities, lack of infrastructure investments, etc.).

*A total of 96 recommendations were addressed to LGUs during 2020, accounting for 38% of the total of 256 recommendations.*

The PA kept up its public engagement and performance of its constitutional and legal duties in a full and independent manner, in favor of good governance of LGUs. The focus of attention was on the protection of the rights of individuals (entities) from illegal or irregular actions or omissions of public administration bodies; the improvement of living standards; and improvement of service quality and efficiency, and ensuring that services match the interests of the community.

**12. People’s Advocate annual report must meet the standards set out in the manual approved by Decision no. 134/2018 “On the approval of the Annual and Periodic Monitoring Manual of the independent constitutional institutions or those established by law”, and mandatorily contain the activity report of each commissioner.**

Since the Assembly adopted the decision on the form and content of the annual reporting, the PA tried its best to comply with the time-limits, the issues to be included in the annual report and the accompanying documents; and the PA considers that it complied with this point of the decision. However, in the 2020 annual report, the PA will carefully address each requirement set out in the decision, in order to ensure a clear overview of the activities of each commissioner and the section he/she represents.

It must be noted that the law provides for a PA report to be submitted to the Assembly and not individual reports. The PA presented its activity under each right and area as stipulated in the law, and we believe that this is a teamwork seeking to advance the cause of protecting human rights in the country.

In any case, we will clarify in this report the relevant areas of responsibility, in order to ensure transparency and accountability as two key elements that constantly improve the institutional performance.

## CHAPTER 3

### Assessment of public administration's observance of human rights

#### 3.1 Overview of the activities of PA Sections in 2020<sup>16</sup>

##### ➤ Special Section

The pandemic outbreak and restrictive preventive measures placed the PA Special Section in a challenging situation, same as any other institution during 2020. In such circumstances, besides the receipt and handling of complaints, we had to adapt our *modus operandi* by daily monitoring the news broadcast as an extra source of information, and by communicating with relevant institutions via email, especially in the first months of restricted movement.

During 2020, for the cases we completed the administrative investigation and found that the complaints were substantiated, we made **41** recommendations addressed to **81** law enforcement and public administration bodies, with a total of **106** points to be implemented by them.

Rights of detainees/prisoners received additional attention, as besides being isolated from the rest of society, they had to cope with extra restrictions dictated by the pandemic such as: no more medical consultations and examinations outside penitentiary institutions, except for medical emergencies; suspension of cultural and sports activities; no more physical meetings with family members, but only remotely via electronic tools such as Skype, etc. In addition to these concerns addressed by us, numerous complaints involved the rejection of the request for special leave "*temporary stay at home for a period of 3 months*", pursuant to the Normative Act adopted to prevent the spread of COVID-19 in the penitentiary system and protect the life and health of prisoners. We paid special importance to complaints by prison police officers, not only for the fact that this category falls under our remit in terms of the rights they enjoy, but also because their treatment reflects on their relations with prisoners.

The PA monitoring of the structures and employees of the Ministry of Interior and State Police during the pandemic found many cases where fundamental rights were violated, for which we sent the relevant recommendations.

The scope of complaints or cases initiated by the People's Advocate during 2020 against these bodies and employees included: the obstruction of the constitutional right to assembly during the pandemic; failure to inform citizens about the restrictive measures and restricted movement due to the pandemic; or blocking the roads in cases of demolition of illegal constructions by the IMT and

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<sup>16</sup>This chapter was drafted pursuant to the Assembly's resolution requirement.

IKMT; harming the health of citizens with tear gas thrown during rallies; imposing administrative sanctions during the pandemic; physical and psychological ill-treatment at the moment of take-in, arrest, or questioning at the police stations; illegal take-in or keeping persons in police stations longer than legally allowed; refusal to receive, register or follow up on criminal reports or complaints filed by them; failure to give a note/records for actions taken by the police officers; violation of the rights of foreigners in Albania, etc.

The PA focused also on the protection and observance of legal rights of State police officers, because it is indispensable to protect their rights when violated or infringed by their superior authorities or public administration bodies.

The PA (Special Section) has sought to play an active role in examining and verifying the concerns raised by various citizens - who were a party to criminal proceedings either as plaintiffs or investigated persons - about procedures followed by prosecutors during these criminal investigations. We noted an increasing number of complaints and cases, partly because the justice reform dismissed a considerable number of prosecutors who were not replaced, and this consequently meant a bigger workload on the justice system. On the other hand, the initiated reform has placed the prosecution service before the legal obligation to ensure a strict implementation of procedures, such as making a final decision or investigating the facts, evidence and circumstances that are in favor of the investigated person.

Besides the above difficulties, the justice system had to cope with new difficulties caused by the global pandemic COVID-19, alongside those in recent years due to the prolonged vetting process that has been sluggish and affected by unnecessary delays and big social and professional challenges. Indeed, the 3-month suspension of judicial activities and services in all domestic courts of general and special jurisdiction, except for urgent cases, dragged down the proceedings and postponed new cases, alongside problems in ensuring full observance of procedural rights in proceedings.

This year, special attention was paid to monitoring and implementation of Law no. 111/2017 “*On State-guaranteed legal aid*” because of evident delays in setting up the relevant bodies and in issuing its bylaws. This runs counter to the citizens’ need and expectation for the State to guarantee them such service.

People’s Advocate appreciates the work of several NGOs - financially supported by donor projects – in ensuring vulnerable groups access to legal aid, which, on the other hand, aims to activate the State legal mechanisms stipulated in the above law. Thus, citizens must benefit from State legal aid not only when facilitated by NGOs specialized in this field.

Regarding the rights of politically convicted and persecuted persons during the communist regime, it is noted that their compensation has not advanced at the desired or expected pace, mainly due to

the lack of adequate funds and the frequent amendments to the legislation over the years which never set a reasonable deadline to complete this process.

Similarly, the Ministry of Finance and Economy noted issues in granting the third compensation installment, specifically the very slow pace and misinterpretation of the law and its bylaws. The PA Special Section has followed this process closely and addressed several recommendations on individual cases.

➤ **Activity of the National Preventive Mechanism against Torture (NPM)**

The National Preventive Mechanism against Torture (NPM) focused in 2020 on the compliance with the constitutional and legal obligations concerning the fundamental rights and freedoms of prisoners and observance of standards set out in international acts of the Council of Europe and the European Prison Rules. In discharging its duties, the NPM abides by a set of national and international acts ratified by the Republic of Albania which regulate our daily activity.<sup>17</sup> Based on legal authorizations,<sup>18</sup> the NPM conducts regular and unannounced inspections/visits in all facilities accommodating persons deprived of liberty, including the penitentiary institutions (prisons and detention centers), the State Police institutions, healthcare institutions, psychiatric hospitals, border crossing points, accommodation facilities for illegal immigrants and trafficked persons and any other location suspected that there is violation of human rights and freedoms, as well as checks any documentation (including classified information) of public administration bodies, provided that it has *indicia* and strongly suspects the existence of the violation of human rights and freedoms.

Inspection visits and recommendations addressed to the State institutions responsible for the penitentiary system aimed at ensuring further steps to improve the living conditions and treatment of prisoners; taking measures for the social rehabilitation and reintegration of prisoners in family, social and economic life; improving the rights of juveniles in prisons and complying with the principles set out in the Juvenile Justice Code; providing a final solution to problems involving prisoners ordered by the court to undergo “compulsory medical treatment”, etc. The implementation of the accepted recommendations has been in our focus, in order to guarantee effective improvement of living conditions in the penitentiary system.

NPM has opted also for online inspections, given the aggravated situation Albania is going through due to COVID-19 and the observance of the “Legal Acts on COVID-19”,<sup>19</sup> and considering the

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<sup>17</sup>Article 60(1) of the Constitution; Article 31(1) of the Law no. 8454 dated 04.02.1999 "On People's Advocate", as amended; Articles 81, 82 and 83 of the Law no. 81/2020 “On the rights and treatment of the prisoners and detainees”; provisions of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT)” adopted through Law no. 9094 dated 03.07.2003.

<sup>18</sup>Article 19(1) of the Law no. 8454 dated 04.02.1999 "On People's Advocate", as amended.

<sup>19</sup><https://qbz.gov.al/news/33b00e4f-8efb-4c99-8c45-595cd9b84f1b>

emergent situation that made impossible the inspections according to the methodology followed over the years.

This new practice was necessary to avoid the risk of the infection and prevent the spread of the pandemic, while keeping the focus on compliance with the applicable legislation and international acts on the prevention of torture and cruel, inhuman and degrading treatment. Online inspections will continue and will be combined with physical inspections as long as the pandemic-related restrictive measures are in place. In 2020, NPM conducted *6 online inspections in penitentiary institutions such as in Reç, Burrel, Durrës, Kavaja, Kosova, Lushnja, and Kruja.*

Pursuant to its protective and preventive function, the NPM operated during the lockdown also through the *exchange of monthly information*, monitoring mainly the penitentiary institutions, the reception centers for illegal foreigners in Albania, the anti-trafficking centers, the psychiatric hospitals and the border crossing points. Particular attention was paid to the Juvenile Correctional Center in Kavaja, the Penitentiary Hospital Center in Tirana, the Detention Center for Foreigners in Karreç, the National Reception Center for Asylum-Seekers in Babrru, the National Reception Center for Victims of Trafficking in Linza, the psychiatric hospitals in Shkodra, Elbasan and Vlora, as well as the General Directorate of Prisons.

During the pandemic period, the NPM continued to share the above information - on its activity and on the situation of the penitentiary institutions in our country - with international institutions such as the CPT and its counterparts in the CoE member states, ENNHRI, etc., while exchanging concrete suggestions and proposals on how to better respond to this situation.

In the context of monitoring the rights of the older persona and the disabled in the Residential Social Care Institutions, the NPM in co-operation with the General Section contacted the directors of the Nursing Homes in Tirana, Shkodra, Kavaja, Gjirokastra, Fier, the Multifunctional Center in Poliçan and the Development Centers “I am like you” in Berat and the Residential Development Center in Korça, in order to check the measures taken by State authorities to prevent the spread of COVID-19.

➤ **Activity of the Administration Section**

In 2020, PA work and activity focused on protecting and upholding the fundamental human rights and freedoms.<sup>20</sup> The *Administration Section* continued monitoring some of these fundamental rights guaranteed and enshrined in the Constitution of the Republic of Albania and the European Convention on Human Rights and its Additional Protocols.

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<sup>20</sup>Despite the situation and limitations on some fundamental human rights and freedoms by the executive power.

*The right to property* has always been one of the most vulnerable rights relevant to the scope of the Administration Section, because it is not only one of the priorities that Albania must fulfill to join the EU, but also it remains a problematic and unsolved area with a high number of complaints.

In the complexity of this right, property restitution and compensation to former owners expropriated by the previous regime remains one of the most problematic and acute issues. Now individuals must institute legal proceedings to protect or claim their property rights, because the legal deadlines for their claims to be processed by the Property Treatment Agency have expired. The Administration Section has followed closely other rights related to the property right such as the legalization of illegal constructions and the expropriations in the public interest, by drafting and sending several recommendations to State administration bodies at both central and local levels.

Another important issue addressed by the Administration Section is the review of complaints on *labor relations* and dismissals from the State administration, filed by employees enjoying or not the civil servant status. It prepared recommendations to guarantee the stability and protection of rights stemming from labor relations, especially at the local level.

*Housing* remains one of the most acute social issues. The main problems identified are: lack of transparency on acts or documents to be submitted; delays in reviewing the files; lack of transparency in the procedures used to set the selection criteria; and lack of transparency in decision-making that must be validated by collegial bodies at the local government. This right was addressed also in complaints following the earthquake that hit Albania in November 2019.

*Consumer protection* is one of the main areas directly related to the protection of human rights, where the Administration Section played a role in safeguarding the interests provided in the respective legislation. Our focus has been also on the human right to a *healthy environment*. We consider that rigorous implementation of the applicable laws governing these areas will contribute to the improvement of the environmental situation in Albania and will increase the standards of services delivered to the public, in line with the living standards and requirements for citizens in European countries.

*Guaranteed delivery of public services* is one of the other crucial obligations of the government at central and local level. In this respect, it is worth noting that most complaints are for the *infrastructure*, mainly the inadequate standards and maintenance of the road network, or the shared premises that must comply with the norms on the community right and beyond.

From our perspective, the right to a healthy environment and adequate infrastructure leads not only to overall economic growth, but serves the social and cultural development of individuals. Therefore, we constantly request in our recommendations that institutions act proactively and take

the necessary steps to guarantee the delivery of services that have an impact on the safety and protection of human life.

The People's Advocate closely monitored the measures taken by Albanian authorities to manage the COVID-19 pandemic and received (particularly the Administration Section) a considerable number of complaints concerning the imposed measures and the resulting problems. The scope of the Normative Acts, decisions, orders and instructions was to determine special measures to be taken during the COVID-19 pandemic period.

In this context, we handled complaints/proactive cases closely related to the pandemic such as: increased price of intercity transport tickets; non-receipt of the so-called *war wage* and problems encountered to benefit it; wages of employees during the lockdown; dramatic increase of prices during the pandemic; impossibility to apply for a passport/ID either in Albania or the consulates abroad; the administrative sanctions imposed on citizens and vehicles; the mandatory quarantine for travelers from Greece and Northern Macedonia exposed gaps in the emergency management; dismissals and suspensions from duty; shutting down markets or non-compliance with the hygiene and sanitation requirements, etc.

For the problems identified above, the People's Advocate played an important role in finding a solution through its recommendations addressed to relevant institutions.

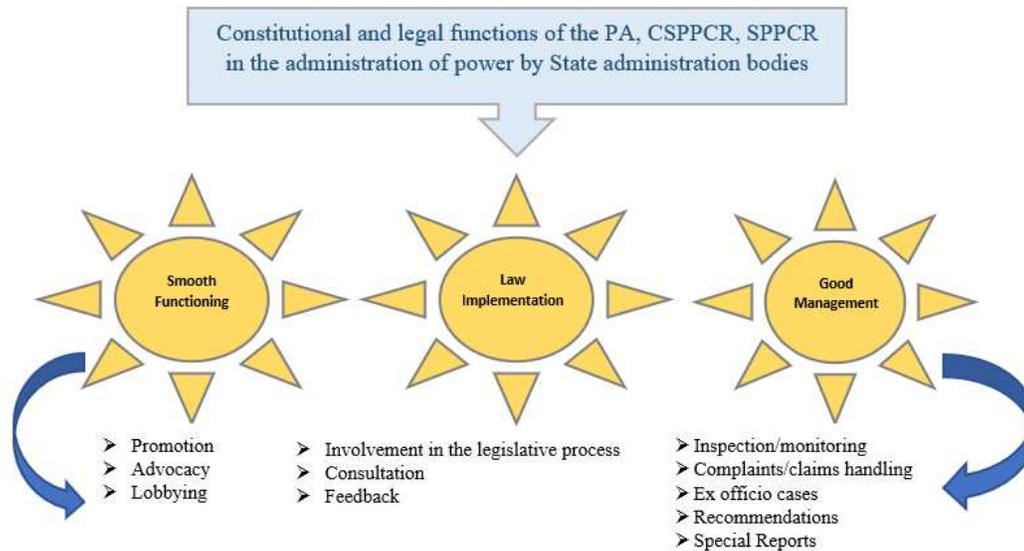
➤ **Activity of the Section for the Protection and Promotion of Child Rights (SPPCR)**

People's Advocate activity in 2020 focused on the *protection, promotion and guaranteeing of child rights* oriented towards the insights and interests of children.

For the promotion of child rights during this unusual pandemic year, the PA played a proactive role - through the Commissioner - in cooperating with international organizations and European counterpart institutions protecting human and child rights, by sharing good practices and experience on the protection and observance of these rights.

The global pandemic accompanied by the restrictive measures on movement, the lockdown and the self-quarantine brought new working modalities (online, teleworking) in national and international institutions.

As already mentioned in Chapter II, the analysis of the constitutional and legal function of the Commissioner for the Protection and Promotion of the Child Rights at the PA narrowed down on the *conduct and administration of power by the State administration bodies* as illustrated in the scheme below:



Compared to 2019, this Section handled a *higher number of complaints/requests/cases by around 34.5%*. This positive result is highlighted by the fact that *around 50% of the complaints were filed by children themselves, 40% of which were positively solved*. This figure of complaints filed by children is rather motivating given and owes also to the recent promotional events carried out recently by our institution.

Similarly, in contrast to 2019, the PA monitored the degree of observance of child rights by public institutions responsible for delivering services to children,<sup>21</sup> during the COVID-19 pandemic. For this purpose, it carried out 11 on-site inspections, 4 of which in State Police stations,<sup>22</sup> 4 inspections in children’s residential social care institutions<sup>23</sup> and 3 in educational institutions<sup>24</sup>. Problems identified by inspections were reflected in concrete recommendations addressed to the relevant State bodies.

During 2020, the PA addressed recommendations to *66 State institutions at central and local level*, through 98 specific recommendations.

➤ **Activity of the General Section**

During the reporting period, the PA General Section paid special and meticulous attention to *vulnerable or at-risk individuals, groups and communities* who are more exposed and unprotected from the consequences of the COVID-19 pandemic than the rest of the population.

<sup>21</sup>Public services facilitating the guarantee of the rights of children affected by the COVID-19 pandemic.

<sup>22</sup>Inspection visits in the Police Station of Tropoja and the Local Police Directorates in Shkodra, Korça and Durrës.

<sup>23</sup>Inspection visits in the orphanage “Zyber Hallulli” Tirana, orphanage Vlora and orphanage Shkodra.

<sup>24</sup>Inspection visits in the 9-year school “Emin Duraku”- Tirana, General High School “Ismail Qemali”-Tirana, and 9-year school “Jusuf Puka”-Durrës.

Due to the preventative measures imposed by State authorities in response to the COVID-19 pandemic, our activity became significantly more proactive in ensuring the *observance of the national minority rights*, taking indicia from print and broadcast media and investigating complaints *ex officio*. Our systematic approach to following up on problems resulted in recommendations for short-term solutions, and highlighted the need for the local government units to adapt their policies and daily activities.

Despite efforts in improving the effectiveness and modernization of *the economic aid scheme* applied in our country, its disadvantages were manifested in poor coverage for all families living in poverty without financial support. According to citizens and the People's Advocate's opinion, the amount of the economic aid continued to remain too low in proportion to the monthly subsistence expenses.

Considering the failure to set a subsistence minimum as unjustifiable, we initiated - under UNDP support - the preparation of a Report Study "On the Calculation of the Subsistence Minimum in Albania", which is underway.

The observance and implementation of citizens' right to benefit from *the social insurance system* is crucial. In our view, issues in this area remain the same as those reported in recent years. However, particular attention was paid to complaints on no-reply to requests for the verification of seniority and the low amount of the old-age pension. In this context, the PA considers that the social insurance legislation must be improved.

The pandemic outbreak forced the shutdown of *educational institutions* that severely exacerbated the existing level of education. Children from low-income households, rural areas with poor infrastructures and ethnic/linguistic minorities, children with disabilities, and children in conflict with the law, in addition to previous problems encountered in their daily life, faced new insurmountable barriers by lack of access to online learning and, therefore, received lower attainment translated into less positive grades than their peers. Specific difficulties were also faced by teachers as they were not provided beforehand with any online-teaching training. In the current circumstances that require a new teaching and learning approach, it remains a high priority that teachers are trained on online platforms and their capacities enhanced. Also, textbooks must be adapted, and most accessible technologies must be found for both the urban and rural students/pupils.

The COVID-19 pandemic posed major challenges on *the protection of rights of persons with disabilities*. Preventive measures against contracting the disease, such as social and physical distancing and isolation were inapplicable to this category who rely on other people's help to survive. Some still pending problems include: lack of accessibility in public and private facilities; lack of access to information and justice; delays in the disbursement of their disability allowance;

incompliance with legal provisions on their employment; and non-reimbursement of their buss transport tickets and special didactic tools.

In terms of the State-guaranteed *right to healthcare* guaranteed, the COVID-19 pandemic accentuated once again the previous issues and revealed new ones. Poor and financially vulnerable individuals were confronted with extra high financial costs on their healthcare associated by lack of the delivery of the basic healthcare services during 2020. Limited savings, low coverage by social insurance and relatively minimal use of public services led to the aggravation of long-term adverse effects of coping with the pandemic crisis. It turned out that families in need were affected by social discrimination and hit hardest by the restrictive measures against the virus. The older persons were relatively the most exposed to health problems, at higher probability of risk from the pandemic outbreak and more frequent in the number of persons losing their lives during the pandemic.

Implementation of normative acts issued by the Government or the Ministry of Health and Social Protection in these conditions surged clear problems especially on the right to information and transparency to the general public regarding the total number of tests, the real possibility and the capacity that the Ministry of Health and Social Protection had to make the tests, the quantities ordered, the disclosure of the testing strategy and the observance of the rights of patients hospitalized during the pandemic.

Complaints and proactive cases reviewed by People's Advocate, highlighted the existence of problems such as: non-standard medical treatment, bureaucracy related to queues at the University Hospital Center "Mother Teresa" (QSUT) and Covid 1 and 2 hospitals; lack of medical protocols for the treatment of COVID-19; lack of protective equipment for medical staff; lack of disinfectants in hospitals and polyclinics; and lack of medical staff and nurses in regional hospitals and rural areas.<sup>25</sup>

*The older persons* are one of the most vulnerable groups and most exposed to the risk of noncompliance and failure to guarantee their rights sanctioned in the domestic and international legislation. Since the early stage of the pandemic (March 2020), People's Advocate called for social solidarity, addressing State authorities a specific request to expand the range of social services provided to this category, especially the elderly with disabilities and those living alone.

During 2020, *women, girls, and the LGBTI community* have been part of an increased institutional focus by the People's Advocate. This year saw an increase in violence against women and girls and domestic violence, a phenomenon that the People's Advocate has long ago called to denounce it to the competent authorities. A typical problem of this pandemic year is the loss of jobs by a significant number of women and girls employed as caregivers for children and the elderly, or

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<sup>25</sup>These findings refer to the time when the investigation and/or recommendation was made.

domestic help workers, with the direct consequence of not receiving the *war wage* due to such informal employment. This was coupled by other issues such as applications for employment, economic aid, pension, pension, access to justice, non-execution of alimony/child support obligations ordered by court decisions, etc.

In the field of *gender equality*, the People's Advocate with the financial support of UNDP prepared the Alternative Report on the level of implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which provides information on the degree of implementation of recommendations made by the Committee in question for Albania during the preceding reporting period. This report reveals the findings of the People's Advocate on the implementation of the CEDAW Convention by the Albanian State during the period 2016-2020.

People's Advocate considers that the LGBTI community face increasing challenges throughout 2020, such as the deteriorating economy, employment, housing and security and the LGBTI community's ability to meet its basic needs. High unemployment among LGBTI members is due to the fact that it already suffered from high unemployment even before the state of emergency was declared. This situation is because of discrimination and bullying of the LGBTI community and their abandonment of the educational system.

This whole year is characterized by a more sensitive assessment of the rights of all vulnerable or at-risk groups, communities and individuals, given that the conditionalized tendency to restrict certain rights inevitably requires the presence and intervention of a constitutional and independent watchdog such as the People's Advocate.

### **3.2 Rights of persons deprived of liberty<sup>26</sup>**

Our effectiveness in overseeing the penitentiary system during 2020 was severely tested by measures taken to limit the spread of the Covid-19 virus. These measures dictated by a health emergency affected our verification of prisoners' complaints and the exchange of information with the General Directorate of Prisons and penitentiary institutions (PIs). Due to the situation created and the PIs facilities where it is difficult to maintain physical distance, no investigative actions were carried out on the spot by the People's Advocate employees, but the individual complaints were investigated based on official correspondence. In these circumstances, we had to adapt to the new working conditions by monitoring the news daily in the media - as a source of more information - and by communicating continuously with the competent authorities via e-mail, especially in the first months of the restricted movements.

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<sup>26</sup>This field of law is covered by the Special Section at the People's Advocate.

Like many public institutions, the General Directorate of Prisons and penitentiary institutions found themselves in not-so-easy conditions due to the spread of Covid-19 virus. The role of the penitentiary institution amidst this situation was not easy, because it had to strike the balance between the additional restrictive measures in prisons to prevent the spread of virus and the provision of services to prisoners, in order to avoid the mounting of tension as a response to the restrictive measures, a tension which couple with the fear of infection could become uncontrollable. The measures taken by the General Directorate of Prisons to deal with this situation were found by us to be generally in accordance with the purpose for which they were introduced and with the instructions of international bodies that defend the rights of detainees and prisoners such as the European Committee for the Prevention of Torture (Council of Europe).

The additional restrictive measures introduced in penitentiary institutions are summarized below:

- Stop medical consultations and examinations outside penitentiary institutions, except for medical emergencies;
- Replace physical meetings with family members with remote meetings via electronic tools such as Skype;
- Suspend cultural and sports activities.

These measures must be changed and not be absolute, because now alternative must be found to improve the conditions.

In order to prevent the Covid-19 spread in the penitentiary institutions, the Council of Ministers approved the Normative Act no. 7, dated 23.03.2020 "*On temporary stay of prisoners at home*" which provided for prisoners a home stay of 3 months. But not every prisoner was eligible for this concession. The eligibility criteria included the type of criminal sentence, the remaining sentence to be served and the social dangerousness posed by the prisoner.

We found this measure to be in line with the guidelines given by the UN High Commissioner for Human Rights.<sup>27</sup>

The most frequent complaints filed by prisoners during the pandemic period involved the *rejection of their request for special leave "temporary stay at home for a period of 3 months"*, pursuant to the Normative Act no. 7, dated 23.03.2020.<sup>28</sup> We checked the procedure followed by the competent institutions for granting or not this special leave. In some cases, during the review of the complaint by the People's Advocate, the decision of the PI commission to refuse the leave was overturned by the Special Complaints Review Commission at the Ministry of Justice and the prisoner received a special leave. While in other cases where the leave was refused due to the social danger posed by the prisoner, the latter was guided to appeal the decision with the Tirana Administrative Court.

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<sup>27</sup> <https://www.avokatipopullit.gov.al/sq/categories/mechanisms-against-torture>.

<sup>28</sup> The General Directorate of Prisons informed us via official communication that 372 prisoners in total were granted this temporary rewarding leave.

Another typology of complaints related to the prisoner's claim that he/she *was not sent for medical consultations and examinations outside the penitentiary institution*. Some of them turned out to be unfounded, as verifications showed that these prisoners were in fact provided with the proper health service. In some cases, the penitentiary institution waited for the easing of restrictive measures dictated by the pandemic situation and the figures reported by the competent institutions and then sent the prisoner for a medical visit outside the penitentiary institution. We draw the attention of a complaint filed by a lady prisoner at "Ali Demi" penitentiary institution in Tirana, concerning her health treatment. At the end of the investigation, we issued a recommendation for failure to respect the right to information on the treatment of the prisoner's condition and the principle of prevention of tumoral diseases.<sup>29</sup> The reply we received from "Ali Demi" penitentiary institution informed us that the lady prisoner did have the medical consultation with the specialty doctor.

Another limitation on prisoners during the pandemic *is the restricted food and clothes from their families*. In our replies to prisoners or their family members who filed a complaint against this limitation, we explained to them that this measure intended to prevent the spread of Covid-19 and we instructed them to send these items by mail and not physically hand them over at the penitentiary institutions, as before. Another concern raised in the complaints *involved the lack of activities in penitentiary institutions during 2020*, suspended to prevent the spread of Covid-19.

*In last year's annual report, we noted the fact that the health staff in penitentiary institutions is incomplete from time to time, due to leaving physicians/nurses and the difficulties of finding replacements*. Some physicians who accept to work in prisons do so only part-time. The reason identified by the General Directorate of Prisons for this lack of interest is the working hardships in prisons and the low salary of medical staff, lower than that of their colleagues working in public hospitals. For this reason, the penitentiary system requested an increase in the salaries of their physicians, dentists and pharmacists; this request found the support of the Ministry of Justice which asked the Ministry of Finance and Economy to increase the salary categories of medical staff in the prison system. However, our requests about raising their salaries - as a necessary measure expected to trigger the interest of health professionals to work in prisons - encountered red tape in some institutions such as the Ministry of Finance and Economy, the Council of Ministers and the Department of Public Administration, which address this matter to each-other without providing a solution to the problem. The workload and the difficulties faced by health professionals during the pandemic are additional factors underscoring the importance of raising their salaries. In November 2020, we were informed by the Ministry of Finance and

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<sup>29</sup>For more information, see the relevant recommendation on the PA official website: <https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandohet%20d%C3%ABrgimi%20i%20t%C3%AB%20paraburgosur%C3%ABs%20B.%20G.%20p%C3%ABr%20vizit%C3%AB%20t%C3%AB%20specializuar%20dhe%20garantimi%20i%20t%C3%AB%20drejt%C3%ABs%20s%C3%AB%20saj%20p%C3%ABr%20informim%20si%20dhe%20p%C3%ABr%20t%C3%AB%20b%C3%ABr%C3%AB%20k%C3%ABrkesaankesa%20sip.pdf>

Economy that the government presented a policy to increase the salaries in the health system in 2021. Referring to this policy, this ministry included 8 billion ALL in the 2021 draft budget. The Ministry stated that further details of the draft budget would be discussed during the drafting of the relevant draft decisions. After receiving this information, we addressed two letters to the parliamentary Committee on Economy and Finance asking whether the request of the Ministry of Justice to increase the salaries of penitentiary health staff has been accommodated, but we have not received a response yet.

One of the rights enjoyed by detainees/prisoners is *the right to work*. The only employment opportunity for prisoners is inside the penitentiary institutions, in activities mainly related to the needs of the institution such as kitchen helpers, cleaners of shared premises and maintenance. Albanian legislation stipulates that the work of prisoners should be remunerated, but this right continues not to be implemented because the relevant bylaws are not issued yet. Despite the recommendations of People's Advocate, the work of prisoners continues to be unpaid. The new Law no. 81/2020 "*On the rights and treatment of prisoners and detainees*", same as the previous law, provides for the remuneration of work performed by the prisoner (Article 43/2). The answers we have received over the years from the Ministry of Justice and the General Directorate of Prisons point at the justification that the drafting of the DCM on remuneration for work in prison is in a permanent study procedure. The response by the General Directorate of Prisons non 14.01.2021 states *inter alia* that, besides the legal and sub-legal initiatives, there have been attempts to attract the interest of private entities in employing the prisoners.

The focus of People Advocate's work has also been on dealing with *suicides and deaths in prisons*, initiated proactively or by complaints from relatives of the deceased. *In 4 suicide cases*, the investigation conducted by People's Advocate aimed at understanding the causes and circumstances that prompted the prisoner to commit suicide; whether the death of the prisoner was due to natural causes and whether he received the services to be provided by the penitentiary institution, in particular the health service. From the investigation of a complaint filed by the relative of a prisoner who passed away in the Tepelena prison in 2019, suspecting of negligence by the penitentiary staff in providing health care, we found that: dynamics of the event clearly showed that the lack of a suitable vehicle to transport the detainee to the regional hospital - as he was found in serious condition in his room – lead to valuable minutes being lost in taking him to the hospital to receive specialized treatment and a life could have been saved. At the end of the investigation concluded in 2020, we recommended to the General Directorate of Prisons to take the necessary measures to equip the Tepelena prison with an ambulance and guarantee the transport and escorting of prisoners to health institutions for specialized treatment.<sup>30</sup> The lack of an auto-

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<sup>30</sup>For further information on the relevant recommendation, see the PA official website.

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandohet%20pajisja%20e%20IEVP%20Tepelene%20me%20autoambulanc%C3%AB%20si%20dhe%20mbajtja%20e%20procesverbalit%20nga%20stafi%20p%C3%ABrgjegj%C3%ABs%20n%C3%AB%20rastet%20kur%20i%20burgosuri%20refuzon%20t%C3%AB%20marr%C3%AB%20trajtim.pdf>

ambulance was established also in an investigation on a suicide at “Jordan Misja” prison in Tirana in June 2020. Recently, we were informed on 24.09.2020 that this institution managed to have an auto-ambulance.

*Contacts with family and friends are essential to the reintegration of the prisoner after his release and are vital to his overall well-being.* Although prisoners are isolated from the rest of society, they are guaranteed the right to have limited contact with the outside world through correspondence, telephone calls and meetings with family, relatives and friends. According to the Prison Regulation, adult prisoners have the right to meet their family, relatives and friends 4 times a month and make 8 phone calls a month with them. While for juvenile detainees/prisoners and women, these contacts are more frequent. Two orders of the General Directorate of Prisons regarding the restriction and registration of the telephone numbers the prisoner wants to call and some criteria for rewarding leaves have been subject to review after complaints filed with our office.

By Order prot. no. 4218 dated 13.05.2019 *"On the administration of telephone calls made by prisoners and detainees in penitentiary institutions"*, all penitentiary institutions were required to register landline and (national and international) mobile phone numbers of family members or third parties (relatives and/or friends) according to the written statement by each prisoner. According to this order, detainee/prisoners in normal security facilities, women and juveniles must declare up to 15 telephone numbers, while those in high security facilities must declare up to 10. The purpose of this restriction was to prevent the misuse of telephone calls and invasion of privacy. On our part, this order was considered contrary to the laws and bylaws,<sup>31</sup> because telephone calls may be restricted only by decision of the prosecutor and the court; the right to issue an act is not stated in the law as defined in the Constitution<sup>32</sup>; it restricts the prisoner's right to maintain contacts with the outside world and bears the risk of violating the privacy of the prisoner's family and relatives by disclosing their name and telephone number. Our recommendation<sup>33</sup> *to revoke this order has not been accepted by the General Directorate of Prisons.*

*While handling a complaint for the rejection of a rewarding leave, we found that by Order prot. no. 9657 dated 18.10.2017 "On drawing attention to problems identified in relation to rewarding leaves in penitentiary institutions, the General Directorate of Prisons set some more criteria for granting a rewarding leave to the prisoner. Pursuant to this order, the penitentiary institutions reject the rewarding leave to a prisoner if he had no family visits during his stay, if has no family to go*

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<sup>31</sup>Specifically, Article 75(3) of the Law no. 8328 dated 16.04.1998 *"On the rights and treatment of prisoners and detainees"* (in force at the time we handled the case and issued the recommendation); Article 44/3 of the General Regulation of Prisons.

<sup>32</sup>Articles 118 and 119 of the Constitution.

<sup>33</sup>For further information on the relevant recommendation, see the PA official website.

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20shfuqizimin%20e%20Urdhrit%20t%C3%AB%20Drejtorit%20t%C3%AB%20P%C3%ABrgjiithsh%C3%ABm%20t%C3%AB%20Burgjeve%20nr.%204218%20prot.,%20dat%C3%AB%2013.05.2019.pdf>

to and spend the leave days, and if at the time of leaving the prison on leave, the prisoner is not received by at least one family member who must present his/her identification document. This order has been considered by us in violation of the law<sup>34</sup>, because a bylaw cannot create or introduce additional criteria for granting rewarding permits besides those set by the legislator and disregards the situations where the prisoner is objectively unable to meet family members and to be received by one of them. There may be a multitude of reasons for rare visits by family members which also depend on objective circumstances, such as the financial or health inability of family members, the distance of residence of family members from the prison where the prisoner is serving his sentence or - as in the case of the complainant that set us in motion - the family members are in a foreign country for economic reasons. Usually, prisoners spend their leave with their family, and this is an extra guarantee for their post-release behavior, but there are also exceptional cases where they can spend this leave with other relatives or by themselves in their apartment. The purpose of this right is for the rewarding leave to help prisoners maintain contacts or re-establish lost contacts with relatives, friends or the community where they will live and work in the future. So, this legal mechanism enables them to prepare for an easier post-release transition to a life in freedom.

Special importance has been given to complaints submitted by prison police officers, not only for the fact that this category falls under our remit in terms of the rights they enjoy, but also because their treatment resonates with their relations with prisoners.

Following the administrative investigation of the complaint filed by a former prison police employee who claimed that the legal criteria for the three disciplinary sanctions imposed on him were not respected, including that of dismissal, we did find this incompliance with legal procedures in imposing the sanctions. In our recommendation to the General Directorate of Prisons to comply with the legislation when imposing disciplinary sanctions against penitentiary staff, we stated *inter alia*: "Ignoring legal room to find a solution in this case or other similar cases deprives the penitentiary institution itself of the possibility to determine whether the disciplinary sanctions are well-founded and leads to dismissal of an experienced employee for whom the penitentiary institution invested time and resources, and erodes staff confidence that merit is rewarded".<sup>35</sup>

In 2020, we issued a statement related to complaints by some prison police employees who no longer received the overtime pay 25-50% for working on weekends and holidays.<sup>36</sup> The General

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<sup>34</sup>For further information on the relevant recommendation, see the PA official website.

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20per%20DPB,%20zbatimi%20i%20procedures%20se%20lejeve.pdf>

<sup>35</sup>For further information on the relevant recommendation, see the PA official website.

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandohet%20zbatimi%20i%20procedur%C3%ABs%20p%C3%ABr%20dh%C3%ABnien%20e%20mas%C3%ABs%20disiplinore%20ndaj%20punonj%C3%ABsit%20t%C3%AB%20policis%C3%AB%20s%C3%AB%20burgjevesi%20dhe%20ndryshimi%20i%20Urdhrit%20t%C3%AB%20Ministrit%20t%C3%AB%20Drejt%C3%ABsis%C3%AB.pdf>

<sup>36</sup>For further information on the relevant recommendation, see the PA official website.

Directorate of Prisons not only stopped the overtime pay for these working days by considering such practice wrong, but had even deducted from their salary the overtime they received in 2018, precisely the year when it was applied by some penitentiary institutions without consultation with the superior authority. We found this practice by the General Directorate of Prisons to be noncompliant with the applicable normative acts, specifically Articles 87 and 123 of the Labor Code, regardless of the special nature of the penitentiary duties. In conclusion of the investigation, we recommended to this institutions: the overtime must be paid to prison police officers when they are called to work during their off-days; take the necessary measures to plan the future budgets accommodating the right to compensation for work during off-days and official holidays; take measures to prepare a draft DCM on the unification of procedures in all penitentiary institutions concerning the compensation for work performed during off-day and official holidays. Also, we recommended that measures be taken to update the individual labor contracts with the Prison Police officers and the civil staff of the GD Prisons and the penitentiary institutions by introducing the recent amendments to the Labor Code and conclude the collective labor agreement between the employer, the General Directorate of Prisons and the Trade Union of Border Police officers.

### **3.3 Observance of human rights by State Police bodies<sup>37</sup>**

The scope of complaints or cases initiated by the People's Advocate during 2020 against the bodies and employees of the Ministry of Interior and the State Police has been wide, such as cases of physical or psychological abuse at the time of arrest, take-in or questioning at police stations; illegal take-in or detention beyond the legal deadline; failure to record, administer or follow criminal reports or complaints made by citizens; obstructing the exercise of the constitutional right to assembly during the COVID-19 pandemic; failure to inform citizens about the restrictive measures and restricted movement due to the pandemic or for blocking the roads in cases of demolition of illegal constructions by the IMT and IKMT; harming the health of citizens with tear gas thrown during rallies; imposing administrative sanctions during the pandemic; failure by police officers to give a note/records for their actions; refusal to issue the service license; negative answers by police bodies to prisoners who requested to benefit of the right to a rewarding leave; violation of the rights of foreign citizens in Albania; violation of the legal rights of State Police officers regarding the non-execution of court decisions and the compensation of relatives of State Police officers killed in the line of duty, etc.

Some constitutional and legal rights for which the People's Advocate made recommendations during 2020 include:

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<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20per%20marrjen%20e%20masave%20te%20nevojshme%20per%20respektimin%20e%20te%20drejtes%20ligjore%20te%20punonjesve%20te%20Policise%20se%20Burgjeve.pdf>

<sup>37</sup>This field of law is covered by the Special Section at the People's Advocate.

➤ *Right to physical integrity and dignified treatment*

Citizens' complaints mainly involved physical and psychological violence and excess of force in cases of take-in, questioning or arrest/detention as suspects of criminal offenses, or in rallies organized by various groups of citizens during the pandemic. Regarding the violation of this right by the State Police, several cases made public in the media were in fact initiated and registered proactively by us. For cases of grave violation of the constitutional and legal rights of citizens, which were substantiated as amounting to arbitrary actions, recommendations were made to the prosecuting bodies to initiate investigations against the offenders. For lighter violations, the recommendations were addressed to the State Police bodies to initiate disciplinary proceedings.

One of the cases initiated proactively by the People's Advocate following the media coverage is the protest organized by artists and citizens against the demolition of the National Theater building. *For more information on this case, see Chapter 4, paragraph 4.1 (Other institutional engagements).*

➤ *Observance of legal requirements and rights of citizens during their take-in by State Police*

Complaints by citizens taken in by the State Police have been considerable because it involves restriction of their freedom, albeit temporary. Meanwhile, the review of concrete cases and the inspections in State Police bodies concluded that the number of persons taken in has been high, especially in protests/rallies organized by political entities, civil society organizations and various social groups.

We draw the attention on the fact that the right of State Police officers to take in citizens, the cases and purposes of the take-in measure, the responsibilities of police officers in take-in cases, the observance of human rights and security for the persons taken in, documentation and technical rules for the police take-in are quite clearly provided in articles 6/25, 109 and 122/1 of the law "On State Police", as well as in the Standard Operating Procedures for the 'technical rules governing the take-in in State Police premises' approved by Order no. 938 dated 24.07.2019 of the General Director of the State Police. But the daily activity of police officers saw even cases where citizens were taken in in breach of legal requirements; they were kept in the police station beyond the allowed 10 hours; or were kept for 10 hours even though the problem had been clarified earlier; taken-in persons are not treated in a human way; or they are not given the note/record for the police actions on them, etc.

During 2020, the People's Advocate *addressed 5 recommendations* to the State Police central and local bodies for complaints that proved to be substantiated. Some of these cases include:

- Citizen S.M. complained that the police officer at the Border Crossing Point (BCP) in Kapshtica told her that her name appeared in the system as wanted by Police for falsification of documents. Then she was sent to the Border Police Station (BPS) in Kapshtica and then taken by the Tirana Local Police Directorate (DVP) officers. The complainant alleged that her refusal to leave the country was unlawful as she had had no legal impediments, and she was not provided with the requested lawyer and was kept in police premises beyond the legal deadline.

At the end of the review of this complaint we found that the refusal to leave the country by the Border Police had been in accordance with the applicable normative acts. Meanwhile, police kept her for about 22 hours, and this constituted a violation of the provisions of Law no. 108/2014 "On the State Police" and the standard operating procedures.

In reference to above, we recommended<sup>38</sup> to the General Directorate of State Police to take the necessary measures to ensure observance of legal requirements governing the take-in of persons by State Police and the rights of such persons; analyze the legal violations committed and hold the persons responsible legally liable; and use this as a case study in State Police units so that this violation is not repeated in the future. *Recommendation was welcome and accepted.*

- Complaint by citizen B.B., journalist and editor of the TV Fax News who claimed that in the night hours of 09.03.2020 he had been unfairly taken in the premises of the Tirana Local Police Directorate while on duty as journalist covering a rally taking place near the building of the Ministry of Interior.

In conclusion of the investigation, we found that citizen B.B. had been taken in the Tirana LPD premises in violation of the legal requirements set out in the applicable normative acts. Meanwhile, he was taken in by police while he was on duty as a journalist. This prevented him from exercising his profession which is guaranteed by law. Also, it turned out that the police officers had not given him a copy of the note for the actions taken by them as required by Article 109/5 of the Law "On State Police" and Chapter VII, paragraph 1, letter 'f' of the Standard Operating Procedures.

For these reasons, we recommended<sup>39</sup> to the General Directorate of State Police and to Tirana LPD to take immediate disciplinary actions against the police officers of the special unit "Shqiponja" for having taken in citizen B.B. in breach of the legal requirements and against the Tirana Regional Anti-Terrorism Unit specialists for failure to comply with the legal obligation of filling out and giving a note to the citizen B.B. for having been taken in, as required by Article 109/5 of the Law "On State Police" and Chapter VII, paragraph 1, letter 'f' and Chapter VIII, paragraphs a.33 and a.34 of the Standard Operating Procedures. *The recommendation was welcome and accepted.*

- Case initiated proactively about the escorting of citizen M.M. from her house to the court on 12.09.2020. The citizen M.M. raised some claims in the media against the State Police for violating the standard operating procedures and rules governing the escorting of citizens to the

<sup>38</sup>For further information on the relevant recommendation, see the PA official website.

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20zbatimin%20me%20korrekt%C3%ABsi%20t%C3%AB%20kritereve%20ligjore%20lidhur%20me%20shoq%C3%ABrimin%20e%20shtetasve%20n%C3%AB%20ambientet%20e%20Policis%C3%AB%20s%C3%AB%20Shtetit,%20si%20dhe%20p%C3%ABr%20respektimin%20e%20t%C3%AB%20drejtave%20t%C3%AB%20personave%20t%C3%AB%20shoq%C3%ABruar..pdf>

<sup>39</sup>For further information on the relevant recommendation, see the PA official website.

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justice bodies. According to her, the police officers appeared at her door without a court warrant for this action. She added that during her escort to the court, there was no female police officer – i.e., same gender with the escorted person required by the relevant normative acts.

The examination of this case showed that her claims were well-founded. Therefore, we recommended<sup>40</sup> to the General Directorate of State Police, the Tirana LPD and Police Station no. 6 in Tirana to take the necessary measures and initiate the disciplinary proceedings against the persons responsible for the delayed sending of the court warrant and for not including a female police officer in the escorting team that took the citizen M.M. from her house to the Special Court against Corruption and Organized Crime on 12.09.2020, in line with the obligation set out in Chapter VII/5h of the Standard Operating Procedures; take immediate measures to use this as a case study in State Police units so that this violation is not repeated in the future. Recommendation was welcome and accepted

Despite the good work done in this regard, some of our recommendations are repeated and we believe that more efforts are needed to analyze and generalize these cases across all the State Police units so that such practices are not repeated in the future.

➤ *Citizen's constitutional right to information*

The right to information is one of the fundamental human rights, but has not always been respected by the Ministry of Interior and the State Police bodies. From the review of several cases initiated proactively, we concluded that these bodies during the pandemic period have not always informed the public about the measures taken in this pandemic context, in order to provide the necessary service and proper information and facilitate their daily activity. Regarding this right, we are referring to the following cases.

The case initiated proactively after the approval of the Normative Act no. 3 dated 15.3.2020 "On taking special administrative measures throughout the period of the Covid-19 infection" as amended, Order no. 168/1 dated 15.03.2020 "On the restriction of movement within the country" and Order no. 193 dated 20.03.2020 "On the lockdown or restriction of movements in the Republic of Albania" of the Minister of Health and Social Protection which caused some distress particularly to vehicle users who wanted to move around with their vehicles for various reasons.

From our examination of this case, we found that both the above orders had not been published in the Official Gazette until 26.03.2020. Failure to publish them in the Official Gazette is a flagrant

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<sup>40</sup>For further information on the relevant recommendation, see the PA official website. <https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%20C3%ABr%20respektimin%20e%20regullave%20dhe%20t%20C3%AB%20t%20C3%AB%20drejtave%20t%20C3%AB%20shtetasve%20gjat%20shoq%20C3%ABrimi%20t%20C3%AB%20tyre%20n%20C3%AB%20ambientet%20e%20organeve%20t%20C3%AB%20Policis%20C3%AB%20Shtetit%20apo%20n%20C3%AB%20ins.pdf>

breach of Articles 116/1 and 117/1 of the Constitution. We also found that these orders were not even published on the official website of this institution.

Lack of public information about their content and the application procedure with the Road Traffic Police at the General Directorate of State police had resulted in the majority of applicants not receiving the requested authorization to move with their vehicles, nor any reply at all by this authority. Also, inquiries showed that due to the big number of incoming calls, the two phone numbers made available by the State Police to the public to obtain information on this issue had stopped working.

Meanwhile, the first days of implementation of these acts created some concerns to Albanian citizens returning from Greece and Northern Macedonia through the border crossing points of Kakavija, Kapshtica and Qafë-Thanë, because after entering our territory, they could hardly find a ride to their houses due to lack of means of transport.

For these reasons,<sup>41</sup> we made the following recommendations to the Inter-ministerial Committee for Civil Emergencies, the Ministry of Health and Social Protection and the General Directorate of State Police:

- Take the necessary measures to immediately publish the above-cited orders (issued by the Minister of Health and Minister of Justice) in the Official Gazette;
- The Ministry of Health and Social Protection must take immediate measures to publish in its official website the bylaws for the measures under the Law no. 15/2016 as amended and the normative acts of the Council of Ministers concerning the special administrative measures throughout the duration of the Covid-19 infection;
- Take the necessary measures to decentralize the power to give authorizations for the movement of vehicles or increase the staff at the Road Traffic Police Directorate that offers this service, or find alternative ways to organize this service;
- Take the necessary measures to allow or offer the transport service in all border crossing points, particularly with Greece and Northern Macedonia, to all Albanian citizens coming from these countries during this period;

The Ministry of Health and Social Protection and the General Directorate of State Police informed us that our recommendations were welcome and taken into consideration.

A case that took place during the natural disaster and became public in the media involved 21 Albanian citizens stuck on neutral ground at the Kakavia Border Crossing Point on 14.04.2020, trying to enter Albanian territory. According to the media, they did not have border-crossing authorizations from the competent authorities, such as the consular posts or the Albanian embassy

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<sup>41</sup>For further information on the relevant recommendation, see the PA official website. <https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20lidhur%20me%20aksesin%20shtetasve%20ne%20aktet%20normative%20date%2026%20mars%20seksioni%20i%20vecante.pdf>.

in Greece. The Albanian authorities stated that Albanian citizens who were regular residents in Greece or other countries would not be allowed to enter our territory and country and would be returned. As for the Albanian citizens who had strong reasons to enter the Republic of Albania, negotiations sought that they be first quarantined in hotels in Gjirokastra for 14 days.

At our request, we were informed by the Border and Migration Department at the General Directorate of State Police that the Border Police had acted in compliance with the Joint Order no. 240 dated 07.04.2020 of the Minister of Health and Social Protection and the Minister of Interior "On the self-quarantine of Albanian citizens who want to enter the territory of the Republic of Albania from all land border points".

While examining this case, we found that Joint Order no. 240, dated 07.04.2020 was not published in the Official Gazette as required by Article 117/1 of the Constitution and was not even published in the official websites of these institutions, resulting in lack of access to complete and accurate information for citizens about the measures and restrictions by the competent authorities in the country.

Based on the above, we send the following recommendations to the Minister of Health and Social Protection at to the Minister of Interior (enclosed to official letter dated 30.04.2020):<sup>42</sup>

- Take the necessary measures to immediately publish in the Official Gazette the Joint Order no. 240 dated 07.04.2020 of the Minister of Health and Social Protection and the Minister of Interior "On the self-quarantine of Albanian citizens who want to enter the territory of the Republic of Albania from all land border points";
- Take measures to ensure citizens of the right to appeal against quarantine measures, and include this right in legal acts that communicate such binding measures;
- Take immediate measures (by the Ministry of Health and Social Protection and the Ministry of Interior) to publish the above legal act in the respective official websites, same as any other acts implementing the Law no. 15/2016 as amended, or other normative acts issued by them in the context of special administrative measures throughout the duration of the Covid-19 infection.

*This recommendation was welcome, accepted and implemented by the competent authorities to which it was addressed.*

Regarding the right to information, another case initiated proactively involved the situation created by the State Police in blocking access to roads without first notifying the citizens, during the

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<sup>42</sup>For further information on the relevant recommendation, see the PA official website:

[https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20marrjen%20e%20masave%20p%C3%ABr%20botimin%20e%20menj%C3%ABhersh%C3%ABm%20n%C3%AB%20Fletoren%20Zyrtare%20t%C3%AB%20Urdhrit%20t%C3%AB%20P%C3%ABr%20bask%C3%ABt%20nr.%20240,%20dat%C3%AB%207.04.2020\\_Sfm6EJV.pdf](https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20marrjen%20e%20masave%20p%C3%ABr%20botimin%20e%20menj%C3%ABhersh%C3%ABm%20n%C3%AB%20Fletoren%20Zyrtare%20t%C3%AB%20Urdhrit%20t%C3%AB%20P%C3%ABr%20bask%C3%ABt%20nr.%20240,%20dat%C3%AB%207.04.2020_Sfm6EJV.pdf)

demolitions of illegal constructions by IKMT and IMT Tirana or due to the implementation of various projects by State bodies.

At the end of the administrative investigation, we concluded that road blocking by the State Police and the Municipal Police without prior notice to the citizens resulted in violation of their right to free movement and in long queues of vehicles up to several kilometers. This situation caused stress and irritation to drivers as well as citizens traveling by public or private transport due to delays in arriving at the planned destination for work, health or other reasons. This approach ran counter to Article 15/2 of the Constitution and Article 76/1 of the Law no. 108/2014 "On the State Police".

For the above, we recommended<sup>43</sup> to the General Directorate of State Police, the Tirana Local Police Directorate and the Municipal Police to take the necessary measures to ensure prior notice to citizens in the event of road blocking for the demolition of objects by IMT and IKMT, rallies organized by various political entities or groups of citizens, reconstruction work or socio-cultural events, etc. *The recommendation was welcome and accepted*

➤ *Legal rights of police officers and their families*

During 2020, the People's Advocate focused on the protection and respect of the legal rights of State Police officers. We have been guided in our activity by the constitutional principle of equality before the law and that the public administration bodies must respect the rights, freedoms and legitimate interests of every citizen. Following up on this, we consider indispensable the protection of the rights of State Police employees when violated by their superior bodies or public administration bodies. We hold that the fulfillment of the State's obligation in the capacity of employer to protect and respect the constitutional right of *social protection at work* sanctioned in Article 49 of the Constitution and the legal rights of State Police employees guaranteed by the organic law, Labor Code and bylaws regulating the labor relations has a direct bearing on their education, motivation and commitment in delivering the legal mission of the State Police which intrinsically entails the respect of the rights of citizens. For this issue, we are referring to the following cases.

Complaint by the State Police officer S.B. with the rank of "Director", who was asked to demote himself for lack of vacancies in the rank he held. He accepted this request, but after the demotion he found that vacancies had been opened for the "Director" and examinations were organized; and some police officers not having the "Director" rank required by the vacancies did sit in the examinations.

Since he was not receiving the appointment according to the legal provisions, he filed a court complaint with Tirana Administrative Court which eventually ruled to *oblige the respondent to*

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<sup>43</sup>For further information on the relevant recommendation, see the PA official website: <https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20per%20njoftim%20paraprak%20ne%20rast%20te%20bllokimit%20te%20rugeve%20nga%20Policia%20e%20Shtetit%20.pdf>.

*grant the claimant the "Director" rank and appoint him to a corresponding position. This decision is an executive title and immediately enforceable by the Judicial Bailiff Service.*

The complainant made several requests to the General Director of the State Police and the Minister of Interior, and since there was no response, he filed a request with the Bailiff Service, but still the court decision was not executed. The People's Advocate reviewed the complaint and found that the General Directorate of State Police violated Article 142/3 of the Constitution and the provisions of the Civil Procedure Code and recommended<sup>44</sup> to this institution to take the necessary measures for the immediate implementation of decision no. 5356, dated 14.02.2017 of the Tirana Administrative Court of Appeal in favor of citizen S.M., by awarding him the "Director" rank and appointing him to a corresponding position requiring this rank.

Given that our recommendation was not implemented, we sent a recommendation<sup>45</sup> to the Minister of Interior as the superior authority to take the necessary measures for the execution of the court decision. We are yet to receive a response, despite our repeated requests and the legal deadline overdue with several months.

Another case handled by us is the complaint by citizen E. M., the widow of Commissar G. M. who was killed in the line of duty on 06.08.2003. She claimed that she had to endure 8 years of injustice because of the alleged differentiated and discriminatory treatment of her family by the Regional Social Insurance Directorate (RSID) and by the General Directorate of State Police, despite being a family of a fallen police officer. She also raised concerns about her family pension being reduced under the new legal amendments.

Our review of this complaint found that the complainant had been a legitimate right, because her monthly family pension had been reduced and her treatment amounted to violation of the principle of legal certainty and equality before the law guaranteed by Articles 4/1<sup>46</sup> and 18/1<sup>47</sup> of the Constitution. In order to reinstate this right, we recommended to Tirana Regional Social Insurance Directorate<sup>48</sup> to take the necessary measures and award the family pension to the complainant based on the Decree no. 758 dated 01.02.1994 "On special protection to military officers" and gave her the unfairly withheld differences in her family pension under the changed legal basis.

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<sup>44</sup>For further information on the relevant recommendation, see the PA official website.

[https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandohet%20marrja%20e%20masave%20te%20nev%20oqshme%20per%20zbatimin%20e%20vendimit%20nr%205356%20\(1\).pdf](https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandohet%20marrja%20e%20masave%20te%20nev%20oqshme%20per%20zbatimin%20e%20vendimit%20nr%205356%20(1).pdf)

<sup>45</sup>For further information on the relevant recommendation, see the PA official website.

[https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20per%20marrjen%20e%20masave%20te%20nevojshme%20per%20zbatimin%20e%20vendimit%20nr%205356%20\(1\).pdf](https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20per%20marrjen%20e%20masave%20te%20nevojshme%20per%20zbatimin%20e%20vendimit%20nr%205356%20(1).pdf)

<sup>46</sup>The law constitutes the basis and the boundaries of the activity of the State.

<sup>47</sup>All are equal before the law.

<sup>48</sup>For further information on the relevant recommendation, see the PA official website.

*Tirana RSID informed us that it had not accepted the recommendation. So, we addressed a recommendation to the Tirana Social Insurance Institute in the capacity of superior authority, but even this institution did not accept the recommendation.*

➤ *Protection of the rights of foreigners in the territory of the Republic of Albania*

Article 2 of the Law no. 8454 dated 04.02.1999 "On the People's Advocate" stipulates that the provisions of this law apply also to the protection of the rights of foreigners who are regular residents or not in Albania, refugees, asylum-seekers and stateless persons who are in the territory of the Republic of Albania.

Based on this legal provision and the international treaties recognized and ratified by Albania, the People's Advocate examined even complaints by foreign nationals who claimed that their legal rights had been breached by Albanian public administration bodies.

One such case initiated proactively by our institution involved the deportation of the Turkish citizen H.Ç. to Turkey by the State Police authorities. Citizen H.Ç. who had been detained for nearly 6 months in the "Mine Peza" prison, attracted the attention of the national media and beyond, but also the attention of many Euro-parliamentarians.<sup>49</sup>

We established from our administrative investigation and the administered documentation that the Albanian state authorities had committed a series of violations of fundamental human rights recognized by the domestic legislation and international treaties such as:

- failure to register and administer the asylum-seeking application presented by citizen H.Ç. and non-compliance with the non-refoulement principle;
- issuance of the deportation order in breach of the Law "On foreigners" either in terms of the deportation motivation, or the deportation execution modality;
- failure to give the opportunity to exercise the right to appeal against the deportation order.

For these reasons, we recommended<sup>50</sup> to the General Director of State Police as follows:

- Analyze with priority the followed procedures and the documentation developed by the Tirana Local Border and Migration Directorate in the deportation of the Turkish national H.Ç. by identifying the legal responsibilities and taking administrative sanctions against the liable persons;
- Take measures to draft a guide in order to guarantee observance of the rights of foreign nationals as set out in the international treaties and the domestic legislation of the Republic of Albania, and ensure that such blatant violations do not reoccur in the future;

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<sup>49</sup>Statements by the Euro-parliamentarians Ramona Strugariu and Marius Botoș, members of the EU Delegation in the Stabilization and Association Agreement, expressed concerns about the law enforcement in the deportation of the Turkish citizen and added that such actions may jeopardize the European perspective of Albania. <https://exit.al/wp-content/uploads/2020/01/Letter-Harun-%C3%87elik.pdf>.

<sup>50</sup>For further information on the relevant recommendation, see the PA official website. <https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20per%20policne.pdf>.

- Take measures to ensure better coordination among the State Police structures and the People's Advocate in order to avoid red tape and unjustified delays in forwarding investigative materials and documents in the course of administrative investigations.

*We underline that this recommendation was not accepted, but was rejected by the General Director of State Police.*

### **3.4 Prevention of violence and torture<sup>51</sup>**

During 2020, due to the pandemic situation caused by COVID-19, the National Preventive Mechanism against Torture (NPM) conducted 48 *periodic (physical and online) thematic inspections* and inspection visits to all detention facilities. The above activity resulted in 54 *recommendations* and a dense official correspondence to clarify many details and phenomena observed during the inspections. In addition to the inspections, the NPM handled 40 *individual complaints* by Albanian and foreign citizens whose rights were violated in the premises of police stations, as well as prisoners serving sentences in penitentiary institutions.

The purpose of these visits and inspections was to assess the progress of the competent authorities in implementing the NPM recommendations and check the observance of rights of prisoners and detainees - guaranteed by the Constitution of the Republic of Albania and applicable laws and regulations. In addition, the NPM took into consideration the human rights promotional activities in cooperation with the Prison Administration and the State Police.

*Some findings from inspections at penitentiary institutions are listed below:*

- The extremely degrading infrastructural conditions and the *impossible reconstruction of the internal-regime facilities* which render impossible provision of safeguards to the prisoners as in the penitentiary institutions of Kruja, Lezha, Saranda, Bënç, Tepelena and Kukës, albeit sanctioned in international treaties and applicable domestic legislation. As these findings are recurring, even in more degraded conditions due to lacking investments and dilapidation, the People's Advocate recommended to the Ministry of Justice to immediately close these institutions and transfer the persons to other penitentiary institutions.
- *The construction infrastructure of accommodation and common premises* present many problems: dilapidation, dampness, interruption of electricity and water supply, inadequate natural light and cell ventilation, presence of bugs, sub-standard conditions of toilets, kitchens, showers, airing facilities, isolation rooms, etc. The penitentiary institutions with imminent infrastructural problems are in Zaharia, Kruja, Durrës, Rrogozhina, Tepelena, Shënkoll and Lezha. Exceptions

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<sup>51</sup>This field of law is covered by the NTPM Section at the People's Advocate.

were the new and reconstructed penitentiary institutions which practically created a double standard in the Albanian penitentiary system.

- *Overcrowding, albeit reduced in recent years* in some penitentiary institutions such as PI 302, PI 313, Jordan Misja, Tirana and PI Durrës, still persists. During visits, the inspection teams found 4 (four) to 6 (six) persons accommodated in one cell, thus failing to comply with the standard 4m<sup>2</sup>/detainee. The overcrowding problem is most serious in Zaharia, the penitentiary institution with the worst infrastructure conditions.
- *Failure to comply with the Agreement between the Ministry of Justice and the Ministry of Health in the establishment of a special medical institution* sanctioned in the Law no. 44/2012 dated 08.05.2012 "On mental health", in order to accommodate and treat persons for whom the court decided 'compulsory medical treatment' and 'temporary hospitalization'. The investment started in 2019 to adapt two buildings of Lezha penitentiary facility is not completed yet, thus violating the deadline set out in the contract; besides, reasons who stopped remain unknown. These persons continue to be treated in Zaharia, Krujë in degraded material conditions, where there is no job position for a psychiatrist and access to psychiatric visits in regional hospitals is difficult. In addition, treatment for acute medical episodes at the Special Penitentiary Healthcare Institution continues to be illegal, and this is highlighted in national and international reports, regional conferences, and also in the judgements of the European Court on Human Rights.
- *Lack of physicians* in penitentiary institutions remains a persisting concern. From the inspections at national level in 2020, the People's Advocate recommended that measures are taken to fill the full-time physician position as required in the organizational chart. The situation is most problematic in Zaharia, PI 302, Tepelena, Kukës, Korça, Durrës, Fier, and Peqin, which worsened during the pandemic.
- During 2020, *there were significant deficiencies in the provision of education opportunities and social-cultural activities* to prisoners, because of the restrictions due to Covid-19 pandemic.
- In all institutions, prison work continues to be compensated by serving days deducted from the sentence. Similarly, pre-trial detainees are not paid social insurance for the work done, so it is not counted in their seniority, in turn leading to the right to pension being denied.
- Healthcare staff in prisons need adequate premises for medical visits because they generally lack the required equipment and materials.
- *Delays and deficiencies in equipping the detainees/prisoners with health booklets* or health insurance electronic data in most penitentiary facilities, resulting in non-application of the drug reimbursement scheme and problems in drug supply.
- Difficulties in conducting visits, examination and specific lab tests are still noted in some penitentiary institutions, attributed to the lack of full-time physicians and ambulances and the regional hospitals' resistance to treating these persons due to lacking security conditions in them, etc.

- *Problems in the provision of stomatology services* due to lack of equipment and materials. Dentistry services, except for tooth extraction, were provided in public polyclinics or private clinics at the expenses of detainees/prisoners themselves.
- *Central heating systems* in virtually all penitentiary institutions (where installed) were non-operational due to technical malfunctioning or lack of fuel. In most cases, detainees/prisoners are not provided with heat in line with legal provisions.
- *Inadequate supply of basic personal hygiene products* (toothpaste, toothbrush, shampoo, etc.) and detergents necessary to clean the cell, and lack of uniforms and gloves during food distribution were noted in the majority of PIs.
- *Lack of closets and clothing shelves.* Prisoners/detainees stored their clothes in plastic bags or sacks, mainly underneath their beds.
- *Food quality and variety* remained a concern in virtually all PIs.

During the NPM inspections in PIs during 2020, prisoners complained mostly for the low-quality cooking, the lack of food variety and the change of the daily quota. We emphasize that the joint order of the Minister of Justice and the Minister of Health and Social Protection has not yet been revised, despite the recommendations of the People's Advocate from 2006 onwards. This situation has resulted in non-consumption of meals by prisoners and simultaneously increased the economic cost of their families' members, forcing them to send them complementary food.

In response to the PA recommendations and requests on the above situation to the Ministry of Justice and the ASP, the working groups were set up to draft the implementing bylaws to Law no. 81/2020, but they are yet to be approved despite time-limits set out in this law have passed.

NPM sent recommendations to the competent authorities<sup>52</sup> on the identified problems that need to be addressed with decision-making by high state bodies, as in most cases they stem from a tougher criminal policy, lack of funds and non-issuance of bylaws to generate significant improvements in the system, both in form and content.

It is worth emphasizing that, based on the findings of inspections in penitentiary institutions during 2020 clearly indicate that Albania has made improvements in reducing overcrowding, but the high incarceration rate per population remains a matter of concern, which calls for a more careful assessment of the criminal policy.

The People's Advocate in the role of the NPM and in the context of handling and reviewing complaints received, based on Law no. 8454 dated 04.02.1999 "On the People's Advocate", as

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<sup>52</sup>See recommendations in the link: <https://www.avokatipopullit.gov.al/sq/categories/mechanisms-against-torture>.

amended, *conducted a thematic inspection at the premises of the special high-security regime premises (41 biss) at the penitentiary institutions 313 "Jordan Misja" and Peqin.*

The transfer of prisoners to the premises of the special high-security regime (41 biss), was a new experience in the penitentiary system based on the requirements of Article 17/1 of Law no. 81/2020 “*On the rights and treatment of prisoners and detainees*” and the Regulation on the Special High-Security Regime in Penitentiary Institutions approved by Order no. 380, dated 19.07.2019 of the Minister of Justice. Pursuant to this legislation, the Minister of Justice approved the orders dated 01.08.2020 on the transfer to this regime of 7 (seven) prisoners suspected or convicted by a final decision for criminal offenses that trigger such regime.

The purpose of the inspection was to check the material conditions for prisoners in view of their fundamental rights and freedoms and their decent treatment according to the standards set out in national acts and mainly in international treaties ratified for this purpose.

The inspection team also checked the claims raised in the complaint to the People’s Advocate by the lawyer V. M who is the defense counsel and legal representative of the detainee E. Sh., and the complaints by the prisoners A. A. and G. B. who are serving their sentences in the special high-security regime, respectively in the penitentiary institutions 313 “Jordan Misja ”and Peqin.

It is worth noting that People’s Advocate handled those complaints that fall under its constitutional and legal mandate and involve the conditions in which these persons are serving their sentences. We have paid special attention to the fact whether the conditions guarantee the minimum and inviolable standard of humane and decent treatment of prisoners, even under the extraordinary measures taken amidst public safety risks that justify these measures. At the same time, the People's Advocate has concluded that *it is beyond its mandate to assess whether or not a certain prisoner should be part of the special regime, nor whether this regime should apply only to persons convicted by final decision or also to pre-trial detainees.*

Besides measures taken by the State authorities entrusted by law to draft and approve the regulation on the functioning of special high-security regime, orders issued by the Minister of Justice on the reasoned request by the Head of the Special Prosecution Office for the transfer of 7 (seven) prisoners from the high-security regime to the special high security regime, selection and training of security staff who serve in these special regime sections, informing the prisoners about their rights and obligations during the period of stay in the special regime, and the creation of some material conditions for normal living in the cells, *the inspection found several shortcomings* in these special regime sections related to the organization of life and daily activities of prisoners and their indecent treatment in some aspects, which contradicts the standards set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms,<sup>53</sup> the European Prison

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<sup>53</sup>Ratified by the Assembly of Albania with Law no. 9137 dated 31.07.1996.

Rules adopted by the Committee of Ministers of the Council of Europe on 11 January 2006, the Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) adopted by the UN General Assembly on 17 December 2015, as well as the CPT recommendations during visits to Italy.

The ECtHR judgements<sup>54</sup> Following examination of some applications by Italian prisoners convicted or accused of Mafia activities and held in the Special Regime constitute a standard for the interpretation and application of these measures in compliance with the European Convention on Human Rights by the State and law-enforcement authorities in Albania. This standard should be extended not only to the process of drafting and approving the rules, but also to the enforcement of the rules that govern the activities in these sections, so that the measures taken by them do not conflict with the requirements of the articles of the ECHR on the rights and freedoms of prisoners, notwithstanding the limitation of their rights during their stay for a period of one year (renewable<sup>55</sup>) in this regime.

The Albanian legislator has provided that the decision of the Minister of Justice for the imposition or extension of the special regime may be appealed by the prisoner through his legal counsel, within 20 days to the first-instance Court against Corruption and Organized Crime of Organized which assesses the compatibility and appropriateness of these measures. Meanwhile, the physical conditions, the safeguards and respect of the rights of prisoners placed in the special regime (provided in Article 17 of Law no. 81/2020 *are monitored by the People's Advocate* to ensure that these conditions or a part of them do not constitute inhuman and degrading treatment.

Also, the general conditions of prisoners placed under this special regime in other countries (the case of the Republic of Italy) have been better than those of other prisoners, because they had to stay for long periods in solitary confinement and were deprived of social activities with other prisoners outside this regime.<sup>56</sup>

The special-regime sections created in the prisons 313 and Peqin were approved by the Minister of Justice's Order no. 381, dated 19.07.2019 “On some amendments to Order no. 8927/1 dated

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<sup>54</sup>In reference to cases examined by the ECtHR: a. *Marcelo Viola v. Italy*: <https://www.jurist.org/commentary/wp-content/uploads/sites/3/2019/10/Judgment-Marcelo-Viola-v.-Italy-no.-2-irreduciblelife-sentence-breached-the-Convention.pdf>. b. *Enea v. Italy*: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-94072%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-94072%22]}).

<sup>55</sup>Practice has shown that these measures for prisoners previously applied in other countries have been extended or renewed even for several consecutive periods.

<sup>56</sup>For more information, see circular 35171996 of the Italian Prison Authority following the issuance of Decision 351/1996 of the Italian Constitutional Court as to whether the existence of the special regime *per se* is compatible with the constitution or not. While the very existence of this regime does not in principle constitute a violation of the Italian Constitution or even the European Convention on Human Rights, the physical conditions should have been appropriate to avoid problems with Article 24 of the Italian Constitution and Article 3 of the European Convention on Human Rights. Although the nature of the above-mentioned decisions and the effect they may have in our case is different, we think that the ruling by the Constitutional Court of the Italian Republic should be taken into account in finding that practice as an interpretation in accordance with the principles of the Convention and as a practice that has been largely accepted as fair by the European Court of Human Rights.

27.09.2018 of the Minister of Justice 'On the classification of penitentiary institutions". Their construction infrastructure did not allow any connections or contacts with other sections.

People's Advocate in the NPM role - based on the restrictive measures provided in Law no. 81/20120 and mainly in the regulation on the special high-security regime, and the concerns raised in confidential interviews with prisoners serving sentences under the special-regime conditions, when confronted with international treaties adopted for this purpose (mainly based on the Italian experience) - finds that the Albanian legislator in some cases has provided *stricter measures and in excess of international standards* which in some respects violate the principle of guaranteeing human and decent treatment for prisoners in this regime.

As for the Regulation on the Special High-Security Regime, the People's Advocate's believes that including all provisions in the Regulation makes it almost impossible for the Court to intervene and assess the decision-making based on the principle of proportionality or adequacy to risk, so, this should be avoided. Because the regulatory acts set uniform conditions for each prisoner whose rights are temporarily suspended, therefore, there is no room for the prisoner to challenge the measures taken against him and consequently there is no sufficient and effective legal discretion for the Courts to assess the measures on a case-by-case basis. The fact that the regulation specifically prohibits the possibility of receiving food from outside seems a restriction that is out of line with the purpose that the legislator had in setting such a provision.

Consolidating an effective appeal system requires that every prisoner and detainee have the inviolable right to appeal to People's Advocate or other international bodies for the protection of their fundamental rights and freedoms. This right of appeal remains the only way of communication with the outside world. Access to justice and contacts with legal representatives are also very important and have been pinpointed by the ECHR in the cases reviewed against Italy.

The 1-year duration of these measures requires the consolidation of a professional and effective internal monitoring system for the implementation of this coercive measure and the preparation of information by penitentiary structures. In this way, the penitentiary structures consolidate their position in the effective administration of these measures in accordance with the legal goals for which they were introduced.

In conclusion of this inspection, the People's Advocate made these recommendations to the Minister of Justice and the General Director of Prisons:<sup>57</sup>

- Establish a working group to revise the Regulation on the Special High-Security Regime in Penitentiary Institutions approved by Order no. 380, dated 19.07.2019 of the Minister of Justice, *which must specify the basic rights, responsibilities, implementation modalities and internal*

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<sup>57</sup>For more information, see the relevant recommendation on the PA official website:  
<https://www.avokatipopullit.gov.al/media/manager/website/media/Varianti%20final%20regjimi%2041%20biss%20mkpt.pdf>.

*monitoring of the special regime and guarantee an effective appeal system - in accordance with the legal amendments introduced in June 2020;*

- Approve the individual psycho-social counseling program for prisoners in the special regime, notify the prisoner and obtain his/her written consent to participate in the program;
- Enrich the library of prisoners in the special regime with a variety of copies of books that must be available to them;
- Establish special psycho-social education rooms in each section;
- Revise the joint Order of the Minister of Justice prot. no. 104/5 dated 19.07.2006 and Minister of Health prot. no. 250 dated 27.07.2006 "*On the approval of the daily diet for prisoners*" by adding variety and increasing the dietary nutrients especially for persons placed in special regime and not only. Until revision of this Order, take immediate measures to ensure that persons placed in this regime may receive food from outside so that their right to food and suitable diet is not violated;
- Establish weight piles in both sections of the special regime for prisoners to pass the time doing physical exercises;
- Eliminate dampness in the accommodation rooms where this problem was identified. Explore the possibility of using the cells in other floors until this problem is addressed, because there were free capacities in the facility;
- Improve the overall accommodation conditions related to furniture needed to ensure a minimum suitable standards in case the detainees and/or prisoners are deprived of social contacts and are placed for long periods in rooms designated for them. These improvements must also include minimum recreational and general information conditions to make up for no social contacts. Adjust the dimensions of tables as these are not suitable to their function;
- Organize work to ensure adequate hygiene in the shared premises.

In response to the recommendation, the Ministry of Justice informed us that it is drafting bylaws pursuant to Law no. 81/2020 "*On the rights and treatment of prisoners and detainees*" which will be subject to a wide public consultation according to applicable law.<sup>58</sup>

➤ *Level of observance of rights of persons who are taken in, arrested or detained in police units*

The National Mechanism for the Prevention of Torture (NPM), has continued to carry out its inspections at the State Police premises focusing and checking in particular the legality and regularity of take-ins, arrests and detentions of individuals, their treatment and conditions in police stations, the infrastructure and material deficiencies, etc.

For all problems identified, the NPM presented its remarks in recommendations sent to the higher authorities of the State Police.

Inspections carried out in the police units during 2020 sought to observe the facilities, collect data and assess the actions and practices followed by the State Police against standards set out in Law no. 108/2014 "*On the State Police*"; the Order no. 925 dated 18.07.2019 of the General Director

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<sup>58</sup>Official letter prot. no. 402/2 dated 24.02.2021 of the Ministry of Justice.

of the State Police "On the approval of the standard operation procedure for the treatment and security of persons arrested/detained in the premises of the State Police, and identification and resolution of their requests/complaints"; the Order no. 938 dated 24.07.2019 of the General Director of the State Police "On the approval of the standard operating procedures for the technical rules of taking in persons in the State Police premises", as well as to check the implementation of PA recommendations related to previous inspections.

Findings from inspections in police units are listed below:

- *In some cases, there was significant overcrowding in the Tirana Local Police Directorate (LPD) and in some police stations under it that have detention facilities. These structures worked most of the time over the official capacity. Overcrowding was mainly due to numerous arrests and detentions made during the year by the police for criminal offenses newly introduced in the Criminal Code, but also because the General Directorate of Prisons took too long to admit persons convicted in absentia by a final decision;*
- *Allegations of torture and physical and psychological ill-treatment of citizens by police officers were present in several police stations. The substantiated complaints were mainly handled by joint groups with the Special Section and were followed by concrete recommendations for taking measures on the responsible persons;*
- *Failure to comply with the legal obligations for the construction or adaptation of take-in facilities according to the required standard (3 take-in rooms, 1 for adults, 1 for women and 1 for juveniles). Take-in rooms in most police stations did not meet the standards for a decent treatment of persons, because they were very few and lacked adequate decent premises equipped with the necessary furniture for stay, and divided separately for women, adults and juveniles;*
- *Failure to comply with the legal obligations for the construction or adaptation of security facilities according to the standards required and approved by International Conventions and the Order no. 925 dated 18.07.2019 of the General Director of State Police "On the approval of the standard operation procedure for the treatment and security of persons arrested/detained in the premises of the State Police, and identification and resolution of their requests/complaints". Exceptions were the security premises in the LPDs in Tirana, Gjirokastra, Kukës, Korça and Fier. The police stations having security rooms (under the Tirana LPD) were found in blunt breach of these standards. Inspections found that police stations no. 1, 2 and 3 in Tirana had closed some security rooms and put them out of commission by procès-verbal;<sup>59</sup>*
- *Problems in providing a health service by some LPDs, regarding the correct fill-out of medical records and files, and inadequate facilities for medical consultations; some LPDs did not even have a physician. In some of these institutions, medical visits were carried out beyond the 12-hour deadline set out in the standard operating procedures of the State Police;*
- *Problems with the installation of the camera surveillance system in the corridors of take-in and security rooms and questioning rooms in some police stations.*

➤ *Level of observance of the rights of persons in psychiatric hospitals*

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<sup>59</sup>For more information on the number of take-in rooms and security rooms in police stations, please refer to the table in Annex 1 enclosed to this Report.

The People's Advocate has consistently drawn attention to the situation in mental healthcare hospitals in Albania. In 2020, the NPM inspected the mental health institutions such as Vlora Psychiatric Hospital, Shkodra Psychiatric Hospital, Zaharia Penitentiary Institution, the Special Penitentiary Health Institution (SHPI) and Psychiatric Hospital “Xhavit Gjata” in Tirana.

The problems identified from these inspections include:

- In-prison treatment of persons with mental health disorders at SPHI Tirana and PI Zaharia, Krujë, who have committed criminal offenses and for whom the court decided *compulsory treatment in medical institutions* is in breach of Law no. 44/2012 dated 08.05.2012 "On mental health" and continues to be a matter of concern. The NPM, seeking to improve the situation and treatment of persons with mental health disorders, addressed the relevant recommendations to the State institutions tasked by law;
- Ensure enforcement of Article 28 of the Law no. 44/2012 "On mental health" by the Ministry of Justice and the Ministry of Health and Social Protection, by opening special medical institutions for the treatment of persons with mental health disorders who have committed a criminal offense and for whom the court imposed compulsory treatment in a medical institution, and for the detainees or convicted persons who display mental health problems while serving the sentence, and for the treatment of persons ordered to be temporarily hospitalized in a special medical institution – as required by Article 239 of the Criminal Procedure Code, as amended;
- Find a quick, effective and sustainable solution for the Court review within the legal time-limits of all decisions ordering "compulsory treatment in a medical institution" and for sending Court decisions to institutions where the relevant persons are treated;
- Hospitals are short of psychiatrists, "caregivers/task force" nurses, security staff, janitors and barbers, in order to provide a suitable service for the specifics of this mental health service with beds. The People's Advocate highlighted these needs in its recommendations:
  - Immediate increase in the coming years of the number of Psychiatrist interns (*only 15 foreseen in 2020*);
  - Reformulate hiring criteria for the clinical functions of *caregiver* and *task force* in order to hire professionals with nursery background and in-depth knowledge in hospitalized psychiatric rehabilitation and adequate age and physical abilities to manage agitation and high risk;
  - Train current staff.
- Install camera surveillance system in shared premises of psychiatric hospitals;
- Establish/reconstruct confinement rooms by completing them in accordance with paragraph 4.6 "Confinement Infrastructure" of the *Standards of Physical Restraint in Specialized Mental health Services with Beds* approved by Order of the Minister of Health, part of the package of bylaws issued to implement the Law no. 44/2012 “On mental health”;
- Equip hospitals with mechanical restraint devices in accordance with paragraph 1.2 "Restraint elements", letter b "Mechanical Restraint" of the bylaw above;
- Reorganize wards to accommodate acute patients separately;
- Improve conditions in the wards, heating, showers and toilets, in order to provide a more decent service to persons treated in psychiatric hospitals, and provide the needed equipment/materials to the psycho-social staff;

- Equip/make fully operational the biochemical clinical laboratories as well as the ECG devices.

2. The medical services remain with shortages and permanently need better material conditions and support with security staff. Due to minimal security conditions, physicians and support staff are always at risk.

3. It is necessary to reorganize and designate special wards for people with intellectual disabilities, resident acute or subacute patients, in order to provide a more complete service and matching the needs of each category, because their placement in the same ward complicates their treatment according to the standards provided in the law on mental health and its bylaws.

➤ *Independent monitoring of the rights of foreign migrants*

During 2020, the People's Advocate in its NPM role continued to implement the cooperation agreement with UNHCR under the joint project "Refugees and Asylum-Seekers in South-East Europe", focused on the border control and protection of refugees in Albania, particularly in the south (Gjirokastra, Saranda, Përmet) and south-east (Korça, Devoll, Bilisht).

The external experts of the People's Advocate were involved in the systematic monitoring of borders, periodic reporting of their findings and treatment and resolution of problems encountered in providing protection to irregular foreigners entering Albania from the Greek border. These activities were performed in cooperation with the UNHCR Field Office in Gjirokastra and the UNHCR focal points in other border areas, in partnership with the organization "Caritas" in Gjirokastra and Korça and in coordination with the Regional Border Directorates and the central Border and Migration authorities of in Gjirokastra and Korça, as well as in partnership with other organizations engaged in migration.

Experts have worked to inform persons; guarantee the standard of the pre-screening interviews; developing relations with communities in cross-border areas to raise their awareness of welcoming the refugees; promote and monitor access to the territory and to asylum procedures for asylum seekers and refugees identified at the Albanian borders.

In the context of this objective, the following activities took place:

- Systematic border monitoring indicating that the Albanian border police forces have increased the number of returnees to the Greek territory, linking it to the pandemic situation and the Albanian legislation for such situations;
- Monitor pre-screening procedures; conduct in-depth interviews; conduct monitoring visits in cooperation with UNHCR staff in Gjirokastra office; provide analyses on the progress of pre-screening procedures and recommendations on how to improve its implementation;

- Increase the capacity of authorities responsible for asylum and human rights and increase the quality of pre-screening interviews.

Problems identified during on-site monitoring in *Gjirokastra Region* include:

- overloading of Kakavije SOG where there are simultaneously groups of foreign refugees stopped in the Albanian territory and groups of illegal Albanian refugees returned by the Greek police who undergo the repatriation procedure;
- lack of capacity/premises and support in case of inflows in big groups (over 15 refugees);
- voluntary repatriation/return procedures in Greece are conducted without a protocol in place with the Greek side;
- the need to identify new instruments alongside sustainable actors in managing border and refugee issues. Specifically, inclusion of the Child Protection Agency in the problem handling chain, inclusion of organized medical assistance in cases of health problems, inclusion of medical treatment in cases of more serious health problems. Awareness-raising campaigns among residents of border areas in Gjirokastra and Saranda are needed on illegal refugees, but especially women and children at risk;
- the need for an urban waste management scheme such as in Grehot and Kakavije because waste is dumped in uncontrolled places and are not picked up by the waste collection vehicle.

*Summary table for the period January - December 2020 (Expert in Gjirokastra)*

Month	In-depth interviews	Covered cases/no. of persons
January	13	15 cases /30 persons
February	17	19 cases /145 persons
March	33	49 persons
April	3	16 cases/9 persons
May	11	17 cases/22 persons
June	6	21 cases
July	23	23 cases/ 111 persons
August	33	23 cases /145 persons
September	21	25 cases/65 persons
October	40	17 cases/ 135 persons
November	25	10 cases/ 93 persons
December	31	14 cases/ 110 persons

Problems identified during on-site monitoring in *Korça Region* include:

- Insufficient number of human resources and specialists from the border police to respond to the dynamics and high number of arrivals. Lack of staff and logistics has led to overload on existing staff, reducing the quality of work and the time needed to identify problems such as:

potential victims of trafficking, survivors of domestic or gender-based violence, identification of persons belonging to vulnerable groups, etc.;

- Lack of access to gender-based services according to DCM 293/2015;
- Irregular returns to Greece in violation of Law 108/2013, non-compliance with legal requirements in identifying persons in need of international protection (potential asylum-seekers);
- During the monitoring period, many cases were identified where the asylum application was not considered;
- Lack of the National Referral Mechanism for persons with specific needs such as: separated or unaccompanied children (Law 18/2017), potential victims of trafficking (DCM 499/2018).
- Lack of medical staff to identify cases of carriers or infected with infectious diseases.

*Summary table for the period January - December 2020 (Expert in Korça)*

Month	In-depth interviews	Covered cases/no. of persons
January	33	33 cases /768 persons
February	28	40 cases /1198 persons
March	19	15 cases/ 1216 persons (Online monitoring <sup>60</sup> )
April		Online monitoring/133 persons
May	34	Online monitoring/ 616 persons
June	30	Online monitoring/ 1214 persons
July	36	35 cases/1829 persons
August	34	27 cases/2128 persons
September	25	34 cases/2779 persons
October	31	38 cases/ 2125 persons
November	38	26 cases/870 persons
December	20	22 cases/658 persons

Common problems identified in *both regions* during January-December 2020 include:

- the number of interpreters and cultural mediators continues to be reduced;
- the list of licensed interpreters and psychologists is missing;
- lack of support with psychologists in temporary centers;
- lack of female staff (police officers, interpreters, psychologists);
- transfer of staff in some Child Protection Units at Municipalities from one unit to another. This creates problems in the assistance to unaccompanied minors because staff need to be trained continuously;
- the instruction of the Minister of Interior for long-term accommodation of unaccompanied minors is missing;

<sup>60</sup>Online monitoring conducted during the pandemic period consisted of meetings of contacts officers with Caritas representatives and Border Police officers.

- The centers lack conditions for long-term accommodation of unaccompanied minors.

It should be noted that external experts have been recruited in cooperation with the UNHCR and that ongoing monitoring by the People's Advocate to guarantee the rights of foreign migrants in accordance with national and international legislation, requires more human resources.

### **3.5 Observance of human rights by the Prosecution Service<sup>61</sup>**

The People's Advocate as an independent constitutional institution, despite the situation created by the pandemic during 2020, in the framework of respect and protection of human rights has sought to play an active role in examining and verifying the concerns raised by various citizens about the procedures followed by prosecutors during criminal proceedings in which they (citizens) were either plaintiffs or investigated persons.

We emphasize in advance that the continuation of the justice reform has increased the workload and pressure on the system due to the dismissal of a significant number of prosecutors who were not replaced. On the other hand, the initiated reform has placed the prosecution service before the legal obligation to ensure a strict implementation of procedures, such as making a final decision or investigating the facts, evidence and circumstances that are in favor of the investigated person.

The People's Advocate *administered and processed 113 complaints by citizens in 2020*, with a considerable increase from complaints and cases handled by us during 2019.<sup>62</sup>

Main issues found with the violation of rights in criminal proceedings are listed below:

- Unjustified delays in criminal investigations; we have followed this problem with priority by assessing it in the context of a due process of law under Article 42(2) of the Constitution of the Republic of Albania and Article 6 of the ECHR;
- Failure to make available various procedural acts from the investigation file or seized documents, thus violating the right and legitimate interest of citizens to follow the necessary court proceedings, such as the right to appeal in court for various decisions of the prosecution body;
- Failure to inform claimants or interested persons on the criminal proceedings, and investigation steps and conclusions, and final decisions;
- Illegal or unjustified detentions of persons to whom the criminal offense is attributed. Article 228 of the Criminal Procedure Code sets out the conditions for imposing personal security measures on the basis of evidence suggesting that a crime has been committed or is being committed. Indeed, this reasonable suspicion or conviction is created when the person is detained or arrested in *flagrante delicto*, which then must be validated by the judicial authorities. In either

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<sup>61</sup>This field of law is covered by the Special Section at the People's Advocate.

<sup>62</sup>During 2019, PA received and processed 79 complaints by citizens.

case, the principle of presumption of innocence must be respected. The fact that an individual has criminal records is not sufficient to create a reasonable suspicion.

In the course of concerns raised by our institution, we must emphasize the fact that some prosecution offices have dragged down and delayed their responses or clarifications to our requests for information, justifying it with the secret nature of the investigation, but this stance is noncompliant with the legal standards and criteria that entitle the People's Advocate to administer even classified information.<sup>63</sup>

Moreover, in a number of cases, we have found that entire acts of the investigation file were published in various media, thus violating the effective investigative procedures that can and should be followed by the Prosecution Service. In following these cases, we have highlighted the right of the People's Advocate to request information or documents classified as State secret, because it is provided in Article 20 of the Law on the People's Advocate.

Another problem identified is the interpretation of the *flagrante delicto* contrary to the interpretation made by the European Court of Human Rights in concrete cases.<sup>64</sup> International human rights standards require that any restriction of liberty be an objectively justified exception and for a period not exceeding that which is absolutely necessary by expressly encouraging the non-use of restrictive measures on liberty during the investigation and trial, until the decision is rendered. Even more so, a pandemic situation requires the avoidance of severe personal security measures as they lead to overcrowding in the premises where arrested persons are kept/detained by the State Police. Due to inadequate accommodation capacity in these facilities, compliance with anti-COVID-19 measures to prevent the spread of the virus becomes more difficult and these facilities turn into a source of infection.

We consider that the application of the personal security measure "pre-trial detention" by the judicial police, the prosecution office and the court must look at the social danger posed by the criminal offense and the suspected perpetrators, as well as the mitigating and aggravating circumstances. Pre-trial detention should be imposed in exceptional cases and as a last resort for persons suspected of having committed serious offenses. Also, this measure should be applied in accordance with the security needs and the gravity of the criminal fact and the corresponding

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<sup>63</sup>Article 63(4) of the Constitution of the Republic of Albania and Article 19/1 of the Law no. 8454 dated 4.2.1999 "On the People's Advocate" as amended.

<sup>64</sup>ECTHR has underlined that the words "lawful" and "in accordance with a procedure prescribed by law" in Article 5 § 1 basically refer to the domestic law and state the obligation to conform to the substantive and procedural rules thereof... The duty of interpreting and applying domestic law falls, in the first place, to the national authorities, notably the courts; according to Article 5 § 1 of the ECHR, failure to comply with the domestic law triggers violation of the Convention and the Court may and must examine whether this law has been satisfied (see, among many references, *Benham v. United Kingdom*, 10 June 1996, § 41, Reports 1996-III, and *Assanidze v. Georgia* [GC], no. 71503/01, § 171, ECHR 2004 II). As per Article 5 § 1 (c) a person may be detained only in the context of criminal procedures for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offense. A "reasonable suspicion" that a criminal offense has been committed presupposes the existence of facts or information which would satisfy an objective observer that the person concerned may have committed an offense (see *Wloch v. Poland*, no. 27785/95, § 108, ECHR 2000 - XI).

sanction, and only where any other measure is inappropriate due to the social danger of the criminal offense or the offender.

Following inquiries by the People's Advocate, we have developed and sent several recommendations, specifically:

- Recommendation to the Tirana Prosecution Office and the Internal Affairs and Complaints Service, also copying the General Directorate of State Police, on the identification and initiation of the criminal investigation against police officers for the criminal offense "*Committing arbitrary actions*" set out in Articles 250 and 25 of the Criminal Code for the illegal actions to the detriment of citizen \*\*\* in the case no. 202000601.<sup>65</sup>
- Recommendation to take the necessary measures to respect the constitutional freedom of assembly even during the state of emergency, addressed to the Inter-Ministerial Committee of Civil Emergencies, the Prosecutor General, the Minister of Health and Social Protection, and the General Director of the State Police.<sup>66</sup>
- Recommendation to Tirana Prosecution Office and copying the Internal Affairs and Complaints Service, the General Directorate of State Police and the Police Station no. 4 on the initiation of criminal proceedings against police officers of Police Station no. 4 in Tirana for the criminal offense "*Committing arbitrary acts*" set out in Articles 250 and 25 of the Criminal Code, for handcuffing the citizen A.G. in the University Trauma Hospital, in the case no. 201900553.<sup>67</sup>
- Recommendation to Durrës Prosecution Office and the General Directorate of State Police, copying the Durrës Local Police Directorate on the initiation of the investigation against two police officers of Durrës Police Station for the criminal offense "*Committing arbitrary acts*" set out in Articles 250 and 25 of the Criminal Code, in the case no. 201900918<sup>68</sup>.

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<sup>65</sup>For further information on the relevant recommendation, see the PA official website.

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20identifikimin%20dhe%20fillimin%20e%20hetimit%20penal%20t%C3%AB%20punonj%C3%ABsve%20t%C3%AB%20policis%C3%AB%20s%C3%AB%20Shtetit,%20p%C3%ABr%20vepr%C3%ABn%20penale%20E2%80%9CKrverja%20e%20veprimeve%20arbitrare%20E2%80%9D,%20parashikuar%20nga%20nenet%20250%20e%2025%20t%C3%AB%20Kodit%20Penal.pdf>

<sup>66</sup>For further information on the relevant recommendation, see the PA official website.

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20marrjen%20e%20masave%20t%C3%AB%20nevojshme%20p%C3%ABr%20respektimin%20e%20liris%C3%AB%20kushtetuese%20t%C3%AB%20tubimit%20edhe%20gjat%C3%AB%20gjendjes%20s%C3%AB%20jasht%C3%ABzakonshme.%20.pdf>

<sup>67</sup>For further information on the relevant recommendation, see the PA official website.

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20fillimin%20e%20hetimit%20t%C3%AB%20procedimit%20penal%20ndaj%20punonj%C3%ABsve%20t%C3%AB%20policis%C3%AB%20s%C3%AB%20Komisariatit%20nr.4%20Tiran%C3%AB,%20p%C3%ABr%20vepr%C3%ABn%20penale%20E2%80%9CKrverja%20e%20veprimeve%20arbitrare.pdf>

<sup>68</sup>For further information on the relevant recommendation, see the PA official website.

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20fillimin%20e%20hetimit%20ndaj%20punonj%C3%ABsve%20t%C3%AB%20policis%C3%AB%20t%C3%AB%20Komisariatit%20t%C3%AB%20Policis%C3%AB%20Durr%C3%ABs%20p%C3%ABr%20vepr%C3%ABn%20penale%20t%C3%AB%20E2%80%9CKrverjes%20s%C3%AB%20veprimeve%20arbitrare%20E2%80%9D,%20parashikuar%20nga%20nenet%20250%20dhe%2025%20t%C3%AB%20Kodit%20Penal,%20t%C3%AB%20ndryshuar..pdf>

### 3.6 Right to a due process of law<sup>69</sup>

During 2020, the judicial system faced new difficulties caused by the global pandemic COVID-19, on top of those encountered in recent years due to the prolonged Vetting process that has been slow, with unnecessary delays and big social and professional challenges. Indeed, the suspension of the judicial activity and services across all ordinary and special courts in the country for a long 3-month period, except for urgent cases, resulted in delays in court proceedings, postponement of new cases and problems in full respect of procedural rights in proceedings.

Main problems set forth in the complaints filed with the People's Advocate include:

- delays in court proceedings and in particular lengthy periods before cases are taken on by the Courts of Appeal, the Administrative Court of Appeal and the High Court;
- delayed issuance of the reasoned decision or court failure to notify the parties within the time-limits set out in the Procedure Codes;
- failure of first-instance courts to take on new cases for a period of several months;
- numerous requests to appellate courts to expedite proceedings on justified grounds such as illness and economic hardship;
- requests for secondary legal aid from courts, etc.

These issues addressed by the citizens were presented by the People's Advocate to the relevant judicial bodies, noting that these constitute the essence of due process. Despite the understanding for the created situation, the right of citizens to a due process of law under the safeguards provided for in Article 6 of the ECHR cannot be neglected for any moment.

In some cases, during the correspondence with the People's Advocate, judicial bodies pointed out significant difficulties in their operations caused by the Vetting process. Thus, many appellate courts are short of magistrates due to dismissals by the Vetting process and the fact that they are not replaced. The High Judicial Council, in cases where the scheme of delegation and temporary transfer of judges proved insufficient to meet the current needs of the courts, did appoint judges to adjudicate special cases in courts in need. This means that some appellate judges still in office have to move to different appellate courts to attend trials.

Judicial reform continues to be considered the most important institutional development in Albania since July 2016. But only after almost 2.5 years has it been possible to establish the High Judicial Council and the High Prosecution Council, which represent the transition from the re-evaluation process to the establishment process of new institutions of the rule of justice in Albania. Also, at the end of 2019, the Special Prosecution Office against Corruption and Organized Crime was set up.

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<sup>69</sup>This field of law is covered by the Special Section at the People's Advocate.

Justice reform continues to be considered the most important institutional development in Albania since July 2016. But after almost 2.5 years, it only managed to establish the High Judicial Council and the High Prosecutorial Council, which represents the transition from the re-evaluation process to the establishment of new justice governance institutions in Albania. In addition, the end of 2019 saw the establishment of the Special Prosecution Office against Corruption and Organized Crime.

Focus on the essential importance of removing from the system magistrates who do not meet one or some of the three constitutional criteria, has overlooked other important reform aspects such as new entries in the system, career development, improving the quality of work in the administration of justice, transparency, and enhancing independence and professionalism.

The Constitutional Court remains incomplete and the Supreme Court non-functional.<sup>70</sup> Also, a significant void has been created in courts of other levels, especially in appellate courts. We believe that delays in the consolidation of functional justice institutions is harmful and undermines public confidence.

The right to a trial within a reasonable time as set out in Article 6 of the ECHR obliges Member States to organize their legal systems in a way that enables the courts to comply with this obligation.

By its decision no. 6/2006, the Constitutional Court of Albania determined for the first time the position and direct effect of the Convention at domestic level, addressing: 1. the place that the Convention occupies in the legal system; 2. interpretation of the Convention and the ECtHR case-law; 3. the legal implications of the ECtHR judgements. Earlier, the Constitutional Court by decision no. 655/1999 had interpreted Article 17 of the Constitution which explicitly refers to ECHR standards when it comes to restrictions placed on individual rights and freedoms by State authorities, stating that "*... These restrictions shall not infringe on the substance of the rights and freedoms and in no case may exceed the limitations provided for in the ECHR.*"

The minimum standard for the protection of the ECHR rights and freedoms is compulsory to State authorities, but this does not preclude the domestic legislation from introducing a higher standard for the protection of individual rights.

Amendments introduced to the Civil Procedure Code through Law no. 38/2017 dated 30.03.2017 stipulates new aspects in terms of the optimal duration of court proceedings (civil, criminal and administrative cases, as well as enforcement of final decisions) and the competent court receiving the complaints for unjustified delays, specifically Articles 399/2 and 399/6. Article 399/2 of the Civil Procedure Code provides as follows:

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<sup>70</sup>Reference made to the period until 31.12.2020.

*“1. Reasonable timing for completion of an investigation, trial or execution of a decision with final force and effect, for the purposes specified in Article 399/1 shall be considered:*

*a) The completion of a trial, in administrative adjudication at first instance and on appeal, within one year of its starting in each instance.*

*b) The completion of a process in a civil trial at first instance within two years, in a civil trial on appeal within two years, and in a civil trial at the High Court within two years.*

*c) The one-year time limit of the procedure for the execution of a civil or administrative decision, except periodic obligations or obligations defined on time, shall start from the date of submission of the request for putting it into execution.*

*ç) The maximum time limit of duration of investigations under the Criminal Procedure Code, for investigations of criminal offenses.*

*d) In criminal trials at first instance, the time limit for adjudication of crimes shall be 2 years and for misdemeanors 1 year, the time limit of completion of a trial on appeal shall be 1 year for crimes and 6 months for misdemeanors, and the time limit of completion of a trial at the High Court shall be 1 years for crimes and 6 months for misdemeanors.”*

Further, a novelty introduced by these amendments is the right to request the ascertainment of undue prolongation of proceedings by courts, set out in Article 399/2, paragraph 2 of the Civil Procedure Code.

Even without the expiry of the above time limits, taking into account the complexity of the case, the subject matter of dispute, proceedings or trial, the behavior of the body conducting proceedings, and any other person connected with the case, when claiming delays in investigations, trial or execution of the decision.

In conclusion, it is the obligation of the competent constitutional institutions to fill the vacancies in the relevant courts, starting with the Constitutional Court up to the first-instance courts, in order to guarantee the right to a due process of law to citizens who have lost trust and hope that their cases will be disposed within a reasonable time.

### **3.7 Free legal aid<sup>71</sup>**

The right to access to justice is the constitutional principle which guarantees the exercise of fundamental human rights and freedom, as an essential prerequisite to the existence of the rule of law that leads the organization and functioning of justice in Albania. Free access to justice entails a public right that gives its holder the legal guarantee to be guided in seeking State protection, thus obliging competent judicial bodies to express themselves on his/her claims.

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<sup>71</sup>This field of law is covered by the Special Section at the People’s Advocate.

Access to justice is considered a crucial element of the right to a due process of law. The rule of law cannot be conceived without acknowledging to individuals their right and opportunity to address the court. This right is closely connected to Article 6 of the ECHR, implying not only the individual's right to address the court, but also the State's obligation to guarantee this opportunity to the individual.

During 2020, particular importance was attached also to monitoring and ensuring the compliance with the Law no. 111/2017 "On legal aid guaranteed by the State", considering the delayed establishment of the competent structures and issuance of implementing legislation and, on the other hand, the citizens' need to have this service guaranteed by the State.

Even the 2019 European Commission's Report for Albania highlights the delays in setting up these structures. Besides positive developments in the areas of legal aid and criminal legislation, the report notes that most cases involving vulnerable groups such as persons with disabilities, Roma, persons in economic hardship, etc. continue to be addressed by civil society with donor funds.

Several centers (NGOs) financially supported by donors operate in Albania and provide free legal aid in the context of time bound projects, seeking to enhance access to the justice system for individuals and groups in need.<sup>72</sup> People's Advocate is aware and appreciates the efforts of these NGOs to ensure access to free legal aid for groups in need and their initiatives to set up legal aid centers with the support of various donors, but on the other hand, the aim must be to make fully operational the State legal mechanisms provided in Law no. 111/2017, so that interested individuals benefit from State legal aid not only/mainly from NGOs specialized in this field.

For these reasons, the People's Advocate recommendations addressed to the Minister of Justice<sup>73</sup> focused on key issues including:

- complete the staff of the Free Legal Aid Directorate as provided in the Prime Minister's Order no. 59, dated 25.03.2019 "*On the approval of the set-up and staff structure of the Free Legal Aid Directorate*", considering that managers high and medium level management has a key role to play in administering, coordinating, and identifying needs/changes for improvements in the free legal aid delivery system (*implemented during 2020*).
- approve two draft instructions with the National Bar Chamber, specifically "On the criteria and procedures for the selection of lawyers who provide secondary legal aid services" and "On the rules for the application of the principle of rotation in the appointment of lawyers who provide

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<sup>72</sup>Such NGOs include: Center for Legal Civic Initiatives (CLCI), Albanian Helsinki Committee, "Res Publica" Center, Child Rights Center Albania (CRCA), Albanian Disability Rights Foundation (ADRF), Tirana Free Legal Aid Society (TLAS), "Streha" Center, etc.

<sup>73</sup>For further information on the relevant recommendation, see the PA official website.

<https://www.avokatipopullit.gov.al/media/manager/ëbsite/media/Rekomandohet%20marrja%20e%20masave%20p%C3%ABr%20garantimin%20e%20aksesit%20n%C3%AB%20drejt%C3%ABsi%20p%C3%ABrmes%20sistemit%20t%C3%AB%20ndihm%C3%ABs%20juridike%20n%C3%AB%20zbatim%20t%C3%AB%20ligjit.pdf>

secondary legal aid services", pursuant to Articles 9 and 24 of Law no. 111/2017 (*adopted in September 2020*).

- approve with the Ministry of Finance and Economy the instruction on remuneration of lawyers (*adopted in September 2020*).
- set up free primary legal aid centers, ensuring a fair geographical distribution. (*7 have been opened, but only one with State budget funds*).
- conduct info campaigns regarding the eligibility conditions and procedures to be followed for application, paying more attention to the problems of vulnerable groups, in order to increase citizens' access to free legal aid.
- authorize and list NGOs according to legal obligation, in order to provide primary legal aid (*12 NGOs have been authorized*).
- add law clinics at higher educational institutions based on relevant agreements nationwide (*10 of them have been opened*).
- hold broad consultations in the future on the priorities and improvements of free legal aid, with the participation of representatives from State institutions, civil society and stakeholders.

*People's Advocate recommendations were accommodated and implementing during 2020.*

Often, due to the name, many citizens perceive People's Advocate as a kind of agency that provides free legal representation service and not as an institution that oversees the observance of human rights by public administration bodies. Therefore, some requests basically consist of the need for legal representation in court cases where they are parties to. It is worth mentioning that primary legal aid has been provided and continues to be provided by the People's Advocate staff.

Primary Legal Aid Service Centers were increased during 2020. They are located in these cities: Lushnja (with State budget); Tirana (with OSFA support), Durrës, Lezha, Shkodra, Gjirokastra and Pogradec (with UNDP support). Also, the Primary Legal Aid Service Center in Fier operated during 2020 with foreign-donor funds such as UNDP and the Austrian Government targeted to vulnerable groups.

Leaflets have been prepared to provide information on application modalities, eligibility and procedures that beneficiaries must follow, paying particular attention to the problems of vulnerable groups, in order to enhance citizens' access to free legal aid.

12 NGOs were authorized in September 2020. These organizations cooperate with the Free Legal Aid Directorate. Financing remains their main problem and is expected to be approved under the 2021 budget.

The Ministry of Justice concluded cooperation agreements with 10 public and private higher educational institutions, but there is no financial support for them as it is not provided by law.

On the other hand, PA noted cases where court decisions granting secondary legal aid and exemption from court fees/expenses were not complied with by local bar chambers. Also, stringent criteria defined by law result in only a small portion of low-income group benefiting from free secondary legal aid.

Due to restrictions to prevent the COVID-19 spread, the first aid centers were closed, and some operations were suspended. The Ministry of Justice, in order to guarantee the access of citizens to free legal aid, continued to provide online services through the platform [juristionline.al](http://juristionline.al).

### **3.8 Rights of politically convicted and persecuted persons by the communist regime<sup>74</sup>**

The communist regime for almost half a century inflicted a large number of victims and committed grave violations of human rights and international humanitarian law. Many families have not been able to find the remains or discover the fate of their beloved ones. Most of the serious crimes and violations of human rights in Albania during the communist period have not yet been investigated or punished.

Despite several laws adopted for this category from 1991 onwards in Albania, they have not been enforced in the best way possible. In more than a few cases, these laws created contradictions and this category is far from integration, particularly in terms of the financial compensation underway. Drafting of laws/implementing legislation lacked effective consultation with victims and failed to ensure their participation in the development of compensation legislation.

Precisely, the Parliament adopted the Law no. 9831 dated 12.11.2007 "*On compensation of former political convicts during the communist regime*" and bylaws were implemented to approve the compensation distribution scheme for the political convicts during communism.

However, it is noticed that the compensation process has not progressed at the desired pace, for reasons related mainly to the lack of required funds, but also to frequent modifications to the legislation over the years and the failure to set a reasonable deadline for its completion. The Albanian State, by the restoration of a free and democratic society, has undertaken the commitment to establish a legal system for the protection of the fundamental human rights where Albanian citizens are guaranteed the exercise of these rights. Also, these rights must be recognized and fulfilled by the State within a reasonable time to enable the benefits resulting from such rights, i.e., the compensation in the specific case.

The Ministry of Justice, after screening the applications for which the administrative review has been completed and the compensation sum has been calculated, must send them to the Council of

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<sup>74</sup>This area of law is covered by the Special Section at the People's Advocate.

Ministers for approval, but there are often unjustified delays as application files remain pending for approval for years.

The Ministry of Justice justified these delays saying that it has to compile an extensive list of application files that must be sent for approval along with the draft decision to the Council of Ministers, as well as the insufficient financial funds.

We would like to highlight the fact that People's Advocate is aware of the necessary legal verifications and procedures to be followed and the insufficient funds available to the compensation. But, on the other hand, it is important to prioritize and promptly send for approval to the Council of Ministers those files for which verifications are complete and are awaiting approval of compensation under a DCM. Speeding up the compensation process for this category is a must, in order to avoid unnecessary delays in time and restore their rights denied over the years.

Articles 9 and 10 of the Law no. 9831 dated 12.11.2007 "*On compensation of former political convicts during the communist regime*" as amended, explicitly state that:

*"The Council of Ministers is the competent authority that approves the financial compensation in accordance with this law and, in its decision, indicates the identity details of the former political convict, the type of sentence, total sentence served in years, months and days, as applicable, the financial compensation sum and, if applicable, the full identity details of the family members of executed victims and their relevant compensation sum.*

1. *The Ministry of Justice is the competent authority that examines the applications for compensation under this law, in accordance with the rules set out in Chapter V of this law. **If the administrative examination concludes that the application is legally fair and founded, the Ministry of Justice shall propose to the Council of Ministers to approve the compensation.***
2. *The Council of Ministers shall examine the proposals received from the Ministry of Justice within two calendar weeks. Decisions shall be of immediate effect and are published in the Official Gazette".*

Also, the Ministry of Finance and Economy noticed problems related to the awarding of the third installment of compensation; this process is very sluggish and marred by problems often related to misinterpretation of the law and bylaws. The People's Advocate has followed this process closely and addressed a number of recommendations on individual issues.<sup>75</sup>

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<sup>75</sup>See the PA official website for further information on the relevant recommendations.

<https://www.avokatipopullit.gov.al/media/manager/ëebbsite/media/Rekomandohet%20d%C3%ABrgimi%20menj%C3%ABher%C3%AB%20p%C3%ABr%20miratim%20n%C3%AB%20K%C3%ABshillin%20e%20Ministrave%20i%20aktit%20n%C3%ABnligjor%20p%C3%ABr%20aplikimet%20p%C3%ABr%20d%C3%ABmshp%C3%ABrblim%20t%C3%AB%20ish%20t%C3%AB%20d%C3%ABnuarit%20politik.%20p%C3%ABr%20t%C3%AB%20cil.pdf>

<https://www.avokatipopullit.gov.al/media/manager/ëebbsite/media/Rekomandim%20p%C3%ABr%20marrjen%20e%20masave%20p%C3%ABr%20rishikimin%20e%20dosjes%20s%C3%AB%20d%C3%ABmshp%C3%ABrblimit%20t%C3%AB%20ish%20t%C3%AB%20d%C3%ABnuarit%20politik%20H.K.%20duke%20rivler%C3%ABsuar%20trash%C3%ABqimtar%C3%ABt%20dhe%20m%C3%ABnyr%C3%ABn%20e.pdf>

Meanwhile, *our recommendation to take organizational measures to issue the DCM on the approval of a special pension scheme for the interneers and displaced during the totalitarian regime remains unaddressed.*

### **3.9 Execution of civil and administrative court decisions<sup>76</sup>**

During 2020, the process of execution of some executive titles by the State or Private Bailiff Services and by authorities tasked by law to execute them on a case-by-case basis within a defined or reasonable time displayed problems in terms of compliance with the principle of legality.

In the process of *reviewing the 29 complaints* submitted to the People's Advocate, 7 of which were concluded in favor of complainants, some involved the violation of the fundamental right to a due process of law due to non-execution of executive titles within a reasonable time, as sanctioned in Article 42/2 of the Constitution or Article 6/1 of the European Convention on Human Rights. Although the process of execution of executive titles carries the same problems as in previous years, the authorities entrusted by law have not acted or failed to proceed with the execution within a time limit or a reasonable time. It must be mentioned that the compulsory enforcement of executive titles against private entities is more 'aggressive' and efficient compared to state entities.

During their compulsory enforcement of executive titles, both State and private bailiff services have shown the following:

- Lack of professional quality of authorities entrusted by law to enforce executive titles, demonstrated by their actions and omissions in the enforcement activity.
- Bailiffs lack adequate knowledge of civil and procedural legislation.
- Enforcement actions beyond the scope of execution, and misinterpretation of the court's holding (operative clause);
- Lack of willingness by bailiffs to impose sanctions as ordered in the final court decision or other persons in the execution process who refuse or enforce decisions incorrectly, fail to respect the deadlines or enforce the contrary of the court ruling.
- Failure by bailiffs to enforce executive titles against State institutions which must pay pecuniary compensation under a final court decision.

The People's Advocate clearly noted during 2020 that enforcement of pecuniary execution titles against public administration bodies remains a concern. Referring to the Civil Procedure Code, pecuniary debt is enforced in their bank account, in credit they have toward third parties and, in its absence, in the treasury account. Instruction no. 1 dated 04 of the Council of Ministers "*On enforcement modalities for pecuniary obligations of general government units in the treasury account*" bears problems of noncompliance with the constitutional principles, in our view, such as

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<sup>76</sup>This area of law is covered by the Administration Section at the People's Advocate

the right to a due legal process (Article 42 of the Constitution) or the obligation of State bodies to execute court decisions (Article 142/3 of the Constitution).

In our judgment, the stipulations in paragraphs 5, 9, 10 and 11 of the Instruction no. 1/2014 runs counter to Articles 116/1 and 118 of the Constitution, because they not only regulate matters that are already regulated by higher normative acts in hierarchy, but also exceed the limits and regulation scope granted by the normative act based on which this Instruction is issued.

Execution of court decisions against debtor State institutions has been hampered and continues to be hampered by the stipulations made in this Instruction.

Unlike previous years, the number of handled complaints involving failure by debtor State bodies to comply with the pecuniary compensation awarded by the court has been low.

In the process of reviewing the complaints, the PA noted irregular actions by the authorities entrusted by law to execute executive titles. Bailiff service and other authorities tasked by law to enforce them within a definite and reasonable time have not been subject to scrutiny by the Constitutional Court in 2020 because it was not operational.

From the complaints reviewed during 2020, the People's Advocate noted in some cases a persistent violation of the due process of law due to failed enforcement of executive titles within a reasonable time. This is the case in obliging State bodies both to pay pecuniary damage and in taking certain actions. Violation of the principle of due process of law is an indicator that competent institutions do not take measures to avoid this recurring situation.

This situation not only erodes public confidence in the delivery of justice, but generates financial bills eventually paid by taxpayers, which are not returned to them in accordance with the legal provisions of the Civil Code or other bylaws such as Instruction no.2 dated 06.02.2012 of the Minister of Finance "*On standard budget implementation procedures*", (Article 62); Instruction no. 1, dated 13.06.1997 of the Minister of Finance pursuant to the Financial Act no. 1, dated 13.10.1997, paragraph 7, which imposes the obligation on the head of the debtor institution to perform the audit of the entire process that triggered economic damage and take administrative sanctions and take legal (civil) action against the persons who caused the damage.

Failure to abide by the above legislation continues to infringe upon the property interests of each taxpayer in the Republic of Albania. Violation of the principle of a due process of law by the authorities tasked by law to enforce executive titles in Albania has been established even by the European Court of Human Rights in several of its judgements in 2020.<sup>77</sup>

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<sup>77</sup>Complaints no. 25038/08, 64376/09, 64399/09, 347/10, 1376/10, 4036/10, 12889/10, 20240/10, 29442/10, 29617/10, 33154/11 dhe 2032/12; Complaint no. 34602/16; Complaint no. 1175/06.

Complaints have continued for non-execution of court decisions in favor of former employees, especially in cases where the court ruled in favor of their reinstatement to office. In some cases, we drafted concrete recommendations to the institutions that became an obstacle to the execution of final court decisions, because the People's Advocate firmly believes that failure to execute final court decisions for many years with the justification that there are no same or similar positions to reinstate them in office has contributed to stalled justice delivery and even to an increased financial burden on the State.

Considering that the execution within a reasonable time of a final court decision should be considered as an integral part of the right to a due process of law, in the sense of the Constitution of the Republic of Albania and the European Convention on Human Rights, we will continue to monitor the implementation of Order no. 5151/1 dated 28.10.2015 of the Minister of State for Innovation and Public Administration for final court decisions against public administration institutions in the context of the Civil Service Law. The Constitutional Court jurisprudence states that it is up to the respondent to find an appropriate solution for the reinstatement of the public employees in office in order to put in place their right.<sup>78</sup>

In addition, the Constitution Court highlighted in its decisions that State authorities cannot justify their incompletion with a court decision awarding a financial compensation by the with the lack of funds.<sup>79</sup>

The issue of non-execution of final court decisions given by the courts in the Republic of Albania or the European Court of Human Rights within a reasonable time, remains of crucial importance for the rule of law, as it is related to the establishment, strengthening and development of a credible and respectful judicial system for all.

Prompt execution of court decisions is one of the main links of a democratic society. Failure by public administration bodies in the capacity of debtor to execute final court decisions within a reasonable time remains an issue that infringes upon the Article 142/3 of the Constitution of the Republic of Albania, Article 451/a of the Civil Procedure Code and the principles underlying the activity of public administration bodies.

From the process of reviewing complaints involving non-enforcement of executive titles during 2020, the People's Advocate underlines that the main cause leading to the violation of the right to a fair process is the Instruction no. dated 04.06.2014 of the Council of Ministers "*On enforcement modalities for pecuniary obligations of general government units in the treasury account*" which represents many problems as mentioned above. In order to improve this situation, the People's

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<sup>78</sup>See the Constitutional Court's Decision no. 2 dated 01.02.2011.

<sup>79</sup>See Constitutional Court's Decision no. 16 dated 04.5.2011; and ECtHR judgment of 18 November 2004 in the case *Qufaj Co sh.p.k. v. Albania*.

Advocate has intervened and will continue to do so with the competent bodies on a case-by-case basis to ensure full address of these findings and relevant recommendations.

Although the objective of the Government has been and is to prevent the accumulation of arrears, also expressed in the DCM no. 50, dated 05.02.2014, "*On the approval of the strategy on prevention and settlement of arrears and its action plan*", it turns out that this objective has not been achieved. In cases of paying the pecuniary award recognized by the court, the debtor bodies or institutions, continue to not regularly perform the procedures set out in Instruction no. 2, dated 06.02.2012 of the Minister of Finance "*On standard budget implementation procedures*", (Article 62), or in the Instruction no. 1, dated 13.06.1997 of the Minister of Finance pursuant to paragraph 7 of the Financial Act no. 1, dated 13.10.1997. Our monitoring found that the heads of LGUs as the responsible bodies for the execution of pecuniary awards granted by final civil decisions, never made an analysis of these civil court decisions in order to identify the administrative liabilities.

The process of enforcement of executive titles obliging State institutions to pay pecuniary compensation has been lingering for many years and warrants immediate measures by the central institutions, both in administrative and civil aspects, according to the level of responsibility of each liable individual. Compliance with the procedure set out in the above legal acts would ensure not only the return of State funds paid in respect of a civil court decision, but could also minimize the pecuniary obligations of State institutions.

### **3.10 Observance of the right to property<sup>80</sup>**

The issue of observing the right to private property sanctioned in Article 41 and 42/1 of the Constitution of the Republic of Albania and or Article 1 of Protocol No. 1 to the European Convention on Human Rights ratified through Law no. 8137 dated 31.07.1996 "*On the ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms*" continued to be problematic even during 2020, related to the legal framework and the public administration bodies that examine and guarantee this right.

The right to property has been in the focus of the People's Advocate activity during 2020, not only in handling received complaints but also in following up on legal acts issued by State bodies whose actions or omissions bluntly violated the property right of individuals/owners or a wider community group in various forms and ways.

The People's Advocate *processed 59 complaints during 2020* that resulted in a positive outcome after the PA intervention. Scope of complaints filed with the People's Advocate targeted mainly

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<sup>80</sup>This area of law is covered by the Administration Section at the People's Advocate Office.

the State Cadaster Agency (SCA), the SCA local offices, the Property Treatment Agency and Municipalities.

The complaints challenged actions or omissions by the above institutions concerning:

- failure to register immovable property, namely the Land Acquisition/Usage Acts;
- registration of property acquired in one of the ways provided in Article 193 of the Civil Code;
- acts issued by local government institutions for registration of construction land;
- legalization and registration of property built in urban and rural areas;
- equipment with cadastral acts for the assets registered in the cadastral registers;
- issuance of cadastral deeds for property registered with cadastral registers;
- double-standard approach in registering immovable property (State/private);
- significant difficulties and problems in the application on e-Albania portal;
- non-coordination of activity between the Central SCA and the Local Directorates and institutions that issued mandatory registration acts within the meaning of the *Cadaster Law* 111/2018.

During 2020, the legal framework on property rights was completed with the Law no. 20/2020 *"On the finalization of transitional processes in the RoA"* which aims to complete the registration of ownership deeds for State-owned and private immovable property within a short period, and to ensure their inventorying, transfer, handling and final registration.

It should be noted that in the draft-law phase, evaluations and opinions were given by both international organizations and local institutions which pinpointed ambiguity and noncompliance with property rights as guaranteed by the Constitution and the ECHR.

From the point of view of the People's Advocate, the law undertakes and aims to (i) formalize and finalize the registration of immovable property acquired under ownership laws and bylaws, mainly LAAs and LUAs (land usage acts); (ii) complete the issuance of ownership deeds to users of land from former cooperatives and former agricultural enterprises; (iii) legalize the illegal constructions where there are no ownership deeds for immovable property under possession or use, etc.

Once the law came into force, the institutions such as the SCA Local/Regional Directorates encountered difficulties in its implementation because it has been almost 1 (one) year from its adoption and the implementing legislation (bylaws) are not issued yet - which makes its implementation very difficult. Failure to complete the law with bylaws (14 provisions need to be supplemented by bylaws) comprises the main problem raised in the property rights complaints filed with the People's Advocate, namely:

- Lack of registration procedures for LAAs issued earlier (not registered with public immovable property registers);

- Lack of registration procedures for LUAs as a novelty introduced by the law;
- Correction, specification and adjustment of graphic surfaces of immovable property acquired by LAAs which often caused conflicts and ownership disputes;
- Completion of the process of legalization of illegal constructions or in violation of the permit - as one of the most important processes of the property right;
- Failure by LGUs to complete procedures for formalization and finalization of legal acts on land given for construction purposes;
- Lack of procedures for registration of construction permits which are in violation of the law;
- Lack of procedures for the production and finalization of the ownership act/deed for property that does not have a deed, or *yards in use*.

We emphasize that the breach and violation of the constitutional and legal rights of citizens through the actions or omissions of staff or certain units of Local Cadaster Directorates have come as a result of deficient knowledge of the law and its misuse in solving problems. The People's Advocate regrets noting that the situation in the protection of property rights has not changed since the 2019 final report submitted to the Assembly. The approach of these institutions to property registration issues remains the same, by disregarding the citizens' interest to become property owners and thwarting their right to obtain an ownership certificate.

People's Advocate received a significant number of complaints concerning the violation of this right. It is noted that the situation in terms of observing the procedural deadlines for service delivery to citizens is still far from expectations, even after the adoption and start of implementation of both the Law no. 111/2018 "*On Cadaster*" and Law no. 20/2020 "*On completion of transitional processes in the RoA*". This situation reported in the 2019 report continues to remain the same, if not more problematic.

SCA is the public authority responsible for the implementation of Law 20/2020, therefore, it is expected to discharge not only the duties entrusted to it under Law no. 111/2018 "*On Cadaster*", but also those under Law no. 20/2020 - which were previously fulfilled by several other public bodies. The increased number of duties, their complexity and the ambiguity of the legal provisions of Law no. 20/2020 has undermined and continues to undermine the principle of a due process of law in delivering legal process within a reasonable time. The legal deadlines set out in the SCA list of services, the Law no. 111/2018 "*On Cadaster*" or the Administrative Procedure Code are constantly violated by SCA local directorates; this runs counter to the principle of legality which is mandatory even in the meaning and application of Article 2 of the Administrative Procedure Code.

Incompliance with procedural deadlines in service provision is evident mainly in handling legalization files and applications for LAA/LUA registration. People's Advocate considers that failure to respond and handle cases within the deadlines set out in the law itself (Article 29) is also due to the introduction of online application via e-Albania portal; this complicated processing and

information retrieval in order to proceed with service delivery. Regarding noncompliance with procedural deadlines by SCA local directorates, the People's Advocate did address recommendations to the competent authorities and the SCA itself. Reactions to our recommendations have been rare and not exhaustive. SCA regional directorates, apart from giving information, not only do not implement our recommendations, but continue to act in violation of their organic law and the Administrative Procedure Code. Moreover, failure to issue ownership certificates for properties acquired under one of the forms established by law seriously undermines the principle of legal certainty and free disposal of property, thus hampering its free civil circulation.

The government did approve the bylaws pursuant to the Law no. 20/2020 *"On completion of transitional processes in the RoA"* for the provisions no. 9, 10, 34, 18, 21 and the provisions no. 30, 63 and 71 of the Law no. 111/2018 *"On Cadaster"*, but, the People's Advocate holds that they are confusing and take on to solve a multitude of legal situations involving registered or unregistered property, but do not clearly indicate the procedures to be followed by the possessor or owner and the role of the authority (SCA local directorates) in this case.

Relations of the People's Advocate with the SCA regional directorates on the presentation of information to address complaints/requests of citizens has been problematic, as in most cases the information was not provided or was unclear or incomplete. People's Advocate has asked the SCA to initiate disciplinary proceedings against those regional cadaster directorates and employees who breached their legal obligation to send information to the People's Advocate, causing delays in processing the file and difficulties in the administrative investigation initiated by our institution.

A current issue in the relations between interested subjects and the SCA is the definition in paragraph 6 of the DCM no. 389, dated 13.5.2020 *"On the approval of the list and tariffs of cadastral services"* which stipulates that *"All interested parties, including public institutions, shall submit the request for cadastral services online via the e-Albania platform. The service fee shall be paid once the interested party submits the request for service or at the moment of consent to receive the service through the notary"*.

Based on the above provision, the SCA does not accept requests/applications of interested parties to receive the service, unless it is filed online through the e-Albania platform. The meaning and application of paragraph 6 of DCM no. 389/20120 is incorrectly interpreted and applied by SCA that provides this service electronically only. This meaning and application of paragraph 6 contradicts the provision of Article 10/2 of the Administrative Procedure Code which provides that *"The public body shall promote the opportunity of the party to access the public authority electronically. This opportunity does not impose an obligation on the party to use electronic means of communication"*.

By this non-compliance with the legal obligation quoted above, the SCA activity runs counter to the principle of legality, providing active assistance and the legal obligation set out in Article 10, paragraphs 1 and 3 of the Administrative Procedure Code, namely:

- The public body shall ensure that all parties and other persons involved in the procedure are able to follow and protect their lawful rights and interests in as much effective and simple way possible. It shall inform the parties on their rights and duties, including all the information concerning the procedure and shall warn them on the legal effects for their actions and omissions.
- The public body conducting the administrative procedure shall ensure that the ignorance of the party does not lead to a deterioration of the protection of the rights and interests that the party has by law.

Another issue arising from the misunderstanding and misapplication of paragraph 6 of DCM no. 389/2020 is the request that the People's Advocate pay the fee when requesting information and explanations for matters under scrutiny. For solving these problems created by SCA, the People's Advocate addressed a recommendation<sup>81</sup> to the Council of Ministers and the SCA.

One of the main duties of the SCA - delivered in cooperation with the Regional Cadaster Directorates - is to start and complete the initial registration of immovable properties in areas where this process has not started or is not yet complete. This situation has caused major problems in property rights particularly in coastal areas, because legal or natural persons who possess immovable properties - in the absence of ownership deeds - are facing illegal activity and violation of human rights by local and central institutions regarding expropriation for public interest, because their property is being taken in violation of the expropriation law with the argument that it is not registered and certified.

SCA was established with the remit not only the registration of property titles produced by institutions which have had the right to issue property deeds, but also to manage the digital cadaster as an indicator and a positive step in preserving the cadastral records. But the lack of bylaws hampered the creation, collection and storage of digital data; this would guarantee the preservation and security of cadastral information.

As for handling complaints against the Property Treatment Agency in the context of the Law no. 133/2015 "On the treatment of property and the finalization of the property compensation process", the majority of complaints allege delays in the financial compensation process which has not yielded results and moreover the entities eligible for compensation have not yet received financial compensation. There is no exhaustive answer to this problem by the competent institutions, thus further aggravating the situation of the former owners concerning this financial

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<sup>81</sup>See this recommendation in the link below:

<https://www.avokatipopullit.gov.al/media/manager/website/media/P%C3%ABr%20zgjidhjen%20e%20disa%20problemeve%20t%C3%AB%20evidentuara%20n%C3%AB%20komunikimin%20me%20disa%20Z.%20Sh.pdf>.

benefit they are entitled to. Regarding the right to compensation, a Public Note was made under DCM no. 699 dated 30.10.2019, "*On transfer of ownership over plots of legalized objects and compensation of immovable property owners affected by it*" to announce the launch of the process in which immovable property owners affected by informal constructions may file compensation requests and submit their personal details. But owners affected by information constructions have not yet benefited any financial compensation under this DCM.

A recurrent issue highlighted also in the 2019 report is the *non-registration of over 26 thousand property deed*<sup>82</sup> under decisions rendered over the years by the former Property Restitution and Compensation Commission, or the former State Agency for Property Restitution and Compensation (today the Property Treatment Agency) that recognize ownership with the right to compensation (by former local immovable property registration offices that today are the SCA local directorates). This position contradicts the provision in Article 196 of the Civil Code and Article 24 of Law no. 111/2018 "*On Cadaster*". If this legal obligation had been respected, no immovable property could be transferred to beneficiaries under Law no. 7501/1991 "*On land*" etc. without first compensating the owner.

The former Property Restitution and Compensation Commission, the former State Agency for Property Restitution and Compensation (today the Property Treatment Agency) have not fulfilled and do not fulfill their obligation to send 26 thousand registration decisions - to the office that administers the immovable property register where the property is located – which recognized property rights and eventually awarded compensation.

One of the problems identified by the People's Advocate in previous years but which continues in 2020 is the State expropriation of private property for public interest. Public property expropriation for public interest in the Republic of Albania is regulated not only by the constitutional guarantees and the ECHR provisions, but also by the Law no. 8561 dated 22.12.1999 "*On expropriation and temporary use of private property for public interest*" (as amended by Law No. 20/2016, dated 10.3.2016) and its implementing bylaws. The latter has recently been amended by Law no. 11/2020 "*On some amendments and additions to Law no. 8561 dated 22.12.1999 "On expropriation and temporary use of private property for public interest", as amended.*"

It is ascertained that state administration bodies almost in all cases behave "arbitrarily" with the property rights holders/owners but also the possessors, because they are stripped of property rights without any advance compensation in the form of a just satisfaction within legal time-limits. Citizens feel powerless in the face of the coercive power of the State which in this case uses "force" against them, rather than in their defense. The State, through public administration bodies, should take care of the property interests of its citizens in the case of expropriation, taking into account the due process of law and their socio-economic needs. Indeed, the Constitution, the ECHR and

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<sup>82</sup>PTA 2019 annual report.

laws provide for restrictions on the right to property, but these restrictions must be legal, must be made in the public interest and must be introduced against fair compensation and based on the principle of proportionality. The notion of property expropriation and compensation involves not only registered assets but also those that have undergone a legal process, i.e., properties under legalization.

For this issue, the People's Advocate received 21 *complaints* by individuals who complain against competent authorities for violation of their right to a due legal process, as well as 6 *cases initiated ex officio by our institution*. From the complaints filed with us, for which we have addressed recommendations to the competent authorities, it is concluded that the compensation is recognized only to those individuals who have registered the property.

A problem raised in the complaints filed with the People's Advocate is the fact that even though private property has been taken in the public interest, delays in administrative procedures by institutions obliged to complete the documentation for the owners to receive the compensation are worrying and violate the right to a timely compensation. On top of this, there is the concern that authorities create unreasonable and groundless obstacles and delays in paying compensation – which is an additional cost that burdens the expropriated entities.

Meanwhile, no measures have been taken for the compensation of properties under legalization; even in cases where the ownership over a construction plot has been completed and the contracted price has been paid, still no measures were taken for the expropriation of the plot. State administration bodies justify this fact by saying that they have no confirmation of the land registration. Such a fact may be illustrated with the demolition of some buildings for the *implementation of the Project "Northern Boulevard and Rehabilitation of Tirana River"*.<sup>83</sup> This rationale and justification is not at all lawful and directly violates the property rights of citizens. State institutions in this case have not respected the principle of a due process of law, violating the right to housing and the right to family life, while these rights should be at the core of the activity of State administration bodies.

Even the Strasbourg Court in some judgments focusing on the problems of the compensation process has made it clear that the right to housing includes illegally constructed buildings and those lacking an ownership document. In *Bagdonavicius and Others v. Russia*, the Court held that the applicants had suffered an infringement of their private and family life and home. The judgment basically held that the State authorities did not consider whether the demolition of the applicants' homes was in accordance with the principle of proportionality, before proceeding with the demolition. State bodies during their administrative activity should take into account and refer to

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<sup>83</sup><https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20ndaj%20IMT.%20DVASHK%20Tirane.%20projektit%20E2%80%9CBulevardi%20Verior%20dhe%20Rahabilitimi%20i%20Lumit%20t%C3%AB%20Tiran%C3%ABs.pdf>

these decisions which over the years have burdened the State budget and consequently the Albanian taxpayers too.

State administration bodies should lead by example in the application of the principle of legality, where legality means strict and unconditional compliance with the Constitution, laws and bylaws by all State administration bodies, officials, social organizations and citizens in the Republic of Albania. Article 9 of the Administrative Procedure Code stipulates that public administration bodies shall carry out their activity in accordance with the Constitution of the Republic of Albania, international agreements, laws and within the remit and powers given to them, as well as in accordance with the purpose for which they are given these powers.

The application of the principle of legality, in addition to being expressly provided for in the Constitution in Articles 116 and 118 thereof, is a prerequisite to the existence of the rule of law. Legality means *inter alia* the guarantee of human rights, but this does not seem to have been the case with State institutions such as municipalities, the State Cadaster Agency, IKMT (National Territory Protection Inspectorate), the ministry responsible for expropriations and so on. In conclusion, we highlight that the expropriation of private property in the public interest is a sensitive/delicate restriction in constitutional law. These restrictions must be treated with due care and be in the attention of State institutions so that the individuals do not perceive them as arbitrary.

### **3.11 Regulation of labor relations and observance of the right to due process of law in administrative proceedings<sup>84</sup>**

Managing labor relations in public administration and respecting the right to a due process of law in administrative proceedings, have been among the areas in which People's Advocate has invested much effort through in-depth administrative investigations and recommendations, due to complaints filed by employees themselves who had been released from office, transferred, suspended or received disciplinary sanction, but also given the unusual situation created by the COVID-19 pandemic in our country. During 2020, *a total of 63 cases/complaints related to labor relations were handled, of which 43 resolved in favor of citizens.*

People's Advocate considers that proper regulation and management of labor relations in the public administration - both for employees whose employment is regulated by the Labor Code provisions and for civil servants whose employment is regulated under the Civil Service Law - is extremely important to guarantee the creation, operation and sustainability of a public administration based on the principles of equal opportunities, non-discrimination, merit, transparency, professionalism and political impartiality.

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<sup>84</sup>This area of law is covered by the Administration Section at the People's Advocate Office.

People's Advocate found on several occasions that public administration bodies display lacking understanding and enforcement of appropriate principles and procedures to ensure respect for the right to a due process of law in administrative proceedings, not only in employment relations but also in general. In some cases, we concluded that administrative procedures were unclear and incomplete, failing to ensure the safeguards for the observance of the principle of clarity and legal certainty - which is one of the key principles in administrative procedures, especially in cases where the administrative procedure directly violates a legitimate interest and right of the party such as the right to employment and, consequently, to social and economic well-being.

The due process of law, guaranteed as a fundamental human right also applies to administrative proceedings, despite not expressly provided for in the horizontal law on administrative proceedings (Administrative Procedure Code). This right is fully reflected and embodied through the essential elements of this principle that are legality, transparency, information, proportionality, fairness and impartiality, objectivity, use of language recognized by the subject, right of access and representation, right to access to information, right to be heard, adversarial proceedings, reasonable time, reasoning of decision-making, right of administrative and judicial appeal, etc. The right to a due process of law in administrative proceedings, sanctioned by the European Convention on Human Rights (Article 6) and the Constitution of the Republic of Albania (Article 42), is a fundamental constitutional principle already confirmed by the jurisprudence of the Constitutional Court of Albania, which serves as a safeguard for subjects of law from actions or omissions of State government bodies, extensively reflected in the Administrative Procedure Code which is the horizontal law that regulates the organization and functioning of administrative activity and public administration as a whole.

In cases where People's Advocate assessed that there is room for improvement of administrative procedure - after careful analysis of the explanations and documentation sent by the institutions - it has issued the relevant recommendations.<sup>85</sup> In this context, in the labor relations in particular and legal relations in general, the People's Advocate recommended<sup>86</sup> several times that institution conducts an analysis of concrete cases (factual circumstances) and drafts comprehensive and detailed reports on the extent of responsibility at the hierarchical level among their units concerning the appointments and dismissal/releases of complainants in contravention of the law. This serves at least to pinpoint the responsibility at the hierarchical level of the institution by fairly placing responsibility on the relevant persons.

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<sup>85</sup><https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20lidhur%20me%20p%C3%ABrmir%C3%ABsimin%20e%20procedurave%20t%C3%AB%20mira%20administrative%20n%C3%AB%20kuad%C3%ABr%20t%C3%AB%20respektimit%20t%C3%AB%20t%C3%AB%20drejt%C3%ABs%20s%C3%AB%20qytetar%C3%ABve%20p%C3%ABr%20nj%C3%AB%20proces%20t%C3%AB%20.pdf>.

<sup>86</sup><https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20kryerjen%20e%20nj%C3%AB%20analize%20t%C3%ABr%C3%ABsore%20lidhur%20me%20rastin%20endjekur%20me%20iniciativ%C3%ABn%20e%20Avokatit%20t%C3%AB%20Popullit%20p%C3%ABr%20heqjen%20e%20punonj%C3%ABsve%20nga%20puna.pdf>.

The need to intervene in solving these issues through recommendations stemmed *inter alia* from the fact that the documentation made available to the People's Advocate about complaints is missing the concrete administrative act. The expunged act would serve to identify the methodology used by the institution in its decision-making, or actions taken to identify responsibility across the hierarchy levels that caused the violation of citizen's rights. Often, failure to conduct reasoned analysis has prevented a fair decision being made for the citizen.<sup>87</sup>

Specifically, the main issues in labor relations in the public administration identified from the filed complaints or cases initiated *ex officio* by the People' Advocate involve:

- Complaints/cases related to unfair dismissal/removal from office;
- Complaints/cases related to appointment procedures in public administration;
- Complaints/cases of unfair transfer to another position;
- Complaints/cases related to the implementation of the institute of suspension of relations in the civil service;
- Complaints/cases related to restructuring of public administration institutions;
- Request/complaints for the execution of final court decisions on the reinstatement of civil servants in office.

In the course of the administrative investigation procedure followed by the People's Advocate, we have requested explanations and documentation from the public administration institutions, in order to check the possibility for restoration of violated rights – in those cases where violation of legislation or procedure were found.

For complaints related to unfair dismissal/removal from office, we have asked institutions to provide the legal grounds underlying such dismissals/removals, including the personal file of the civil servant/employee (which, frankly speaking, rarely was made available). We also requested copies of the documentation showing the administrative procedure followed by the institution. The bulk of complaints involve redundancy due to restructuring, affecting employees whose labor relations are regulated by the Labor Code or the Civil Service legislation.

Functioning of the restructuring commissions remains a matter of concern, especially in terms of weighing the criteria related to seniority or socio-economic conditions of laid-off employees. By considering restructuring a justified reason, many public administration institutions have ordered the immediate termination of employment relations. In the view of the People's Advocate and from the analysis of the applicable legislation governing labor relations, in this case Law no. 7961 date 12.07.1995 "Labor Code", as amended, it is the Articles 153 and 154 that cover the immediate termination of the employment contract on justified grounds. In our recommendations, we highlighted the fact that restructuring, and job cuts are not a justifiable cause under the

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<sup>87</sup><https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandohet%20marrja%20e%20masave%20urgjente%20p%C3%ABr%20furnizimin%20me%20uj%C3%AB%20t%C3%AB%20pijsh%C3%ABm%20brenda%20kushteve%20hi%20gieno-sanitare%20p%C3%ABr%20banor%C3%ABt%20e%20fshatit%20Bogdan.%20Nj%C3%ABsia%20.pdf>.

aforementioned provisions to immediately terminate the employment contract. Although exhaustive dismissal arguments, analyses and implications were requested by us several times, it turns out that the institutions have not conducted any concrete analysis to see whether the termination has been effective both in service provision to citizens and in overloading the reduced staff. The analysis should also include the compensation bill behind dismissals from office, in order to reduce such financial item burden on the State budget. This missing analysis has prevented a fair decision on dismissals in most cases.

People's Advocate was maximally engaged during 2020 to give its institutional contribution to any initiative, analysis or matter that seeks to expand or even guarantee space to individuals to exercise their fundamental rights and freedoms in accordance with the Constitution, international treaties and the applicable domestic legislation. Public administration should continue to implement transparent and merit-based administrative procedures in the recruitment, transfer, suspension and dismissal of civil servants/employees in State bodies.

In particular, the issue of dismissals will continue to represent the core of the People's Advocate activity, with the aim of contributing to the improvement of work and the creation of a model public administration that functions according to European principles. People's Advocate has consistently been confronted with lack of cooperation from many of the public administration institutions, which obstructed its work and created difficulties in handling cases/complaints within the shortest time possible.

People's Advocate has attached priority also to the problems and serious concerns raised by the employees of the Deep Oil Refining Plant and the Pumping Station and Sub-Power Station in Poçem regarding the delay of monthly wages by their employer. This pushed the workers to the extreme, who went on hunger strike to raise awareness and make the State authorities react and solve this issue – vital to them and the future of their families - within the applicable legislative framework.

Representatives of the People's Advocate visited and contacted these employees on 18.02.2020 at the premises of the hunger strike. We noted that their situation was serious and warranted maximum engagement by State structures.<sup>88</sup> In the course of addressing these concerns, the People's Advocate sent an official letter to the Ministry of Infrastructure and Energy

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<sup>88</sup>It should be noted that the employees of the Water Pumping Station and the Electric Substation located in its vicinity in Poçem, exercise and fulfill a vital and important task for the town of Ballsh and the surrounding villages, as they supply drinking water and electricity not only to this area, but also to the Deep Oil Refinery. Refusal and interruption of the provision of such a service directly affects the life of the community and constitutes a criminal offense under applicable criminal law. Both the companies that privatized this Refinery and their subcontractors over the years presented themselves as employers of these employees. Simultaneously, reports indicate that the State still owns 15% of the shares in this enterprise, and in this context, can and should exercise control over compliance with the applicable framework, in order to protect the rights and interests of the Employees who are being denied payment for work performed. The employees told PA representatives that they also addressed their request of 30.01.2020 to the State authorities, including the Ministry of Infrastructure and Energy, but the concerns raised therein had not been handled.

recommending the examination of their requests and problems, the regulation of civil legal relations between the beneficiaries of the assets of ARMO sh.a. and suppliers of vital services to citizens and the establishment of a working group to identify the outstanding obligations arisen over the years in the benefit of the staff of both companies and that the Ministry of Infrastructure and Energy - in the capacity of shareholder - execute these obligations of the contractors or subcontractors.

After the insistence and efforts of the People's Advocate and the strong reaction of the strikers, there was a positive response by the Government which vouched to award them the salaries for one year.

### **3.12 Right to a healthy environment<sup>89</sup>**

People's Advocate continues to treat with priority the environmental situation in the Republic of Albania and the compliance with the respective legislation by central institutions and local government bodies.

During 2020, despite the severe pandemic situation, we had a special focus on the rigorous implementation of laws and bylaws, in order to contribute to the improvement of the environmental situation in Albania and guarantee the standards of a healthy environment as much as possible.

People's Advocate handled *50 cases in total* against public administration bodies entrusted by law with the environmental protection and the promotion of a clean and healthy environment, including a significant number of cases initiated by us to ensure compliance and promotion of national and international environmental protection standards and a clean environment.

In this context, we can highlight the cases initiated regarding the environmental massacre on Mount Lunik, the environmental pollution in the Zharrzë from oil extraction activities, the problem of informal waste disposal site in Babica e Madhe village, the pollution of Durrës city invaded by waste, the concern of the inhabitants of Shën Pjetër village, Fier, regarding the infection source from sewage dumped into the Dead River, the discharge of wastewater into the Fan River by the copper enrichment plant, the urban waste in Lushnja city, the contamination and incineration of waste at the former aviation field in Vlora and many other cases across Albania.

The People's Advocate sent a recommendation to the local government bodies and the Hospital Directorate in Dibër regarding the hospital waste dumped along the national road near Peshkopia city. This case was initiated *ex officio* upon media reports indicating the indiscriminate dumping of hospital waste in public places that was not administered by competent authorities according to

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<sup>89</sup>This area of law is covered by the Administration Section at the People's Advocate.

the rules. Following up on our recommendation, we received official responses from the competent bodies about their concrete measures to address this problem and recycle the waste.

Our observations indicate that the persistent cause of contamination is precisely the inactivity of State authorities tasked by law in taking measures against various companies that cause environmental contamination.

People's Advocate confirms the importance that should be placed on the situation and protection of the environment in Albania. Environment is one of those areas requiring special attention and cooperation among all factors, in order to guarantee health protection and increased quality of life for the present and future generations.

People's Advocate takes the opportunity to call again on State authorities to respect and guarantee the right to a healthy environment for citizens even during the reconstruction already taking place in areas affected by the tragic earthquake of 26 November 2019. Reconstruction plans and projects must be in synergy with the environment and must guarantee individuals a healthier and more sustainable environment, in accordance with the Sustainable Development Goals proclaimed by the United Nations in the 2030 Agenda.

### **3.13 Consumer protection<sup>90</sup>**

During 2020, the management and observance of civil rights have been among the areas in which People's Advocate engaged by conducting administrative investigations and giving recommendations, also due to complaints filed with it.<sup>91</sup>

Building institutional cooperation requires real and effective inter-institutional commitment which the PA institution in some cases, frankly speaking, did not find in the Power Corporation (OSHEE) and the Water Utility. We noted that their findings/explanations were vague and incomplete, without creating the safeguards for observance of civil rights. In this sense, People's Advocate considers that proper regulation and management is extremely important to ensuring respect for the rights of the citizen.

In cases where the People's Advocate identified the need for improvement of procedures and reinstatement of infringed rights - after careful analysis of the explanations and documentation sent by the institutions, it has issued the relevant recommendations.

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<sup>90</sup>This area of law is covered by the Administration Section at the People's Advocate Office.

<sup>91</sup>People's Advocate handled 31 cases in 2020.

The need to intervene and solve these issues through recommendations is triggered *inter alia* by the fact that the documentation made available to the People's Advocate concerning complaints often lacks arguments. Arguments would serve to validate the actions taken to identify responsibility at all levels of the hierarchy that caused the violation of citizens' rights. Often the failure to conduct reasoned analyzes has hindered fair decision-making for the citizen.

The People's Advocate during 2020 maximally engaged in giving institutional contribution to any initiative/complaint in order to guarantee individuals the space to exercise their fundamental rights and freedoms. As mentioned above, lack of cooperation by OSHEE and the Water Utility has been persistent, leading to obstruction of our work and making the expedited review of cases/issues difficult.

Article 56 of Law No. 9902, dated 17.4.2008 "On consumer protection", as amended vests the People's Advocate with a special role in the protection of legitimate interests and rights of consumers, both in filing individual complaints and the cases initiated *ex officio* where the interests of a wider community are affected. The People's Advocate continues to receive mainly for alleged overcharging in electricity and water bills, flat-rate bills, inaction by operators to citizens' complaints, missing meters, economic inability to pay for the service and the quality of services provided by them.

The fundamental right to basic services such as electricity and drinking water services represents a fundamental freedom, incompliance with which construes a serious breach of human rights. A part of the territory of Albania, especially rural areas, still continues not to be supplied or partially supplied with drinking water, thus making it very difficult for residents to have a decent living without such basic service. This problem has had a great impact on the quality of life of citizens after the earthquake damage in November 2019. Increased investment in this area and the development of service-provision models in accordance with the evolving needs of the community would enable the achievement of the sustainable development goals.

In particular, measures must be taken to protect consumers in need, including measures to facilitate and prevent interruption of electricity and water supply. In some complaints, energy and water supply operators instruct citizens to settle their outstanding bills under an agreement as the only mitigating opportunity to settle the accumulated debts, but without analyzing and solving the problems at the core.

In light of the above, despite annual/transparency reports stating that institutions must upgrade performance, enhance quality, protect consumers and persons in need, ensure transparency and access to information, amongst others, still the consumer does not find them effectively and legally embodied. Unsolicited public information, *inter alia*, must be complete, accurate, up-to-date, simple to consult, understandable, easily accessible, and compatible with the original documents in the possession of the authorities.

### 3.14 Observance of rights related to the local government<sup>92</sup>

Local government units play a key role in promoting and protecting human rights. Local government has different forms and functions depending on the constitutional and legal system of a given state. One of its important functions is to provide public services that address local needs and priorities in relation to the realization of human rights at local level.

The role of local government in preventing inequalities and in promoting and protecting human rights is now becoming more crucial than ever. Their actions are essential to preserving civic space and freedom of expression, to ensuring access to basic services and to improving urban planning. This role of local government is already recognized and confirmed in many acts of international organizations, including resolutions adopted by the UN Human Rights Council.

#### ➤ *Right to housing*

The right to housing is one of the most important fundamental human rights, directly related to the right to life and health. Right to housing is included in a significant number of international law treaties.<sup>93</sup> The Universal Declaration of Human Rights provides in Article 25.1 that: "*Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing [...]*". Similarly, other important international conventions sanction the importance of maximum respect and guarantee of this right.<sup>94</sup> The Convention on Economic, Social and Cultural Rights also calls for all necessary measures to be taken to promote the realization of the right to adequate housing. The right to housing should mean not only rent, but also the costs associated with housing (such as energy and water) should be determined in such a way that the rest of a person's income is sufficient to meet other basic needs. The State should guarantee legal protection for housing and provide a basis for progressive fulfillment of all aspects of the right to adequate housing.

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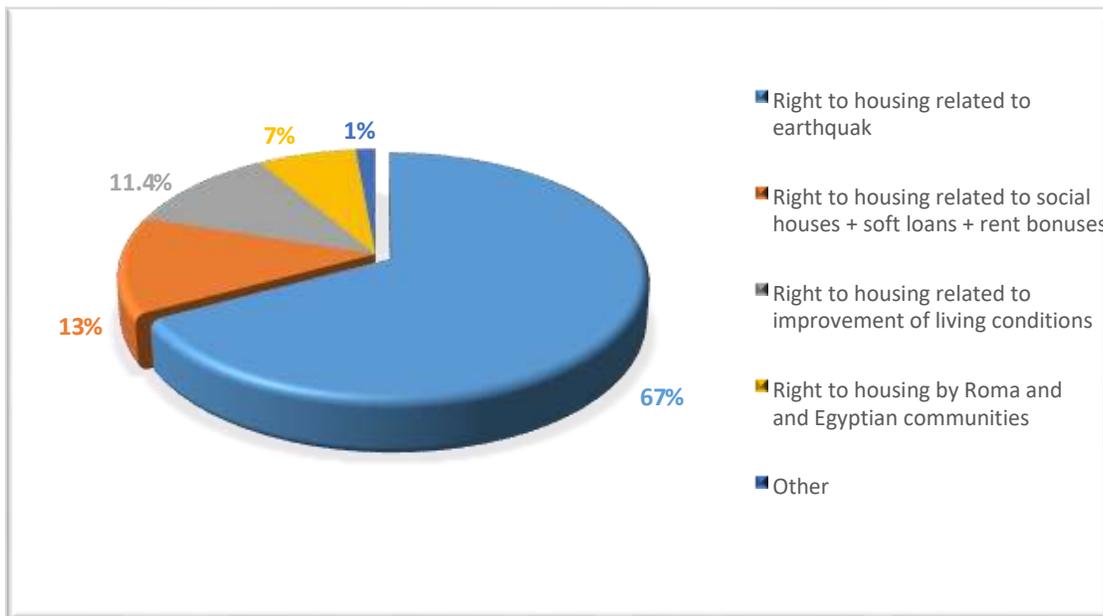
<sup>92</sup>This field of law is covered by the Administration Section at the People's Advocate Office.

<sup>93</sup>This right has been reaffirmed in a number of international instruments: Convention on Economic, Social and Cultural Rights requires Member States to take all necessary measures to promote the realization of the right to adequate housing. Other treaties, such as the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and Convention relating to the Status of Refugees contain provisions on the right to housing.

<sup>94</sup>European Social Charter and the Revised European Social Charter, ratified by Law no. 8960 dated 24.10.2012, stipulate in Article 16 - The right of the family to social, legal and economic protection that: "With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means." Article 31 – The right to housing of the European Social Charter stipulates that: "With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: 1 to promote access to housing of an adequate standard; 2 to prevent and reduce homelessness with a view to its gradual elimination; 3 to make the price of housing accessible to those without adequate resources".

People's Advocate has played a proactive role in giving opinions and comments on draft-legislation with the scope on the right to housing, and in the administrative investigations of handled cases.

During 2020, our institution handled a considerable number of cases involving the right to housing. Expressed in percentage, cases focusing on this right account for about 10% of all cases handled by the Administration Section. These cases involve various issues but most of them entail the problems caused by the earthquake of 26.11.2019. From the total issue raised, 67% relate to consequences of the earthquake, 13% to the right to housing in terms of eligibility for social housing, soft loans and rent bonuses, 11.4% to the improvement of living conditions in provisional shelters. Problems related to the right to housing of the Roma and Egyptian communities account for 7% and those related to the violation of this right account for about 1%. See below the graphic distribution of cases related to the right to housing, according to the issues addressed.



Graph: Distribution of cases involving the right to housing.

During the administrative investigation of these cases in 2020, most of them evidently have to do with problems caused by the earthquake in November 2019.

The People's Advocate has continued to follow closely the concerns of citizens affected by this disaster. Our attention is reflected in the considerable number of cases we initiated *ex officio* during 2020 and made public in the print and visual media. In addition, we have handled the complaints filed by the persons affected by this natural disaster.

From the total number of cases handled by our institution during this year, some continue to be under administrative investigation because we are expecting the replies from the competent

institutions. We asked them for information and explanations by addressing the concerns raised by the complainants for alleged breach of their legitimate interests and rights. The rest is already disposed of as they involved the rent bonus – that was granted during the administrative investigation - or other problems that found a solution.

Problems related to the consequences of the earthquake continue to feed complaints with our institution and media features about citizens' complaints against the activity of competent institutions. From the complaints submitted to the People's Advocate and those published in the media during 2020 (although many of them are still under administrative investigation), we may draw some conclusions beforehand such a“

- Complaints involved the approval of the rent bonus, adequate housing and lack of assistance from the responsible State institutions. Some citizens raised the concern that they did not get a rent bonus which made their lives even harder. The earthquake had an enormous impact on their livelihoods, especially in rural and suburban areas, which are predisposed to becoming poorer, as in most cases their income is generated from livestock and seasonal work.

The level of responsibility displayed by State authorities towards these affected populations remains a concern. It is noted that the affected residents in remote rural areas have not received sufficient information or support from the competent authorities – either local or civil protection authorities - in response to the earthquake, or accommodation in a suitable shelter. Although more than a year has passed since the earthquake, residents in these areas spent the winter and other seasons in extreme temperatures, in tents and in extremely harsh conditions. The pandemic further aggravated their economic and health situation. Living in tents or similar shelters does not meet even the minimum living conditions. If we refer to Law no. 22/2018 "On social housing"<sup>95</sup> and particularly its Article 4, we note that this law sanctions the principle of adequate housing. For housing to be considered adequate for an individual or family, according to this law, it must guarantee privacy and a safe, peaceful and decent life. Housing is adequate if it meets:

- a) sufficient living space according to housing norms and construction standards, defined in the applicable laws and bylaws;
- b) basic services within the residential premises;
- c) resilience and safety from risks arising from human actions or omissions, natural and climatic factors;
- d) access to utility services, such as drinking water and electricity supply, wastewater disposal and waste management;
- e) access to employment services, health and social care services, education and other community services;
- f) adequate access for people with disabilities, the elderly and children, facilitating their accessibility needs.

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<sup>95</sup>The scope of this law is to determine administrative rules and procedures governing planning, management and distribution of social housing programs in order to create opportunities for adequate and affordable housing based on the paying capacity of families in need of housing and on the assistance by competent State bodies.

Another problem noted during 2020, is the fact that some residents affected by the earthquake are living in tents or other similar inadequate shelters, even though they benefited from the rent bonus, they are forced to use it for medicaments and food during the pandemic period. According to them, the State authorities/municipalities did not come to their aid to alleviate their living conditions during the pandemic, thus depriving them of adequate housing.

In order to rebuild the houses damaged by the earthquake, the International Conference of Donors was held on 17 February 2020 to mobilize support for Albania after the devastating earthquake of 26 November 2019, where donors pledged commitments in significant amounts. The Albanian Government must be commended for its efforts to collect these funds. Even other donations collected by various individuals or organizations in support of the reconstruction became part of the Reconstruction Fund. But what brings concern and is to be noted is the fact that these funds have not been used to the maximum and in the shortest time possible. While funds are in place, the reconstruction plan has progressed at a slow pace even though it has been about a year since the expression of interest to donate. In its public appearances, the Albanian government promised to rebuild the apartments by the end of 2020, but fell short of meeting this time-limit.

These funds should have been used with priority and in real time. We even estimate that efforts should have been taken to identify and handle with priority the families and individuals who continue to live in tents, in extremely difficult conditions. Our institution is examining many *ex officio* cases and complaints by residents affected by this disaster, where family members complain that they continue to live in tents or damaged houses, and nothing has been done yet to rebuild their homes. Moreover, the pandemic situation caused by COVID-19 has further aggravated the situation of these families. Living in tents or equivalent shelters does not allow them to take actions against the virus.

Shortage of water and electricity supply and the limited spaces to maintain social distance, amongst others, have made their living extremely difficult. The competent authorities should have taken measures and treated with priority this category of families and individuals living in poverty and shelters that pose a risk to their lives and health in this unusual pandemic situation. For this problem, the People's Advocate initiated the administrative investigation for many cases and will express its position once these are completed.

Other identified problems related to the right to housing are as follows:

- Lack of solution for homeless people who live in poverty and cannot afford living expenses in the absence of local government subsidies, soft loans.
- Implementation of the low-cost housing program for Roma and Egyptian families continues to draw concerns and requires more commitment and accountability from the responsible institutions. Forced eviction of these vulnerable groups from their settlements and the delay of procedures by State structures permanently violates their right to housing. Regarding this

category, a persistent concern - and the administrative investigation has continued during 2020 – is the handling of self-declarations submitted by some Roma and Egyptian families in Unaza e Re (new ring road) by SCA local offices.

- The inability of the poor to benefit from the low-cost housing program and their unaffordability of this program due to the extremely long and costly bank procedures for this purpose remain a concern. The social rental housing program focuses on low-income families, but people living near or below the poverty line cannot afford it.
- The housing subsidy program is the smallest one, but it is seen as a temporary solution to housing problems. Social housing programs need to be further expanded to meet the needs of vulnerable groups and must be reoriented to disadvantaged groups.
- It is necessary to improve the living conditions in the buildings adapted for housing by competent institutions which should provide this category with adequate and decent housing.
- Another issue addressed by our institution on housing, during this year has been the forced eviction of owners from homes in the process of legalization in the area of *Bregu i Lumit* and failure to provide adequate housing to this category.

From the above, the People's Advocate has addressed recommendations to the competent institutions, but we do not have a definitive and exhaustive answer on this issue. Some local government units say that they have financial difficulties for the construction of social houses, or even for the provision of other programs such as the rent bonus or the reconstruction of social houses.

Overall, it is concluded that the principle of adequate housing has been violated. The legislation stipulates that no one can be denied the right to receive housing in one of the social housing programs.

➤ *Right to public services*

In the context of citizens' rights to receive public and economic services, the People's Advocate has demanded respect for these rights by the relevant institutions that have the obligation to provide public services. Therefore, through the recommendations, they were asked to act positively in taking the necessary steps to guarantee and ensure the provision of services that have an impact on safety and protection of life.

It is worth mentioning in this regard the most usual complaints received by our institution invoke infrastructure problems such as the quality and maintenance of roads not in line with defined standards, or shared public premises that do not meet the norms of living in a community.

From the point of view of the People's Advocate, the right to a normal environment and infrastructure besides allowing for economic development, also serves the best to the social and cultural development of individuals.

➤ *Activity of IKMT and IMT*

The National Territory Protection Inspectorate (IKMT) and the Territory Protection Inspectorate (IMT) at the municipal level are the main authorities whose functional duties include ensuring compliance of development (construction) norms, standards and conditions in the territory, as well as protecting the territory from illegal constructions. Their jurisdiction and powers are laid down in the Law no. 9780 dated 16.07.2007 "*On inspection and protection of territory from illegal constructions*", as amended. Both these authorities are vested with decision-making/executive powers ranging from imposing fines and suspension of construction works up to demolition of illegal constructions.

During 2020, the People's Advocate *received 67 complaints related to the activity and duties of IKMT at the national level and of IMTs operating at the municipal level. 20 were addressed against the IKMT and 47 against IMTs.*

The scope of these complaints relates mainly to the violation of legal procedures during the process of demolition of buildings by IKMT, which intervened to clear up the land for the implementation of major public projects, or came to the aid of IMTs which lacked logistics and means to intervene – as the intervention in Velipoja just before the summer season. In the case of IMTs, complaints allege that they exceeded their decision-making power when proceeding with the demolition of buildings which were still under the legalization process with the SCA local offices; inaction and delay in procedures to ascertain and sanction illegal constructions; inaction in the execution of decisions for demolition of illegal buildings.

During 2020, the People's Advocate elaborated and sent two recommendations to Tirana IMT on findings and problems that construed violation of the right to property in the area of the former Train Station without a due process of law, in the context of the implementation of the Project "*Tirana Northern Boulevard and relevant civil works*".<sup>96</sup>

Also, another recommendation was sent to Tirana IMT concerning the violation of the property rights and failure to observe the legal procedures involving a lawful construction equipped with ownership documentation in the *ish-Selvi* area, where IMT proceeded with forced demolition to pave the way for the implementation of a public-interest project. Besides the established violations and recommendation to seek extra-contractual compensation, the complainant has already initiated court proceedings.

The pandemic situation in Albania has played a negative role in the field of illegal constructions - fueled by the impossibility of action due to movement restrictions but also the unwillingness of competent authorities camouflaged under this regime of limited movements. So, there was a

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<sup>96</sup>See Recommendation for this case in: <https://www.avokatipopullit.gov.al/sq/articles/administrativecases/pronat/rekomandime-mbi-shkeljet-ndaj-pronave-2020-530/>

massive reactivation of illegal constructions across the entire territory during this period, which resulted in a lot of complaints.

Our examination of these cases found these key issues:

- Lack of transparency by these bodies during proceedings initiated against citizens, without notification or prior notice on the decision-making underlying the upcoming interventions. This interfered with the complainants' right to a due process of law.
- Delays and lack of information in complying with the vertical legal obligation of IMTs to report to IKMT.
- Missing response by IKMT as a body checking/filtering, the legality of decisions made by other bodies, in the context of the principle of legality in construction inspection. The concrete administrative procedure to be rolled out by IKMT on a case-by-case basis must include active investigation by IKMT - as an indispensable element – into the facts, evidence and procedures followed earlier, in order to prevent the violation of the law.
- Failure to check the existing application procedures with SCA on the legalization of constructions prior to their demolition or to make the demolition decision. This omission runs counter to Article 66/1 of the Administrative Procedure Code.
- Financial damage caused by IKMT or IMTs during the demolition of legal constructions included in public-interest expropriation process but for which the compensation is yet to be given, represents extra costs and places the activity of these bodies in the situation provided for in the Law no. 8510 dated 15.07.1999 "On the extra-contractual liability of public administration bodies" as amended.
- Lack of cooperation during procedures undertaken by PA to handle and investigate concerns presented by various individuals, by causing delays in the administrative examination of many problems in the activity of these important bodies tasked with ensuring legality over the territory.

### **3.15 Observance of the freedom of expression <sup>97</sup>**

The People's Advocate Institution, in fulfillment of its constitutional mission, has continuously monitored the numerous discussions in the Albanian state bodies as well as the recommendations and comments of the relevant parties and international partners regarding Law no. 91/2019 "On amendments and additions to the law no. 97/2013 "On audiovisual media in the Republic of Albania"", as amended. The opinion of the Venice Commission was requested for this law, which sent a mission to Albania from the 10th to the 11th of February of 2020. The People's Advocate had a meeting with the representatives of the Venice Commission in which they expressed their position and opinion regarding the adopted law and the possible negative implications some of the articles of this law<sup>98</sup> may have for human rights. This position was clearly reflected in the opinion of the Venice Commission on this issue, an opinion issued on 19 June 2020<sup>99</sup>.

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<sup>97</sup>This area of law is covered by the Administration Section in the ombudsman institution.

<sup>98</sup><https://www.avokatipopullit.gov.al/sq/articles-layout-1/home/news/this-article-is-available-only-in-albanian-309/>.

<sup>99</sup>[https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2020\)007-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2020)007-e).

According to the Venice Commission: *The law is characterized by ambiguity and can have a deterrent effect on free speech. The law can produce censorship and self-censorship in online media and beyond. The composition of the AMA and the Appeals Committee, which is elected by the AMA on the basis of rules drafted by the AMA, may raise legitimate concerns about the independence of these two bodies. The presence of representatives of the media community and civil society who are not directly linked to the main political forces can be a step that strengthens the independence of this body.* The Venice Commission also criticizes the high fines provided in case of violations of the law by "online" media, ranging from 100 thousand to 800 thousand ALL.<sup>100</sup> The Complaints Committee and the AMA have been given great administrative powers in links to online media. This is problematic in terms of freedom of expression of online media from previous restrictions and given that there are doubts about the independence of these bodies; these new powers should not be entrusted to these bodies without first ensuring that they are sufficiently independent of political parties, large media businesses or politically related corporate interests.

Considering that the Appeals Commission and the AMA may interfere themselves in the exercise of freedom of expression and their independence is in question, the grievance procedure does not provide sufficient safeguards; AMA can impose, with a quick administrative procedure, heavy fines which enter into force immediately and order the removal of the material from the Internet with immediate effect.

Regarding the "Economic Capacity" of the media portal, it is not a factor in determining the fine, which may result in a situation where the activities of smaller media, or individual bloggers, are paralyzed by disproportionate fines. This will add to the freezing effect of these provisions and lead to self-censorship and degradation of the political debate that is essential to any democracy. The Venice Commission recommends reconsidering the adoption of the draft amendments to Law 91/2013 and the draft amendments to Law 9918/2008, as voted in Parliament in December 2019. The problems identified by the authorities can be serious but the legal remedies presented in the draft amendments can do more harm than good to freedom of expression in Albania and online media.

The Venice Commission also urges the Albanian authorities to support the establishment of a self-regulatory body that functions effectively and includes all relevant actors in the field of media<sup>101</sup>.

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<sup>100</sup>The report states that "Extremely problematic for media freedom in the Albanian context is the harsh nature and large negative effects of fines. Extremely high fines pose a threat with an effect almost as strong as imprisonment, although it can be seen as an indirect way to put pressure on the media."

<sup>101</sup>Meanwhile, the Venice Commission encourages the Albanian authorities to support the establishment of an efficient regulatory body involving all relevant actors in the field of media and capable of ensuring an effective and respected system of accountability in the field of online media. It will also be useful to review the method of selecting members of the AMA and the Appeals Commission, to ensure that these bodies have a pluralistic composition and qualified individuals, representing the media community and enjoying credible autonomy from governments and corporate control. Furthermore it is necessary to ensure the effectiveness of existing legislation and especially legal remedies to combat defamation and hate speech through online publications.

As of the writing of this report, no initiative has been taken in this regard<sup>102</sup>. The ombudsman will continue to pay attention to the progress of guaranteeing freedom of expression and will oversee the correct implementation of the law on media and the following changes in this important area of law.

### **3.16 Protection of child rights<sup>103</sup>**

The problems identified during this period are closely related to the COVID-19 pandemic, which continues to have short-term, medium-term and long-term impacts on children's rights to education, health, survival and development, adequate living standards, entertainment, freedom, food, as well as protection from any form of violence. It has been identified that this situation has led to a lack of equal access to children, as a result of poverty of families with children in their structure, food insecurity, educational inequality and the impact on mental health, due to adaptation to a new lifestyle, dictated by the pandemic.

The print and visual media and directly administered complaints have served as the primary source for initiating cases, complaints / requests for 2020.

Through the elaboration of the latter, in the administrative communication with representatives of the central and local government, we aimed not only to solve the problems presented in the media, but also to promote a new culture, in terms of the correct breakdown in practice of the principle of interest of children and compliance with legal obligations arising from law no. 18/2017.

In our administrative practice, for the monitoring of the integrated child protection system at central and local level, based on the review and treatment of cases with initiative, online monitoring and inspections conducted in the field and online, we have found violations of children's rights regarding:

- *protection of the child from violence*, as a result of surfing the Internet for a long and continuous time, without security filters and also in function of the educational process on the online platform.
- violation of the *child's right to education*. The closure of educational institutions during the first period of the pandemic (quarantine) brought inequality in children's access to the online education process<sup>104</sup>.

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<sup>102</sup>On January 30, 2020, 15 media organizations in the country issued a joint statement demanding the non-approval of this package. The media law was also opposed by international institutions such as international networks for the protection of journalists, the European Commission, the European Federation of Journalists, and European Center for Media and Press Freedom. They reacted harshly after the vote in the Assembly of the draft law "Anti-defamation" considering it as "censorship of freedom of expression".

<sup>103</sup>This area of law is covered by the Child Protection Section at the ombudsman institution.

<sup>104</sup>Specifically, the children of families living in difficult socio-economic conditions lacked communication technology equipment and internet line supply. The lack of unification of a standard experience of the online teaching process affected the (conjunctive) learning process of the child, depending on the school and their place of residence.

- violation of the rights of *children with disabilities*<sup>105</sup>.
- protection of the child from *domestic violence*. As a result of restrictive measures and the isolation of families at home, children who had experienced various forms of violence faced difficulties obtaining specialized services, due to the loss of physical contact with school psychologists and professionals in the field<sup>106</sup>.
- violation of *the right to life and normal development of the child*. The COVID-19 pandemic significantly affected the children from families living in poverty, making it impossible to guarantee daily food, due to insufficient economic assistance, job losses, closure of daily services, and injuries, which were also a consequence of the earthquake of November 26, 2019<sup>107</sup>.
- violation of the *right to life and health of minors in conflict with the law and deprived of liberty*<sup>108</sup>.
- protection of *children placed in residential social care institutions*<sup>109</sup>.

The rights of children in particular, regardless of the situation we are in, or emergencies and crises, cannot be neglected, ignored or violated. Ensuring the exercise of these rights by children is in itself a challenge, especially in cases of crisis or emergency. Therefore, it is the primary task of the responsible state institutions to face new challenges, both institutionally and legally.

In conclusion, the PA institution has addressed a series of recommendations for responsible state mechanisms, an essential part of the chain of the integrated child protection system, in order to protect and guarantee the lives of children in accordance with their profile and needs.

More specifically, among the most substantial recommendations we mention:

*First*, in terms of guaranteeing the rights of children to social protection and health care, the *Ministry of Health and Social Protection*:

- *fulfillment of obligations and responsibilities for child protection* and in particular, protection of children in need and homeless children.

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<sup>105</sup>Among the most affected in this process, have been children with disabilities, not having proper access to the process of teaching, with appropriate and effective services for them. Also, these children have experienced trauma while returning to the premises of educational institutions to catch the rhythm of the gaps created during the online teaching process. During the beginning of the new school year 2020-2021, with the reopening of educational institutions, it was found that many children were newly isolated for long periods of time, due to the Covid-19 protocol, creating inequality in their access to the teaching process.

<sup>106</sup>During this period the structures responsible for child protection focused on ongoing cases. The services provided for child protection and their support by the relevant services were reduced at the beginning of the pandemic, due to the lack of cooperation and coordination of responsible identification structures, operating in local government units, which could identify issues in time. in words.

<sup>107</sup>During this period local government units have distributed food aid and clothing to ensure the minimum standard of living for these families.

<sup>108</sup>Movement restrictions significantly reduced access to education for this category, spending most of the time isolated. Juveniles in conflict with the law experienced an extended period of time without face-to-face contact with their families, lawyers, support services, and extension of court proceedings. These problems have consequently affected the mental health of this category.

<sup>109</sup>During the period of isolation / quarantine, children placed in social care institutions have cut off physical contact with their relatives, extending in time their institutionalization.

- *strengthening and guaranteeing the provision of health care services* for children, especially those affected by the pandemic.
- *creating conditions for the realization of a safe vaccination of minors*, according to the predetermined vaccination calendar.
- *guaranteeing the continuity of the functioning of social services*, in the best interest of the child.

*Secondly*, in terms of guaranteeing the rights of children to education, *the Ministry of Education, Sports and Youth*:

- *reviewing the existing legal framework in the field of pre-university education* and beyond, for predicting and setting up online study platforms, as one of the main forms of learning, today in the digital age;
- *ensuring the development of the online teaching process*, fairly and comprehensively, throughout the country;
- *finding forms and alternatives of learning for children* who cannot attend online learning, as they do not have access to the Internet or the necessary equipment;
- *strengthening the system of monitoring and evaluating the respect of children's rights* and placing children's rights at the heart of the teaching will;
- *the application of a rights-based pedagogy* to ensure that children and young people learn in an environment where these rights are respected;
- *strengthening the work for the improvement of teacher-child/pupil relations*: cooperative relations for the achievement of common objectives, where one of the most important is the prevention of any form of violation of their rights, even in this unusual period of pandemic;
- *raising awareness on the dangers of unsafe and uncontrolled internet to children* in this pandemic situation;
- *maintaining the privacy and images of pupil-children during the online learning process*, and consolidating teacher-parent interaction in this context, as a very essential consideration;
- *drafting a strategy* that enables alternative learning of different groups, taking into account the location and social problems of children (e.g. isolated children, children with disabilities, children in need, etc.).

*Third*, for the protection of children from all forms of violence in the pandemic period, for the structures of the state mechanism responsible for child protection, at central and local level:

- *strengthening child protection structures* to prevent, identify, refer and manage cases of abused children in a pandemic situation.
- *increase the interactive and proactive role of all responsible structures* at the local level, for the identification of children / families at risk of any form of violence.
- *identification of families which have in their composition children* living in difficult socio-economic conditions, to enable their support with food packages, medicines, etc.

*Fourth*, to guarantee juvenile-friendly justice in conflict with the law, victims and / or witnesses, especially during a pandemic situation, to the Ministry of Justice and the Ministry of Interior:

- *the application of rehabilitation programs and / or mediators* for alternative sentences or the application of alternative sentences provided for in the Juvenile Criminal Justice Code.
- *the application of alternative measures to avoid punishment* for juveniles in conflict with the law.
- *improving the conditions and services* in the premises of institutions of deprivation of liberty or detention, where juveniles in conflict with the law are treated, victims and / or witnesses, especially in a pandemic situation.

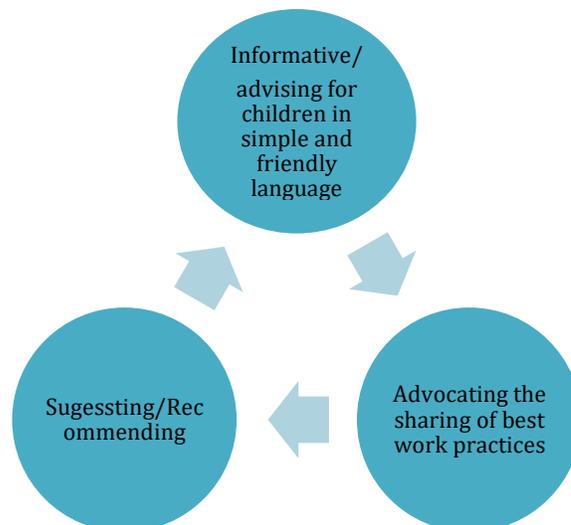
Furthermore, the main challenge for the responsible state mechanisms, part of the integrated system of protection of the rights of the child, remains the structuring of tasks and responsibilities within the management of the consequences that the pandemic has had on the lives of individuals in society, especially children. When this pandemic is brought under control, everyone will have to maximize their efforts to address long-standing shortcomings in law, practice and discourse that are so detrimental to human dignity and rights.

#### *The rights of the child in the context of promotion and guarantee*

The year 2020, unlike 2019, brought a new working approach to the conditions of the COVID-19 pandemic in terms of promoting, preventing violations and protecting the rights of children. The Commissioner for the Protection and Promotion of Children's Rights (CPPCR) has carried out various promotional activities playing a proactive role in terms of promoting the rights of children in order to inform and raise awareness of state administration institutions at central and local level, in the exercise of their functional duties, in accordance with applicable law.

In order to develop promotional activities, the PA institution is focused on:

#### *The development of PA promotional activities*



Informative activities, published on the official website of the social network *Facebook* of the Commissioner and the PA institution are as follows:

- Publication of the declaration<sup>110</sup> in order to raise the awareness of children and their families with their freedoms and rights in the spirit of the United Nations Convention on the Rights of the Child, as well as other international instruments and European importance for human rights even in emergency situations.
- Publication of the information guide<sup>111</sup> for children about the COVID-19 virus, for the management of emotions, in a simple and friendly language for them.
- Publication of explanatory guides<sup>112</sup>, prepared by UNICEF, WHO or various international organizations, to alleviate the effects of anxiety, stress and fear in a pandemic situation. These resources also provide some materials for parents to get involved in various activities with their children.

Also, in partnership with international organizations, publications have been made to bring to the attention of state bodies the respect of children's rights, even in a pandemic situation. More specifically we mention:

- ENOC Recommendations to the European Commission and the Council of Europe to ensure that the rights of the child are guaranteed in accordance with the United Nations Convention on the Rights of the Child and the Comments of the United Nations Committee on the Rights of the Child during this COVID-19 pandemic situation.
- OSCE Declaration<sup>113</sup> on Attention to Increased Risk of Domestic Violence, Mainly to Women and Children.
- Statement of the Geneva Committee on the Rights of the Child<sup>114</sup> on the most pressing issues related to the situation of children globally, due to the effects of the COVID-19 pandemic.
- The Lanzarote Committee Statement<sup>115</sup> brought to the attention of States Parties concrete proposals in strengthening the system of protection of children from sexual exploitation and abuse in times of the COVID-19 pandemic.
- Recommendations of the WHO, as the responsible international institution for the certification of protocols responsible for the preservation and guarantee of human health in general and children in particular.

Similarly, the Commissioner for the Protection and Promotion of Children's Rights has actively participated in many activities, in which he presented the institutional approach of the People's Advocate, oriented towards two main components:

- a) *firstly*, sharing experience and good work practices;
- b) *secondly*, the presentation of problems and violations found in the new conditions of online work.

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<sup>110</sup>The People's Advocate calls for the need to pay attention to issues of protection of the rights of children in the pandemic situation. (20.03.2020).

<sup>111</sup>"My hero is you-how children can fight Covid-19 ", dated April 10, 2020

<sup>112</sup>Statement published on 24.4.2020.

<sup>113</sup>OSCE Declaration, dated 2.4.2020.

<sup>114</sup>Statement of the Geneva Committee on the Rights of the Child, dated 10.4.2020.

<sup>115</sup>Statement of the Lanzarote Committee, dated 9.4.2020.

Among the main organized activities we mention the following:

- Workshop with the students of the 9-year school "Qamil Guranjaku" in the city of Elbasan to hear their ideas and opinions on the draft manual "On education about / about human rights in general and children in particular in the curriculum."
- Online webinars with children and students<sup>116</sup>, for the presentation of the handbook "On education about / about human rights in general and children in particular in the curriculum".
- Meetings / workshops organized with representatives of public authorities at central and local level, responsible for social protection of children, part of the integrated child protection system in the municipalities of Tropoja, Shkodra and Korca, for the protection and guarantee of rights of children in the pandemic situation and the challenges encountered.

As the representative of the PA institution for the promotion of children's rights, CPPCR has actively participated in several activities, among which we mention the following:

- The annual online conference of the ENOC network, with the topic of discussion "Child Rights Impact Assessment - CRIA".
- Online meeting of the Permanent Secretariat of the Adriatic-Ionian Initiative<sup>117</sup>, on the role of Ombudsman in the management of the COVID-19 crisis, as well as the exchange of experience and sharing of best practices in child and adolescent protection during COVID-19, in the respective countries .
- Online meeting of the parliamentary group of KRSH "Friends of Children", in which were presented the problems and recommendations for monitoring the rights of children during the COVID-19 pandemic.
- Active participation in the meeting of the Institutional Mechanism for Monitoring the Juvenile Justice Strategy, bringing to attention the implementation of the recommendations of the PA for the "de facto" functioning of the Juvenile Crime Prevention Center, the institution of Education and Rehabilitation of Juveniles and the Electronic Juvenile Justice Data System.
- Active participation in the meeting of the group of deputies of the Assembly of the Republic of Albania "Friends of Children", where AP and CPPCR addressed issues, findings and recommendations regarding innovations, challenges and issues for the online learning platform.
- Active participation in the online meeting held in the framework of the European Day Against Trafficking in Human Beings<sup>118</sup>, in which were presented the findings and problems identified in the work of state bodies, actors of the integrated social protection network in cases of violence and, in particular of sexual exploitation.
- Active participation in the online meeting of the ENOC Network, in which experiences and work practices were shared regarding the challenges of independent institutions, during the exercise of their function in identifying violations of children's rights during the pandemic.

In contrast to 2019, 2020 marked a new approach to proactive participation in visual and print media, to raise awareness, educate and inform the public about the identified problems, addressing solutions to these problems by the responsible bodies of state administration in the field of children's rights, as well as advocating for the constitutional and legal obligation to implement the recommendations of the PA by the state bodies of the integrated child protection system.

Informative activities, published on the official website of the social network *facebook* of the

Commissioner and the PA institution, are as follows:

Publication of Declaration<sup>116</sup> in order to make children and their families aware of their freedoms and rights in the spirit of the United Nations Convention on the Rights of

The People's Advocate calls for the need to pay attention to the issues of protection of the rights of children in a pandemic situation (20.03.2020).

The child, as well as other important international and European human rights instruments even in an emergency situation.

Publication of the information guide<sup>117</sup> for children about the COVID-19 virus, for the management of emotions, in a simple and friendly language for them.

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Statement of the Geneva Committee on the Rights of the Child<sup>120</sup> on the most pressing issues related to the situation of children globally, due to the effects of the COVID-19 pandemic.

The Lanzarote Committee Statement<sup>121</sup> brought to the attention of States Parties concrete proposals in strengthening the system of protection of children from sexual exploitation and abuse in times of the COVID-19 pandemic.

Recommendations of the WHO, as the responsible international institution for the certification of protocols responsible for the preservation and guarantee of human health in general and children

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<sup>120</sup>Statement of the Geneva Committee on the Rights of the Child, dated 10.4.2020.

<sup>121</sup>Statement of the Lanzarote Committee, dated 9.4.2020.

in particular.

Similarly, the Commissioner for the Protection and Promotion of Children's Rights has actively participated in many activities, in which he presented the institutional approach of the People's Advocate, oriented towards two main components:

- a) *first*, sharing experience and good work practices;
- b) *second*, the presentation of problems and violations found in the new conditions of online work.

Among the main organized activities we mention the following:

Workshop with the students of the 9-year school "Qamil Guranjaku" in the city of Elbasan to hear their ideas and opinions on the draft manual "On education about / about human rights in general and children in particular in the curriculum."

Online webinars with children and students<sup>122</sup>, for the presentation of the handbook "On education about human rights in general and children in particular in the curriculum".

Meetings / workshops organized with representatives of public authorities at central and local level, responsible for social protection of children, part of the integrated child protection system in the municipalities of Tropoja, Shkodra and Korca, for the protection and guarantee of rights of children in the pandemic situation and the challenges encountered.

As the representative of the PA institution for the promotion of children's rights, CPPCR has actively participated in several activities, among which we mention the following:

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Online meeting of the Permanent Secretariat of the Adriatic-Ionian Initiative<sup>123</sup>, on the role of Ombudsman in the management of the COVID-19 crisis, as well as the exchange of experience and sharing of best practices in child and adolescent protection during COVID-19, in the respective countries.

Online meeting of the parliamentary group of KRSH "Friends of Children", in which were presented the problems and recommendations for monitoring the rights of children during the COVID-19 pandemic.

Active participation in the meeting of the Institutional Mechanism for Monitoring the Juvenile Justice Strategy, bringing to attention the implementation of the recommendations of the AG for

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<sup>122</sup>Children of the cities of Peshkopi and Burrel; children of the cities of Durrës and Elbasan; children of the city of Kuçova; children of the city of Gjirokastra; students of the school "Haki Stërmilli" and the 9-year school Koben (Peshkopi); students of the 9-year school Pocest (Bishop).

<sup>123</sup>Organized by the EUSAIR Project, in cooperation with the Marche Region Ombudsman's office, with the participation of the Ombudsman for the Rights of the Child of Bosnia and Herzegovina, Croatia, Greece, Italy, Northern Macedonia, Montenegro, San Marino, Serbia and Slovenia .

the “de facto” functioning of the Juvenile Crime Prevention Center, the institution of Education and Rehabilitation of of Juveniles and the Electronic Juvenile Justice Data System.

Active participation in the meeting of the group of deputies of the Assembly of the Republic of Albania "Friends of Children", where AP and CPPCR addressed issues, findings and recommendations regarding innovations, challenges and issues for the online learning platform.

Active participation in the online meeting held in the framework of the European Day Against Trafficking in Human Beings<sup>124</sup>, in which were presented the findings and problems identified in the work of state bodies, actors of the integrated social protection network in cases of violence and, in particular of sexual exploitation.

Active participation in the online meeting of the ENOC Network, in which experiences and work practices were shared regarding the challenges of independent institutions, during the exercise of their function in identifying violations of children's rights during the pandemic.

### **3.17 Observance of the right to health care<sup>125</sup>**

Health protection and the right to health care is a right sanctioned not only by the Constitution of the Republic of Albania and legal acts, but also by a series of international acts to which our country has acceded.

The World Health Organization, in the framework of the COVID-19 pandemic, oriented the governments of different countries towards the establishment and proper functioning of a system of equal access and ensuring the provision of the full spectrum of health services, for all citizens, monitoring the progress made in this regard. Pandemic times show more clearly how important is the health and the right of every individual to health care, who in order to enjoy peace and effective realization of the latter, can benefit from the health insurance system. Universal health insurance means that every individual and community receives all the necessary health care, without suffering financially. The health service should include the whole spectrum of basic quality health service, starting with prevention, treatment, rehabilitation and palliative care.

In the approach of the ombudsman institution, the principle on which the functioning of health care should be based is precisely the entirety of the provision of health care services, the quality of these services and efficiency, guaranteeing patient safety, at no additional cost. In this way, another international standard is implemented, which has its origins in the International Declaration of Human Rights.

The Institution of the People's Advocate estimates that the outbreak of the COVID-19 pandemic, deepened, bringing back to attention the early problems, as well as identified new problems, which the society faced, in relation to its right to care state-guaranteed health care.

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<sup>124</sup>Activity organized by CRCA / ECPAT Albania, in order to present the Report "Albania: General Country Indicators", a report on the extent, nature and context of sexual exploitation of children in Albania.

<sup>125</sup>This area of law is covered by the General Section in the institution of the People's Advocate.

During 2020, poor and financially vulnerable individuals faced additional high economic costs in terms of health care, accompanied by a lack of basic health care services. The limited amount of savings, low social security coverage and relatively low use of public services, exacerbate the long-term negative effects of dealing with the pandemic crisis.

It turned out that families in need were affected by social discrimination and were hit hardest by restrictive measures against COVID-19. Also, the elderly were relatively more prone to health problems, more at risk of pandemic outbreaks, and more likely to lose lives during the pandemic. The Roma community and other ethnic minorities also faced higher health risks due to low access to basic health services and limited economic opportunities.

During 2020, dictated by the new circumstances created in the conditions of the global pandemic, the Council of Ministers and the Ministry of Health and Social Protection drafted a number of laws and bylaws in order to legally and factually regulate the pandemic in the country, starting from "Strategy Plan against COVID-19", drafted with the assistance and suggestions of the Technical Committee, (special structure created from March 2020 onwards).

With the normative act no. 243, dated 24.3.2020 "*On the declaration of the state of natural disaster*", the Albanian government decided to declare the state of natural disaster throughout the Republic of Albania, due to the epidemic caused by COVID-19 and the restriction of guaranteed rights, to the extent deemed necessary to achieve the preservation of the health of citizens.

The above-mentioned normative act was implemented not without challenges, highlighting clear problems, especially in relation to the right to information and transparency to the general public regarding the total number of tests, the real possibility and the capacity that the state had to perform them, the ordered quantities of tests, the disclosure of the testing strategy as well as the observance of the rights of the patients accommodated in the hospital structures throughout the pandemic.

Despite the increased efforts of the relevant law enforcement structures in order to manage the situation, we emphasize that transparency but also the amount of aid allocated to citizens is still a challenge not addressed in the right way and to the extent during this pandemic.

The Institution of the People's Advocate considers that the transparency and information of the public regarding the capacities of the Albanian state to conduct the population test, as well as the reasons for not conducting the tests to the extent recommended by the WHO, is considered essential and closely related. not only with the quality of pandemic situation management but also with the trust of citizens in state authorities, above all, with the right of citizens to equal access to health care services and respect for the rights of the patient when they are accommodated in hospital structures .

*There are two interrelated aspects of transparency during a pandemic:*

*The first aspect* refers to the quality of communication on the information needed by people and communities during an emergency in order to avoid disease and prevent its spread. When the public is at risk of a real or potential health threat, treatment options may be limited, direct

interventions may take time to organize, and resources may be scarce. Therefore, communicating advice and guidance often stands as the most important tool available for managing a risk. In addition to serving the basic objectives of public health, transparent public communication also addresses the main strategic objectives - political, economic and psychosocial which are related to the emergence of public health.

*The second aspect of transparency aims to promote trust between public health authorities and the public, enabling citizens to identify by themselves the level of effective exercise of their right to health care, equal access to the entirety of health care services, of proper quality, enshrined in the Council of Europe Convention for the Protection of Human Rights and Dignity of Human Beings as well as respect for patient rights, enshrined in the Charter of Patient Rights.*

With an approach that focuses on respect for human and patient rights, specifically defined in international and domestic acts, (which recommend to the state authorities of different states, that the measures they will take to address the pandemic, to take into account the respect for human rights and equal access of citizens to health care by the state), the institution drafted a recommendation to the Ministry of Health and Social Protection to address the above issues related to the level of testing and implementation of transparency of state authorities with citizens, expressly requesting:

- Taking immediate measures to find opportunities for mass deployment and conducting citizen tests for COVID-19, in accordance with the recommendations and instructions of the WHO and according to the provisions of specific legal acts in force;
- Information and transparency regarding the quantities of test buffers and the capacity to test;
- Guaranteeing the right to test every Albanian citizen for COVID-19, even with additional financial costs, which can be borne by the citizen himself, in fulfillment of the obligation that the state has, to equally enable the citizens of his right to health care;
- The procedure for conducting the COVID-19 test should be liberalized in accordance with the legal acts in force and the directives of the WHO, allowing institutions and other regularly certified health operators to provide this vital service in a pandemic situation.

Referring to the complaints registered by the Ombudsperson Institution for 2020, it turns out that *130 complaints have been registered, of which 115 turn out to be cases based on “ex-officio” investigations*, as a result of the successful implementation of the monitoring mechanism on daily basis and ascertainment of issues made public in the traditional and online media, through specially set up working groups, in terms of physical and social distance.

Complaints / cases on initiative identified the existence of key problems such as: medical treatment not in accordance with standards; bureaucracy regarding the queues at the Mother Teresa University Hospital Center (QSUT) and Covid 1 and 2 hospitals; lack of medical protocols for COVID-19 treatment; lack of protective equipment for medical staff and lack of disinfectants in hospitals and polyclinics, within the protection measures against COVID-19.

A serious problem was identified as the lack of medical staff and nurses in regional hospitals and rural areas, which necessarily led to long queues of patients in Tirana, even after instructions to suspend many surgeries and other procedures for patients with other diseases.

A very pronounced problem was the lack of provision of emergency services for many citizens, as well as the denial of the provision of health services necessary for morbidity, other than that of COVID-19 infection.

From the total number of reviewed complaints, it results that for *100 complaints the review has been completed*, while the others are still in the process of administrative investigation. In the number of complaints reviewed, *about 70 of them turn out to have been resolved in favor of the citizens* and the issues raised, made present in the object of the complaint.

Referring to the specific cases reviewed by the institution of the People's Advocate, which have been finalized with the drafting of relevant recommendations for 2020, the following recommendations stand out, addressed to the Ministry of Health and Social Protection:

- Recommendation for taking immediate measures, for creating opportunities for conducting tests of pupils and students studying abroad for COVID-19, even against the payment of a cost-oriented fee, as a right of theirs and an obligation of the state to realize it.
- Recommendation for taking immediate measures to plan funds for the purchase of (EEG) for children in the pediatric ward at QSUT, which became obsolete during the difficult time of the pandemic.
- Recommendation for taking immediate measures to make available to the Company "Life" Shpk, the information which consists of the list of drugs with prices "CIF-EXE", approved for the years 2014-2019, in fulfillment of the legal obligation that the public authority, The Ministry of Health and Social Protection has according to the provisions of the legislation in force "On the right to information" and the publication of the list of drugs on the website of the ministry, in the appropriate format<sup>126</sup>.

Throughout 2020, in terms of a new approach dictated by social and physical distancing, the cooperation of the ombudsman institution with civil society associations operating in the protection of patient rights, has experienced a significant qualitative leap, through on-line communication with them, in order to identify problems and address their concerns to responsible health institutions. In the organized meetings, studies, reports, monitoring and analysis of findings and recommendations were made, for the fulfillment of the common goal, that of protection and respect of patients' rights.

The Institution of the People's Advocate, appreciating the continuous efforts of the institutions responsible for the management of the COVID-19 pandemic, states that it is necessary the serious commitment of the government for a more careful and effective management, oriented towards an approach which aims to provide all quality health care services, elimination of corruption cases in health, increasing transparency on the decision-making of the Technical Committee in relation to the public, publication of various laws and bylaws, drafted within this pandemic, which affect the right to health care, as well as finding financial mechanisms to support and amortize the additional financial costs generated for citizens by the COVID-19 pandemic.

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<sup>126</sup>For more read the recommendations at the link:  
<https://www.avokatipopullit.gov.al/sq/categories/general-issues>.

### **3.18 Observance of the right to education<sup>127</sup>**

The importance of this right is undeniable, not only because it is one of the fundamental human rights, but above all because it has the characteristics of a right as an instrument through which other human rights are realized. It is one of the fundamental human rights because it plays an important role in the progress and development of society and the state itself.

The Institution of the Peoples' Advocate judges that the pandemic has severely compromised the current level of education, deteriorating it. Children from low income families, children from rural areas with weak infrastructure, children from ethnic or linguistic minorities, children with special needs and children in trouble with the law, on top of preexisting issues which they had to deal with, now they are also confronting new insurmountable barriers with respects to education and being an integral part of the learning process as a consequence of the lack of access to online lessons, obtaining as a result lower level education, which materializes in less positive results compared to their peers.

Educational institutions are not only the place for academic learning, but also of social and emotional learning, the places of interaction and social support. Their closing for a long period of time has not only inhibited the education of children, but also their emotional and social well being, as a result of the lack of access to health care and basic social services.

The challenge which presented itself to the government, the leaders of educational institutions and to teachers and students themselves, was the organization of lessons in a very uncertain time, with conditions of social and physical distancing.

The new alternative approach, adopted by the government, that of teaching and learning through online platforms was implemented not without challenge. Serious problems like the lack of infrastructure for the participation of students from marginalized groups, which consisted of the lack of phones, tablets, personal computers, or even access to the internet or even the unavailability in rural and impoverished areas of the Albanian Public Television (RTSH) which broadcasted an online learning platform. Meanwhile teachers faced the difficulties of lacking training in giving online lessons as well as working for long hours.

Referring to the complaints registered by the institution of the People's Advocate for the year 2020, its results that there have been *110 recorded complaints, 98 of which come from "ex-officio" investigations*, as a result of the successful identification of problems by daily monitoring of traditional as well as online medias, achieved by groups created especially for this purpose, working in conditions of physical and social distancing.

A worrying problem which warrants attention for the high number of registered complaints is the numerous instances of delays in granting scholarships and the demands for the lowering of the costs of education which come as results of a challenging year and the financial hardship of many families which have been affected by unemployment and other different social problems.

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<sup>127</sup> This area of law is covered by the General Section in the institution of the People's Advocate.

Of the total number of complaints, for 70 of them the investigations have been settled, while the other remain under administrative investigation. Of the settled complaints, around 50 result to have been settled in favor of the citizenry and the problems raised and made present the object of the complaints.

Referring to more specific cases investigated by the institution of the People's Advocate, for which has been drafted a recommendation for the year 2020, we would single out that complaint made by the citizen A. Ç. towards the Local Educational Office, Tirana, in connection to:

- *Taking immediate steps, in the capacity of the institution of higher learning, to allow the parent A. Ç. to receive information for the education of his children, by the “Shyqyri Peza” high school, Kombinat, Tirana.*
- The taking of necessary measures for the approval of concrete procedures for guaranteeing access to information for similar cases.

Throughout the year 2020, under the new conditions dictated by physical and social distancing, the Institution of the Advocate of the People has consolidated its partnerships with all organizations of civil society, through online communication, playing a proactive role in attesting problems and addressing them to the respective educational institutions. Furthermore, there was also the participation in the “*Education for Democratic Citizenship*” conference, organized by the Council of Europe in close cooperation with the Ministry of Education, Sports, and Youth, as part of the “The Empowerment of the Education for Democratic Citizenship in Albania” project, financed by the The Swedish International Development Cooperation Agency.

The Institution of the People's Advocate of Albania values the efforts of respective institutions and those of teachers, for the managing of a new approach to education and learning, through the increase in the number of teachers as a function of confronting the new situation, as well as for the completion of procedures of competition for psychologists and social workers in institutions of education, a necessity resulting from the high level of stress shown by children and adolescents as an effect of social and physical distancing. Under the conditions of a new approach to education and learning, through the platforms of online learning, the training of teachers and the increase of their capacities, the reworking of school texts and the securing of accessible technology, not only for students in rural areas, but also urban ones.

The securing of financial mechanisms for the support and motivation of teachers, now has the status of responsibility towards that category of workers, ranked second only to medical personnel, for the amount of additional labor undertaken as a consequence of the Covid-19 pandemic.

### **3.19 Observance of the right to social care <sup>128</sup>**

One of the guiding principles of the 2030 Agenda of The United Nations is the progress towards Objectives of Sustainable Development, affording special attention to lower income individuals or families. The Albanian Government, in accordance with the National Strategy for Development and Integration 2015-2020 and the Political Document for Social Inclusion 2016-2020, has started

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<sup>128</sup> Kjo fushë e së drejtës mbulohet nga Seksioni i Përgjithshëm në institucionin e Avokatit të Popullit.

a reform of the system of social protection, supporting the implementation of new legislation and mechanisms which secure the establishment of an effective system of social protection.

The provision and distribution of economic help is one of the programmes of social protection which is found in the law nr. 57/2019, "For Social assistance in the Republic of Albania" and its sublegal acts.

The efforts for the modernization and improvement of the economic aid in Albania, and assistance by the World Bank in a project implemented in 2018, had considerable positive results. This scheme also had its disadvantages, which the government addressed through the additional fund on top of the conditional fund for the economic help of Local Authority, but this intervention did not cover all the families which lived under poverty, as attested clearly by the number of complaints and the diversity of problems reported to our institution.

After Covid-19, the Institution of the People's Advocate has closely monitored the steps taken by the Albanian authorities to protect the classes most exposed to economic vulnerability, with the goal of guaranteeing normal living conditions under isolation.

With such an approach, the Institution of the People's Advocate drafted a proposal aimed at the heads of Local Power throughout Albania, demanding the following:

- *The uninterrupted continuation of economic help, as this payment is the only source of livelihood for these families.*
- *For social administrators, the identification of those families in need which do not enjoy access to the online application for economic assistance, assistance towards said families in completing the application, with the goal of achieving economic assistance.*

In the view of the institution of the People's Advocate of Albania, the Decision of the Cabinet of Ministers nr254, date 27.3.2020 "For the specification of procedures, of documentation and the extent of benefits of financial aid for the employed by businesses with yearly earnings of 14 million Albanian Lek, economic aid and the aid towards the unemployed during a period of natural catastrophe announced as a function of Covid-19" which concluded that one of the categories receiving double their pay are individuals who receive economic aid, was implemented not without obstacles. In any case the People's Advocate the fact that for this monthly period the the value of the amount paid in aid was doubled and considered this intervention very important.

The most commonly witnessed problem, which accompanied the process of offering and distributing of "the war wage" to the recipients of economic aid, was the lack of access to the application and respective form, for the benefit of economic aid.

According to the predictions of the aforementioned Decision of Cabinet of Ministers, the applications for economic aid will be accepted by social administrators of administrative units, in postal or electronic formats. Despite the fact that the respective form, which needed to be completed in order to receive economic aid, was online, it must be noted that not all individuals have access to the application. Numerous families have no means with which to apply, as they do not have electronic devices in their possession, especially those families residing in more isolated regions.

Another reported problem is the delays in the distribution of “*the war wage*” for the recipients of economic aid, making it impossible for them to withdraw the only source of income making their livelihoods rely on.

Referring to cases taken up by the institution of the People's Advocate of Albania, not only complaints or other requests, but also as cases initiated to be treated with initiative, for the year 2020, it results that in total *43 cases were handled, of which 29 have received solutions and verdicts in favor of the accusers, 7 cases resulted to have no bases, while 6 cases are under way*. From them significant problems were identified: the unavailability of economic aid, the suspension of economic aid, and the general lack of information in the population with regards to their inclusion in the economic aid scheme.

The amount of economic aid continues to be reported by citizens in their complaints, also throughout the year 2020, as being too low in comparison to the essential monthly living costs, far from targeting to decrease poverty and allow social integration of individuals and families, which comprises the principle objective for this instrument of social protection.

Of particular concern is the situation regarding the distribution of economic aid to the Roma community, which largely lacks Identity Documents, a fact which automatically excludes them from benefiting from aid.

The Institution of the People's Advocate of Albania, which considers unjustifiable the present lack of a defined minimum living income, which should be based on the social policy followed by the State with regards to groups in needs, initiated in the year 2020 the drafting of the report “*For the Minimum Living Income*”.

The objective of this report is to evaluate the economic, social, and legal situation in Albania as it relates to the need for a defined minimum living income, not only in the aspect of economic aid, but all the policies which support impoverished individuals and families in Albania.

The objectives of the report are: 1. To formulate a panorama of the actual economic situation in Albania and to define a minimum living income; 2. to explore the developments in Albanian legislation pertaining to social protection and to conclude if said legislation conforms to the principle of “living with dignity”; 3. to analyze the current politics of economic aid and their impact on the reduction of poverty and the reintegration of endangered groups; 4. to recommend possible improvements of economic aid to increase its positive influence on the reduction of poverty and the reintegration of its recipients.

Even throughout the year 2020, the institution of The People's Advocate of Albania judges that poverty clearly remains an acute problem on a national scale.

Poverty is not only a lack of sufficient income, it is also a lack of service and participation in society, things which are central to the enjoyment of human rights. Poverty as a cause, but also as a function of the denial of human rights, must be addressed in the context of the responsibility of the State to ensure and guarantee those rights. Therefore, an approach based on human rights

means that the standards and principles of human rights are the basis on which the state plans its social politics.

### **3.20 Observance of the rights of persons with disabilities <sup>129</sup>.**

People with special needs, as all citizens of Albania, should be considered as capable individuals, equal among equals, as people born with dignity and inalienable rights. From this point of view, people with special needs makeup that part of society, which finds state support essential in order to enjoy their rights and liberties as well as to access and adapt into every field of life.

The Covid-19 pandemic has proved a challenge in many ways, and proved especially troublesome in regards to defending the rights of people with special needs. Measures undertaken to avoid contracting the virus, such as physical distancing and isolation, were impossible for this group of people, for whom assistance by others is essential.

Therefore, considering the vulnerability of people with special needs to economic uncertainty or poverty, the institution of the People's Advocate of Albania has given special attention to the situation pertaining to their human rights. Accordingly, the institution of the People's Advocate of ALbania had drafted a recommendation addressed to the 61 mayors of Albania, to address the acute problems of this social category, specifically requiring:

- *The identification of all individuals with special needs, especially those residing in remote areas, with the purpose of offering social services which are provided by regional governments.*
- *The identification of individuals with special needs who are homeless, and providing them with suitable housing.*
- *Granting periodic supplies of foodstuffs and economic aid throughout the duration of the pandemic.*

In the same vision, the institution of the People's Advocate of Albania has addressed the heads of The Residential Institutions of Social Care, where persons with special needs reside, demanding measures to be taken to protect against the spread of Covid-19, and for periodic medical checks of the recipients of housing from these institutions.

In order to deliver accessible and comprehensible information to the category of people with hearing difficulties, the institution of the People's Advocate of Albania has encouraged, via a declaration, the increase in the use of sign language in official public communications, calling for all public authorities to take measures to enable communication with people with hearing difficulties, through the use of sign language.

Referring to complaints registered by the institution of the People's Advocate of Albania for the year 2020, it results that *76 complaints have been registered*, chiefly cases based on “*ex-officio*” investigations, from which *22 cases have have been completed with 10 cases* having been resolved in favor of the complainants.

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<sup>129</sup> Kjo fushë e së drejtës mbulohet nga Seksioni i Përgjithshëm në institucionin e Avokatit të Popullit.

The cases/ complaints with initiative, showed evidence of the existence of such problems as: the lack of essential items, exposing those persons with special needs and their families to extreme poverty, as well as the problem of the approach to road infrastructure with respect to individuals with limited vision. A serious problem which was identified early on is the failure to enact certain sub-legal acts from taking effect in the law 93/2014 “ For the inclusion and accessibility of persons with special needs”, edited. A problem in particular, reported in the year 2018, continues to be the lack of exemption from the property tax for the category of victims of workplace accidents.

More specifically, the problem of road infrastructure concerning persons with special needs is present in every city in Albania, in clear violation with the responsibilities outlined in the UN’s Convention on the Rights of Persons with Disabilities (CRPD), (ratified by the Albanian State), and those outlined in the recommendation by Committee on the Rights of Persons with Disabilities, which demands from the albanian government the taking of measures in order to guarantee and facilitate the rights of people with special needs to live independently and interact with their community.

In order to address this problem, the Institution of the People's Advocate of Albania drafted a recommendation directed to the 12 administrative regions of Albania, expressively demanding:

- *Taking measures for the implementation of infrastructure suited to the special needs of persons of limited vision, according to proper standards and elements, including in this process these persons themselves.*
- *Drafting a plan for addressing the aforementioned issue in a timely manner.*

With reference, the failure to enact the sublegal acts for services meant to facilitate the independent living and related decision making for persons with special needs, the Peoples Advocate, in their capacity as observer of the execution of the law “*For the Rights of People with Special Needs*”, drafted a recommendation directed towards the Ministry of Health and Social Protection for:

- *Taking measures to enact the sublegal acts in accordance with act 6/ point 3 and act7/ point 3 of this law.*

In response to the recommendation, the Ministry of Health and Social Protection has stated that they will finalize the project in accordance with the request by the People's Advocate , for the improvement of the lives of people with special needs, who benefit from state services, respecting the law nr. 93/2014 “ *For the inclusion and accessibility of people with special needs.*”

As it pertains to the problem of the lack of exclusion from the property tax of the category of victims of workplace accidents, after intensive correspondence with the Ministry of Finance and Economy as well as the Ministry of Health and Social Protection, with the aim of solving this issue, concluded that it was necessary for legal reform for the specific law “For victims of workplace accidents”, changed, with the purpose of adapting it to the changes in tax legislation which have developed throughout the years.

Under these conditions, the Institution of the People's Advocate of Albania drafted a recommendation directed to the Ministry of Finance and Economy for:

- *Taking the legal initiative for an addition to point 16 of law nr. 7889 date 14.12.1994 “ For the Status of victims of workplace accidents” changed;*
- *Cooperation between the institutions regarding this legal change.*

In response to the recommendation, we have been informed that the Ministry of Finance and Economy values the recommendation of the People's Advocate regarding the legal initiative for revising the law with the purpose of excluding victims of workplace accidents from the property tax. The demands expressed by citizens, who hold the status of victims of workplace accidents, will be under the attention of the Ministry of Finance and Economy the moment that legal changes will have been implemented in this field.

Problems remain in the field of rights of persons with disabilities, reported over the years, lack of access to public and private facilities, access to information, access to justice, delays in the disbursement of funds for persons with disabilities , non-implementation of legal provisions for the employment of persons with disabilities, non-implementation of ticket reimbursement in urban transport, special didactic tools, etc.

The Institution of the People's Advocate estimates that the awareness of the whole society is required to be involved and be an active participant in the process of integration of persons with disabilities in society.

Increased attention of state institutions, at central and local level, of all civil society actors, more serious commitment and priority in addressing the problems faced by persons with disabilities is required, in order to guarantee the continuity of support in a safely throughout the pandemic and not only, through the provision of services according to their specific needs.

### **3.21 General equality and rights of LGBTI community <sup>130</sup>**

Undoubtedly, women, girls and the LGBTI community have been part of the ombudsman's increased institutional attention throughout the 2020 pandemic year. This year another pandemic has seen an exponential increase: that of violence against women and girls. Increased stress and tension brought by isolation in the new conditions of social and physical distancing strengthened dysfunctional patterns of behavior between family members or abusive partners.

While statistics showed an increase in domestic violence (1.5% more than during 2019), the data did not reflect the true extent of the problem, as victims often hesitated to report incidents and episodes of experiencing one or more forms of domestic violence. Low reporting of domestic violence is estimated to have been influenced by such typically pandemic factors as fear of retribution from abusive or traditional partners such as stereotypes about domestic violence, economic dependence, and so on.

At an early stage of the pandemic (April 2020), the ombudsman institution, given the danger of the phenomenon of violence, through social networks, called on women and girls, as well as members of their families, to denounce each episode. or domestic violence behavior, by disclosing the toll-free numbers of the National Hotline for Victims of Domestic Violence, the State Police,

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<sup>130</sup> This area of law is covered by the General Section in the institution of the People's Advocate.

the Lilium Emergency Center for Sexual Violence, as well as a number of the Lawyer's own institution of the People.

Through public calls, the institution of the People's Advocate brought to the attention of the responsible institutions, members of the Coordinated Mechanism against Domestic Violence, to be on high alert and in full functionality, continuing with the management of each case of violence referred to, in function of guaranteeing an effective protection for victims of violence.

With the same approach, the ombudsman institution encouraged and supported civil society organizations to continue to provide support to victims of violence, whether through online counseling or services of any other nature they provide, assessing the provision of these services as very important for the pandemic period.

The Institution of the People's Advocate considers as a problem typical of this pandemic year that of the loss of the job of a considerable number of women and girls employed as caregivers for children or the elderly, or auxiliary workers in the family, with the direct consequence of non-benefit of “*war wage*” due to informal employment.

This situation tended to exacerbate the deteriorating socio-economic situation of women and girls, especially in those families where women are the head of the household or the only persons who were employed.

The traditional problems presented over the years continued to be present during this pandemic year which, in their content, consisted of claims for employment, economic assistance, pension, access to justice, non-execution of alimony obligations imposed in court decisions. , etc.

Domestic violence was again identified as a dangerous phenomenon accompanying the mentality of our society in the first months of 2020. The Ombudsman Institution identified cases of domestic violence, which were fatally concluded with the death of the victim, object of domestic violence.

In these conditions, the institution of the People's Advocate, following the performance of the legal mission in the role of promoter of the highest standards of human rights and freedoms in the country, has forwarded to the relevant institutions specific recommendations "*On taking the necessary measures by competent structures for the identification, administration, referral and follow-up of cases of domestic violence* ”<sup>131</sup>.

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<sup>131</sup> 1. Taking immediate measures by the General Directorate of State Police for the ongoing and priority training of all employees of the State Police, for the referral of cases to special structures dealing with issues of domestic violence, related to obligations of legal authority as the responsible authority in all local structures depending on it according to law no. 9669, dated 18.12.2006 "On measures against domestic violence", as amended, in order to recognize and correctly implement legal obligations.

2. Taking immediate measures by the General Directorate of State Police in order to increase capacity and better coordination with the Coordinated Mechanism for Referral of Cases of Domestic Violence (NRM) in the municipalities of the country, which is an organized network of institutions Responsible at the local level for the prevention, protection, support and rehabilitation of victims of domestic violence, in order to identify cases of domestic violence, risk assessment and prevention of serious events that lead to the loss of life of victims of violence.

In response to the recommendation, we are informed that the responsible institutions addressed evaluate the *recommendation of the People's Advocate and have started its implementation.*

Referring to the problem of domestic violence, in specific cases, when the violence is repeated, is regularly reported and it is concluded that the responsible institutions in excess of the legal deadlines have not taken actions prescribed by law, the ombudsman institution has recommended to the body of the Prosecution *to take immediate action and in-depth investigative, as well as to take appropriate measures in order to stop the violence against her rapporteur and to prevent any other event of violence against her.*

The People's Advocate Institution evaluates the measures taken by the Ministry of Health and Social Protection during the COVID-19 pandemic period, with the approval of two respective protocols:

- *Protocol on the Operation of Public and Non-Public Residential Centers Providing Housing Service (Shelters) for Victims of Domestic Violence and Trafficking in the COVID-19 Pandemic Situation.*
- *Domestic Violence Case Management Protocol at Local Level Through Coordinated Referral Mechanism (NRM), during the COVID-19 Situation ”.*

In its legal capacity as a promoter and promoter of the highest standards of human rights, with a special focus on increasing its capacity to promote gender equality, protect the rights of women and girls or monitor the implementation of international conventions ratified by our country, the institution has undertaken a training session where it stands out on "*Use of gender indicators for monitoring Human Rights and SDG*", which was carried out with the support of the UN WOMEN office.

This training aimed at standardizing the gender data produced by the Ombudsman institution, using this disaggregated data for monitoring human rights and the United Nations Global Objectives, as well as presenting gender indicators in the annual INSTAT publication for Men and Women.

For the first time in the publication "*Men and Women in Albania 2020*", a publication with annual periodicity, which presents data in various areas of life divided by gender, in order to reflect the problems of society in the context of achieving gender equality , a chapter on human rights

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3. Taking immediate measures by the General Prosecutor's Office and the High Council of the Prosecution to prepare and send a letter to the Prosecution to the Courts of First Instance for rapid assessment and investigation, with objectivity and professionalism of reports of domestic violence.

4. The analysis of the case by the General Directorate of State Police, the General Prosecutor's Office and the High Inspector of Justice, the issuance of concrete legal responsibilities and the taking of appropriate measures against the responsible persons. Also, the generalization of this case in order not to repeat such attitudes in the future.

5. The Coordinated Mechanism for Referral of Domestic Violence Cases in the Municipality should increase the cooperation with the community in order to prevent cases of domestic violence through the identification, evaluation, referral, management of these cases and the definition of tasks for each of the members of responsible institutions and guaranteeing the protection of the health and life of victims of domestic violence.

indicators was included. Human rights statistics reflect data by gender on complaints of alleged violations of rights, handled by the Ombudsman, by type of law.

In function of its promotional mandate, during 2020, the institution of the People's Advocate, in the conditions of the new approach of working on-line, has developed and participated in a considerable number of promotional activities and awareness campaigns, which aimed not only the deeper knowledge by women and girls of the domestic legislation on women's rights and gender equality, but at the same time the acquaintance with the highest standards of these rights, which are provided in the International Conventions ratified by our country. . More concrete:

- Representatives from the General Section / Ombudsman Institution participated in the online launch event of the new regional program for gender responsive budgeting in the Western Balkans, by UN Women and financially supported by Sida (Swedish International Development Cooperation) . This four-year regional program aims to reform policies and funding actions in Albania, Bosnia and Herzegovina, Kosovo and Serbia to accelerate the implementation of national and international gender equality commitments.
- As part of the 20th anniversary of United Nations Security Council Resolution 1325 on Women, Peace and Security, representatives from the General Section / Ombudsman Institution attended an online meeting organized by the UN Women office for the Europe region and Central Asia and the OSCE on the topic: *Renewable Commitments to the Women, Peace and Security Agenda in the OSCE region*. Discussion focused on real experience related to the implementation of Resolution 1325 as well as practical proposals for future actions.
- As every year, the Ombudsman / General Section joined the 16-day National Campaign against Gender-Based Violence and Domestic Violence with the slogan: Listen. Beso. Supports women and girls!

Also, the People's Advocate organized on December 10, on the International Human Rights Day, the online meeting on the topic: Women's Rights are Human Rights. "Listen. Beso ". Supports women and girls! The findings of the Alternative Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) prepared by the Ombudsman were presented at the meeting. *For more on this report refer to Chapter 4, point 4.4. (Other institutional commitments).*

#### ➤ *LGBTI community rights*

Albania has made progress in recognizing the rights of LGBTI persons, starting with the drafting of effective legislation against discrimination, public discussion on LGBTI rights, the establishment of a consolidated and active community in defense of these rights, for conclude with the drafting of an Action Plan with concrete tasks for each institution.

The People's Advocate Institution estimates that the LGBTI community faced increased problems during this pandemic year such as: deteriorating economy, employment, housing and security, as well as the possibility of the LGBTI unity to meet its basic needs.

Psychological counseling and food packages have been the basic needs of the LGBTI community during the pandemic, a fact that gives this reality the dimensions of an existential crisis.

Unemployment is reported, one of the main problems during the pandemic year 2020. One of the main reasons why the unemployment rate among the LGBTI community is higher than the unemployment rate of the general population in Albania, has to do with the fact that the LGBTI community suffered from high systemic unemployment since before the declaration of the state of emergency, for reasons such as: discrimination, bullying and removal of the LGBTI community from the education system.

Throughout 2020, in the conditions of a new approach dictated by social and physical distance, the cooperation of the ombudsman institution with civil society associations operating in defense of the rights of the LGBTI community, has experienced a significant qualitative leap, through on-line communication with them, in order to identify problems and address their concerns to the responsible institutions. In the organized meetings, studies, reports, monitoring and analysis of findings and recommendations were made, for the fulfillment of the common goal, that of protection and respect of the rights of this community. More specifically:

- *On September 16*, the institution of the People's Advocate pursuant to Article 30 of the Law "On the People's Advocate", organized an online consultation meeting with representatives of civil society organizations working for the rights of the LGBTI community in Albania, a meeting that served to get their opinions on the state of human rights and freedoms of this community in the country. In this meeting was also discussed the implementation of the Action Plan for non-discrimination of LGBTI persons in Albania, unrealized activities and the need to draft a new action plan with concrete and budgeted measures and activities.
- *On November 2*, representatives from the General Section / Institution of the People's Advocate participated in the Conference "*Addressing needs and standardization of services for the LGBTI + community in Albania* ", organized by the Streha Center in cooperation with the German Embassy in Tirana. In this conference were presented the preliminary findings of the report: "*Assessment of the Needs of People of the LGBTI + Community* ", which aims to better understand the current needs and challenges of the LGBTI + community in Albania. The study analyzes various aspects of the life of LGBTI + persons, including exposure to violence and discrimination, meeting basic needs for food, shelter and medical assistance, meeting legal needs, meeting educational needs, vocational training, employment, etc. The draft document "*Residential Care Standards for LGBTI + People in Albania*" was also presented at this Conference.
- *On November 5*, an online study meeting on the "*Situation of the LGBTI + Community during the COVID-19 pandemic*" was presented by the LGBTI Alliance in cooperation with the ombudsman and the Commissioner against Discrimination. This study aims to identify the consequences of the COVID-19 pandemic among the LGBTI community and was conducted online through a survey completed by 228 individuals who identified themselves as members of the LGBTI community, as well as through the implementation of focus groups.

### **3.22 Observance of the rights of older persons <sup>132</sup>**

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<sup>132</sup> This area of law is covered by the General Section in the institution of the People's Advocate.

The People's Advocate Institution, as an institution that guarantees fundamental human rights and freedoms, has in its work priorities the protection of the rights of the elderly, who are categorized as one of the most vulnerable and most exposed to risk groups. non-respect and guarantee of their rights, sanctioned in domestic and international legislation.

The COVID-19 pandemic proved particularly dangerous for the elderly, disproportionately threatening their right to health as well as other human rights. The necessary social and physical distance, as an objective, would undoubtedly exacerbate the alarming problem of isolation of the elderly.

Already at an early stage of the pandemic, March 2020, the ombudsman institution has called for social solidarity, in addition to social and physical distancing, addressing state, central and local authorities, with a specific request to expand the range of social services offered for this category, especially for the elderly with disabilities and those who are lonely, considering that their exposure to poverty, exclusion and social isolation, has a direct impact on their health, physical and mental condition.

In the framework of its legal role, the institution of the People's Advocate has monitored during 2020, the level of respect for the rights of the elderly, accommodated in Social Care Institutions, through on-line inspections, respectively in the Nursing Homes of Gjirokastra , Shkodër, Kavaja, Fier, Tirana and Poliçan Polivalent Center. The purpose of the inspection, already with a new approach dictated by the conditions of social and physical distancing, was to identify measures taken by state authorities to prevent the spread of COVID-19<sup>133</sup>.

It should be appreciated that from the measures taken by the residential service in the framework of preventing the spread of COVID-19, including restricting the movement of caregivers, there was no loss of life.

Referring to the complaints addressed to the Ombudsman institution for 2020, as a result of the successful implementation of the monitoring mechanism on a daily basis and ascertaining the problems made public in the traditional and online media, through specially set up working groups , in terms of physical and social distancing, the number of cases registered and addressed which had in their object the problems of the elderly, suffered a significant increase.

After reviewing the problems raised in the object of complaints, we have officially addressed the local government institutions, with the recommendation to take measures to verify the socio-economic and health status of the elderly and the periodic supply of food aid packages and economic support during the duration of the pandemic<sup>134</sup>.

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<sup>133</sup> Has the premises of the institution been disinfected? -Are detergents and disinfectants enough? -How is the health condition of the elderly? -Are there any concerns from the elderly regarding their isolation? - How is the work organized so that the elderly can get through this period of isolation as easily as possible? -Was there any elderly or staff members infected with Covid19? If so, what measures have been taken and how is their current situation? -Are you supplied with masks and is their number sufficient? -Since the viruses are approaching the season, have measures been taken to supply additional medications ?.

<sup>134</sup>Taking measures for the assessment of socio-economic conditions, treatment and provision of economic assistance and support on an ongoing basis, addressed to the Municipality of Kruja, Municipality of Rrogozhina, Administrative Unit no.1 / Tirana, Administrative Unit no.6 / Tirana, Administrative Unit Laç, Unit Administrative Shëngjergj, etc.

Throughout 2020, in the conditions of a new approach dictated by social and physical distance, the on-line cooperation of the ombudsman institution with civil society associations operating in the protection of the rights of the elderly has been consolidated. In this context, on the International Day of Older Persons, the organization "Albanian Society for All Ages - ASAG" -, organized the event: "*Eradicating poverty for the elderly is an obligation*", to join the call for action "*Decade of Healthy Aging 2020-2030*".

In the framework of this Day, ASAG awarded the Institution of the People's Advocate a Certificate of Appreciation:

- *For the sensitivity and contribution in favor of the Albanian elderly, becoming a participant in the commitment to support "Active Aging"*
- *To end transparent discrimination and encourage others to get involved in recognizing this generation full of contributions, who through their efforts and achievements have helped us define ourselves as a nation.*

The People's Advocate Institution, appreciating the continuous efforts of the institutions responsible for the protection and respect of the rights of the elderly, especially the efforts for the management of the COVID-19 pandemic, articulates once again the necessity of the adoption of the law "*On the status of the elderly*", To fully and effectively support the participation of older people in society, based on their needs and preferences.

### **3.23 Rights of national minorities** <sup>135</sup>

All individuals and their rights have been indisputably the focus of the activity and concrete activity of the People's Advocate, in this problematic year, but the main attention has been paid significantly to vulnerable or at-risk groups, communities and individuals who are more vulnerable and vulnerable to the rest of the population from the consequences of this unusual situation.

Undoubtedly, national minorities have been part of this increased institutional attention, with a special focus on the Roma and Egyptian national minorities, who have faced a difficult situation during 2020.

Due to the restrictive measures imposed by the state authorities for the prevention of the COVID-19 pandemic, the activity of the People's Advocate regarding the respect of the rights of national minorities has recognized a significant hop of proactivity, based on the identification of issues by the media and the print media and their "ex-officio" investigation.

The identification of individual cases is combined with findings and findings which have led to interventions through our recommendations, at the systemic level of issues and the way in which public administration and our society should consider and provide solutions, for equality, inclusion and integration of national minorities not only in a normal situation but also in unusual and

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<sup>135</sup> Kjo fushë e së drejtës mbulohet nga Seksioni i Përgjithshëm në institucionin e Avokatit të Popullit.

challenging conditions for the state and society itself. Individual complaints filed by individuals belonging to national minorities were also present.

The People's Advocate tends to be as close as possible to individuals and communities part of national minorities, increasing "on-line" contacts with individuals who wanted to submit their complaints to the institution, but also using a "bridge" very effective, through cooperation and continuous contact with non-profit organizations, which exercise their activity in the framework of protection and respect for the rights of national minorities.

During 2020, *15 issues were initiated*, on issues that belong mainly to the respective communities, national minorities (minorities), throughout the country. The specificity lies in the fact that, identification and treatment in a broad community perspective, has been a conditional approach to the situation created by the COVID-19 pandemic.

Meanwhile, in many other complaints handled by the Ombudsman, issues have been identified related to allegations raised by individuals belonging to national minorities, but which do not genuinely belong to this area of human rights. These complaints, as in the previous year, had in their object the right to housing, the right to employment, the right to benefit from the social care system (economic assistance), or even the right to drinking water supply, as well as improving living conditions as a whole.

In addition to reviewing the individual complaints submitted, an important place has been taken by the recommendations, which have to do with a systematic approach to the identified problems, which required a short-term solution, as well as a change in policies and daily activity, specifically of units. local self-government throughout the country.

More specifically, the following recommendations have been drafted and sent:

- Recommendation for concluding the process of issuing bylaws, based on and for implementation, of Law no. 96/2017 "On the protection of national minorities in the Republic of Albania", addressed (by letter No. K1 / I10-2, dated 25.02.2020), Chairman of the Council of Ministers and Chairman of the Central Election Commission.
- Recommendation "On taking the necessary, immediate measures for the Roma and Egyptian communities. (To identify the real number of individuals and families in need, part of the Roma and Egyptian communities, located within the territory of the administrative unit, administered by the municipalities). This recommendation was sent to him with letter no. K1 / I15-2, dated 04.04.2020, all local government units;
- Recommendation for the implementation of the ratification process of the European Charter for Regional or Minority Languages, sent by letter No. K1 / I74-2, dated 10.09.2020, to the President of the Assembly and the Prime Minister of the Republic of Albania.
- Recommendation for taking further measures, to cover the financial costs of providing protective barriers (masks) against the spread of COVID-19, for members of the Roma and Egyptian communities. This recommendation was sent to him with letter no. K1 / I171-2, dated 19.11.2020, all local government units;
- Recommendation for the process of drafting a new national strategic document, for the integration of Roma and Egyptians, as well as the main objectives to be addressed in it. This

recommendation was sent with our letter no. K1 / I147-64, dated 29.12.2020, to the Ministry of Health and Social Protection.

- Recommendation for drafting and approving strategic documents at the local level, for taking measures for the integration of the Roma and Egyptian communities. This recommendation was sent with our letter no. K1 / I35-7 dated 30.12.2020, to all municipalities in the country (grouped by regions).

On the part of the drafting institutions of these draft decisions, we find that there has been a positive reaction to the opinions and suggestions given by the People's Advocate, to improve or change their content. To a good extent the opinions and suggestions given have been accepted and reflected in the content of these draft decisions, which have been forwarded to us recently after their review, for further thought and consultation.

Participation in a series of on-line activities organized by various NGOs in the protection of the rights of national minorities, as well as by responsible state institutions, where the situation of the rights of these minorities has been analyzed and discussed, has been continuous and necessary. .

Prior to the official confirmation of the COVID-19 pandemic, in our country, within the activity aimed at protecting the rights of national minorities by the General Section, it was planned to conduct inspections in different areas of the country, where there is a concentration of representative communities of these minorities. Impossible due to the restrictive measures imposed, we have conducted on-line activities with several associations and centers, which represent exactly these minorities.

We can highlight here the activity carried out by the General Section, in the institution of the People's Advocate, on 13.11.2020, on the situation of the rights of the Roma and Egyptian national minorities, focusing on the implementation of the National Integration Plan for Roma and Egyptians, 2016-2020, education of Roma and Egyptian children in the conditions of the COVID-19 pandemic, as well as the general living conditions of the Roma and Egyptian communities in this situation.

Following on 18.12.2020, we conducted a training, in cooperation with "Roma Versitas Albania", for Roma youth, in the field of human rights. This training will be followed by others who will follow throughout 2021.

Finally, in the framework of supplementing and improving the legal framework for the protection of minority rights, opinions, remarks and suggestions were given for four draft decisions of the Council of Ministers, drafted in the framework of bylaws that have been issued and will be issued pursuant to Law no. 96/2017 "On the protection of national minorities in the Republic of Albania", which you will find detailed in Chapter 5 (Cooperation).

Our increased attention should be directed to the phenomenon of "anti-Gypsyism", which appears as a manifestation of individual expressions and acts as well as institutional policies and practices of marginalization, exclusion, physical violence, devaluation of Roma culture and lifestyle, in hate speech against Roma as well as other individuals or other groups perceived, stigmatized or persecuted during the Nazi period, as well as today, known as "gypsies". This disturbing phenomenon for a democratic society, leads to the treatment of Roma but not infrequently also of

Egyptians, as a foreign, suspected group, and connects them with a series of negative stereotypes and distorted images that represent a specific form of racism.

Anti-Gypsyism as a multifaceted phenomenon prevalent in its social and political acceptance, constitutes a critical obstacle to the widespread inclusion of Roma and Egyptians in society by preventing them from enjoying equal rights, opportunities and fruitful participation in the social life of a place<sup>136</sup>.

What is required today is the overcoming of the "entangled" situation, from the formal equality guaranteed by law, to the essential guarantee materialized in the concrete activity of state bodies, of independent institutions for the protection of human rights and of our society as a whole. her. This real overrun will guarantee equality before the law and non-discrimination. And we must be convinced that if this is achieved, we have laid a sound foundation for an effective human rights system.

Equality, inclusion and real integration of national minorities in all spheres of life, at the level of local and central government, will undoubtedly bring the expected product of a democratic society and the traditional harmony of coexistence, which remains an inherent objective. and fully feasible.

### **3.24 Observance of social insurance rights <sup>137</sup>.**

The right in the field of social insurance is a right explicitly sanctioned in the Constitution of the Republic of Albania, which in point 52/1, provides that *“everyone has the right to social security in old age or when he is unable to work, according to a system prescribed by law”*.

Respect and implementation of this right is vital for citizens, so this sensitive category of law must be respected and implemented efficiently and within the legal deadlines. Referring to the complaints registered by the institution of the People's Advocate, *for 2020, it turns out that 75 complaints have been handled by citizens.*

From the perspective of the institution of the People's Advocate, in exercising its mandate, as a defender of the rights and freedoms of the individual, it is concluded that the most prominent issues raised in the object of the citizens' complaint, continue to be identical or similar to problems reported in the previous years, where they stand out: the low amount of old age pension benefit, non-recognition of seniority at work, non-granting of disability group by the relevant Commissions for Assignment of Work Ability, non-benefit of old age pension supplements, for the date of entering into the old-age pension, the reduction of the amount of early retirement pensions and the issuance of debtors, the non-availability of copies of the documentation of the pension file, unfair termination of old-age pensions, non-recognition of years of work in the Greek state due to lack of an agreement in the field of social security, etc.

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<sup>136</sup> According to a definition given by the European Commission against Racism and Intolerance (ECRI), on this phenomenon, it is determined that anti-gypsyism is: A special persistent, violent, repetitive and common form of racism, an ideology based on superiority of race, a form of dehumanization and institutional racism fueled by historical discrimination, which is expressed, among other things, in violence, hate speech, exploitation, stigma and the most flagrant form of discrimination ”.

<sup>137</sup> This area of law is covered by the General Section in the institution of the People's Advocate.

In the conditions of the pandemic caused by COVID-19, taking into account the cases made public in the media for gatherings of citizens in the branches of the distribution of old age pensions, we addressed this issue to the Albanian Post, for taking measures in the distribution of old age pensions. old age in pensioners' dwellings, especially for the category of pensioners who are single and had no opportunity to apply for this service in their dwellings.

It is also noticed during the process of handling complaints filed by citizens, the identification of a significant number of complaints as unfounded. In his legal role as an advisor, the People's Advocate has oriented the citizens on how to approach the solution of the problem, by following the administrative complaint in the Regional Appeals Commissions at the Regional Directorates of Social Insurance and in the Central Appeals Commission at the Institute of Social Security.

More specifically, the institution of the People's Advocate, identifies and elaborates as follows, the most representative issues, which affect a significant number of citizens during 2020, in the field of social security:

- *Failure to respond to requests for verification of seniority before the birth of the right to receive an old-age pension.*

From the complaints addressed to the institution of the People's Advocate, we have concluded that, for the problems of recognition of seniority at work, various individuals have followed the court path. The end of the litigation, which has lasted more than a period of two or more years, has penalized citizens to receive an old-age pension from the moment of birth of the right to benefit. Based on the laws and bylaws in the field of social security, the submission of the request for verification of seniority at work may be required one year before the birth of the right to benefit, while the request for the connection of old age pension should be requested no later than one year from the date this right arises<sup>138</sup>.

As litigation has generally ended after the legal deadlines for the right to receive the old age pension, citizens have been penalized by being denied this right and the benefit has started after the court decision has been submitted.

In terms of the right that every citizen has to be informed about the acts held by public authorities at any time according to Law no. 119/2014 "*On the right to information*", which guarantees the right to access the archival information of any kind,<sup>139</sup> In order that by the moment of birth the right to citizen benefit to be able to meet the criteria of seniority and begin to enjoy old age pension, we have addressed with a recommendation to the Regional Directorate of Social Insurance, for full verification of seniority according to the relevant payroll.

- *Low amount of old age pension from non-collection of compulsory social security contributions by the General Directorate of Taxes.*

Another problem found by the handling of citizens' complaints is the non-calculation and payment of contributions by the relevant entities in the Regional Directorates of Social Insurance. The payment of social security contributions by the entities where they are employed, will enable the citizens to receive those rights guaranteed by the Constitution of the Republic of Albania and Law

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<sup>138</sup> 132 Article 62 point 2 of law no. 7702 dated 11.03.1993 "On social insurance in the Republic of Albania".

<sup>139</sup> Article 15, point 5 of law no. 119/2014 "On the right to information".

no. 7703 date 11.05.1993 "*On social insurance in the Republic of Albania*", as amended, to benefit from a higher measure of old age pension.

In the analysis of legal acts, which regulate the collection of compulsory social security contributions, the responsibility for the collection of social contributions lies with the tax authorities<sup>140</sup>. In order to address this issue, for the full benefit of the old age pension according to the contribution given over the years from the citizens, we addressed a recommendation to the General Directorate of Taxes requesting that in such cases it is their responsibility to immediately *collect social security contributions from any private entity*.

In the function of legal improvements, the institution of the People's Advocate has already identified legal provisions of the legislation in the field of social security, which should be improved in order to address and solve the problems presented by the citizens, a process which will be followed by drafting of relevant recommendations.

## **CHAPTER 4**

### **Other institutional engagements**

#### **4.1 Activity of People's Advocate during the pandemic caused by Covid-19**

The imposition of restrictions on the exercise of certain rights during the period of the natural disaster as a result of the pandemic, placed the institution of the People's Advocate in the position of the vanguard institution to guarantee that human rights can not be secondary even in a situation pandemic and at the same time to be as close as possible to the citizens in order to guarantee the protection of their rights.

The constitutional mandate of the ombudsman institution in this regard has been implemented, exercising both the supervisory and the promotional role.

The control, oversight and evaluation of the policies, activities and decision-making of the state authorities during the pandemic was especially important in the conditions when the parliamentary and judicial activity were blocked, and the legislative competence passed to the executive power, carrying out the parliamentary control process only post- factum.

The Institution of the People's Advocate has followed with concern the information on the confirmation of the first patients with COVID-19 infection in our country, and has stressed early on the need for public health institutions to be at the right level of performance to serve to our citizens and to minimize the consequences of this global epidemic in our country, demanding transparency, providing the necessary additional funds from the state budget, carrying out strict controls at the entry points of the country, engaging all state structures, equipping with tools necessary protection for medical staff, provision of a plan in case of eventual increase in the

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<sup>140</sup> Law no. 9136 dated 11.09.2003 "*On the collection of compulsory social and health insurance contributions in the Republic of Albania*", amended, in article 3, has determined that: "Contributions are collected by tax authorities on behalf of the Social Insurance Institute and the Fund of Compulsory Health Care Insurance, in accordance with the provisions of this law and other bylaws".

number of affected, quarantine for persons identified as affected in a safe area and disinfection of all public and private facilities, which pose a risk of specific to virus transmission<sup>141</sup>.

➤ *Organization of work within the institution of the People's Advocate*

Following the establishment of measures within the pandemic, the institution of the People's Advocate, took a series of measures to ensure the continuity of work by respecting the restrictions imposed by state authorities:

- The reception of citizens was interrupted and communication with them was done only through electronic means such as emails and telephones, the application for smartphones, as well as the postal service.
- On the website of the institution was published the announcement "On the continuation of work in the institution of the People's Advocate during the measures within COVID-19", which provided information on all ways of contact with the institution<sup>142</sup>.

The staff of the ombudsman institution was transferred from office to full-time work from home. In case of need for office work, employees complied with the distancing measures physical and personal hygiene. According to a schedule approved at the beginning of each month, a group of five employees were physically present in the institution to ensure the continuity of the necessary services. On the other hand, the system of daily reporting of the activity of each employee who worked from home was established, periodic meetings were held with each organizational unit in the institution, as well as with special working groups.

During this period there was a decrease in the number of complaints registered in the institution by citizens, but on the other hand, there was an increase in the number of cases followed at the initiative of the institution itself. This came as a result of the monitoring activity of media services: print media, television and social networks. The employees of the institution were organized according to a schedule in daily groups of 5 members to monitor the online media by identifying cases of violation of the fundamental rights of individuals.

The staff of the Citizens' Reception Office, the assistant commissioners and in some special cases the members of the cabinet also provided legal aid in the form of legal advice on various issues / questions addressed by the citizens, mainly via email.

Inspections in places of deprivation of liberty, or other state institutions, were suspended and communication with them was done via email.

As a result of these measures, during the quarantine period, there were no employees of our institution affected by COVID-19.

➤ *Proactive Role*

During the period of natural disaster, the institution of the People's Advocate paid special attention to exercising its promotional and proactive role, ensuring the presence in the media, constantly

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<sup>141</sup> <https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/news/this-article-is-available-only-in-albanian-400/>.

<sup>142</sup> <https://www.avokatipopullit.gov.al/sq/articles-layout-1/home/news/this-article-is-available-only-in-albanian-420/>.

publishing calls for the rights of certain groups <sup>143</sup>, as well as forwarding to the authorities guidelines / recommendations of international organizations and institutions.

The People's Advocate Institution published an explanatory material regarding the state of natural disaster, restrictions on rights and the role of state authorities, to come to the aid of all citizens<sup>144</sup>.

The activity for exercising the role of the national institution of human rights resulted in the increase of the visibility of the institutional activity, as well as the increase of the reaction / engagement of the citizens towards the institution of the People's Advocate. According to the data of the official website of the institution of the People's Advocate, *in the period March-April 2020 the number of persons who had consulted the website increased by 359% while the reactions to the posts of the institution increased by 167%*.

#### **4.2 Right of citizens to personal integrity and dignity (demolition of the National Theater) <sup>145</sup>**

The Institution of the People's Advocate has followed with special attention the events related to TK and with deep concern those that occurred in the early hours of the morning of 17.05.2020 and the protests in the following hours. On this date around 04:30, the Inspectorate of Territorial Defense of the Municipality (IMT) Tirana, supported by the State Police and the Tirana Municipal Police, implemented the decision of the Tirana Municipal Council, for the demolition of the TK building.

The idea and decision-making for the demolition of the National Theater have been opposed by various citizens, including well-known figures in the field of art, culture, or other personalities of the country. After the decision taken by the Municipal Council of Tirana for the demolition of the building of TK there was an increase of tones by the parties involved in the protection of this building, which have considered the decision illegal and various citizens said at the time that they would do resistance and would not allow the demolition of the building.

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<sup>143</sup>Children'sRights <https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/news/this-article-is-available-only-in-albanian-407/>

Council of Europe principles for the treatment of persons deprived of their liberty: <https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/news/statement-of-principles-relating-to-the-treatment-of-persons-deprived-of-their-liberty-in-the-context-of-the-coronavirus-disease-covid-19-pandemic-408/>

The rights of the elderly: <https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/news/this-article-is-available-only-in-albanian-409/>

Call for attention to Albanian citizens left outside the country: <https://www.avokatipopullit.gov.al/en/articles-layout-1/media/news/this-article-is-available-only-in-albanian-410/>

The rights of the Roma and Egyptian community: <https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/news/this-article-is-available-only-in-albanian-412/>; <https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/news/peoples-advocate-asks-for-better-inclusion-and-equality-for-roma-people-on-their-international-day-419/>

Rights of persons with disabilities: <https://www.avokatipopullit.gov.al/en/articles-layout-1/media/news/this-article-is-available-only-in-albanian-411/>

<sup>144</sup> <https://www.avokatipopullit.gov.al/sq/articles-layout-1/media/news/this-article-is-available-only-in-albanian-406/>

<sup>145</sup> The full recommendation of the People's Advocate regarding this issue can be found at the link: <https://www.avokatipopullit.gov.al/media/manager/website/media/Recommendation%20Teatri%20Kombetar%20nentor%202020.pdf>

It is worth mentioning that both the Decision of the Municipal Council of Tirana, as well as the execution of the operation by the two above-mentioned institutions in its implementation, were realized in a completely unusual period. At a time when all economic, administrative and social activity in the country was closed or restricted, as a protective measure against the spread of the COVID-19 virus, when state institutions had adopted acts restricting the freedoms and rights of individuals in order to preserve health and life, by several state institutions, actions were carried out involving a large number of employees in the same place, despite the fact that mass gatherings were strictly prohibited.

The Institution of the People's Advocate, in exercising its constitutional mission as a defender of the fundamental rights and freedoms of the individual, verified the legality of the actions of the State Police during and after the operation to demolish the building of the National Theater. Subsequently, several complaints were filed by citizens who claimed that they had been raped by some police officers.

The People's Advocate organized the work in groups with experts of the institution to visit the Local Police Directorate of Tirana and all the Police Commissariats of Tirana, to meet with the escorted persons and to hear their testimonies, to inspect the registers of the escorted persons, for administer the documentation related to the event, as well as to see on the spot the measures taken in the implementation of the protocols for prevention of the spread of the COVID virus-19. At the end of the review of this case we found that:

- The collapse of the TK building took place in pandemic times.
- Its collapse in pandemic times was not an emergency and a necessity.
- The number of State Police employees engaged in the operation, Municipal Police employees, IMT Tirana employees and protesters was very large and therefore the normative acts for the prohibition of mass gatherings within the measures taken to prevent the spread of the COVID-19 virus.
- A part of the State Police employees did not wear masks and that the police officers did not respect the distance with each other, between them and the protesting citizens, as well as the protesters with each other. As a result, the police officers themselves violated the anti-covid measures determined by the normative acts in force.
- From the inspection in the Local Police Directorate of Tirana and the commissariats under it, it was concluded that the escorted persons were not respected anti-COVID-19 measures, such as respecting the distance, the escorts were not given masks and gloves at the entrance of the rooms. no disinfectants were found inside or within them and that a distribution of escorts was not made in proportion to the capacities of the escort premises.
- Due to the failure to take these measures, police officers became a potential source of the spread of the COVID-19 virus, both within their ranks and to protesting citizens and especially to escorted persons.

- The primary responsibility for implementing measures to prevent the spread of the virus falls on state institutions.
- The start time of the operation for the demolition of the TK building was inappropriate, because as a rule the decisions taken by the state administration are executed between 07:00 - 19:00.
- Some of the police officers who took part in the operation did not have the identification number on their uniform.
- Force was used by some police officers, physical and verbal violence was used against some protesters and journalists, consuming the elements of the criminal offense of "Committing Arbitrary Acts" in cooperation, provided by Articles 250 and 25 of the Criminal Code, as amended.
- The escorts in the police bodies were not given the "Minutes of the actions performed with the escorted person".

Regarding the above, it was recommended to the Ministry of Interior, the General Directorate of State Police, the Local Police Directorate of Tirana and the Prosecution at the Court of First Instance Tirana as follows:

- Taking the necessary measures by the relevant structures of the State Police, for in-depth analysis, with objectivity and professionalism, of illegal actions / omissions, committed by employees of the State Police, as against some citizens since the first hours of the date 17.05.2020 have been in the building of the National Theater to oppose its demolition, as well as the protesters in the following hours of the same date.
- Identification and initiation of disciplinary proceedings for those leaders or employees of the State Police who, by their actions / inactions, have not guaranteed the life and health of the population (including state employees), by supporting activities / operations, which have consisted in themselves or have led to mass gatherings, at the time the state of natural disaster was declared.
- Identification and initiation of disciplinary proceedings for those employees of the State Police who have performed actions with the escorts in the police bodies, because they have not implemented the legal obligation to keep minutes on the actions performed with the escorts and provide a copy of escorted persons, as well as did not document the entry of escorted persons in the premises of the Local Police Directorate of Tirana.
- Identifying and initiating disciplinary proceedings against those employees of the State Police who with their actions have violated the information of citizens, preventing employees of media outlets from documenting various parts of these events.
- Identification and initiation of disciplinary proceedings, for those leaders of the State Police, who did not allow the availability of film footage required by the institution of the People's Advocate, thus hindering the administrative investigation.

- Taking the necessary organizational and financial measures by the central structures of the State Police, to equip all employees of the state police, with protective means to prevent the spread of infection caused by the COVID-19 virus, in compliance with the normative acts of approved in order to guarantee the legal activity of the State Police, during the period of the pandemic and that they do not become a source of danger for its spread. The same measures should be taken and respected for the citizens who were escorted / detained / arrested in the premises of the state police, or even during their transport to the above premises.
- Identification and initiation of disciplinary proceedings against those heads of the State Police structures, who have not taken the necessary measures to equip some police officers, assigned to the former building of the National Theater and those who were on duty at the commissariats , as well as persons accompanied by protective masks, gloves and disinfectants, in compliance with the normative acts issued by the competent authorities, in order to prevent the spread of infection caused by the COVID-19 virus.
- Taking the necessary organizational and financial measures by the central structures of the State Police, to enable the provision as soon as possible of all employees of the State Police with their personal identification numbers, thus respecting the legal obligations for the uniform of employees of the State Police, but also to more easily identify legal violations that may be committed by them in the exercise of their duties. Identification and initiation of disciplinary proceedings for those leaders of the State Police, who have allowed the exercise of duty by employees of the State Police, without the relevant identification number.
- Taking the necessary organizational measures by the central and local structures of the State Police, to enable the continuous training of police officers, for the recognition and respect of the constitutional and legal rights of citizens, for the manner and extent of the use of force , as well as for behaving ethically and correctly with citizens.
- Acceleration of the investigation of the criminal proceedings registered by the Prosecution body at the Court of First Instance Tirana against the structures of the State Police for the criminal offense of "Abuse of duty", provided by Article 248 of the Criminal Code, regarding the deployment of RENE forces to the former building of the National Theater, before its demolition.
- Accelerating the investigation of criminal proceedings registered by the Prosecution body at the Court of First Instance Tirana for reports made by citizens M.G., M.Z., A.L. and SC, taking into account the recommendations made by the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment (CPT), during its visit to Albania by the CPT on 20-30 November 2018. In this recommendation, inter alia states that: *“The Committee recommends that in cases of possible police ill-treatment to be investigated by prosecutors who are not involved in criminal investigations against alleged victims of ill-treatment”*<sup>146</sup>.

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<sup>146</sup> <https://rm.coe.int/168097986b>.

### 4.3 Citizens' constitutional right to assembly in a pandemic situation

Following the declaration of a global pandemic on 11 March 2020 by the World Health Organization, a number of acts 141 were adopted by the competent state structures<sup>147</sup> to take special administrative measures in accordance with the situation, which led to the restriction of certain rights and fundamental constitutional and legal freedoms.

Despite this situation, the institution of the People's Advocate has continuously performed the task of fulfilling its constitutional mission, to protect and guarantee the fundamental rights and freedoms of citizens as well as to identify various cases of non-compliance or non-guarantee in that measures that are unrestricted or unrestricted by normative acts issued for this purpose.

In this context, we have closely followed through the media the protests of citizens organized in different cities of the country during the pandemic period and the establishment of the state of natural disaster due to the spread of infection by COVID-19. Through rallies they have expressed their concerns and made them public to attract attention and raise public awareness.

Thus, the protests were organized by employees of private enterprises due to non-receipt of "*war salary*", due to dismissal; from residents who have had problems damaging their homes from last year's earthquakes, etc. Whereas, in some other cases, they were organized by civil society activists and various citizens due to restrictive measures imposed by state authorities during the pandemic; against the demolition of the former National Theater building; those held after the murder of the young Klodian Rasha by an employee of the State Police, etc.

During the protests, in a number of them, the structures of the State Police intervened and escorted the organizers and some participants of the protest to the police, and then referred the procedural materials to the prosecutor's office<sup>148</sup>.

In order to make possible the assessment of the cases as well as the behavior of the structures of the State Police regarding their treatment, taking into account the fact that the right of citizens to assembly is a fundamental constitutional right, we addressed the structures of the Police of The state regarding the position taken by them in cases of protests. During 2020, regarding the right of assembly, *we handled 13 complaints and 14 cases registered on our own initiative.*

From the answers sent to our institution by the General Directorate of State Police and the Local Police Directorate of Tirana, it was evident that based on the acts in force, the development of public activities, such as gatherings, gatherings and protests in closed and open places, are prohibited. .

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<sup>147</sup> Normative act no. 3, dated 15.3.2020, of the Council of Ministers, "On taking special administrative measures during the period of infection caused by COVID-19", as amended, DCM no. 243, dated 24.03.2020, "On the declaration of the state of natural disaster", the issuance of a series of normative acts by the Inter-Ministerial Committee of Civil Emergencies as the highest body for coordination and coordination of actions of state institutions and private entities, and of financial and material resources for coping with natural disasters due to the epidemic caused by COVID-19, as well as by some ministers, mainly the Minister of Health and Social Protection.

<sup>148</sup> Reference is generally made to the criminal offenses "Organizing and participating in illegal gatherings and demonstrations" and "Breaking public order", provided by Articles 262 and 274 of the Criminal Code.

In the following, we referred to the normative acts on which the claims of the State Police were based for the prohibition of gatherings, rallies, protests, etc., during the period of declaring a state of natural disaster due to COVID-19 infection and specifically:

- In the normative Act no. 3, dated 15.3.2020, of the Council of Ministers "On taking special administrative measures during the period of infection caused by COVID-19", as amended, in Article 3, point 2 provides:  
*"Entities or individuals who organize the development of public and non-public activities, such as sports, cultural activities and conferences, or mass gatherings indoors or outdoors, such as concerts, gatherings and public hearings, shall be punished by a fine of 5,000,000 (five million) ALL for the organizers and the prohibition of the activity"*.
- In the DCM no. 243, dated 24.03.2020 "On the declaration of the state of natural disaster", point 6.1, letter "dh", it is provided that:  
*"Public institutions to ban rallies, demonstrations and strikes;"*
- In the Order of the Minister of Health and Social Protection no. 132, dated 08.03.2020 "On the closure of public and non-public activities and the cancellation of mass gatherings in closed or open places", as amended, point 2, provides that:  
*"I order: the cancellation of mass gatherings in closed or open places such as concerts, gatherings and public hearings"*

From the acts cited above, we singled out and analyzed the normative act no. 3, dated 15.3.2020, from the content of which it is clearly understood that during the duration of the pandemic period in our country are *prohibited mass gatherings in closed or open places, such as concerts, gatherings and public hearings*. This means that non-mass gatherings indoors or outdoors, such as concerts, rallies and public hearings, *are not prohibited*.

Whereas, Order no. 132, dated 8.3.2020, of the Minister of Health and Social Protection, not sufficiently clear from the point of view of legislative content, seems to aim at restricting, prohibiting or annulling some rights related to public activities and gatherings. indoors and outdoors. It has been drastically interpreted by the Albanian authorities as a total and absolute ban on the exercise of the rights restricted by it.

Meanwhile, after the treatment of some cases by us and the issuance of a series of concrete recommendations regarding the violation of the exercise of freedom of assembly, the Minister of Health and Social Protection has approved Order no. 633, dated 17.11.2020 "On the prohibition of gatherings in closed or open places", in point 1 of which it is defined that: *"I order: It is forbidden to gather in more than 10 people in closed or open places, conferences, rallies, party gatherings, holiday ceremonies, wedding ceremonies, and extra-familial funeral ceremonies, up to a second order."*

Meanwhile, we have noticed that during this period of time gatherings have taken place, such as meetings, party meetings, public hearings, etc., massive or not massive and with / or not security measures by various public administration authorities, political entities, which have been made public in the media. The purpose of their organization and development has been related to taking protective measures against COVID-19, for the development of the economy through tourism, public projects, etc. Concerts with a reduced number of artists have also been organized. On the other hand, gatherings or protests of ordinary citizens as a means to realize their right to express

their dissatisfaction and opinions, despite their guarantee of the rules of social distancing, are not allowed.

During the review of complaints / cases on our own initiative, we found that the normative acts cited above were understood, interpreted and implemented incorrectly and correctly by the structures of the State Police. As a result, they have obstructed and violated the exercise of a constitutional freedom / right of citizens. The illegal attitudes held in these cases by the police bodies seriously damage the image of the State Police and the public trust in this body, which are necessary in successfully carrying out its legal mission to maintain public order and security.

The ombudsman on several occasions has clearly stated his position regarding the exercise of the right / freedom of assembly by citizens as one of the fundamental human rights and freedoms. We bring to your attention that the freedom of assembly is provided and guaranteed by Article 47 of the Constitution of the Republic of Albania and Article 11 of the European Convention on Human Rights.

Restrictions imposed on fundamental human rights and freedoms such as freedom of assembly may not exceed the restrictions laid down in the European Convention on Human Rights of the European Court of Human Rights (ECHR) <sup>149</sup> interpreted through the European Court of Human Rights (ECHR), presupposing that these restrictions be proportionate to the situation which necessitated their imposition. The state has the discretion to ascertain the necessity of restricting one or several rights according to the circumstances dictating this need, keeping in mind to what extent it is necessary to follow the restrictions in an attempt to overcome the state of emergency<sup>150</sup>. Measures which interfere with the right to freedom of peaceful assembly violate Article 11, if they do not meet an urgent social need, and must be a proportionate means of aiming at the protection of public health. The ECtHR has recognized that absolute clarity about the consequences of human actions may be impossible to achieve, as laws must retain a degree of flexibility to make room for changing circumstances<sup>151</sup>.

The Court in its case law has given importance to the fact that those who participate in rallies not only seek to express their opinion, but also to express it together with others<sup>152</sup>. The Court has also considered that the notice, and even authorization procedures for a public event do not normally infringe the substance of the law under Article 11 of the Convention as long as the purpose of the procedure is to allow the authorities to take reasonable and appropriate measures to ensure the normal conduct of any gathering, gathering or other gatherings<sup>153</sup>. The organizers of public gatherings must act in accordance with the rules governing this process by respecting the regulations in force. Prior notice serves not only the purpose of coordinating the right of assembly with legitimate rights and interests, including the freedom of movement of others, but also the

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<sup>149</sup> Article 17 of the Constitution of the Republic of Albania.

<sup>150</sup> With the verbal note of the Permanent Mission of the Republic of Albania to the Council of Europe, dated 31 March 2020, the Albanian state, in accordance with Article 15/3 of the ECHR, has notified the Secretary General of the Council of Europe of the derogation from certain rights provided by articles of the Convention, due to the state of the epidemic. Meanwhile, the deadline for the derogation has expired and he has currently lost his legal force.

<sup>151</sup> Shih, Ezelin k.Francès, 26 prill 1991, Nr. 11800/85 § 45.

<sup>152</sup> See, Primov and others v. Russia, 12 June 2014, no. 17391/06 § 91.

<sup>153</sup> See Sergey Kuznetsov v. Russia, no. 10877/04, § 45, 23 October 2008

purpose of preventing riots or crime. Even in the absence of a prior notice of protest, this technical element must in no way infringe on the essence of the right to exercise freedom of assembly<sup>154</sup>.

The procedural rules that discipline the exercise of this right are defined explicitly in law no. 8773, dated 23.4.2001 "On gatherings", which also provides for exhaustive restrictions or prohibitions which can not be exceeded in the exercise of the right of assembly. This law, as it stipulates that every person has the right to organize and participate in a peaceful and unarmed rally, also provides that the State Police guarantees and protects the right of every person to organize and participate in peaceful and unarmed rallies. weapons. Prohibition and dispersal of a gathering is allowed only in cases provided by law. From the reference in the content of the provisions of this law it results that for the exercise of this right it is required only to make a notification in a certain time of the police bodies where to reflect some data related to the implementation of its duty as a guarantor of the exercise of giving this right time to take the necessary measures for the smooth running of the rally.

In addition to the provisions cited above, referring to Article 15/2 of the Constitution and Article 2 of Law no. 108/2014 "On the State Police", the People's Advocate estimates that the public authorities are required not only not to become an obstacle to the exercise of freedom of assembly of citizens, but on the contrary should contribute to its realization.

At the end of the review of a case and in order to create facilities for citizens to exercise their constitutional and legal rights, but also to unify the position of the State Police, prosecution and judicial bodies in such cases, it was estimated that

The competent state structures should improve the normative acts that regulate the freedom of assembly, in order for it to be exercised even in cases of pandemics or the declaration of a state of natural disaster. During the process of preparation these acts should be taken into account the place where the gathering will take place, closed or open, its surface, number of participants, protective measures against the spread of infection, the important principle of proportionality, etc.

Regarding the above, the People's Advocate in the role of promoter of the highest standards of human rights and freedoms in the country, prepared a recommendation<sup>155</sup> addressed to the General Prosecutor, the Minister of Health and Social Protection, the General Director of the State Police and the Inter-Ministerial Committee on Civil Emergencies where he recommended:

- Taking the necessary measures for the immediate cessation of the current practice of the structures of the State Police for not allowing non-mass gatherings in closed or open places, such as rallies and public hearings, organized by various entities during the period of the pandemic and declaring a state of natural disaster.
- Taking the necessary measures by the relevant structures to make concrete proposals to the bodies that have the right of legislative initiative to enable changes in law no. 8773, dated

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<sup>154</sup> See *Éva Molnár v. Hungary*, 7 October 2008, application no. 10346/05.

<sup>155</sup> In July 2020, the People's Advocate sent to some institutions "Recommendation for taking the necessary measures to respect the constitutional freedom of assembly even during the state of emergency". For more information, go to the official website of the institution where you will find the relevant recommendation: <https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20marrjen%20e%20measures%20t%C3%AB%20necessary%20p%C3%ABr%20respect%20e%20liberation%C3%AB%AB%20except%C3%ABpecial%20.pdf>.

23.4.2001 "On rallies", to guarantee the right to spontaneous rallies and counter-protests in accordance with international recommendations and acts;

- Taking the necessary measures by the structures of the State Police to guarantee the right to practice the profession and report events by journalists present at rallies or other activities of this nature.
- Taking the necessary measures by the structures of public power to improve the normative acts in force that regulate the freedom of assembly in order to guarantee this constitutional right even in times of pandemics and the declaration of a state of natural disaster, respecting the relevant health protocols.
- Preparation and approval of an instruction or circular by the General Prosecutor's Office, in cooperation with the HJC and HJC for the unification of the practices of the prosecution and judicial bodies for criminal prosecution and adjudication of cases for the criminal offense "Organizing and participating in illegal assembly", provided by Article 262 of the Criminal Code.
- Immediate taking of measures by the General Prosecutor's Office for the preparation of concrete proposals addressed to the competent structures in order to amend Article 262 of the Criminal Code in accordance with the spirit of the Constitution of the Republic of Albania, the European Convention on Human Rights and the current practice of European Court of Human Rights.

All the institutions to which we addressed the recommendation responded, with the exception of the Inter-Ministerial Committee for Civil Emergencies. We clarify that of them, only the Ministry of Health and Social Protection appreciated it and expressed readiness for cooperation to improve the normative acts that regulate freedom of assembly, but in the meantime did not take any other action to concretize it.

We believe that state authorities, in order to justify a general ban, must demonstrate that there is a real danger that cannot be prevented through other less restrictive measures. The effect of the prohibition should be considered and it should be concluded that the disadvantages caused by the prohibition clearly outweigh the safety considerations and that there are no other possible ways to avoid these undesirable effects, for example by reducing the scope or duration of the prohibition. prohibition<sup>156</sup>.

The absolute restriction of the right of citizens to gather in search of their rights, ie to organize rallies, was a proportionate measure at the time of taking a series of other measures for a higher public interest, but, in order for the observance of this principle to be guaranteed even today, the way of applying the restriction or prohibition must necessarily be reviewed.

In this sense, a correct approach even in compliance with the Constitution and international instruments in the field of human rights would be the revision of this measure, allowing the exercise of the right to assemble even in cases of pandemics or the declaration of a state of emergency. natural disaster, under the guarantee of strict rules set by the authorities, as is in fact the case for many other restrictive measures. During the process of preparation of these acts, the place where the gathering will take place, closed or open, its surface, the number of participants, protective measures against the spread of infection, the important principle of proportionality, etc. should be taken into account.

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<sup>156</sup> See, Christians against Racism and Fascism k. United Kingdom, Admissibility Decision of 16 July 1980, No. 8440/78.

In this regard, we bring to attention the positive international attitude and experience.

The United Nations Special Rapporteur on Freedom of Assembly and Association has called on all Member States to ensure that measures taken against COVID-19 do not infringe on freedom of assembly and association<sup>157</sup>. In the Recommendation addressed to the States lists ten basic principles and guidelines that states should consider to ensure respect for this right and the involvement of civil society and other actors as partners in tackling the crisis that each state is going through<sup>158</sup>.

Among the positive experiences of European countries in this regard we can mention Germany, which during the pandemic period has allowed the development of gatherings and gatherings up to a limited number of participants while maintaining physical distance during such situations. The German Constitutional Court has ruled on the right of persons to protest if they apply the rules of physical distance in order to prevent the spread of COVID-19 infection, stressing that a general ban on rallies would be unconstitutional and that the health concerns of associated with the coronavirus pandemic are not grounds for a general ban on protests<sup>159</sup>.

#### **4.4 Monitoring of protests (May and December 2020)**

The People's Advocate Institution has monitored the right to organize continuous rallies, through inspections conducted in the State Police, as well as through conducting administrative investigations into the procedures followed by police officers with escorted and arrested persons. / forbidden.

The ombudsman's monitoring groups have closely followed not only the protests on the ground, but also the ensuing situation, during the escort of citizens by the Police, as well as in the local hospitals where the injured were hospitalized during the protests, in accordance with our mandate. defined in law.

The People's Advocate Institution has monitored the protests of May and December 2020 according to a work plan approved by the People's Advocate. Our institution has constantly stressed during all the days of the protest the need for the peaceful exercise of the right to protest, as a constitutional right, without restricting in any way this right, as well as calling on the parties to restrain themselves. .

The People's Advocate based on article 19/1 of law no. 8454, dated 04.02.1999, "On the People's Advocate", as amended, conducted a verification in the Police Commissariat No. 1, Tirana on 15.05.2020 after registering a complaint in the reception office of citizens for escorting some

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<sup>157</sup> COVID-19 restrictions should not stop freedom of assembly and association, says UN expert: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25792&LangID=E>.

<sup>158</sup> States responses to Covid 19 threat should not halt freedoms of assembly and association" – UN expert on the rights to freedoms of peaceful assembly and of association, Mr. Clément Voule:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25788&LangID=E>.

<sup>159</sup>Federal Constitutional Court, April 15, 2020 – 1 BvR 828/20: [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2020/04/rk20200415\\_1bvr082820.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2020/04/rk20200415_1bvr082820.html).

citizens , among them the citizen K.Ç. from the structures of the Police Commissariat no.1, during an activity that was taking place in “Skënderbej” square, Tirana.

In this context, our institution has immediately started the administrative investigation to verify the actions to accompany him. From the Administrative investigation it resulted that: Mr. K.Ç. *he was not explained the reasons for the escort, he was not allowed to contact the Ombudsman, he was not given a rights card and he was not given the opportunity to contact a defense lawyer or his family.* From the data of the register of escorted persons, it results that the escort was realized at 12:40 and 12:45, respectively. *We emphasize that until the moment of the verification by the People's Advocate, at 15:00, none of the standard escort procedures had been performed, in accordance with the legislation in force.*

From the monitoring of the premises of the commissariats, it has often been concluded that the rights of the escorted persons are not properly enforced during the first hours of escort in the commissariats. The identified problems are:

- Persons escorted / detained by the police often did not have access to a lawyer during the first hours of escort (the right to have a private lawyer, to communicate with him / her and to be present during the interrogation)<sup>160</sup>.
- Persons escorted / detained by police officers sign a statement certifying that they received a copy of the fact sheet with their rights at the end of the police interrogation process.<sup>161</sup> European Committee for the Prevention of Torture (CPT) has recommended to the responsible institutions during 2018 that escorted / detained persons should be fully informed about their rights from the beginning of deprivation of liberty, providing clear verbal information about the legal / procedural rights they have since beginning of deprivation of liberty. According to the findings, the explanatory note with the rights of the detained persons is given to them at the end of the interrogation process.
- It was found that persons escorted / detained by the police had delays in accessing health care to the provisions set out in the manual / procedure for the treatment and rigorous provision of the initial examination.
- The book of complaints / requests is often incomplete, as defined in article 115 of law no. 108/2014, "On the State Police", as amended.
- The schedule of escorting persons does not match the schedule recorded in the register by the police officer at the police station<sup>162</sup>, according to law no. 108/2014, "On the State Police", article 109, point 4.

We would also like to emphasize that during the verification carried out in the premises of the Police Commissariat no. 1 in Tirana, it was found that the observance of mandatory measures for protection from the spread of COVID-19 infectious disease was not at satisfactory levels<sup>163</sup>. We mention this fact, as the escort of the citizen K.Ç. the Commissariats came as a result of the action to distribute an activity, in order to prevent the spread of COVID-19, while the protective measures

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<sup>160</sup> Law no. 108/2014, "On the State Police", Article 109, point 3.

<sup>161</sup> The European Committee for the Prevention of Torture has recommended CPT / Inf (2019) 28.

<sup>162</sup> Law no. 108/2014, article 109, Escort to the police

<sup>163</sup> For this issue, the People's Advocate is preparing a special recommendation which will reflect all relevant issues.

and conditions in the premises of the police station where the person was escorted did not guarantee the protection of their health.

Regarding the above, the People's Advocate has recommended to the State Police bodies:

- Evidence of the case and issuance of concrete administrative responsibilities for the violations found in the escort of the journalist K.Ç. in the premises of police station no. 1 related specifically to:
  - Failure to appoint a defense attorney.
  - Failure to provide the necessary medical service.
  - Failure to make the right card available.
- Taking measures to enable the preliminary identification of persons escorted by police bodies, to distinguish between journalists or other persons who are in the exercise of duty and not participants in the activity where the police action takes place.
- Taking measures to enable immediate access to a lawyer from the moment of escorting or detaining persons in the state police bodies.
- Taking immediate measures to enable immediate access to a doctor from the first hours of deprivation of liberty to persons in the state police bodies.
- Taking necessary measures for escorted / detained persons to be fully informed of their rights from the beginning of deprivation of liberty, providing clear verbal information about the legal / procedural rights they have from the beginning of deprivation of liberty, and making the charter of rights of access to them available.
- Taking measures to complete and specify the time of deprivation of liberty by the police officer.

The People's Advocate Institution has monitored the right to organize continuous rallies, through inspections conducted in the State Police, as well as through conducting administrative investigations into the procedures followed by police officers with escorted and arrested persons. / forbidden. Regarding the situation of the escorts in the directorate and police commissariats of Tirana, the institution with the letter no. conducted on 10-13 December 2020 and investigative procedures followed against police officers who were found in excess of powers and exercising violence against protesters.

In response to our request, the CIA with letter no. 2349/1 prot., Dated 18.01.2021, informs that:

- From the structures of the Local Police Directorate of Tirana and the Police Commissariats No.1,2,3,4 and 6, for the dates 10, 11, 12 and 13 December 2020, were escorted a total of 354 citizens, of which 115 juveniles.
- For all juvenile citizens, verification actions were performed to identify them and the legal representatives (parent) were contacted and after being advised, they left the police premises.
- 87 citizens (no juvenile) after the first actions were arrested / detained and the procedural materials were referred to the Prosecution at the Court of First Instance, Tirana.

During the monitoring in one case it was ascertained that *employees of the State Police have acted in excess of their competencies*, from where the CIA has started the investigation mainly and concretely:

- Inspection initiated mainly by the CIA for unfair escort, as well as violence by employees of the Police Commissariat No. 1 Tirana, *in the evening of 19.12.2020 of citizens AS, EM, DM, and GH, representatives of the Alliance for the Protection of Theater.*
- From all the actions performed by the CIA, it results that the standard working procedures *"On the technical rules of escort in the premises of the State Police"* approved by Order, no. 938 dated 24.07.2019 of the GDPR.
- For these violations, the CIA has recommended to the General Directorate of State Police, *the initiation of disciplinary investigation for 4 employees of the Police Commissariat No. 1, Tirana.*
- Regarding the allegation of violence after the treatment of the case and in support of the evidence provided by the citizens and those provided during the inspection, the CIA in fulfillment of the mission and obligations deriving from Law no. 70/2014, with letter no. 2355 prot , dated 29.12.2020 has sent *the administered materials referred to the Prosecution at the Court of First Instance Tirana.*

A total of 8 *complaints* were submitted to the Service regarding the exercise of violence by police structures, of which:

- In 3 *cases* the materials were referred to the Prosecution at the Tirana Judicial District Court.
- In 2 *cases for 6 employees* it was suggested to start a disciplinary investigation.
- In 3 *cases* the actions of the State Police employees were in accordance with the legal framework.

Despite the references of the above cases, the competent bodies for their review should take into account the statement of the Council of Europe Commissioner for Human Rights, Dunja Mijatović where he speaks regarding the escalation of clashes between police and protesters after the fatal shooting of a young man from the police during the curfew overnight in the country, that *"Albanian authorities must show restraint in policing demonstrations and ensure a thorough, independent and effective investigation into all allegations of excessive use of force. Disproportionate use of force has also been reported in connection with other demonstrations that took place in Albania earlier this year,"*<sup>164</sup>

#### **4.5 Monitoring the activity of the Justice Appointments Council (JAC)**

As we have informed before, the institution of the People's Advocate follows with special attention and dedication the implementation of the Justice Reform in general and, in particular, the activity of the Justice Appointments Council (hereinafter JAC). This, as the role of the institution of the People's Advocate in this case is twofold, not only as a Constitutional institution provided for the

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<sup>164</sup> More Information at:

[https://www.coe.int/sq/web/tirana/news/-/asset\\_publisher/SEnehJ2ESZrW/content/albanian-authorities-must-prevent-further-police-violence-and-uphold-the-right-to-freedom-of-peaceful-assembly?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fsq%2Fweb%2Ftirana%2Fnews%3Fp\\_p\\_id%3D101\\_INSTANCE\\_SEnehJ2ESZrW%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dnormal%26p\\_p\\_mode%3Dview%26p\\_p\\_col\\_id%3Dcolumn-4%26p\\_p\\_col\\_count%3D1](https://www.coe.int/sq/web/tirana/news/-/asset_publisher/SEnehJ2ESZrW/content/albanian-authorities-must-prevent-further-police-violence-and-uphold-the-right-to-freedom-of-peaceful-assembly?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fsq%2Fweb%2Ftirana%2Fnews%3Fp_p_id%3D101_INSTANCE_SEnehJ2ESZrW%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1)

protection and guarantee of Freedoms and Human Rights, but also as an institution whose Constitution of the Republic of Albania and legislation for Justice Reform, have given it a special role and competencies in this process.

More specifically, Article 149 / d, point 3 of the Constitution, provides that: "... *The People's Advocate participates as an observer in the lottery procedure, as well as in the meetings and activities of the Judicial Appointments Council*". Also, according to article 233, of law no. 115/2016 "On the governing bodies of the justice system": "1. *Meetings of the Justice Appointments Council are closed. The People's Advocate participates in the meetings and the activity of the Council. ... ».*

So, based on the above obligations, our institution was initially present in casting all lotteries over the years, for the election of JAC members, where at the end of which, based on the obligations provided by Article 221, points 7 and 11, as well as article 284 point 6, of law no. 115/2016 "On the Governing Bodies of the Justice System", according to which: "*The President of the Republic, in the presence of the People's Advocate, selects the members of the Council by lot, between December 1 and 5 of each calendar year.*"., "The People's Advocate immediately publishes on the official website of the institution the report on the monitoring of the lottery process", has drafted and published the relevant reports. The conclusion of our monitoring report on the lottery procedure for the election of members of the Justice Appointments Council for 2021, conducted by the President of the Republic on 04.12.2020, was that this process was conducted in full compliance with the law.<sup>165</sup>

In accordance with the above constitutional and legal obligations, our institution has participated in all 22 (twenty two) meetings of the JAC held during 2020, trying to properly exercise the tasks set by the legislator (opinions given by our institution are published summarized in the minutes of JAC meetings).<sup>166</sup> We appreciate the work done by JAC during 2020, work which included in itself not a few problems, to enable the selection of valid candidates to be presented to the denomination bodies. Also the urgent need of the country, to have a Constitutional Court with the necessary quorum to make decisions, was an increased responsibility of this Council. The result of the work of JAC 2020 was influenced not only by the low number of candidacies, but also by the compliance of the candidacies with the criteria set by law, both at the constitutional and legal level. The People's Advocate appreciates at the same time the dedication and dedication of the members of the Council who managed with dedication and responsibility to complete the process of verification and evaluation of candidates for all vacancies under review for 2020, sending them to the nominating bodies. There is still a crucial issue for the functioning of the Constitutional Court with the number provided by the Constitution, the initiation and completion of the process of appointing members of the Constitutional Court, who are appointed by the appointing body, the Supreme Court.

Some of the main issues of functional administrative character, identified by our institution during the activity of JAC 2020, have been: Several months of work interruption by this body; *failure to*

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<sup>165</sup> <https://www.avokatipopullit.gov.al/media/manager/website/reports/Hedhja%20e%20shortit%20te%20KED%20Dhjetor%202020.pdf>

<sup>166</sup> [http://www.gjykataelarte.gov.al/web/Procesverbale\\_te\\_mbledhjeve\\_6468\\_1.php](http://www.gjykataelarte.gov.al/web/Procesverbale_te_mbledhjeve_6468_1.php)

*provide the necessary budget and lack of human capacity* necessary to perform the task in accordance with legal deadlines and efficiency required by law but also citizens.

Given that the functioning of the Constitutional Court as soon as possible and at full capacity was one of the conditions that international institutions recommended to our country, in the framework of European integration, we think that the optimal functioning of the JAC should be a priority and better addressing of the above issues.

Regarding *the termination of work for several months* (from 06.02.2020 - 30.06.2020), despite the lack of any public announcement made by the chairman of JAC 2020, we think that the reason for the termination of work was related to the health emergency situation, caused by the COVID-19 virus, but it is worth mentioning the fact that, unlike many other institutions which took measures to continue working online, by JAC 2020, such a thing did not happen. Although the then chairman of JAC,<sup>167</sup> stated in the media that the possibility of doing work online was being considered, this issue was not submitted to the JAC 2020 Council for discussion, making this body not function for more than 4 months (for more see also the annual report of JAC 2020).<sup>168</sup>

This period turns out not to have been used even for the preparation of some regulatory acts necessary for the work of JAC. Specifically, at the JAC meeting of 06.02.2020, it was decided «Establishment of a working group for drafting internal regulations regarding the duties of advisors and administrative staff of the High Court assigned to support the activity of the Council, for various administrative actions, for the creation and maintenance of records, documentation, protocol, archives and the case management system”(an obligation also provided by Article 22 of the Rules of Procedure of the JAC), but this Regulation was not drafted during 2020.

Regarding *the budget*, despite the fact that this problem was raised by our institution before, again for JAC 2020 the same problems were repeated. Thus there was no special fund for them, but the expenses of this body continued to be covered by the budget of the High Court.

Even in terms of the *workload* they face: both *JAC members* and *support staff*, we find that the existing legislation does not provide facilities for judges and prosecutors who are elected members of JAC. Regarding the support staff of JAC (advisors, secretaries), given the fact that in March 2020 the Supreme Court started working (which by law supports JAC support staff), this made the work of JAC 2020 difficult, due to the need that the Supreme Court itself had for all its capacities and cases carried.

We take this opportunity to recall that even for the institution of the People's Advocate, following the activity of JAC constitutes a considerable burden and that the legislation on Justice Reform assigned to the institution of the People's Advocate a series of tasks, which were not even accompanied by budget increase and not even with staff increase.

- *The Effort of JAC 2019 to limit the competencies of the institution of the People's Advocate*

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<sup>167</sup> Recall that KED 2020 was initially led by Mr. Adrian Dvorani, but after his departure as a judge from the High Court, the leadership of KED 2020 was taken over by the Vice President Vitore Tusha.

<sup>168</sup> [http://www.gjykataelarte.gov.al/web/raporti\\_vjetor\\_ked\\_2020\\_3538.pdf](http://www.gjykataelarte.gov.al/web/raporti_vjetor_ked_2020_3538.pdf)

As we mentioned in the annual report of 2019<sup>169</sup>, JAC of 2019, initially started working on drafting and approving its regulations, but during the drafting of these regulations, among other things, it was decided on an issue, which were not foreseen by the law. More specifically, it was decided to limit the role and competencies of the institution of the People's Advocate, in relation to JAC. So, contrary to what was foreseen in the legal provisions<sup>170</sup> quoted above, the People's Advocate was forbidden to participate in the whole process that JAC was conducting for the selection of candidates.

Our institution opposed such a forecast from the moment of drafting the regulation, but our legal arguments were not taken into account by JAC 2019. As there was no positive result to guarantee transparency in the activity of this Council, whose meetings are closed to the public, the only way to put in place this violated right was the judicial one.

Consequently, on behalf of our institution, on December 30, 2019, a lawsuit was filed in the Administrative Court of Appeals in Tirana, against the Justice Appointments Council with the object: Repeal of point 41, of the Decision of the Justice Appointments Council , no. 4 dated 11.03.2019 "On the procedure of verification of candidates for vacant positions in the Constitutional Court and the High Inspector of Justice", as well as the abrogation of points 46 and 62, of Decision no.5 dated 2.04.2019 "On the criteria and procedure of evaluation, scoring and ranking of candidates for vacant positions in the Constitutional Court and the High Inspector of Justice ”.

While this trial was taking place, in February 2020, our country was visited by a team of the Venice Commission at the Council of Europe, which was invited by the Assembly and the President of the Republic to give an opinion on the appointment of Judges in The Constitutional Court. This team of the Venice Commission, in the framework of its fact-finding mission, had a meeting with the institution of the People's Advocate,<sup>171</sup> where, among other things, the same arguments were presented to us that we had presented to JAC 2019, regarding this issue.

In his opinion, this Commission found our arguments right, so the Council of Appointments in Justice 2020, in its meeting of 30.06.2020, based on the Recommendations made by the Venice Commission in Opinion no. 978/2020, dated 19 June 2020 "On the Appointment of Judges in the Constitutional Court", for the part related to the activity of the Judicial Appointments Council, JAC 2020 decided to set up a working group, which would reflect these recommendations.

Following this decision, at the meeting of JAC-2020, which took place on 10.07.2020, it was unanimously approved by all members of JAC, some amendments to the Regulations of JAC, which, among other things, removed also the restriction for the institution of the People's Advocate, to participate in the entire activity of the Judicial Appointments Council.<sup>172</sup> For all the above, in the court session of 21.07.2020, our institution withdrew from the trial of the lawsuit.

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<sup>169</sup> Raporti vjetor 2019, faqe 122 -130.

<sup>170</sup> Article 149 / d, point 3, of the Constitution and article 233 of law no. 115/2016 “On the governing bodies of the justice system”

<sup>171</sup> <https://www.avokatipopullit.gov.al/sq/articles-layout-1/home/news/this-article-is-available-only-in-albanian-310/>

<sup>172</sup> For more information, the press release was published on the KED website: [http://www.gjykataelarte.gov.al/web/Membja\\_e\\_KED\\_date\\_10\\_07\\_2020\\_7067\\_1.php](http://www.gjykataelarte.gov.al/web/Membja_e_KED_date_10_07_2020_7067_1.php).

Also after the approval in the meeting of KED two of these acts ("On some additions and amendments to the decision no. 4, dated 11.03.2019 of the Justice Appointment Council" On the procedure of verification

Also due to the problems identified by our institution, for the work of JAC 2019<sup>173</sup>, during 2020 our institution drafted a special report.<sup>174</sup> This report was completed in March 2020, but due to the consequences caused by the COVID-19 pandemic, was published at the end of May 2020.<sup>175</sup> By the information we have to date, the above institutions have not commented on this Report.

- *Prosecution of lawsuits, conducted in the Administrative Court of Appeal during 2020, by candidates banned by JAC.*

The Justice Appointments Council 2020, during the process of verifying and reviewing candidates for members of the Constitutional Court, for a number of candidates, decided to ban their candidacy<sup>176</sup>. Candidates banned by JAC 2020, not agreeing with these decisions, in accordance with legal provisions, appealed to the Administrative Court of Appeal in Tirana

Given that in these lawsuits, the plaintiffs, our institution was invited to participate as a third person, on our part, attended almost all these lawsuits, giving the appropriate position.

#### **4.6 Monitoring of re-evaluation institutions in the framework of the implementation of justice reform**

The Institution of the People's Advocate continues to follow with special attention the implementation of the justice reform in general and, among others, especially the re-evaluation of judges and prosecutors in the Republic of Albania. Within the constitutional and legal role, our institution has followed and monitored the implementation of justice reform for 2020, in all its components. In this section we will focus mainly on re-evaluation institutions, established for the transitional re-evaluation of judges and prosecutors in the Republic of Albania. Specifically, we have followed and monitored with special attention the hearings conducted by the Independent Qualification Commission (hereinafter IQC) as well as the public hearings conducted by the Special Appellate Panel (hereinafter SAP), and we have closely followed complaints filed by the Institution of Public Commissioners (hereinafter IPC).

During 2020 we monitored 54 hearings conducted by IQC, 26 public hearings held at SAP premises for a total of 80 hearings.

**IQC** for 2020 has completed the process of administrative investigation and re-evaluated 103 entities, expressing itself with the relevant decisions. Of these decisions, 40 of them are confirmations in office, 32 dismissals, 28 interruptions of the process, as the subjects of re-

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of candidates for vacant positions in the Constitutional Court and of the High Inspector of Justice ", amended" and "On some additions and additions to the decision No. 5, dated 02.04.2019 of the Justice Appointment Council" On the criteria and procedure for evaluation, scoring and ranking of candidates for vacant positions in the Constitutional Court and the High Inspector of Justice ", amended"), were also published in the Official Gazette no. 131, dated 14.07.2020.

<sup>173</sup> Recall that KED is a body that is renewed every year.

<sup>174</sup> This report was sent to the Assembly, the President of the Republic and the Chairman of the Council of Ministers.

<sup>175</sup> <https://www.avokatipopullit.gov.al/media/manager/website/reports/Raport%20per%20veprimtarine%20e%20KED%202019.pdf>

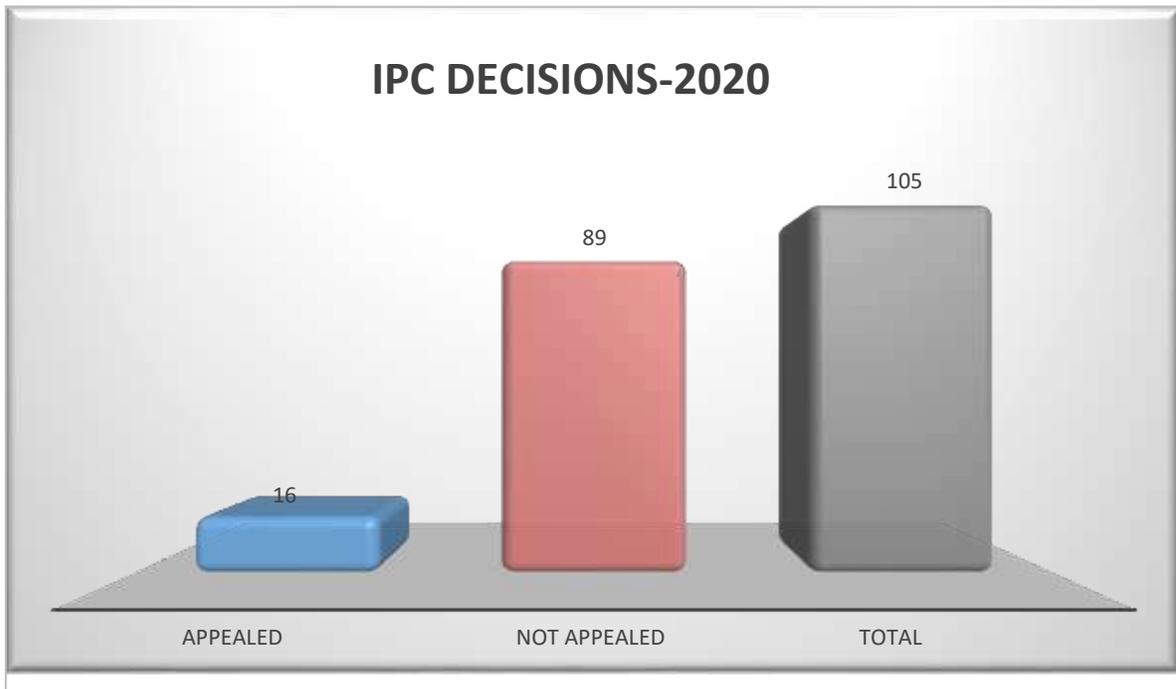
<sup>176</sup> For more details see points 5.1 and 5.2 of the Annual Report on the activity of KED for 2020.

evaluation have resigned (before the start of the process or even in its advanced stage) and the process has been terminated, according to forecasts. of point G of the Annex to the Constitution. Meanwhile, 2 cases are without a final decision (this after the re-evaluation subjects have reached retirement age) and one subject has been suspended from duty, according to the provisions of point E / 1 of the Annex to the Constitution.



**The Institution of Public Commissioner (IPC)** has administered a number of 105 decisions for 2020 and in implementation of its constitutional and legal duties has proceeded, reviewing these decisions and reached final decisions, as follows:

- 16 complaints for 2020;
- has announced 89 non-appeal decisions.

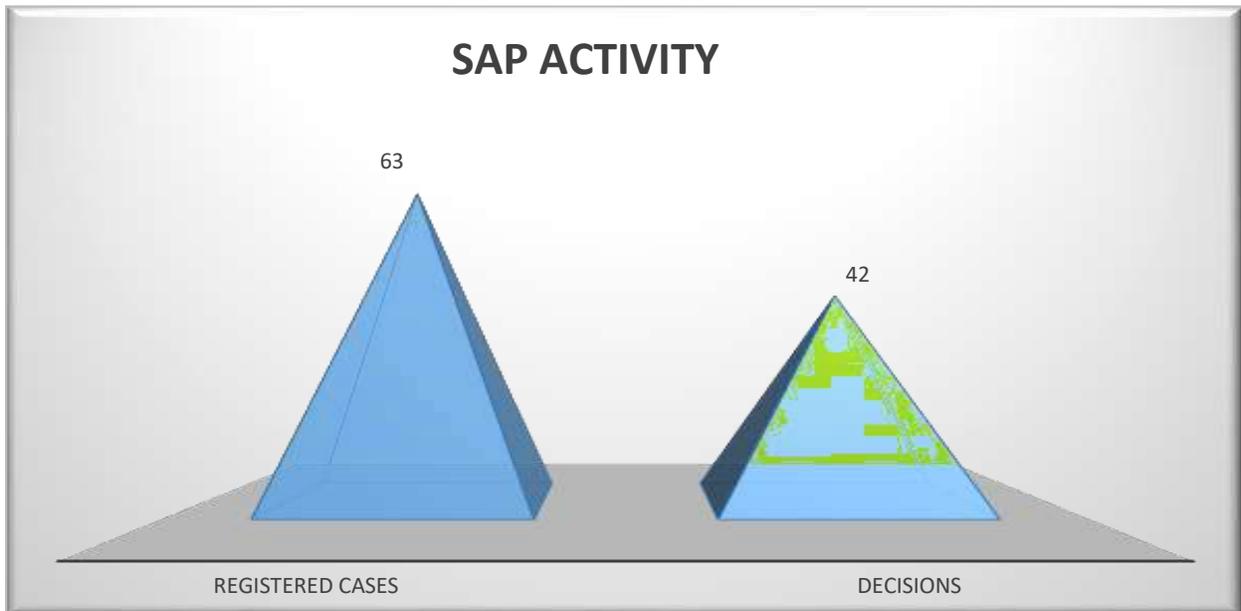


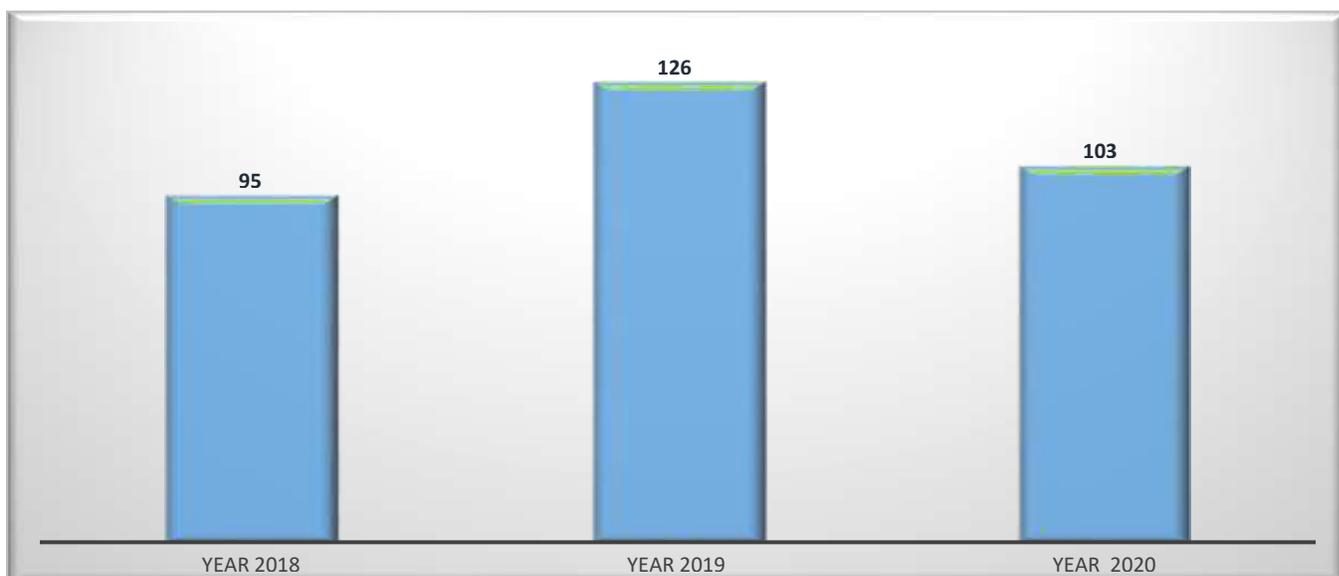
**The Special Appellate Panel (SAP)** for 2020 has registered 63 cases and issued 42 decisions in total.

**Findings on monitoring hearings at the IQC and public hearings at the SAP.**

**Regarding the activity of IQC**, if we will refer to the activity of the latter in chronological order, i.e since the announcement of the first decision, it is concluded for 2018 that 95 decisions have been given by this institution and expressed in percentage about 11.875% of them, while for 2019 a number of 126 decisions were given and expressed in percentage about 15.75% of them.

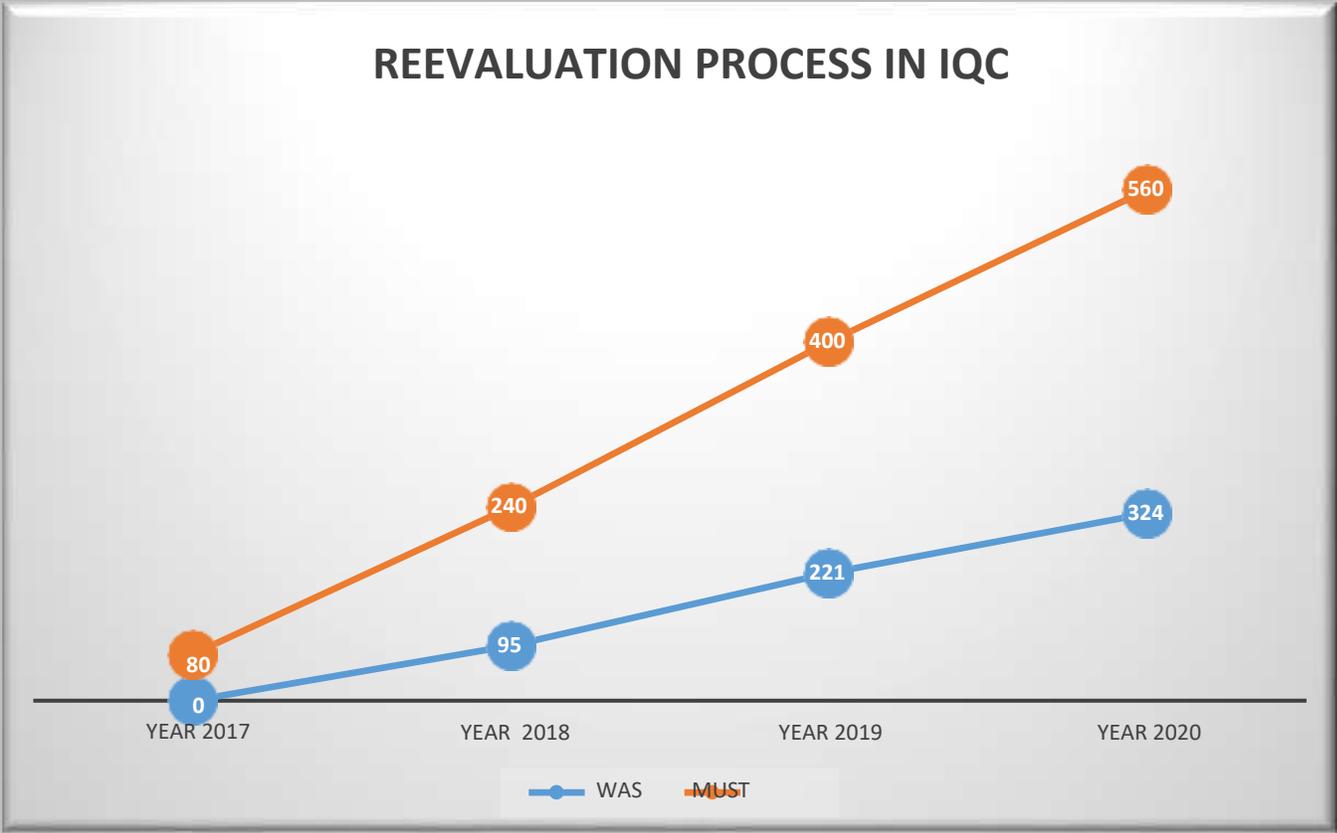
From 2018 to 2019 we see an increasing trend in the number of re-evaluated entities, but this number is not enough to complete the process within the deadline set by law and the annex to the constitution, as we mentioned in the annual report of 2019. Meanwhile, as we presented above, for 2020 there is a decreasing number of revised decisions / entities, as for 2020 it turns out that 103 revaluation entities have been revalued. This is expressed as a percentage of 13.26% of the total number of revaluation entities. However, in assessing the progress of the revaluation process for 2020, we must also take into account the pandemic situation caused by COVID-19, which may justify the reduction of decision-making compared to the previous year.





IQC was established as an institution and officially took over its functions in June 2017, i.e. around three and a half years and is nearing the end of its official mandate. By 31.12.2020, about 573 re-evaluation subjects should have been re-evaluated, while since taking office of this institution, the total number of re-evaluation decisions is 324. Expressed in percentage, it results that 40.5% of the re-evaluation subjects have been re-evaluated by date 31.12.2020, while if the re-evaluation of the subjects had to be completed within the set deadline, 71.6% of the subjects should have been vetted by this deadline. This number is not sufficient for the completion of the re-evaluation process within the legal deadline defined in the constitution and Law 84/2016 "On the transitional re-evaluation of judges and prosecutors in the Republic of Albania". Article 70/1 of this law provides:

*"Re-evaluation institutions cease to function according to Article 179 / b, point 9, of the Constitution."*, While Article 179 / B, point 8 of the Constitution, provides: *"The mandate of the members of the Independent Qualification Commission and the Public Commissioner is 5 years from the date of commencement of their operation"*. If we refer to the average of all years, i.e. the period from the beginning of the mandate until 31.12.2020, it turns out that at this rate it would take 8.6 years to complete the re-evaluation process.



As for 2020 (reporting year), where it turns out that a total number of decisions of 103, in the best case and if we think hypothetically that for the coming years will move at this pace and we will be lucky to other entities will resign or reach retirement age, it would take at least another 6 years for the process to complete. But if we refer to the progress of this process so far and the same trend of decision-making, then it would take at least another 4.6 years for the process to end, that is, another three years plus after the end of the mandate of this institution. As above, it turns out that this contradicts the opinion of the Venice Commission, regarding this point, where it gave an opinion on justice reform, suggesting a duration of 5 years of this process.

During 2020, the increase of the fund for vetting institutions and structures from the state budget was approved, including the increase of the budget for this institution. This budget increase in favor of the IQC and other institutions has been allocated in order to increase human resource capacity and intensify work. Even the institution of the People's Advocate, in the annual report of 2019 has expressed its position on increasing the capacity of human resources in the institutions of re-evaluation. This already makes us have positive expectations in increasing the number of decision-making and completing the process in a shorter time frame.

**Regarding the conduct of public hearings.** If we refer to the activity of the latter in chronological order, it is concluded that for 2018, 40 cases have been registered and 12 decisions have been given. If we express it in percentage, it turns out that for 2018, decisions have been given only for 30% of the registered cases. While for 2019, 62 cases were registered and a number of 34 decisions

were given and expressed in percentage, it results that from the cases carried and those registered for this year, decisions were given for about 37.7

Meanwhile, in terms of the reporting year, i.e. 2020, it turns out that 63 cases were registered and with a decision-making of 42 decisions. Even in this case, it seems that we are very far from the pace at which this institution should move, if we refer to the percentages of decision-making and registered issues plus those carried over from the previous year. For 2020, decisions have been issued for only 33% of administered cases.

From the statistical data that we have, it seems that this re-evaluation institution also has a very low pace in the process of re-evaluation of entities and if we proceed with these rates it would take much longer than that provided in law 84/2016, for completion of the mandates of commissioners



or judges to complete the process. In fact, it is difficult to make a prediction in *% of the total number of cases administered.*

this case how long the re-evaluation process would take if proceeded at this rate, as the number of IQC confirmation decisions which will not be appealed by IPC or those cannot be predicted of dismissal of subjects that can be appealed by the subjects themselves. But one thing is for sure, the process in this institution is moving at a very slow pace, referring to the number of decisions.

While regarding the activity of IPC, seen chronologically, from taking the mandate until 31.12.2020, it results that for 2018 this institution has filed an appeal against 16 decisions of the IQC, while for 57 decisions has decided not to appeal to them. For 2019, this institution has filed an appeal against 13 decisions, while for 114 decisions it has decided not to appeal them. As for the reporting year, i.e. 2020, it turns out that it has appealed against 16 decisions and has decided not to appeal against 89 decisions. Meanwhile, what is evident is the fact that the subjects of re-evaluation file an appeal against almost all decisions of the IQC that have decided their dismissal.



Graphic presentation of IPC activity during the years 2018-2020.

From what we have stated above regarding the activity of the reevaluation institutions for 2020, one thing is certain and far from any legal provision, these institutions find it impossible to complete their activity within the foreseen deadlines if they will continue to work at this pace. .

#### **4.7 Alternative report in the context of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), for the period 2016-2020**

The Alternative Report prepared by the institution of the People's Advocate is an added value in the real reflection of the situation of women's rights in our country, the status of fulfillment of obligations provided in the CEDAW Convention by the Albanian state, as well as the level of fulfillment of the recommendations of the CEDAW Committee at the end of the fourth reporting session by Albania.

The report highlights key aspects of the women's rights situation regarding access to justice and state-guaranteed legal aid, the national machinery for women's advancement, gender-based violence against women, women's access to economic and social rights, and the situation of women in rural areas and disadvantaged groups. For each of these areas, the Ombudsman's evaluation analysis concludes with the provision of recommendations for improving the situation in the coming years.

The recommendations are addressed to the Albanian authorities at the central and local level in order to improve the legal and policy frameworks as well as their implementation for the protection of women's rights.

➤ *Findings of the report on Access to Justice and State Guaranteed Legal Aid*

The legal framework in the area of access to justice has improved. Law no. 111/2017 "On legal aid guaranteed by the state", which entered into force on June 1, 2018, expanded the category of vulnerable women who can benefit from legal aid. Victims of domestic violence, victims of human trafficking and sexual abuse receive free legal aid regardless of income. However, the unjustified late adoption of bylaws

and the over-establishment of institutional mechanisms hindered the practical guarantee of legal aid for women, jeopardizing the functioning of the legal aid system for a large part of them. There is a lack of sufficient allocation of state funds to guarantee the provision of legal aid. Low levels of awareness, lack of nationwide legal aid clinics, multiple discrimination and unfavorable economic conditions limit the degree of access to justice for Roma, Egyptian, LGBTI, women with disabilities. limited and older women. Rapid action by the Ministry of Justice is needed to ensure that access to justice is available to all groups of vulnerable women, regardless of disability, education, economic status or social status.

Legal changes in the field of private bailiff service and law no. 9669 dated 18.12.2006 "On measures against domestic violence", despite the positive effects, have not changed the situation of women in terms of securing their rights through the execution of court decisions. Of concern is the non-execution of decisions regarding the obligation to pay alimony by ex-spouses; the obligation to meet children or the division of property. Failure to execute court rulings on Protection Orders and Immediate Protection Orders has increased the risk to life and health of women victims of gender-based violence by allowing the recurrence of acts of domestic violence. There is a need to increase the reaction rate of the responsible structures, including the bailiff institution in order to fully and without delay the court decisions to ensure the rights of women. Priority is given to specialized training and increasing the professional capacity of bailiffs, in relation to the legal framework in force and the professional treatment of all execution requests raised by women. There is a need to increase the attention of the Ministry of Justice to continuously monitor compliance with legal deadlines regarding the execution of final court decisions containing UMM / UM and to take measures to implement sanctions for entities and / or bailiffs who do not hinder the timely implementation of court decisions.

The People's Advocate positively assesses the initiative undertaken by the Albanian government regarding the provision of the principle of inverted burden of proof during the amendment of the provisions of the Labor Code and the Code of Administrative Procedure in the Republic of Albania. However, this principle does not apply to the Code of Civil Procedure. Judges do not apply in all cases the inverted burden of proof provision. It is necessary to address this change in the CPC and take measures to increase the capacity of the judiciary in the framework of the correct implementation of legal provisions.

➤ *Findings of the report regarding the National Machinery for the Advancement of Women*

Gender equality structures are in dire need of strengthening. The restructuring of the Ministry of Health and Social Protection was followed by a reduction of the previous structure of Gender Equality contrary to the strategic objectives of the Albanian state. There is a lack of special gender

officers in all ministries and municipalities of the country.<sup>177</sup> At the local level, there is a lack of separation of competencies of the Gender Officer from social workers or coordinators of domestic violence. Increasing the budget in relation to gender equality programs and anticipating budget coverage for capacity building and ongoing training of the Gender Officer is necessary.

The period 2016-2018 has been associated with increasing the attention of the Albanian government towards the inclusion of Gender Responsive Budgeting in strategic documents and the legal and sub-legal framework. This led to an increase in the number of budget programs that include Gender Responsive Budgeting and increased planning of budget expenditures for their implementation. However, spending on addressing gender inequalities and combating gender-based violence occupies an almost negligible item in the institutions' overall annual budget. There is a lack of measurement of the impact of planned budget programs on achieving gender equality, improving the situation of women / men and reducing poverty for each gender. There are no reports on monitoring the actual implementation of Gender Responsive Budgeting at central and local level. Institutions need to maintain gender-disaggregated data for each product they budget for in order to use public funds fairly and effectively and to conduct detailed analysis of gender / political / financial / legal and institutional gaps that hinder implementation. It is necessary to conduct gender analysis by each budget institution as a preliminary stage of drafting Responsive Gender Budgeting in order to identify as real as possible the needs, priorities, limitations and specific problems of men and women.

➤ *Findings of the report on Gender Based Violence Against Women*

The period 2016-2020 is characterized by significant legal changes in the field of preventing and combating gender-based violence. The People's Advocate supports the establishment of the National Counseling Line for women and girls victims of violence at the national level and the provision of the establishment of these lines at the local level. However, their full-time operation is lacking throughout the country. Vulnerable women, especially those in disadvantaged groups, are almost unaware of the existence of counseling lines. The level of reporting of gender-based violence, especially sexual harassment and sexual violence, remains very low. There is a lack of systematic and gender-disaggregated data collection for all forms of gender-based violence. The Ombudsman emphasizes the need for the necessary allocation of financial resources for the effective addressing of gender-based violence and domestic violence. Officers in charge of telephone counseling for victims of Gender-Based Violence should be trained. Free legal aid centers should be set up in every municipality and be accessible to all categories of vulnerable women.

The initiative to establish a coordinated network of mechanisms for protection from domestic violence in Albania is not enough to guarantee the protection of women from all forms of violence. The violence referral mechanism is missing in almost half of the country's municipalities. Of concern remains the limited financial support of the Coordinated Violence Referral Mechanism

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<sup>177</sup> Gender equality officers at the central level are 11 people in the ministries as well as in the General Directorate of Police and INSTAT, who in addition to their functional duties are also the contact point for gender equality. Meanwhile, at the local level there are 61 gender officers and local coordinators against violence, most of whom are not full-time on gender equality issues, but are mainly local coordinators against domestic violence. These people usually also cover other tasks such as financial assistance, people with disabilities, children, etc.

from the state budget and the frequent replacement of human resources of this Mechanism. Allocation of sufficient funds and capacity building of the staff of the treatment centers for victims of domestic violence is necessary for the protection of the rights of abused women and their reintegration into society with dignity.

In 2018, the Law on Domestic Violence<sup>178</sup> underwent significant changes in order to create greater protection guarantees for victims of domestic violence. In addition to the Protection Orders and Immediate Protection Orders, the issuance of the Immediate Protection Precautionary Order (UMPM) was envisaged. The period 2016-2019 marks an increase in the number of requests for Protection Orders and Immediate Protection Orders for domestic violence. However, the lack or limitation of Protection Orders and Immediate Protection Orders for other forms of gender-based violence remains a concern. In some cases, Protection Orders and Immediate Protection Orders are not executed by the authorities. It is necessary to monitor the implementation of the Protection and Immediate Protection Orders and take punitive measures for employees who have hindered / delayed their implementation. Courts should be careful in reasoning decisions on the issuance of Defense Orders and Immediate Defense Orders so that their decisions do not become a cause for delay and / or non-enforcement of court decisions. State Police officers handling domestic violence cases should be continuously trained in identifying domestic violence cases, risk assessment and interviewing the victim and the perpetrator.

➤ *Findings of the report on Women's Access to Economic and Social Rights*

The 2016-2019 legal changes improved the legal position of women in the field of economic services and social protection. Law 59/2019 "On social assistance in the Republic of Albania" defined as categories of beneficiaries of economic assistance victims of domestic violence and victims of trafficking. The ceiling of the economic aid measure was removed in order to increase its profitability. Law no. 22/2018 "On social housing" defined as priority entities to benefit from housing services victims of domestic violence, victims of trafficking, girls daughters.

However, the lack of setting a living wage in Albania and the low level of economic assistance remain a very fundamental problem. The digitalized system of economic assistance has brought uncertainty and confusion not only to women and girls in need, but also to the public servants who use it. There is a lack of gender-disaggregated data on beneficiaries of Economic Assistance and social housing, which brings difficulties in the analysis of the status of protection of socio-economic rights of women and girls in line with strategic objectives. The lack of a solution for homeless women remains a problem, mainly in rural areas, but also on the outskirts of cities. The benefit of victims of violence / trafficking from the right to social housing or rent bonuses remains low. By 2018, none of them had ever benefited from social housing schemes. The drafting of legislation in the field of social housing should be accompanied by an increase in the budget as well as the support that the central government should provide to local government bodies with social housing projects. Economic Assistance Services should be coordinated with programs to promote the employment of vulnerable women and girls in accordance with the strategic goals of the Albanian state in this field.

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<sup>178</sup> Orders of 172 Law no.9669, dated 18.12.2006 "On measures against domestic violence", as amended.

Despite legal provisions regarding the protection of women's property rights on an equal footing with men, the practical implementation of the legal framework has not always resulted in the protection of this right. Joint property is not registered in every case in the name of both spouses. Most problematic has been the enjoyment of this right for women in rural areas. Regarding the above, the inclusion in law no. 111/2018 "On Notary" and in law no. 111/2018, "On the cadastre" of changes with a focus on guaranteeing the principle of gender equality and protection of women from discrimination due to gender is positive. However, it remains problematic to increase the capacity of legal professionals and law enforcement officials to inform and train them on the innovations of the legal framework in the field of women's property rights and its correct application. There is also a need to raise the awareness of women, especially in rural and remote areas, about legal changes.

➤ *Findings of the report on the Situation of Women in Rural Areas and Disadvantaged Groups*

The People's Advocate evaluates the legal measures and strategic policies undertaken by the Albanian state during the period 2016-20, with special focus on the economic empowerment of women in rural areas. However, women in rural areas continue to suffer restrictions on access to rights, goods and services due to lack of infrastructure, gender discrimination, mentality

patriarchal or lack of potential services to be achieved, especially in remote areas. The problem remains the informal employment of women in these areas as well as guaranteeing the access of rural women to health care services, free legal aid services as well as the right to education. Access to drinking water is limited for women in rural areas and Roma / Egyptian women. There is a need to establish health care centers in all administrative units and improve the infrastructure of rural areas in order to increase accessibility and the level of security in these areas. It is recommended to increase the efforts of all institutions at central and local level to raise awareness of women in rural areas about their rights and legal guarantees.

Compared to other groups, women in vulnerable groups enjoy a more limited status in their rights and access to services, due to the ineffective implementation of the applicable legal framework. Despite the legal changes, for most of them the barriers related to access to employment, education, housing or social protection are great. In rural areas the restrictions for these categories are even greater. The lack of a legal framework for the protection of the rights of the elderly in Albania poses obstacles regarding the provision of legal guarantees for the protection of the rights of this category. The situation is also problematic for convicted women or those with mental health problems. There is a need to increase the access of women with disabilities, Roma, Egyptians, elderly women with disabilities to health care centers. It is necessary to increase funding for the improvement of conditions and decent treatment of convicted or detained women as well as women hospitalized in mental health centers. The drafting of the bill for the age of three is immediate. At the same time, it is necessary to increase the level of education of Roma / Egyptian women, empower them economically through inclusion in employment promotion schemes and take measures to reduce the number of Roma / Egyptian women as part of victims of sexual harassment or gender-based violence.

#### **4.8 Joint operations with FRONTEX to return the irregular citizens from EU countries**

The National Mechanism for the Prevention of Torture (NPM) pursuant to the agreement concluded between the Ombudsman and FRONTEX, since 2014, is part of the monitoring group of the process of repatriation of Albanian citizens from EU countries and Schengen countries, *independently monitor the return operations of EU nationals to their countries of origin*. In this way, this structure plays its legal and constitutional role while fulfilling the Directive 2008/115 / EC<sup>179</sup> of the European Parliament on common standards between EU countries and third countries.

From several years of experience in monitoring this operation, the standards and procedures followed by EU member states and FRONTEX, have evolved positively in terms of respect for the rights of citizens repatriated to Albania by these countries, who are provided with a decision for forced return.

The year 2020 has been specific due to the restrictions of reciprocal flights with EU countries, as a result of taking measures in the framework of emergency situations for the prevention of infectious disease COVID-19.

Despite the situation, in cooperation with the Directorate of Border and Migration Police and FRONTEX from *25 operations conducted during 2020*, the NPM has been part of the group of monitoring in *10 operations of voluntary and forced repatriation* of Albanian citizens from EU countries and specifically France.

The NPM national monitor in the operations of return of irregular citizens, assists the review and submission of documentation for each citizen by the French police, the representative of the border police and the migration of the state police. From our side, it is carefully checked whether the citizens who will be repatriated are provided with a final decision for their return to Albania, as well as whether or not they are familiar with this decision, through the signing of the decision by each citizen.

The representative of the NPM conducts interviews with these citizens before departure and during the trip on board, regarding the conditions of treatment in the center, if they are familiar with the decision for their return, as well as if they are informed about the escort procedures during their embarkation and flight home. During the interview, citizens raised concerns about the quality of food during their stay in the center, as well as their inability to appeal the decision to leave or be forcibly deported from EU countries.

Representatives of the NPM, in meetings held with representatives of FRONTEX and the Directorate of Border and Migration Police, have suggested taking measures to guarantee return in a humane manner, fully respecting the fundamental rights of Albanian immigrants according to EU standards. as well as Albanian legislation.

*As a result of the ongoing contacts and suggestions given in the role of national monitors of the NPM, FRONTEX considered important our proposals for the placement of an Albanian translator and a doctor to conduct medical visits in the collection centers of illegal immigrants, co with the joint FRONTEX monitoring group, to assist Albanian citizens before leaving for their homeland.*

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<sup>179</sup> Directive 2008/115 / EC of the European Parliament and of the Council of 16 December 2008 lays down common standards and procedures in the Member States for the return of third-country nationals staying illegally in those countries.

Despite the progress made in this regard, the fact remains that the Albanian citizens who return do not have much information about the decision and the manner of execution for their forced return, from EU countries to our country.

Also, the biggest problems for returned citizens begin with their arrival in the homeland, due to their lack of reintegration into social, social and economic life, as well as the long ban on entering and moving freely. of these citizens in EU countries, for a period of 1 to 10 years for individual citizens. But, in addition to this restrictive measure, by order of the General Director of the State Police no. 805, dated 01.08.2017 "On strengthening the control of Albanian citizens crossing the state border", *these citizens were prohibited from moving towards places that are not part of the EU.*

The Institution of the People's Advocate, as soon as it became aware of this fact from the complaints of these citizens, based on the universal fundamental right that every citizen enjoys to leave and return freely to his country,<sup>180</sup> *has recommended to central state institutions as director General of the State Police and the Ministry of Interior, the abrogation of the aforementioned order.*

This order, according to the response of these institutions, was repealed, but immediately entered into force. Order No. 641, dated 20.12.2019 of the Minister of Interior, prohibiting the movement of citizens who do not meet the travel conditions for entry and stay in EU countries. and the Schengen area, as well as in countries outside the EU.

Another problem encountered by the complaints of some citizens who have "Expulsion" and seek to cross the border in order to move abroad for various reasons, is related to the fact that they do not receive any information from police officers at border crossings for reasons return or inform them of the expiry date of this limitation measure.

Meanwhile, a problem still to be solved and that requires the commitment of the Albanian Government, is the inability of these citizens to follow the appeal procedure of this administrative measure in EU countries and not only, who have imposed this restrictive measure, as they are not allowed to enter for a period.

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<sup>180</sup> Article 38/2 of the Constitution stipulates that: "No one may be prevented from leaving the country freely". Article 13, point 2, of the Universal Declaration of Human Rights, stipulates that: "Every person has the right to leave any country, including his own, and to return to his country". Article 2, point 2, of Protocol No. 4 to the European Convention on Human Rights, stipulates that: "Every person is free to leave any country, including his own."

## CHAPTER 5

### COOPERATION

#### 5.1 Cooperation with public administration bodies and the degree of implementation of PA recommendations

The role of independent institutions is key to a functioning democracy as *they are the backbone of a democratic state and society*, in their function to control the implementation of legislation that protects fundamental rights and freedoms.

The Institution of the People's Advocate, in order to improve the functions of the executive and to protect the public interest, issues recommendations but has no powers to enforce their implementation. Therefore, the role of the Assembly, which monitors both executive and independent institutions, to ensure that the former implements the latter's recommendations is considered very important.

The European Commission report for Albania for 2019 identified poor implementation of the recommendations of independent institutions. More specifically, this report notes that *"the effective implementation of the ombudsman's recommendations by the public administration needs to be strengthened and made more systematic."* Moreover, according to the 2019 Communication on EU Enlargement Policy, the right of Albanian citizens to good governance *has been limited by the continued failure of public institutions in the country to implement the recommendations of supervisory bodies.*

The joint mechanism for systematic monitoring of recommendations made by independent institutions was established precisely with the spirit and purpose to address these shortcomings through the promotion of a transparent system and a more efficient evaluation of the implementation of the recommendations of independent institutions for the executive bodies and subordinates. But to date, there is no in-depth assessment of the effectiveness or efficiency of this mechanism and its real impact on increasing the level of implementation of the recommendations.

Implementation of the recommendations of independent institutions by public administration institutions is the best indicator of the implementation of the organic law and the relevant regulatory framework, as well as the fulfillment of the institutional mission, guaranteeing the authority and independence of these institutions.

In this sense, we believe that further improvements are needed to make the mechanism more functional to enable the effective implementation of existing legislation and its improvement in areas related to human rights. Consequently, we have supported the initiative to establish an inter-institutional working group to review the decision no. 49/2017 of the Assembly "On the establishment of Inter-Institutional Mechanism".

#### ➤ *Level of implementation of recommendations*

The level of implementation of the recommendations for 2020 is as follows:

The Institution of the People's Advocate has ascertained violations of human rights in 256 cases for which it has made the relevant recommendations<sup>181</sup> addressed to the bodies of Public Administration, including the central and local one. From the total number of recommendations it results that:

- *142 recommendations or 55% of them were accepted;*
- *24 recommendations or 9% of them were rejected;*
- *34 recommendations or 13% of them are unanswered;*
- *49 recommendations or 19% of them are in process;*
- *7 recommendations or 3% of them have unspecified status.*

As it results from the above data, the number of registered recommendations for 2020 is 256<sup>182</sup>, but 49 of them are in process, which means that *for these recommendations the procedural deadlines have not yet passed to consider whether they have been accepted or rejected, implemented. or without implementation, with or without response, as they were sent in late 2020 or early 2021 for inspections conducted during 2020.*

Recommendations with undefined status are those recommendations for which there is disagreement between the institutions regarding the subject matter competence for reviewing the recommendation and, consequently, there is still no position regarding the implementation of these recommendations.

In these conditions, in order to enable the reporting of the most accurate data, the calculation of the level of implementation of the recommendations will be realized in two forms: (1) also on the basis of factual recommendations (*200 recommendations*) which have been effectively sent to the subjects. relevant and the procedural deadlines have been exhausted to conclude regarding their acceptance or implementation by the institutions, (2) also on the basis of the total of recommendations addressed during 2020 (*256 recommendations*).

- **Report of recommendations issued by the People's Advocate without response given by the institution in question;**

Regarding the unanswered recommendations, it is evident that out of the total of sent recommendations, for which the procedural deadlines for returning a response have passed (200 recommendations), 34 recommendations or about 17% of them result in no response from state institutions:

**R NoA = Number of ombudsman recommendations without response x 100% / Number of ombudsman recommendations issued**

$$\text{RNoA} = \frac{34}{200} \times 100 = 17\%$$

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<sup>181</sup> More information about the object of the recommendations, their status and the institutions to which they are addressed can be found at the link:

<https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandimet%20Janar%20Dhjetor%2020%20te%20s>

<sup>182</sup> The recommendations often include much more than a simple recommendation.

- **Report of implemented recommendations versus recommendations received from institutions;**

a. Calculation in relation to the addressed recommendations for which the procedural deadlines for returning a response have passed;

From the number of recommendations addressed in total for which the procedural deadlines for returning a response have passed (200), it results that:

- 142 or about 71% of recommendations were accepted;  
68 of the received recommendations, or about 48% of them, have been fully implemented;

These recommendations contain in many cases more than one recommendation within them.

42 of the recommendations received, or about 30% of them have been partially implemented; 32 of the recommendations received, or about 23% of them were not implemented although they were accepted;

- 24 of the recommendations, or about 9% of them were rejected;
- 34 recommendations, or about 17% of them have not received any response.

b. Calculation in relation to all recommendations addressed during 2020

From the number of recommendations addressed in total, including recommendations for which the procedural deadlines for returning a response have not expired (256), it results that:

- 142 or about 55% of the recommendations were accepted  
68 of the received recommendations, or about 48 of them, have been fully implemented;  
42 of the received recommendations, or about 30% of them have been partially implemented.  
32 of the recommendations received, or about 23% of them have not been implemented
- 24 of the recommendations, or about 9% of them were rejected
- 34 recommendations, or about 13% of them have not received any response
- 49 recommendations, or about 19% of them are in process;
- 7 recommendations, or about 4% of them are with unspecified status.

R Aç. Number of ombudsman recommendations implemented x 100% Total number of recommendations received

$$\text{RACC} = \frac{68}{142} * 100 = 48\%$$

$$\text{RACC} = \frac{32}{104} * 100 = 30\%$$

- **Report of Requests for clarifications issued by the People's Advocate, for which no response was provided by the institutions;**

Regarding the number of requests for explanations without answers, it turns out that for 2020, the ombudsman institution has addressed a total of 2146 requests for explanations to public

administration bodies, of which about 206 or about 9.6% of them have not received response from relevant institutions.

$R\ RfC = \frac{\text{Number of Unanswered Clarification Requests}}{\text{Total Number of Claims}} \times 100\%$

**RRfC = \* 100 = 9.6%**

As it is noticed, the number of requests for explanations from the institution of the People's Advocate which do not receive answers from the institutions has increased slightly, from 8% in the previous year, to 9.6% for 2020. In relation to this issue, we would like to clarify that for the calculation of this indicator we have referred only to the cases when there was no response from the institutions, despite our repeated requests for explanations.

It should be noted that the lack of answers, their procrastination or incorrect answers that are not related to what is required, certainly negatively affect the exercise of our constitutional mandate.

On the other hand, for some cases the intervention of our institution is needed with some repeated requests, to get a response, including cases of responses sent outside the legal and reasonable deadlines. We make this clarification because, by the very nature of the work of the ombudsman institution, it is important that explanations or information from the PA institutions are sent within a reasonable time, in coherence with the effective ability of our institution to intervene in resolving issues.

In conclusion, it is worth noting that the institution of the People's Advocate will continue as before to promote the principles of good governance and the rule of law in central and local administration, considering the fact that a functioning public administration is a prerequisite for a democratic, transparent and effective governance.

➤ *Cooperation in providing opinions / comments on draft acts*

Even during 2020, in the activity of the institution of the People's Advocate, special attention has been paid to his institutional commitment to be included in the phase of external consultation for projects proposed by line ministries as well as involvement in the legislative process for giving opinions or suggestions. for various draft laws. Specifically, recommendations of a legislative nature have been addressed, in order to improve legislation and change erroneous administrative practices, in terms of protection of children's rights, where we should mention:

- proposals for legal changes in order to protect children from exploitation for work, as well as from hard work for them;
- approving the necessary amendments to the Family Code, for the prevention of early marriages and the protection of children from them;
- amending the decision of the Council of Ministers,<sup>183</sup> regulating the transport service of children, to guarantee the right of the child to education;

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<sup>183</sup> Decision no. 682, dated 29.7.2015, of the Council of Ministers "On the use of public funds for the transport of educational staff working and students studying outside the residence", as amended.

- improving legislation in the field of communication, technology and innovation, to guarantee the rights of the child in the digital environment;
- improving legal instruments for the practical implementation of the child's right to entertainment;
- the legal obligation to draft and adopt bylaws pursuant to the law on pre-university education,<sup>184</sup> to guarantee the right to education of a child with disabilities, in his / her best interest;
- legal changes in the law on social assistance, for the inclusion of the child in protection measures, as a beneficiary of economic assistance,<sup>185</sup> to guarantee the protection of the rights of the child, who has suffered violence or was present when violence was exercised.

Opinions, remarks and suggestions were given for four draft decisions of the Council of Ministers, drafted in the framework of bylaws that have been issued and will be issued pursuant to Law no. 96/2017 "On the protection of national minorities in the Republic of Albania ", like:

- Draft decision of the Council of Ministers "*On determining the composition, functions and procedure of the Commission for reviewing the request for recognition of a national minority*";
- Draft decision of the Council of Ministers "*On determining the composition, functions and procedure of the Commission for reviewing the request for recognition of a national minority*";
- Draft decision of the Council of Ministers "*On determining the criteria, documentation and procedures for data collection for the identification of persons belonging to national minorities*";
- The draft decision of the Council of Ministers, "*On the manner of using the language of national minorities in relations between persons belonging to national minorities and local self-government bodies*".

It has started the review with initiatives, of the problem of realization of the objectives, set in the National Action Plan for the integration of Roma and Egyptians in the Republic of Albania 2016-2020.

Also, legal comments and opinions were provided for the following draft acts:

- "*On Prison Police*";
- "On some additions and amendments to law no. 7895, dated 27.01.1995 Criminal Code of the Republic of Albania";
- "*On citizenship*";
- "On some additions and amendments to the law no. 9831, dated 12.11.2007" *On the compensation of former political prisoners of the communist regime* ", as amended.
- "On some changes in the law no. 7895, dated 27.01.1995" Criminal Code of the Republic of Albania ", amended"; "On an amendment to law no. 7905, dated 21.03.1995" Criminal Procedure Code of the Republic of Albania ", amended";
- "On an amendment to law no. 108/2014,"*On the State Police*", as amended". (October 2020. All these draft laws were initiatives of MPs in order to harmonize with the content of the Electoral Code, which was amended in July 2020).

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<sup>184</sup> Points 1 and 6, of article 64, of law no. 69/2012 "On the pre-university education system in the Republic of Albania", as amended.

<sup>185</sup> Letter "d", of article 7, of law no. 57/2019 "On social assistance in the Republic of Albania".

- Full review of the legal package "On the rights and treatment of prisoners and detainees".
- Draft decision of the Council of Ministers "On the approval of the Action Plan 2020-2023, in implementation of the Strategy for Public Legal Education, 2019-2023".
- Draft law "*On some additions and amendments to law no. 9669, dated 18.12.2006 "On measures against domestic violence"*, as amended.

➤ *Cooperation in the framework of the European integration process*

In accordance with its constitutional mandate, the institution of the People's Advocate as one of the key actors in the national system of protection of human rights has maximally appreciated this process by cooperating with all state structures that are in charge of monitoring and implementing obligations, through the provision of significant contributions that play an important role in respecting human rights and strengthening the rule of law, as premises for the country's integration into the European Union.

Referring to Order no. 81/2 prot., Dated 2012.2018 "*On the establishment and functioning of the working group, to follow and monitor the implementation of the recommendations of the European Commission within the process of integration of Albania into the European Union*", amended, institution of the People's Advocate continues to contribute to this whole process by participating in meetings of various EU-Albania formats, but also through contributions submitted under the Inter-Institutional Working Groups (GNP) set up in accordance with the chapters of the acquis.

It is worth mentioning in particular the ongoing commitment and contribution provided under Chapter 23, which covers several aspects in the general field of *Judiciary and Fundamental Rights*. Concrete participation and contributions were also provided for Chapters 19 (Social Policy and Employment) and 24 (Justice, Freedom and Security).

The People's Advocate has actively participated in the meetings and reports held by the National Council for European Integration (NCIE) as the most

Senior National Advisory Council on European Integration, functioning within the Assembly, in order to promote and guarantee comprehensive cooperation between political forces, public institutions and civil society, as well as to increase transparency in decision-making on integration issues.

During 2020, the institution of the People's Advocate has participated and contributed in the framework of joint meetings held with the EU, where the following should be mentioned:

- Participation and contribution for the 11th meeting of the Stabilization and Association Committee (SAC), held on December 9, 2020, a contribution which focused on:
  - *Minority legislation, including secondary legislation;*
  - *Freedom of expression and amendments to the Law on Media;*
  - *Consolidation of property rights;*
  - *Social protection and inclusion of Roma and Egyptian communities;*
  - *Gender Equality / LGBTI; and*
  - *Children's rights.*

- Participation and contribution for the 12th meeting of the Subcommittee European Union - Albania "*Justice, Freedom and Security*", held on 30 June - 1 July 2020, a contribution which focused on:
  - *Procedural rights; juvenile justice system; access to justice; legal aid (implementation of the new legal framework);*
  - *The right to life, prevention of torture and ill-treatment and the prison system (focusing on implementing the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment);*
  - *Protection of minorities;*
  - *Anti-discrimination and protection policies for vulnerable groups, children's rights, people with disabilities, people from the LGBTI community;*
  - *Gender equality and gender-based violence;*
  - *Involvement of the Roma / Egyptian community.*

## **5.2 International co-operation**

The international cooperation of the ombudsman institution has been and continues to be one of the most important areas of institutional engagement in fulfilling the constitutional mission of protecting and promoting human rights. During 2020, as a result of the pandemic situation, representatives of the ombudsman institution have participated in a series of international activities conducted on a virtual platform. In the framework of this bilateral and multilateral cooperation, the activity of the People's Advocate is ranked as follows:

### **➤ Cooperation within the Global Network of National Human Rights Institutions (GANHRI) and the European Network of National Human Rights Institutions (ENNHRI)**

The People's Advocate of Albania for the period 2019-2022 exercises the mandate as a member of the board of two very important and influential structures in the field of human rights protection, at European and Global level of counterpart institutions. Representation of Albania in

These levels enable not only a positive image for Albania, but above all pave the way for further contemporary developments in the field of protection and promotion of human rights. Consequently, the activity and engagement of the institution of the People's Advocate has been serious and demanding in these two networks, developing the following activity:

- The meetings of 2020 have started with the participation of the People's Advocate and other senior representatives of the institution, in the consultative meeting held in Brussels on 4-6 February, in the framework of the preparations for the process of drafting the Enlargement Package of the year. 2020.
- The ENNHRI Board meeting, due to the pandemic, was held online for the first time on 24-25 February 2020. The meeting was attended by the Ombudsman accompanied by the Foreign Relations Advisor.
- The Annual GANHRI Meeting and the General Assembly Meeting were organized on March 10-13, 2020. These meetings were attended by the People's Advocate accompanied by high

level representatives of the institution. Among many other discussions, the issue of NHRI's *experiences and approaches as well as the challenges in addressing human rights and climate change were addressed.*

- The People's Advocate Institution was represented at the seminar organized by ENNHRI on "Sustainable Development Objectives (SDG)" on March 17-18, 2020, this seminar was followed by the online meeting of the Regional Forum for Sustainable Development of the Economic Commission of United Nations for Europe - UNECE on March 19-20 in Geneva.
- Representatives of the institution were selected in June 2020 by ENNHRI, to attend the Online Academy developed by the OSCE / ODIHR Office in cooperation with ENNHRI. During this course the *perspective of migration issues and human rights were addressed.*
- At the invitation of ENNHRI, representatives of the ombudsman's Cabinet attended the Conference on "*Protecting the Rule of Law in Europe - The Importance of an Independent Judicial System*", organized on 25 June 2020.
- Representatives of the ombudsman institution participated in the webinar organized by GANHRI, held on September 3, 2020, on "*Protection and empowerment of persons with disabilities in the context of COVID-19, the role and experiences of national institutions of human rights.*"
- Representatives of the ombudsman institution participated in the webinar organized by ENNHRI, held on September 23, 2020, on "*On the field monitoring of the rights of persons with disabilities during the COVID-19 pandemic.*"
- The ombudsman participated in Webinars organized by ENNHRI on November 9-10, where issues related to the "*Role and support of National Human Rights Institutions (NHRIs) promoting the rule of law, democracy and rights were discussed. and fundamental human freedoms as well as in the webinar on "The impact of EU foreign policy on the rule of law, human rights and democracy - the role and support of NHRIs"*.
- On November 18, the ENNHRI General Assembly was held online, where the People's Advocate was accompanied by the Foreign Relations Advisor.
- The People's Advocate and representatives of the institution participated in the annual online meeting organized by GANHRI, held from November 30 to December 4, 2020. At the meeting, discussions were held and ideas and experiences of the participants regarding the pandemic situation were exchanged. Issues related to the implementation of the NHRI mandate in the context of COVID-19 as well as the Role of Human Rights Institutions in Climate Change were also discussed during the conference.
- The ENNHRI Annual Conference on "*Building a Better Together for Human Rights, Democracy and the Rule of Law in Europe Together*" was held online on 2 December with focus on "*Recognition and role of Institutions Comhuman rights activists*". The meeting was attended with interest by the People's Advocate accompanied by high level staff.
- The People's Advocate and senior representatives of the institution attended the online seminar organized by the ODIHR and ENNHRI, on 11 December 2020 on the topic: "*On increasing the role of National Human Rights Institutions throughout the state of emergency*".

➤ **Cooperation within the Mediterranean Ombudsman Association (AOM)**

The People's Advocate of Albania continues to be the Second Vice President of the Association of Mediterranean Ombudsmen (AOM). For 2020 The Board Meeting was held online on December

1, 2020, in which the work plan for 2021 was approved and other issues of the association were discussed.

➤ **Cooperation within the association of the International Ombudsman Institute (IOI)**

- Representatives of the Institution participated in the workshop organized by the IOI and the Ombudsman of Catalonia on *March 2 and 3*, in Barcelona, Spain, where the topic "*Artificial Intelligence and Human Rights*" was addressed.
- Representatives of the People's Advocate Institution attended the webinar held online, on *September 3, 2020*, on the topic: "*Protection and empowerment of persons with disabilities in the context of COVID-19; the role and national experiences of human rights*".
- The People's Advocate participated in the webinar organized by the IOI on the topic: "*COVID-19 and the Ombudsman-Facing the challenge of the pandemic*", organized on *November 24, 2020*, and through a video message shared with the participants the experience of the Advocate Institution of People in the pandemic situation, as well as challenges and goals for the future.

➤ **Activities of the ombudsman institution in the role of the National Mechanism for the Prevention of Torture (NPM)**

- At the invitation of the National Institution Guaranteeing the Rights of Prisoners or Deprived of Personal Freedom of Italy, the Commissioner of the National Mechanism for the Prevention of Torture, attended the closing conference of the project "*Implementation of the forced return monitoring system*", held on *February 18, 2020*, in Rome, Italy.
- Senior representatives of the People's Advocate Institution attended the workshop held online on *May 12-13, 2020*, on "*Measures to be taken in the first hours of escort to the police*", organized by the Croatian Mechanism for the Prevention of Torture, in the framework of the exercise of the Presidency of the Network of Mechanisms for the Prevention of Torture of Southeast Europe, in cooperation with the Association for the Prevention of Torture (APT).
- The People's Advocate and the NPM Commissioner participated in the webinar organized, on *September 15, 2020*, by the Prisons Inspection Office in Ireland "On the presentation of the legal framework for bug inspection".
- In the training on "Monitoring and evaluation of the legal framework and policies in the fight against trafficking in human beings", held on *9-11 December 2020*, the institution of the People's Advocate was represented by the technical staff of the Mechanism Section for the Prevention of Torture. The event was organized online by the Center for Civic Legal Initiatives (CLCI).
- On World Emigrants Day (*December 18, 2020*), representatives of the NPM Section at the invitation of the United Nations Information Service in Vienna (UNIS) and IOM participated in the activity entitled "Only our home".

➤ **Other activities and collaborations with international partners**

- The People's Advocate, at the invitation of the European Ombudsman Network (ENO), participated in the meeting held on *12 May 2020*, sharing with her counterparts the experience of the institution in managing the pandemic situation.
- The People's Advocate, on *June 29, 2020*, in the framework of close relations of cooperation with the counterpart of Kosovo, paid an official visit to the institution of the People's Advocate of Kosovo, on the occasion of the end of the mandate of the People's Advocate Mr. Hilmi Jashari .
- On *July 9*, representatives of the technical level of the ombudsman institution participated in the webinar organized by the United Nations on the topic: "In the shadow of COVID-19: Lessons learned in civil space and public law." During the Conference, the active and monitoring role of human rights institutions was discussed, in overseeing the way society as a whole is facing the post-pandemic consequences.
- The People's Advocate participated in the Seminar organized by the European Commission against Racism and Intolerance (ECRI) on the topic: "*Communicating the message of equality and diversity*", which took place online on *28-29 September*. The meeting was attended by important representatives from human rights institutions from all over Europe.
- The People's Advocate as well as high-level representatives of the institution attended the Annual Rule of Law Forum in Southeast Europe, which was held on *October 16-17* in Tirana. The forum was organized by the organizations "*Civil Right Defenders*" and "*AIRE Center*", part of which were important justice authorities from the country and the region.
- At the invitation of the European Ombudsman Network (ENO), the Ombudsman Institution was represented at the annual conference on *26 October 2020*, which discussed topics on future challenges, further strengthening cooperation between counterparts and the impact of COVID-19 situation. In this meeting, the head of the People's Advocate Institution, Mrs. Erinda Ballanca, gave an overview of the activities and the impact that the global pandemic has had in the field of human rights in our country as well as in the institutions that protect these rights.
- At the invitation of the OSCE, the Ombudsman addressed on *6 November 2020* the problems and challenges of NHRIs in the context of the COVID-19 pandemic, in the webinar entitled "*The Role of Human Rights Defenders in the Promotion and Protection of Human Rights*".
- The International Organization of La Francophonie (OIF) in cooperation with the Sanremo International Institute of Humanitarian Law (IIHR) organized an online course on *November 2-27* entitled "Protecting the rights of migrants: international standards in the face of contemporary challenges". The ombudsman institution was attended by representatives of the cabinet.
- Representatives of the technical staff of the People's Advocate Institution participated in the online webinar on *November 12*, entitled: "Gender, Diversity and Justice in Southeast Europe", organized by the ODIHR. This event brought together justice professionals, civil society representatives and international experts to give participants an opportunity to share best practices regarding the inclusion of these three categories in the field of justice.
- On *December 2*, representatives of the ombudsman institution participated in a webinar organized by the OHCHR and the European Center for Not-For-Profit Law Stitching (ECNL), on "*Promoting the Participation of National Human Rights Institutions (NHRIs) in Public Affairs*".
- Representatives of the ombudsman institution participated in the training organized online by the Center for Civic Legal Initiatives (CLCI), held on *December 9-11* on "*Monitoring and evaluation of the legal framework and policies in the fight against trafficking in human beings*".

### 5.3 Co-operation under projects

As we have informed before, in the framework of the joint program of the EU and the Council of Europe - "Horizontal Instrument for the Western Balkans and Turkey 2019-2020", *in December 2019 was signed the Cooperation Agreement for the creation of the Alliance against hate speech*". During 2020, the Alliance against Hate Speech has continued its activities to raise awareness and raise public awareness on raising awareness, informing and contributing to dialogue, especially among young people, on the fight against hate speech.

The joint statements and attitudes of all members of the Alliance against hate speech have been published and made known to the general public, whenever sexist attitudes or the use of misogynistic or discriminatory language by public figures as in various television shows, in their writings or speeches to the media. In the framework of the membership in the alliance, the People's Advocate together with its other members, supported by the Council of Europe, have published awareness spots where they explain what is hate speech and the legislation that protects individuals from this language.

The ombudsman has continued to implement *the Cooperation Agreement with the UNHCR* for monitoring migrant crossing points and strengthening as well as respecting their rights. In this context, in January 2020, two external experts were contracted to enable the continuation of monitoring of border crossing points in *Gjirokastra* and *Kapshtica*. The implementation of this project has enabled the increase of support and strengthening of capacities (in human resources and infrastructure) of the People's Advocate in the capacity of the National Mechanism against Torture (NPM), including the production of promotional materials, realization of trainings, etc.

Since October 2019, the People's Advocate has become part of the project funded by the European Union Justice Program entitled "*B-Competent*" *Strengthening the Competencies of Penitentiary Staff in Europe*". In the framework of the implementation of this project, the People's Advocate (National Mechanism for the Prevention of Torture) and the European Center in cooperation with the General Directorate of Prisons, have held several meetings (online) and have contributed to some of the activities of this project which mainly focused on two main pillars:

- a. Analysis of training deficiencies and needs of prison staff in 6 countries (Italy, Spain, Greece, France, Albania and Montenegro) with special focus on the rights of foreign prisoners.*
- b. Legal framework for the methodology of training programs for trainers of penitentiary staff.*

Also, the institution of the People's Advocate is committed to fulfill several tasks within the Work Package 2 "*Preliminary analysis of shortcomings in training and identification of best practices*", within which in Albania, Montenegro and Greece have been realized from Focus Group Meetings as well as research on existing training programs.

Even during 2020, the implementation of the project "*Supporting People's Advocate institution for identification and addressing of child rights violations*" has continued, with the support provided by UNICEF. Due to objective reasons caused by the pandemic situation, the institution of the People's Advocate encountered difficulties in terms of carrying out the activities envisaged in the project that would be carried out in cooperation with the Ministry of Education, Youth and Sports. For this reason the project was extended on time, at no additional cost, until June 2020.

Meanwhile, in September 2020, a new *Cooperation Agreement* was signed with UNICEF for the period *1 October 2020 - 30 September 2021*. The agreement refers to the Work Plan 2020-2021 between UNICEF and the Albanian Government and provides a contribution to the Ombudsman who will contribute to institutional strengthening, with an increased focus on strengthening the human resource capacity of the Section for the Protection and Promotion of the Rights of the Child, in order to identify and address violations of the rights of the child.

Based on this agreement and in implementation of the legislation on the administration of juvenile criminal justice, the Section for Protection and Promotion of the Rights of the Child conducted four inspections in the main institutions that treat juveniles in conflict with the law and in conditions of deprivation of liberty. , in order to implement the recommendations addressed by the institution of the People's Advocate a year ago. Pursuant to this agreement, one of the objectives of the action plan is social protection. Thus, three workshops were organized with representatives of public authorities at the local level, responsible for child social protection, part of the integrated child protection system, mainly in the municipalities of Tropoja, Shkodra and Korca, for the provision of social services dedicated to children.

On *September 3, 2020*, a *Memorandum of Understanding* was signed between the Ombudsman and the Institute of Statistics, "*On cooperation in strengthening data collection, dissemination and analysis in the light of human rights and the 2030 Sustainable Development Agenda*." The purpose of this Memorandum is to establish a program of cooperation between the parties to promote a broader understanding of the importance of developing and using statistical information to inform, implement and evaluate national policies and programs which may have an impact on compliance, protection and the fulfillment of human rights within and the realization of the Sustainable Development Objectives.

## CHAPTER 6 Supporting services

### 6.1 Human and Administrative Resource Management

The Institution of the People's Advocate, as a national institution for the protection and respect of human rights, in its activity must be supported by an infrastructure that enables the realization of its objectives and goals, in full compliance with the Paris Principles<sup>186</sup> and the Principles of Venice.<sup>187</sup> It is these principles, which allow a national institution for the protection and observance of human rights, to adapt the structure to its priorities, even through the creation of ad hoc structures, having an organizational autonomy as far as belongs to its structure and mode of operation.

This approach was also underlined by the European Commission Report for 2020<sup>188</sup>, which emphasized, among other things, the need for a *comprehensive approach to strengthen the capacity of the People's Advocate* in dealing with cases of human rights violations. Meanwhile, the *Universal Peer Review* of 2019,<sup>189</sup> concluded that *the lack of sufficient human, technical and financial resources of the ombudsman institution was undermining the work for the promotion and protection of human rights*.

The same is stated in the Report of the European Commission against Racism and Intolerance (ECRI) for Albania (Sixth Monitoring Cycle)<sup>190</sup>, approved in April 2020, emphasizing that *“The authorities should ensure that the Office of the Ombudsman obtains the necessary financial and personnel resources to fully and consistently cover all aspects of its mandate and to strengthen the follow-up of the recommendations of the equality bodies”*.

It is worth noting that all the above-mentioned reports do not merely encourage the implementation of recommendations by public institutions or the supportive approach to increase human and financial resources in order to reflect the broad mandate of the Ombudsman, but what is most important these reports (and not only) have identified the Ombudsman as one of the most reliable sources regarding the reporting of human rights violations in the country.

Beyond these issues, the institution of the People's Advocate has tried to maximize and further strengthen the institutional capacity, through increasing the level of qualification and training, improving human resource management, knowledge and full implementation of legislation in the field of civil service. , increasing transparency and accountability at all levels of decision-making, in order to create an administration as functional, efficient and capable of achieving the mission and objectives of the institution.

During 2020, a major issue in terms of human resource management and normal performance of functional tasks has been and remains the issue of the situation created by the pandemic (COVID-19). *“To address such a situation, without substantially violating the exercise of the mandate and*

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<sup>186</sup> <https://ganhri.org/paris-principles/>.

<sup>187</sup> [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2019\)005-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)005-e).

<sup>188</sup> <https://www.parlament.al/DokumentaIntegrimi?integrimId=2>.

<sup>189</sup> <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ALindex.aspx>.

<sup>190</sup> <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/albania>.

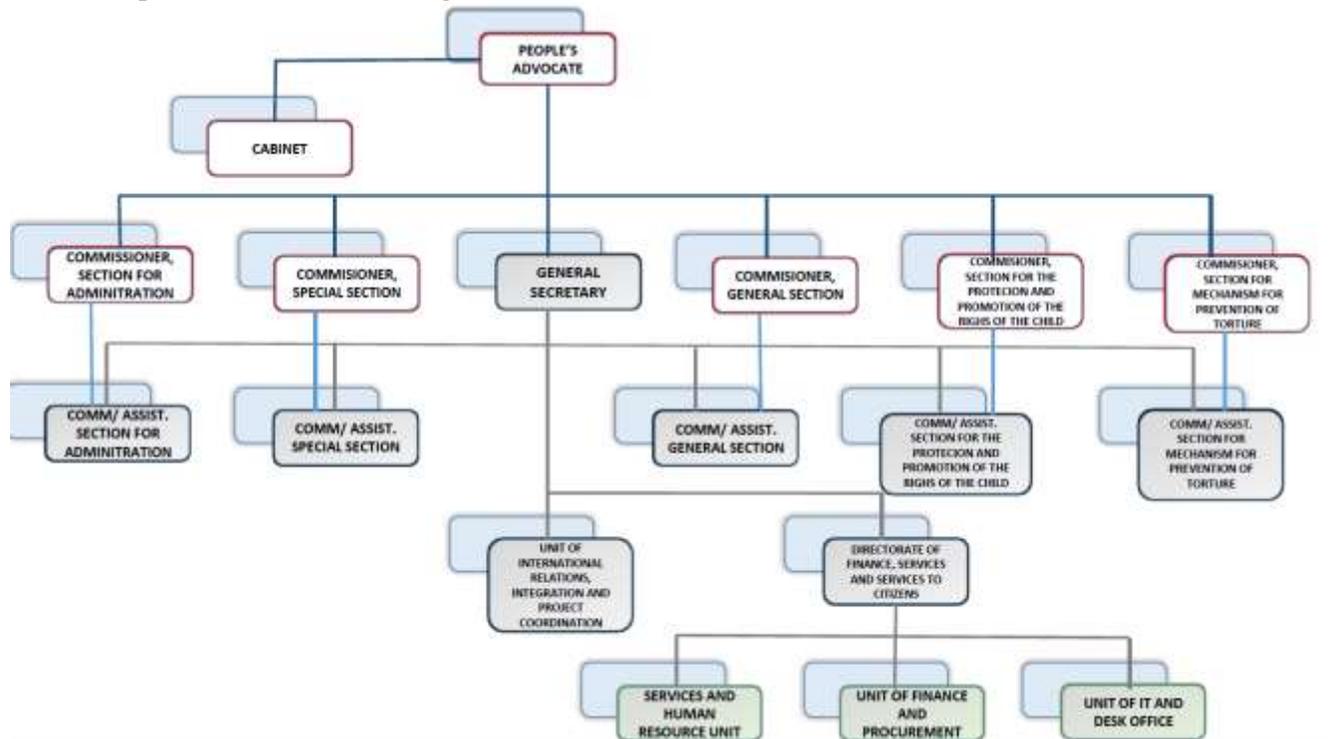
the realization of institutional objectives, the People's Advocate approved Order no. 66, dated 10.03.2020, the spread of COVID-19 infection towards the employees of the People's Advocate ”as well as the Instruction no.

The purpose of these acts was the organization and functioning of work in the institution to ensure the continuity of work and exercise of functional tasks remotely, or combined with office work, within the measures taken to prevent the spread of COVID-19. Despite the partial suspension of direct services to citizens, the work was organized in such a way that it was possible to receive complaints only through official mail, e-mail or telephone application. For this reason, a public notice was placed outside the institution as well as on its official website, which clearly defined postal and electronic addresses.

For more on human and administrative resource management, refer to *point 8 of Chapter II (Implementation of the Resolution of the Albanian Parliament)*.

➤ *Structure and Organization Chart*

With the changes made with Order no. 42, dated 18.02.2020 "On some changes in the order no. 252, dated 22.11.2018" On the approval of the structure, staff and categorization of job positions of the People's Advocate ", i changed, the structure and staff of the institution is as follows:



**Table of the structure of the institution of the People's Advocate.**

<b>Function naming</b>	<b>Number of Employees (56)</b>	<b>Category / Class</b>
<b>The People's Advocate</b>	<b>1</b>	law no. 8454, dated 04.02.1999, as amended
<b>The Cabinet</b>	<b>7</b>	
· Cabinet Director	1	DCM no. 187, dated 08.03.2017, amended
· Advisor	5	Ib
· Secretary	1	DCM no. 187, dated 08.03.2017, amended
<b>Secretary General</b>	<b>1</b>	it
<b>Section for central administration, local government and third party bodies acting on their behalf</b>	<b>7</b>	
· broker	1	Law no. 8454, dated 4.2.1999, as amended
· Assistant Commissioner	3	II-a
· Assistant Commissioner	3	II-b

<b>Section for Police, Secret Service, Prisons, Armed Forces and Judiciary</b>	<b>5</b>	
· broker	1	Law no. 8454, dated 4.2.1999, as amended
· Assistant Commissioner	2	II-a
· Assistant Commissioner	2	II-b
<b>General Section</b>	<b>5</b>	
· broker	1	Law no. 8454, dated 4.2.1999, as amended
· Assistant Commissioner	3	II-a
· Assistant Commissioner	1	II-b
<b>Section for protection and promotion of children's rights</b>	<b>4</b>	
· broker	1	Law no. 8454, dated 4.2.1999, as amended
· Assistant Commissioner	2	II-a
· Assistant Commissioner	1	II-b

<b>Mechanism to prevent torture, cruel, inhuman or degrading treatment or punishment</b>	<b>5</b>	
· broker	1	Law no. 8454, dated 4.2.1999, changed
· Assistant Commissioner	2	II-a
· Assistant Commissioner	2	II-b
<b>Directorate of Finance, Services and Citizen Reception</b>	<b>18</b>	
· Director	1	II-b
<b>Human Resources Sector</b>	<b>3</b>	
· Head of Sector	1	III-a
· Specialist ABOUT sources hUMAN	1	III-b
· Specialist Protocol	1	III-b
<b>Services Sector</b>	<b>8</b>	
· Head of Sector	1	III-a
· Archivist / Librarian	1	Class VIII
· Headline driver	1	Class VI

· Driver	2	Class IV
· technical of SECONDARY of various specialties	1	Class VI
· Cleaning worker	2	Class I
<b>sector of Finance and Procurement</b>	<b>3</b>	
· Head of Sector	1	III-a
· Finance Specialist	1	III-b
· Procurement Specialist	1	III-b
<b>IT and Citizen Reception Sector</b>	<b>3</b>	
· Head of sector	1	III-a
· Specialist of Services to CITIZEN	2	III-b
<b>- Sector for International Cooperation and European Integration</b>	<b>3</b>	
- Head of Sector	1	III-a
- Specialist	2	III-b

As we have previously informed, in addition to the central office, in cooperation with the local government, 7 regional offices have been established and are functioning<sup>191</sup>, whose representatives are not part of the approved structure of the institution, but work on partial contracts (6 hours per day) based on the annual decisions approved by the Council of Ministers regarding the determination of the number of employees with temporary contracts in the Local Government Units. During the reporting year and onwards, based on the agreement signed with UNHCR for the monitoring of migrants at border crossing points, in support of the work of the NPM Section, 2 external experts were recruited full time. Meanwhile, with the support of UNICEF, the ombudsman institution has enabled the recruitment of 2 other external experts to support the work of the Section for the Protection and Promotion of Children's Rights.

## 6.2 Overview on revenue and expenditure

In support of law no. 88/2019, dated 18.12.2019, "On the State Budget of 2020", Instruction of the Minister of Finance no. 2, dated 06.02.2012, "Standard budget implementation procedures", Supplementary Instruction of the Minister of Finance no. 2, dated 20.01.2020 "On the Implementation of the Budget of 2020", as amended, the performance of budget products for the institution of the People's Advocate, according to the budget program approved for 2020, is presented as follows:

### Program - "Advocacy Service"

The budget allocated for this program (the only program that the ombudsman institution has) is based on the Program Policy Statement (DLE) drafted during the MTBP 2020-2022 process and aims to achieve the objectives of the product defined and approved in the Medium Term Budget Program document (2020-2022)

### Actual Program Expenditure Report by Items for 2020

With Law no. 88/2019, dated 18.12.2019, "On the State Budget of 2020", the funds allocated with the changes made during the year for the functioning of the activity of the institution of the People's Advocate, according to the articles, are presented in the following tables:

**Table of Actual Expenditure Report of the program by Items**

Nr. Llog.	Title	Initial Plan	Additions and Reductions	Plan changed	The Final Expenditure
600	wages	86,000,000	-1,000,000	85,000,000	81,052,368
601	Social Security and Health Services	12,500,000		12,500,000	11,238,920

<sup>191</sup> Shkodra, Dropull, Kukës, Pogradec, Vlora, Berat and Saranda Regional Offices.

602	Other goods and services	14,900,000	- 960,000	13,940,000	13,136,353
605	Transfer. Foreign Currents	1,600,000	40,000	1,640,000	1,626,241
606	transfers ABOUT budgets of family	500,000	110,000	610,000	101,730
231	investments	1,000,000		1,000,000	999,360
	<b>TOTAL</b>	<b>116,500,000</b>	<b>-1,810,000</b>	<b>114,690,000</b>	<b>108,154,972</b>

**Table of the Annual Expenditure Realization Report for 2020**

Nr.	Title	Initial Plan	Actual Spending	Difference	Realization %
1	wages	85,000,000	81,052,368	3,947,632	95.36
2	Health Insurance and Social Security	12,500,000	11,238,920	1,261,080	89.91
3	Other goods and services	13,940,000	13,136,353	803,647	94.23
4	Foreign Current Transfers	1,640,000	1,626,241	13,759	99.16
5	Transfers for family budgets	610,000	101,730	508,270	16.68
6	investments	1,000,000	999,360	640	99.94

<b>TOTAL</b>	<b>114,690,000</b>	<b>108,154,972</b>	<b>6,535,028</b>	<b>94.30</b>
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As mentioned below, the difference of non-realization (6.7%) of the budget for 2020 is mostly related to *the salary and social security* fund which come due to the non-fulfillment of organic structures taking into account the procedures required to be followed and deadlines to be met for recruiting staff to job positions that fall within the civil service law. Also, in item 602 (*goods and services*) we have a difference in non-realization due to the pandemic situation itself, which really made it impossible to carry out many activities or their implementation without financial costs (online activities).

➤ **Personnel costs**

The realization of the salary fund reflects the structure and staff, internal and external movements. This fund allocated for 2020, to cover staff salaries was 86,000,000 ALL, amended by Normative Act no. 15, dated 15.04.2020, "On some amendments and additions to Law no. 88/2019, 'On the budget of 2020', at 85,000,000 ALL, while the realization is 81,052,368 ALL or 95.36% of the amended budget, as well as social and health insurance were planned 12,500,000 ALL, while the realization is 11,238,920 ALL or in the amount 89.91% of the budget. Both items together staff salaries and social and health insurance (600 + 601) for 2020 have been realized in the amount of 94.66% of the amended budget.

During 2020, the average number of employees was 53.25 employees out of 56 employees which was the limit approved by the aforementioned law. The non-realization of this item of expenditures is due to the non-fulfillment of organic structures as a result of vacancies created at the end of 2019 and during 2020 by the movement of employees of our institution to other tasks. The number of employees approved by law for 2020, has not been met in all its constituent structures during these periods.

There were absences in the first four months:

- 1 Assistant Commissioner in the Section for Police, Secret Service, Prisons, Armed Forces and Judiciary for four months;
- 
- 1 Assistant Commissioner in the Mechanism for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment for four months;
- 1 Head of Services Sector for two months;
- 1 Specialist in the Finance and Procurement Sector for one month;
- 1 Citizen Services Specialist for one month.

During the second quarter / month the institution had the following shortcomings:

- 1 Assistant Commissioner in the Section for Police, Secret Service, Prisons, Armed Forces and Judiciary for one month;

- 1 Assistant Commissioner in the Section for central administration bodies, local government and third parties acting on their behalf for three months,
- 1 Assistant Commissioner in the Mechanism for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment for four months;
- 1 Head of the Services Sector for three months.

During the third quarter the institution had the following shortcomings:

- 1 Assistant Commissioner in the Section for central administration, local government bodies and third parties acting on their behalf for four months;
- 1 Assistant Commissioner in the Mechanism for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment for two months;
- 1 Head in the Services Sector for one month;
- 1 Specialist in the Sector for International Cooperation and European Integration for two months.

Nr.	Years	Agreed					
		600-601	602-606	231	Nr. of Employees		TOTAL
		Salary and insurance	Operating Expenses	Investment	Deputy Commissioner	in total	
1	2014	75,500	16,000	4,000	21	50	95,500
2	2015	75,500	16,000	4,000	21	51	95,500
3	2016	84,500	17,000	4,000	21	55	105,500
4	2017	84,500	18,000	4,000	21	56	106,500
5	2018	94,500	17,500	4,000	21	56	116,000

<b>6</b>	<b>2019</b>	104,500	18,600	2,000	21	56	<b>125,100</b>
<b>7</b>	<b>2020</b>	98,500	17,000	1,000	21	56	<b>116,500</b>
<b>8</b>	<b>2021</b>	98,500	17,500	3,000	21	56	<b>119,000</b>

➤ **Expenditures on Other Goods and Services**

The allocated fund for expenditures of goods and services (**item 602**) for the period January - December 2020 was 14,900,000, amended by Normative Act no. 15, dated 15.04.2020, “On some amendments and additions to Law no. 88/2019, ‘On the budget of 2020’, at 13,940,000 ALL, while the realization is 13,136,353 ALL or 94.23% of the amended budget.

For this period, operating expenses were mainly used for purchases of stationery, cleaning materials, electrical, special clothing materials antiCOVID-19, promotional materials, supply of other office materials, electricity, water, Albtelecom, Vodafone, service postal, vehicle insurance, purchase of fuel, vehicle maintenance costs of the institution, diets inside and outside the country, construction maintenance costs, maintenance costs for equipment and technical equipment, reception and escort costs for foreigners, as well as costs for paid taxes.

The fund for foreign current transfers (**item 605**) for 2020, was 1,600,000 ALL, amended by letter no. 20372/1 Prot., Dated 03.11.2020, “Transfer of funds for the year 2020” to 1,640,000 ALL, while the realization is 1,626,241 ALL or 99.16% of the amended budget.

For 2020, these funds have been used to pay the obligations on time of the membership fees where the institution of the People's Advocate is a member of international organizations such as:

- Association Des Ombudsmans Et Médiateurs de la Francophonie(AOMF);
- European Ombudsman Institute (EOI);
- Association of Mediterranean Ombudsman (AOM);
- International Ombudsman Institute (IOI);
- Global Alliance of National Human Rights Institutions (GANHRI);
- European Network of National Human Rights Institutions (ENNHRI);
- European Network of Ombudspersons for Children (ENOC).

N r.	Quotations in years								
	Name of the Organization	Currency	Value in years						
			2014	2015	2016	2017	2018	2019	2020
1.	Mediterranean Ombudsman Association (AOM)	Euro	750	750	750	750	750	1.000	1.000
2.	Association of Francophone Ombudsman and Mediators (AOMF)	Euro	650	650	650	750	900	900	900
3.	European Network of National Rights Institutions Human (ENNHRI)	Euro	3.000	3.000	3.000	3.000	4.000	4.000	4.000
4.	European Ombudsman Network for Children (ENOC)	Euro	0	0	1.100	1.100	1.100	1.100	1.100
5.	European Ombudsman Institute (EOI)	Euro	350	350	350	350	350	350	350
6.	Global Alliance of National Institutions for Human Rights (GANHRI)	CHF	5.000	5.000	5.000	5.000	5.000	5.000	5.000
7.	International Ombudsman Institute (IOI)	Euro	750	750	750	750	750	750	750

The fund for family budget transfers and individuals (**item 606**) for the period January - December 2020, was 500,000 ALL, amended with documents no. 20372/1, dated 03.11.2020, "Transfer of funds for the year 2020", as well as "Details of the special fund for the year 2020 are sent" no. 23003/1, dated 21.12.2020 to 610,000 ALL, while the realization is 101,730 ALL or 16.68% of the amended budget.

➤ **Investment costs**

The investment fund allocated from the state budget is 1,000 thousand ALL, while the realization is 641 thousand ALL.

<b>Project</b>	<b>Project Code</b>	<b>Plan</b>	<b>Final Cost</b> In thousand/lek	<b>%</b>
Purchase of Computers and Electronic Equipment	M660001	641	641	100
Purchase of Electromotor for Gate	M660001	197	196	99
Purchase of an Air Conditioning Unit	M660001	120	120	100
Purchase of Furniture	M660001	42	42	100

**"Purchase of computer equipment"**

For this investment item as presented in the table above is realized in the amount of 640,800 ALL, or in the amount of 100%.

**"Purchase of an electric motor for the door"**

For this investment item as presented in the table above is realized in the amount of 197,000 ALL, or 99%.

**"Buy air conditioner"**

For this item of investments as presented in the table above is realized in the amount of 120,000 ALL, or in the amount of 100%.

**"Purchase of office furniture"**

For this investment item as presented in the table above is realized in the amount of 42,000 ALL, or 100%.

**CHAPTER 7**

## Figures and facts regarding complaints and their management

For 2020, the whole world, as well as our country, is facing a health emergency related to the COVID-19 virus. This pandemic, among other things, has changed the way of life of individuals, has hit the global economy and is continuing to bring serious psychological consequences for the entire population. The aggravated economic situation, the state of anxiety as well as the restriction of some fundamental human rights and freedoms due to the state of natural disaster, has led to an increase in the number of cases followed by the Ombudsman Institution by 2020.

Specifically, the Institution of the People's Advocate has exercised its constitutional mandate in terms of protection, promotion and guarantee of fundamental rights and freedoms of the individual / social groups through:

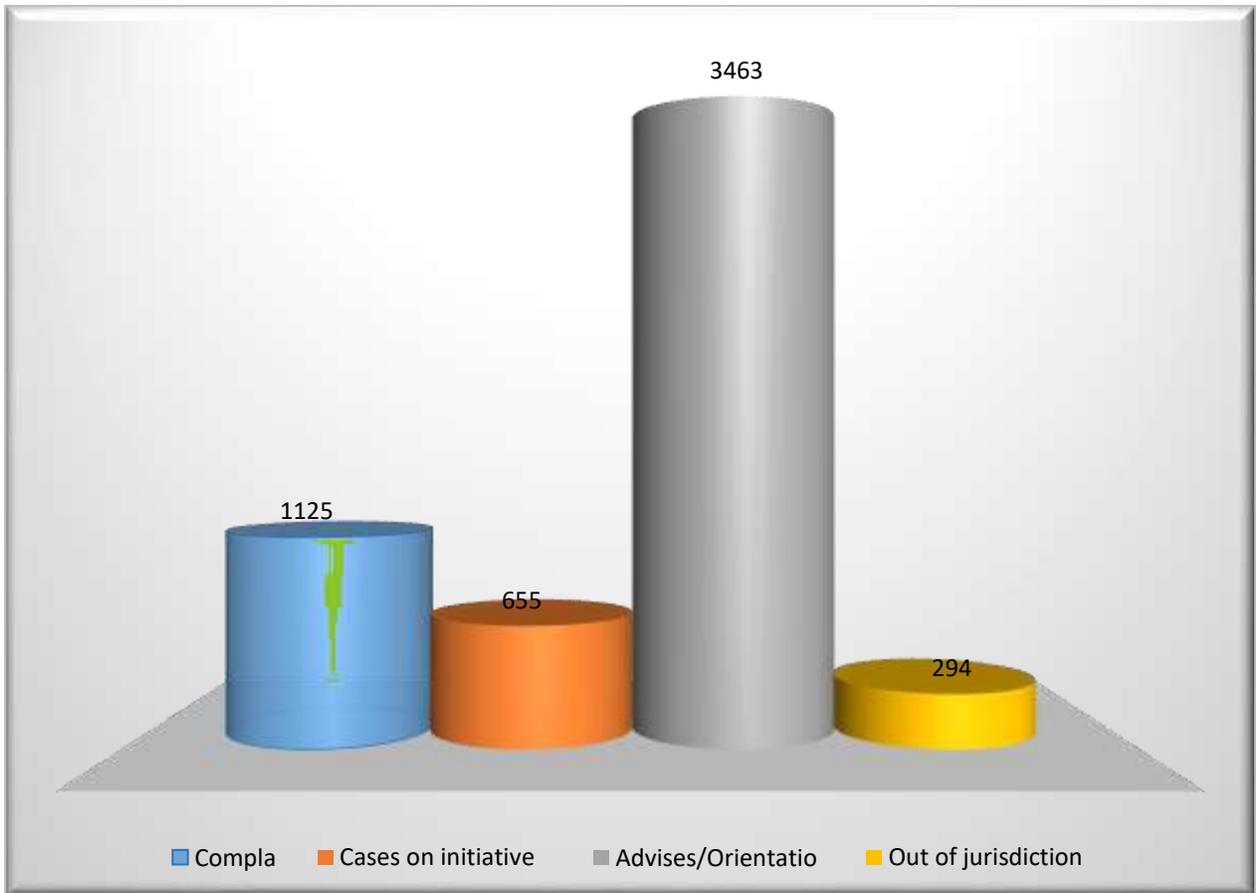
- advising / guiding citizens on the legal paths they should follow to solve their problem;
- consideration of complaints, for which relevant administrative investigations have been conducted;
- daily monitoring of media services in the Republic of Albania for the identification of cases of violation of citizens' rights and the follow-up of these cases on initiative;
- exercising inspection / monitoring activity;
- preparation of various reports on human rights issues;
- giving opinions / opinions on various initiatives for legal changes;
- monitoring of international organizations, counterparts and civil society organizations for human rights;
- informing citizens about their rights, through public appearances in the media, publication of explanatory information or calls for defending the rights of various social groups;

Thus, during 2020, the institution of the People's Advocate has handled a total of **5537** cases, many brought to its attention through complaints of citizens, by the media, or civil society. From these cases, it results that:

- 1125 cases, after the evaluation of the experts of the institution are considered as complaints "within the jurisdiction and competence" of the People's Advocate;
- 655 cases were pursued at the initiative of the Ombudsman Institution<sup>192</sup>;
- 3463 have been treated in the form of advice and guidance (verbally, or electronically) on the legal avenues that citizens should follow to further address their problem;
- 294 cases were found outside the jurisdiction or competence of the Institution of the People's Advocate. Of these cases, 112 of them were found to be outside of its jurisdiction at the time of the assessment by the grievance redressal team, and individuals have been oriented in writing, formally by the Office of Citizens' Reception on the legal avenues they should follow for their problems, while 33 cases outside of jurisdiction and 149 cases outside of competence were ascertained during the administrative investigation.

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<sup>192</sup> For more information regarding the activity of the People's Advocate in terms of monitoring cases of violation of citizens' rights made public by the media, from the beginning of the state of natural disaster, refer to the chapter "Chapter 4"

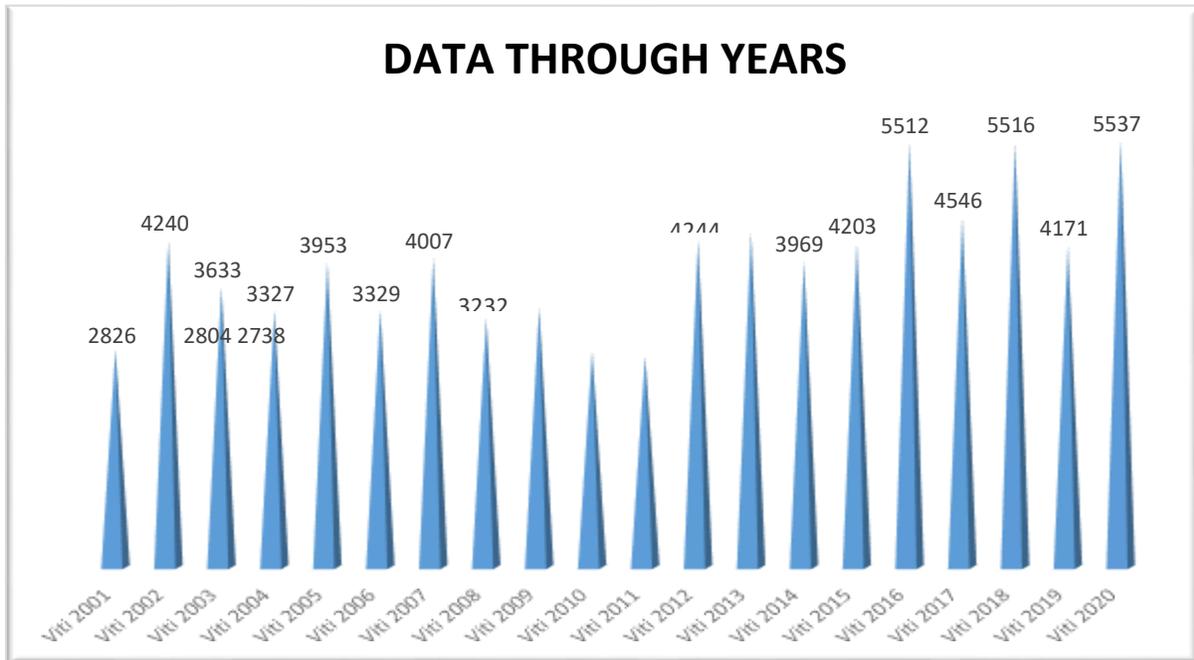


Graphic presentation of cases reviewed by the institution of the People's Advocate during 2020.

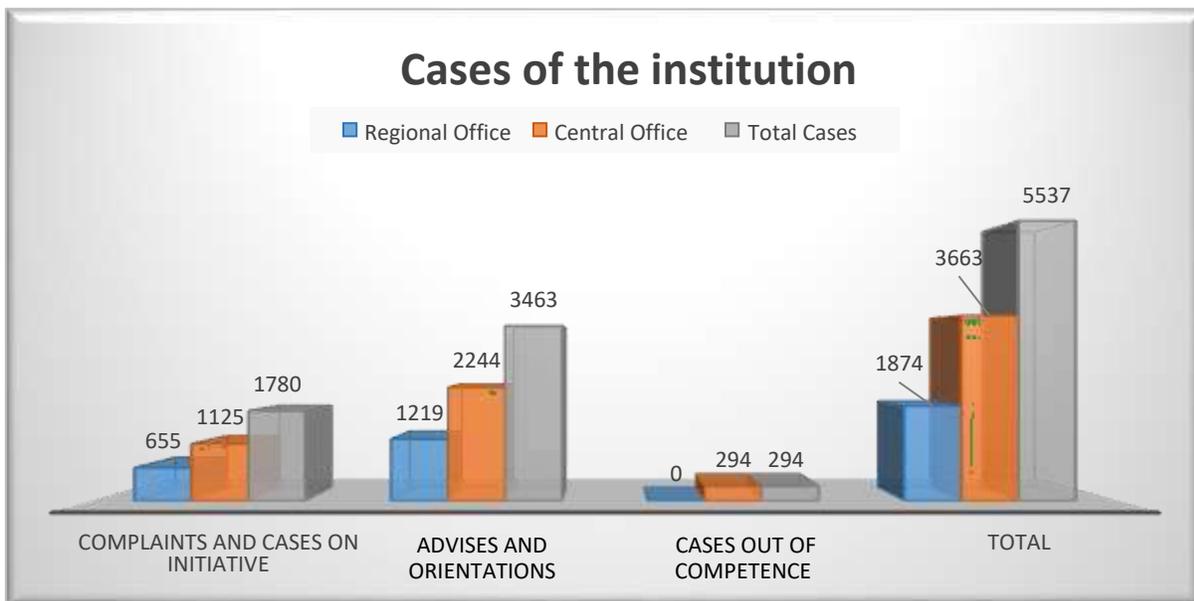
The forms of administration of complaints / cases of violation of fundamental rights and freedoms by Albanian citizens, foreign citizens, stateless persons, civil society organizations or human rights defenders, media, etc., are as follows:

- Appearance of the person physically at the institution;
- Postal service;
- Social networks;
- Electronic mail;
- Mobile application and official website of the institution;
- Telephone;
- Daily monitoring of media services (television, radio, social media, etc.).

Below is the data related to the review of complaints and cases followed by the institution of the People's Advocate, in statistical form, divided by sections, type of case, gender of citizens, field of law, public administration institutions, territorial distribution, the manner of completing the administrative investigation, and the activity of the regional offices.

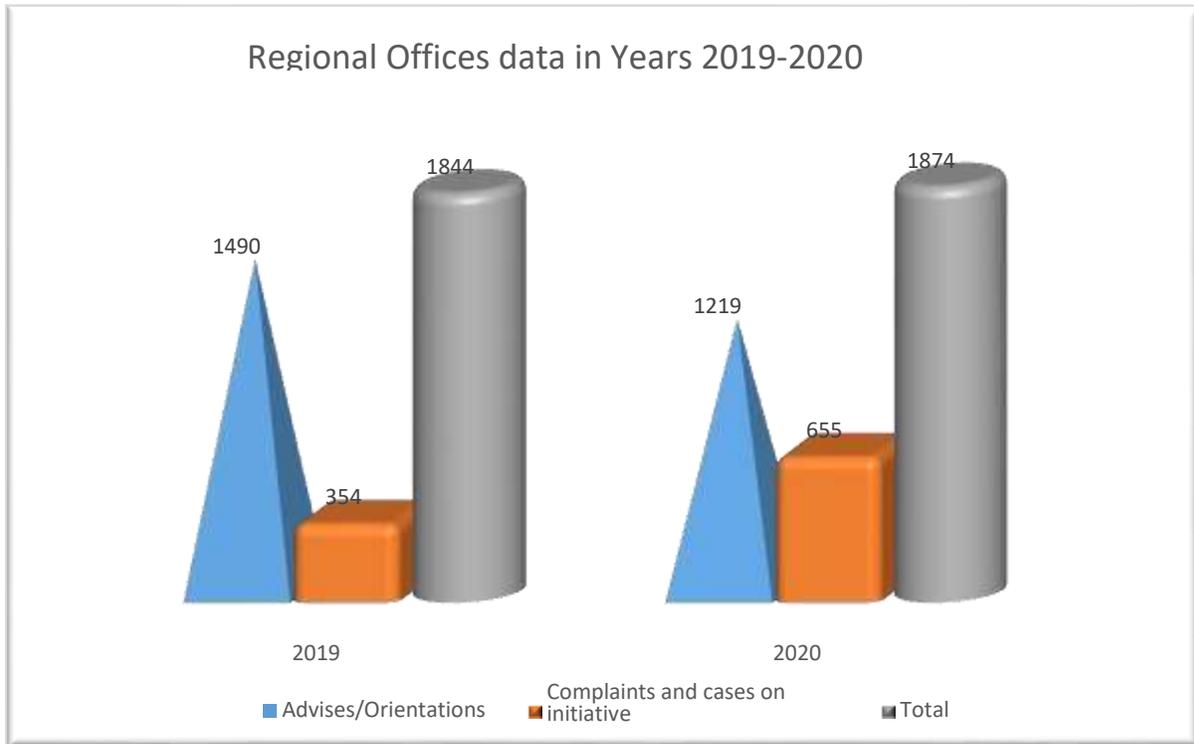


Graphic presentation of cases handled by the ombudsman institution over the years.

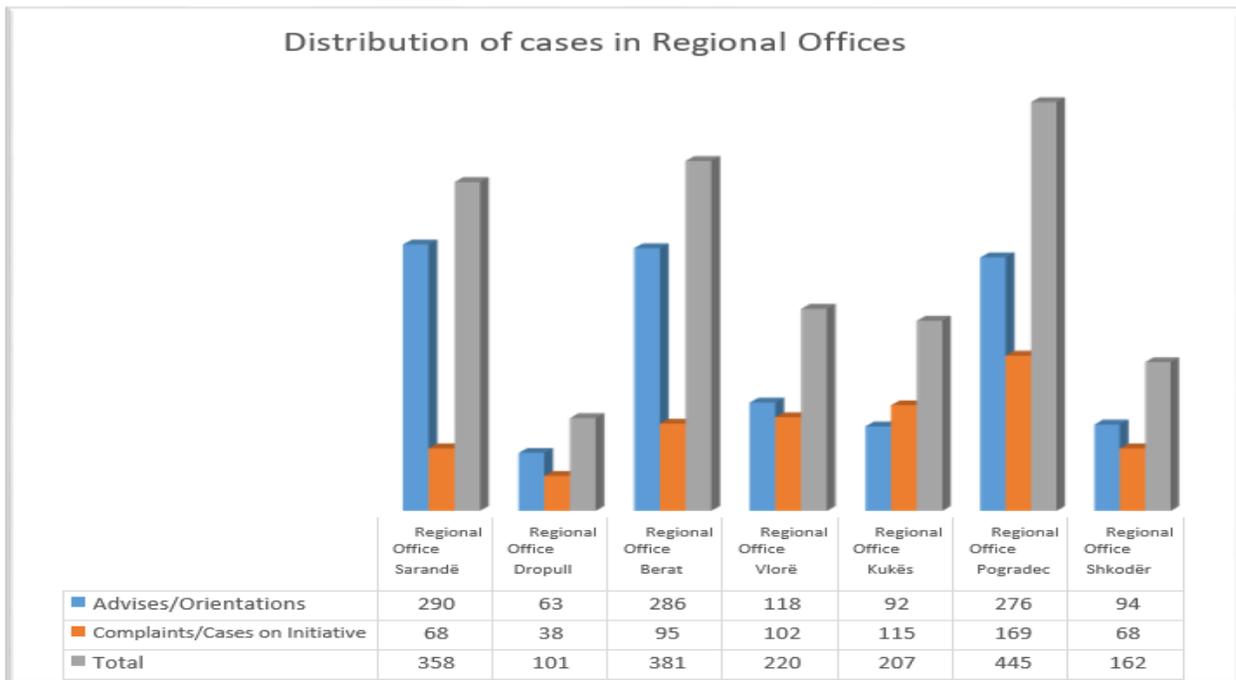


Graphic presentation of cases filed and handled at the institution of the People's Advocate and its 7 Regional Offices.

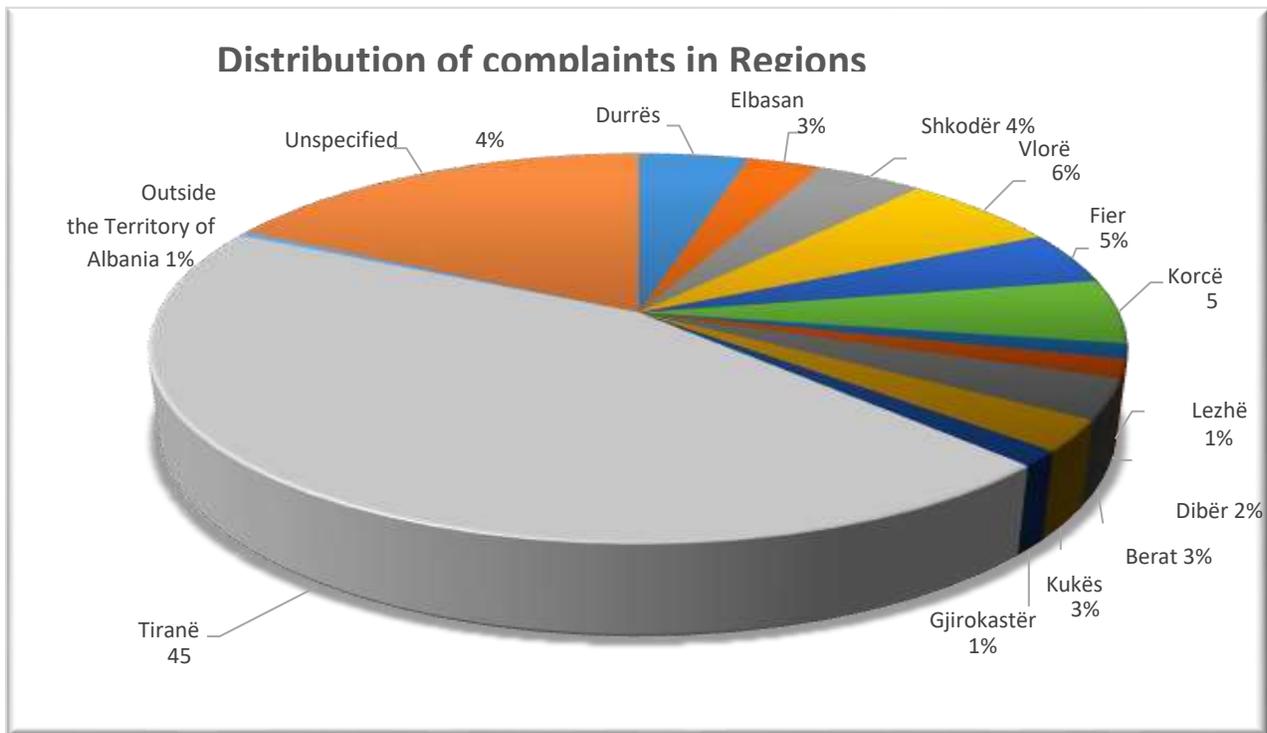
In 2020, 1874 cases were filed with the regional offices of the Ombudsman Institution, leading to an increase in citizens who turned to the institution to express their concerns compared to 2019.



Graphic presentation of the number of cases filed with the regional offices of the PA compared to 2019.



Graphic presentation of the distribution of complaints / consultations and cases initiated by the 7 Regional Offices of the PA institution.

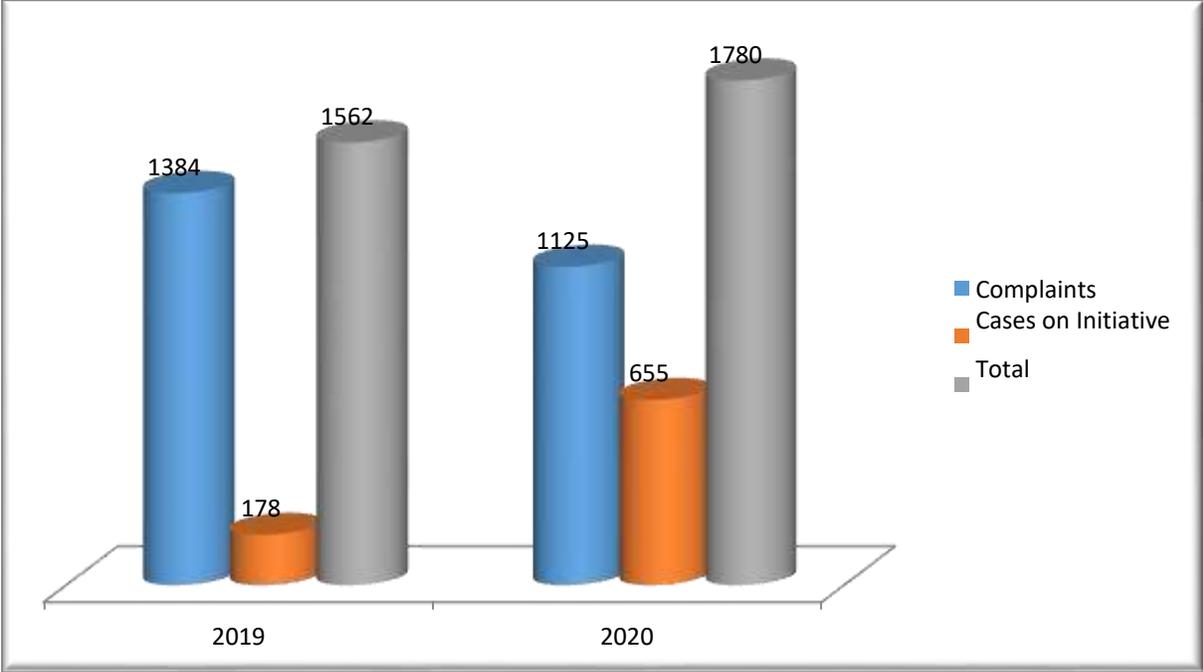


The graphical presentation of the distribution of cases reviewed by the institution of the People's Advocate by regions is as in the graph above.



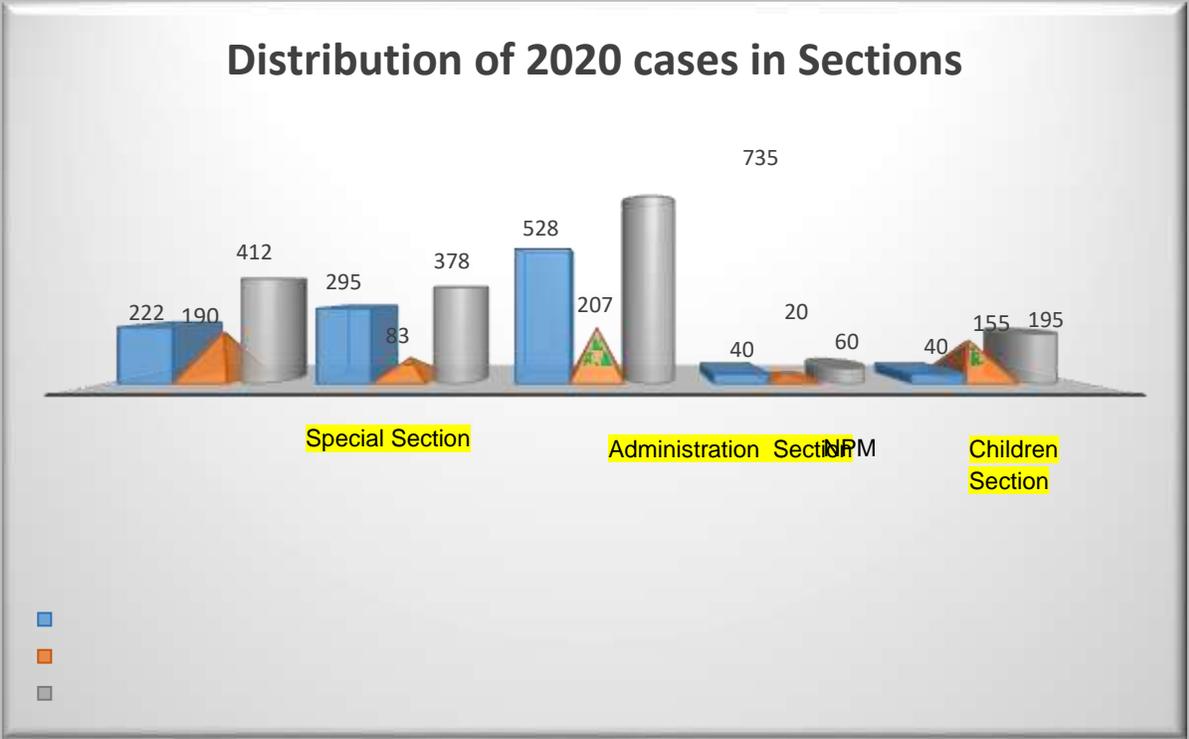
The graphical presentation of the distribution of cases reviewed by the institution of the People's Advocate by cities is as in the graph above.

The total number of complaints and initiative cases pursued by the Sections during 2020 is a total of 1780, of which 1125 came from complaints and 655 cases came from institutional initiative. The distribution of the total complaints which after the evaluation of the experts of the institution are considered as complaints "within the jurisdiction and competence" according to the Sections, as well as the total of all cases according to the Sections, is presented in the following graphs.

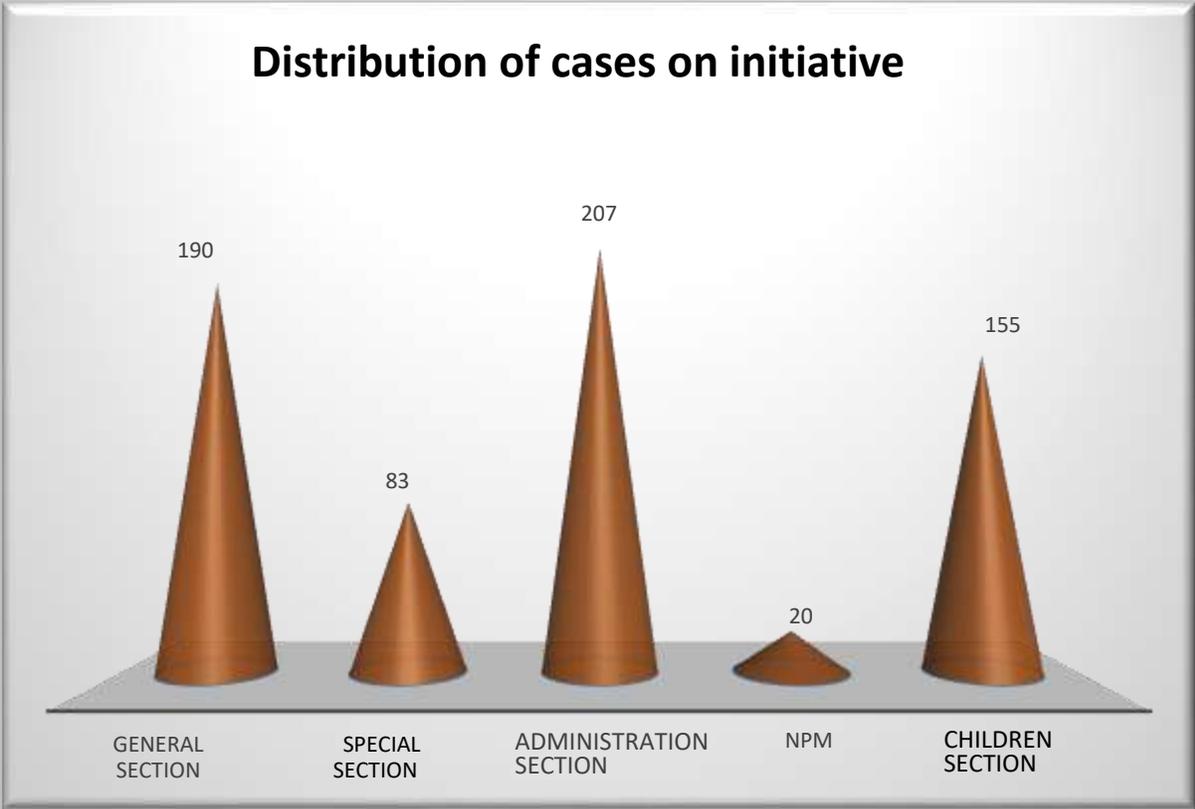


	General Section	Special Section	Administration Section	NPM	Children Section
Complaints	222	295	528	40	40
Cases on initiative	190	83	207	20	155
Total	412	378	735	60	195

General Section

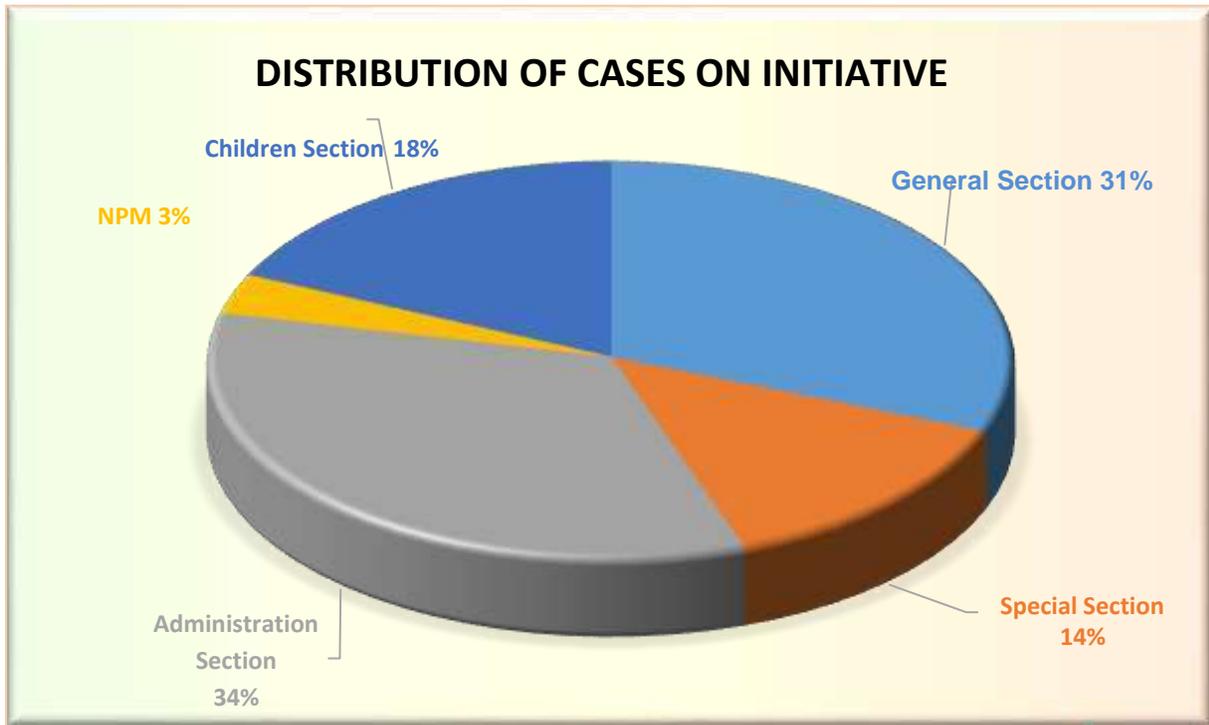


Graphic presentation of the distribution of cases by sections for 2020

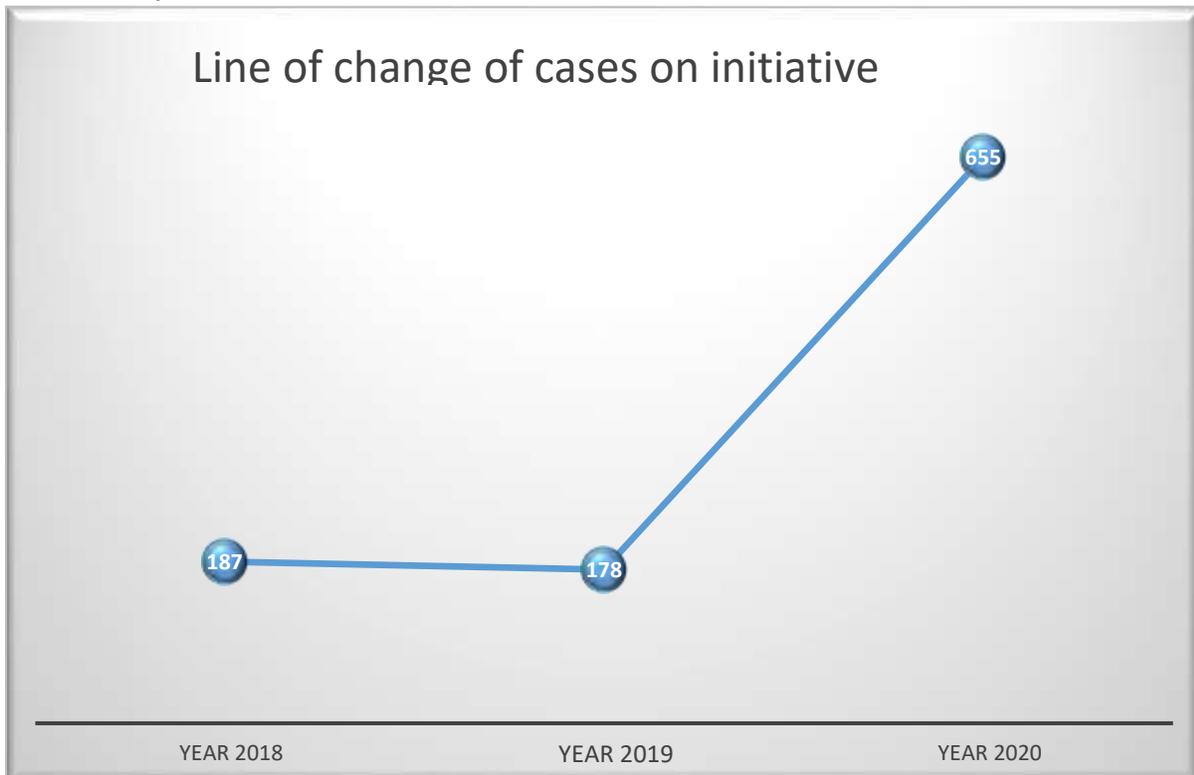


Graphic presentation of the distribution of case review with initiatives from the PA Sections

Distribution of initiative cases by sections expressed in percentage



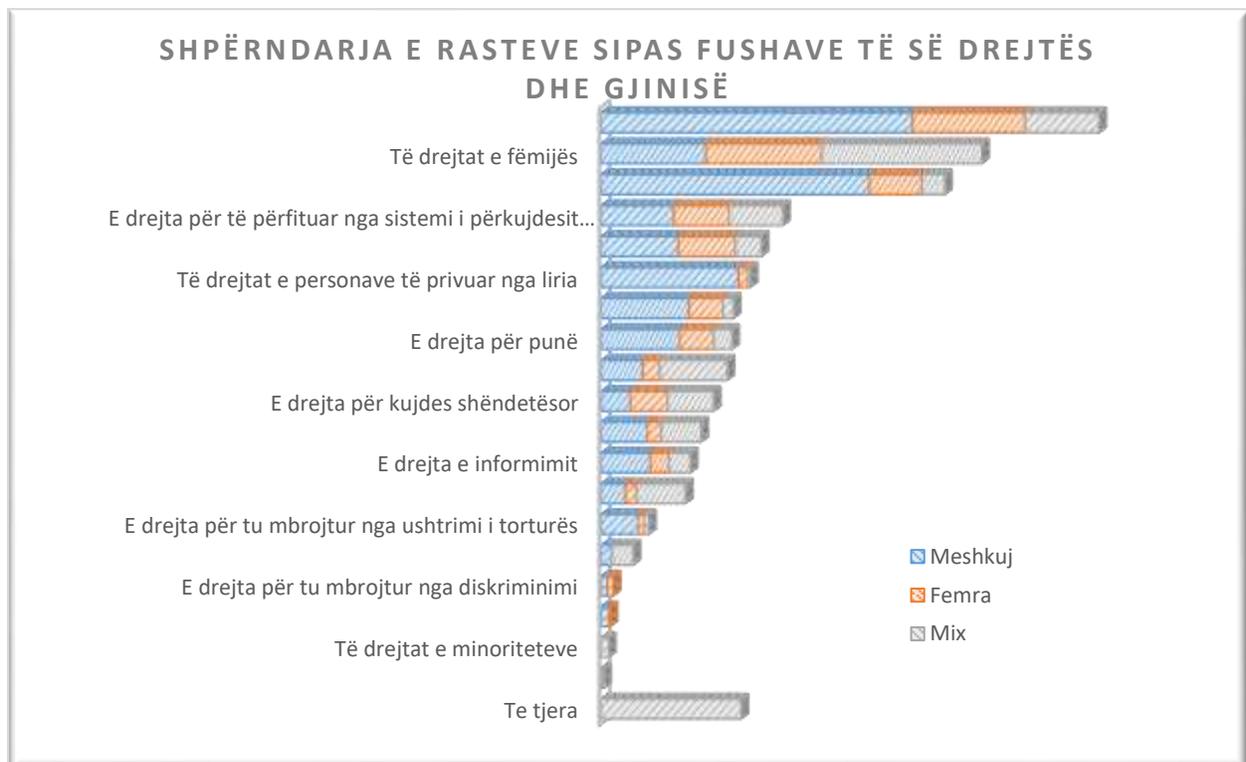
In terms of cases from initiative, there is an increase of 248% from 2019 to 2020. This increase is related to the many problems caused by the COVID-19 pandemic, which have been widely addressed by the media and the increased attention of the AP to them.



Graphic presentation of the change of values of cases with initiatives reviewed by the institution in the years 2018-2020.



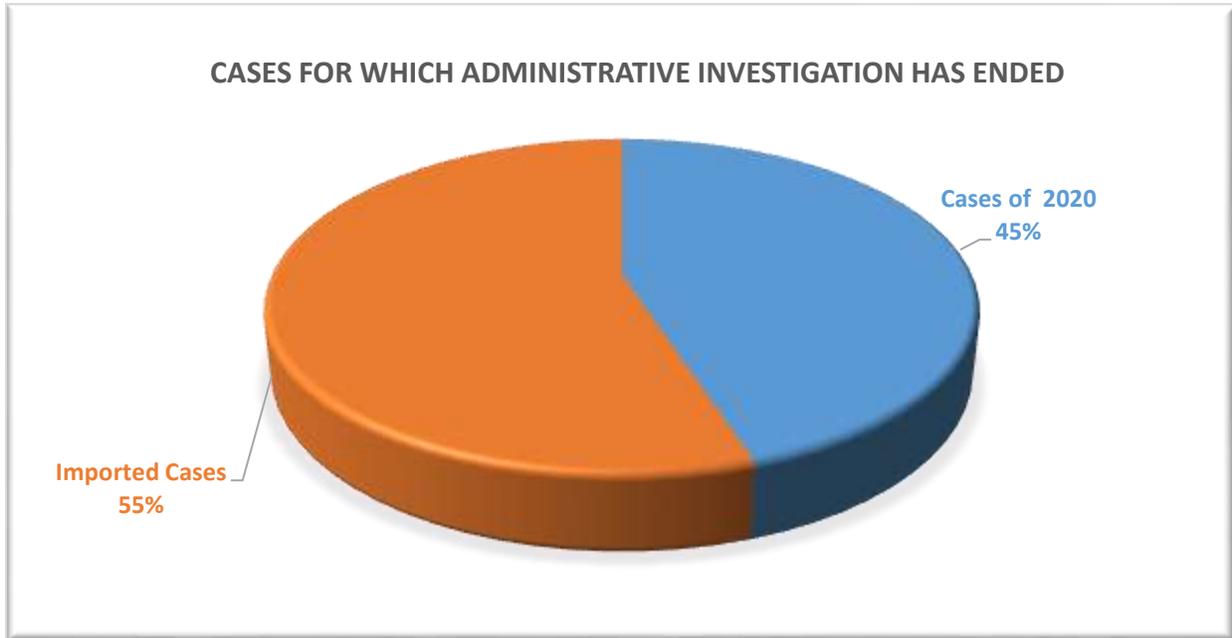
Graphic presentation of the distribution of cases according to the institutions responsible for violations against citizens



Graphic presentation of cases registered and handled during 2020 according to the field of law and gender.

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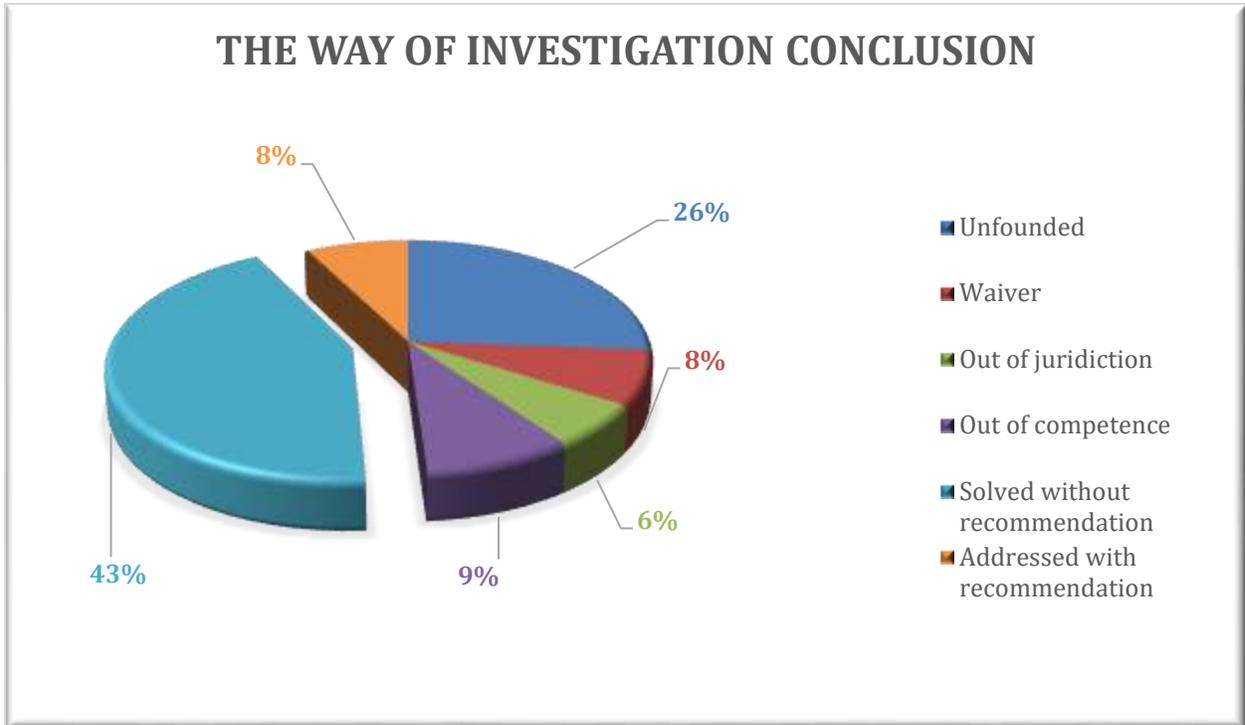
The Institution of the People's Advocate, during the exercise of its activity, during 2020 has completed the investigation of 1303 cases of which 45% of the cases belong to the cases registered in 2020 and 55% to cases carried over the years.



Graphic presentation of cases for which the administrative investigation was completed during 2020.

From the total of 1303 cases for which the administrative investigation was completed during 2020, it results that:

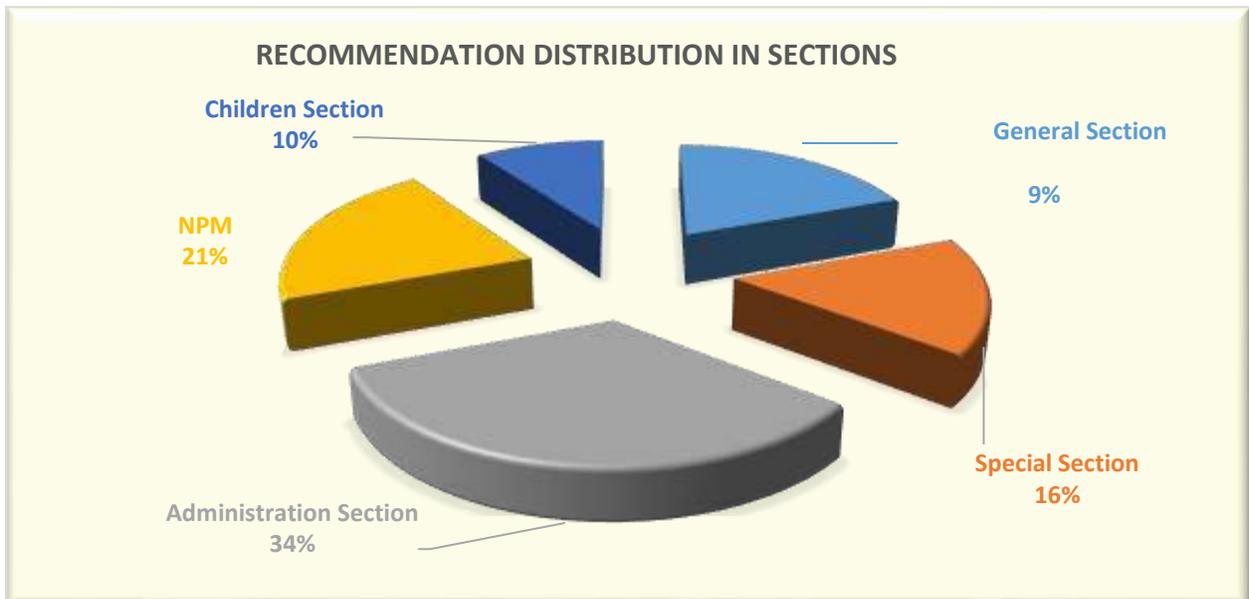
- 26% of cases were concluded stating that the case / complaint was unfounded;
- 8% of cases were terminated as a result of the complainant's resignation;
- 3% of cases resulted outside the jurisdiction, during the administrative investigation;
- 11% of cases resulted out of competence, during the administrative investigation;
- 39% of cases are completed by addressing the problems / violations found during the administrative investigation, without the need for intervention with a recommendation;
- 13% of cases are completed by addressing the problems / violations found during the administrative investigation, through recommendations.



Graphic presentation of cases for which the administrative investigation was completed during 2020.

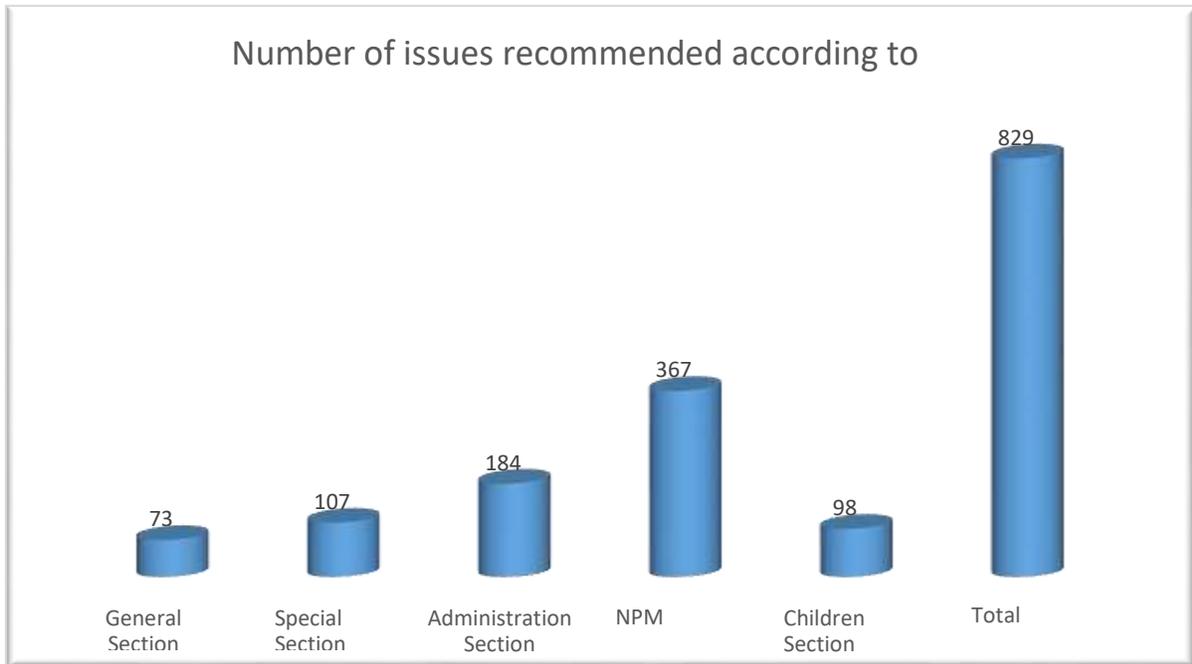
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During the exercise of the administrative activity, the Institution of the People's Advocate for 2020 has addressed a total of 256 recommendations addressed to the bodies of Public Administration, including the central and local one.

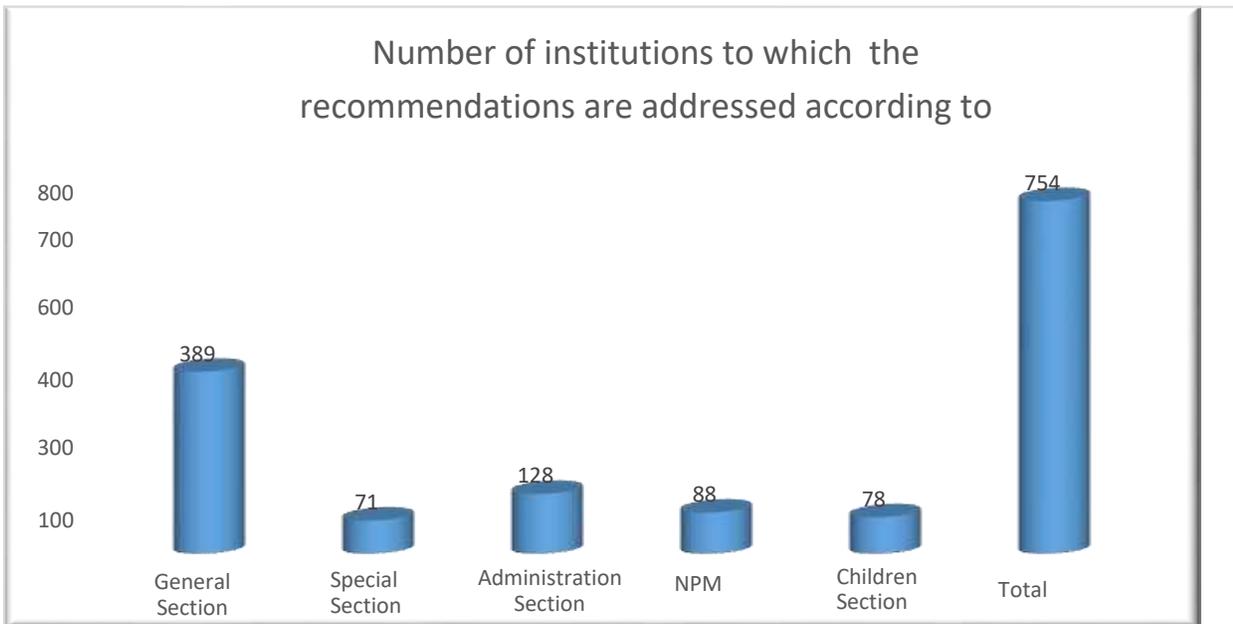


Graphic presentation of recommendations by sections of the institution for 2020

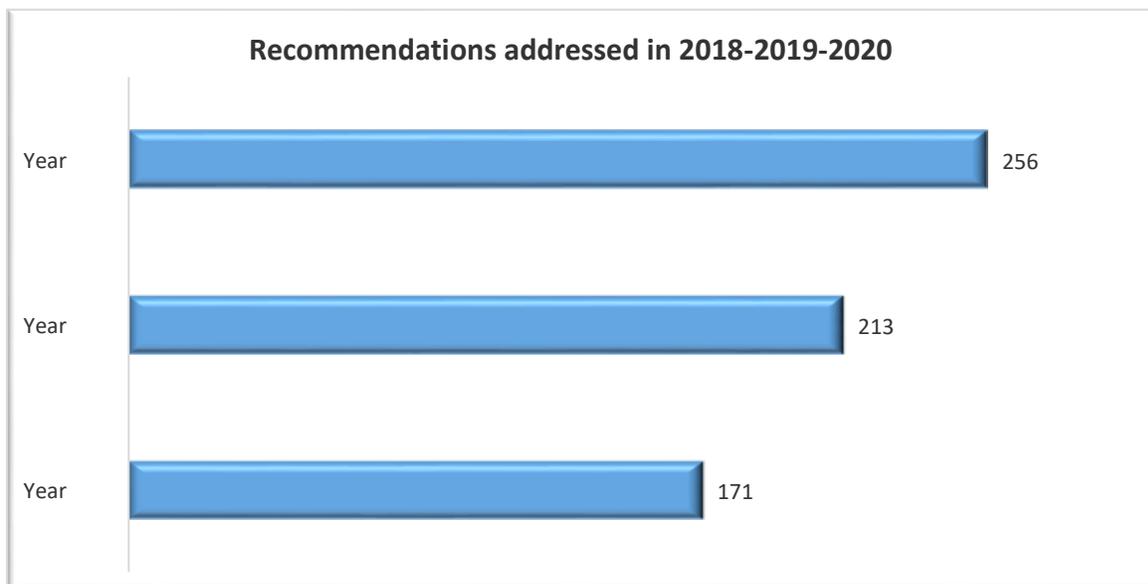
In the total of 256 recommendations addressed to the public administration bodies, the institution of the People's Advocate has addressed a total of 829 sub-recommendations (sub-issues, recommended actions or concrete inactions).



Graphical representation of the number of recommended issues by sections.

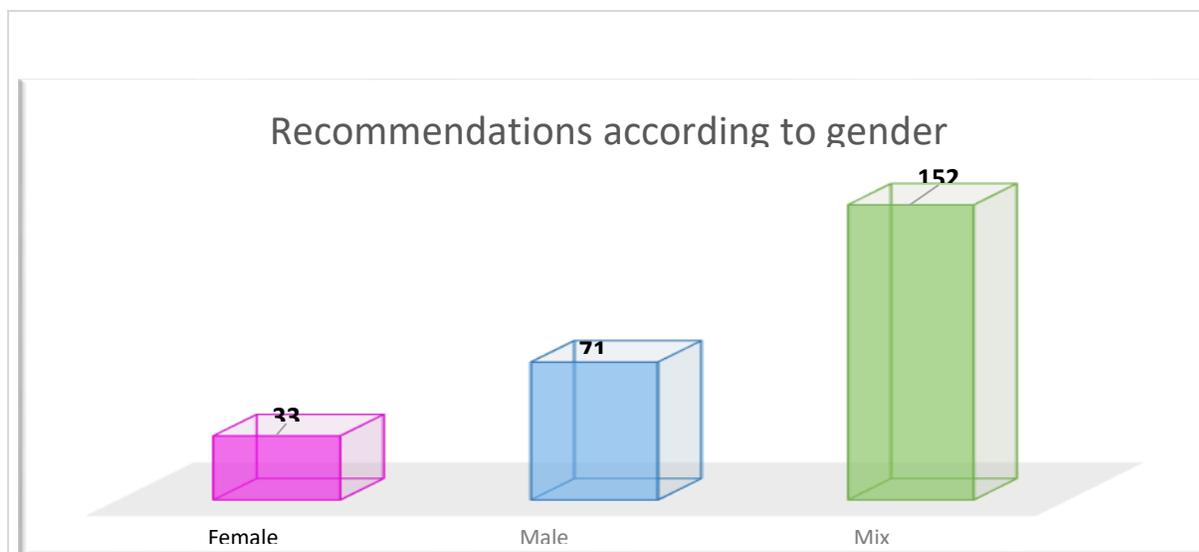


Graphic presentation of the number of institutions to which the recommendations have been addressed.



Graphic presentation of recommendations for the years 2018, 2019, 2020.<sup>193</sup>

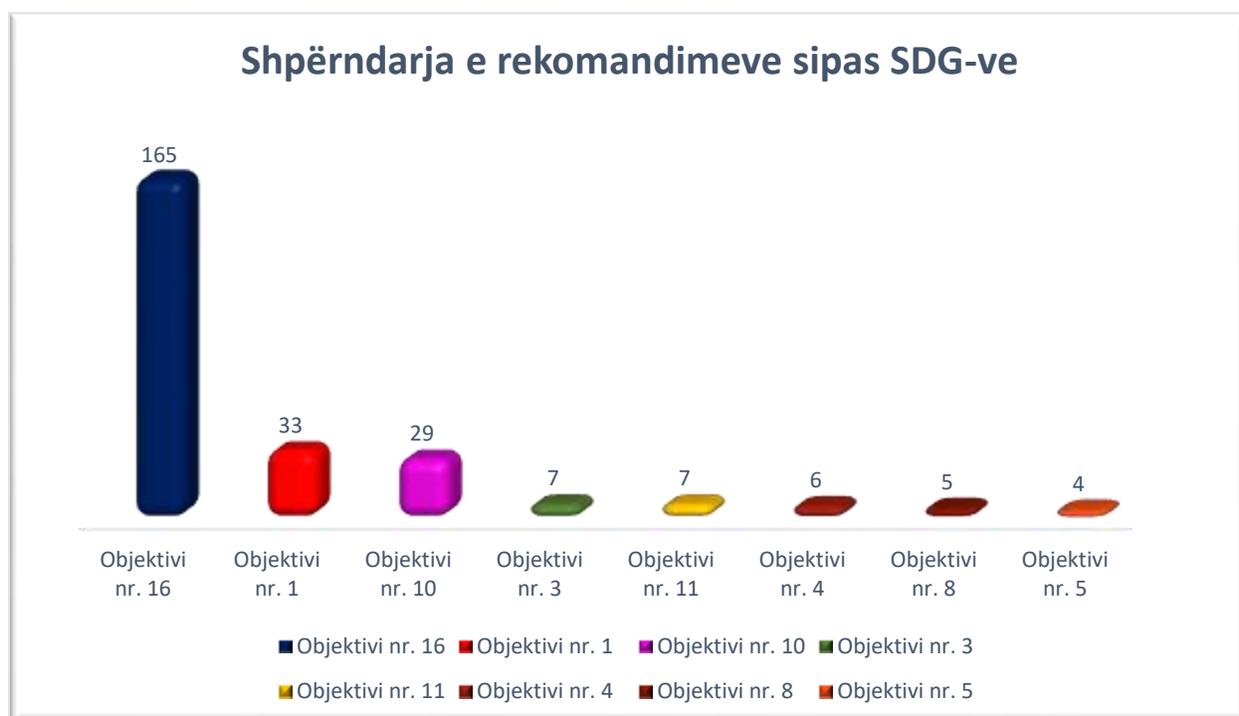
<sup>193</sup> Paraqitja grafike e rekomandimeve të realizuara në 3 vitet e fundit ku vihet re një trend rritës. Nga 256 rekomandime të adresuara, 142 rekomandime i përkasin rasteve të vitit 2020 dhe 114 rekomandime rasteve të mëparshme.



Graphic presentation of recommendations by gender of the complainant<sup>194</sup>

### Dissemination of recommendations according to the Sustainable Development Objectives (SDG)

The distribution of the ombudsman's recommendations according to the Sustainable Development Goals (SDGs) for 2020 is as follows:



Paraqitja grafike e rekomandimeve sipas Objektivave të Zhvillimit të Qendrushëm

<sup>194</sup> Recommendations addressed in which gender is undefined affect a group that includes both genders.



**END POVERTY IN ALL ITS FORMS EVERYWHERE**



**ENSURE HEALTHY LIVES AND PROMOTE WELL-BEING FOR ALL AT ALL AGES**



**ENSURE INCLUSIVE AND EQUITABLE QUALITY EDUCATION AND PROMOTE LIFELONG LEARNING OPPORTUNITIES FOR ALL**



**ACHIEVE GENDER EQUALITY AND EMPOWER ALL WOMEN AND GIRLS**



**PROMOTE SUSTAINED, INCLUSIVE AND SUSTAINABLE ECONOMIC GROWTH, FULL AND PRODUCTIVE EMPLOYMENT AND DECENT WORK FOR ALL**



**REDUCE INEQUALITY WITHIN AND AMONG COUNTRIES**



**ENSURE HEALTHY LIVES AND PROMOTE WELL-BEING FOR ALL AT ALL AGES**



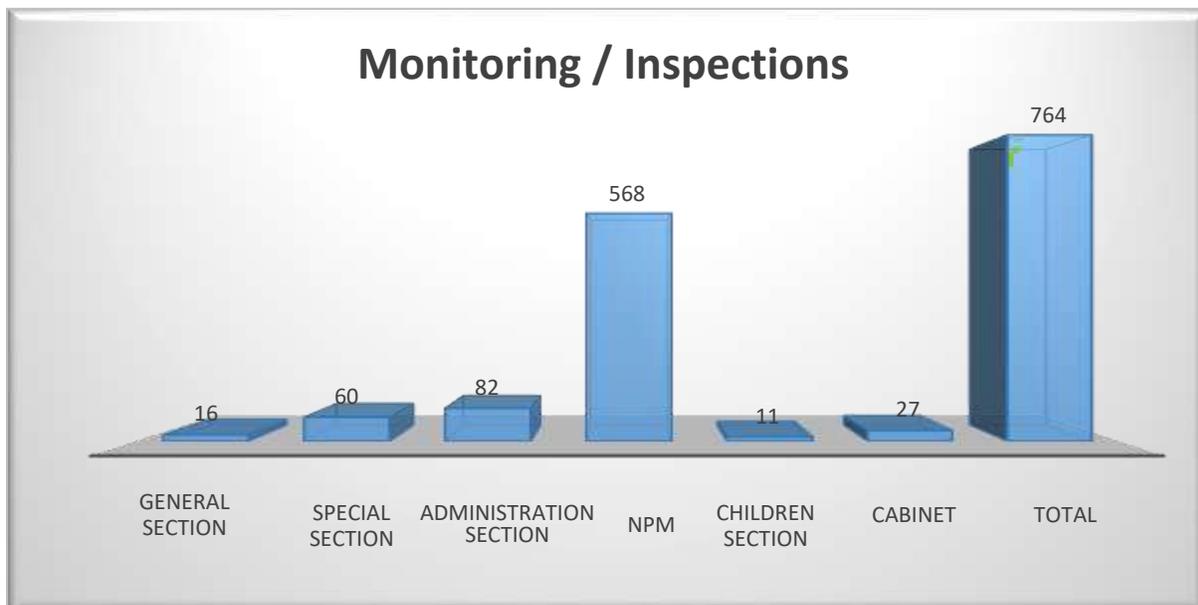
**MAKE CITIES AND HUMAN SETTLEMENTS INCLUSIVE, SAFE, RESILIENT AND SUSTAINABLE**



**PROMOTE PEACEFUL AND INCLUSIVE SOCIETIES FOR SUSTAINABLE DEVELOPMENT, PROVIDE ACCESS TO JUSTICE FOR ALL AND BUILD EFFECTIVE, ACCOUNTABLE AND INCLUSIVE INSTITUTIONS AT ALL LEVELS**

- **Exercising inspection / monitoring activity**

The Institution of the People's Advocate has exercised the inspection / monitoring activity, both through the performance of planned inspections / monitoring, and through the monitoring of spontaneous rallies held during 2020 on various issues that concern citizens<sup>195</sup>. Specifically, a total of 764 inspections / monitoring were performed, of which 662 monitoring and 102 inspections which are presented below by sections.

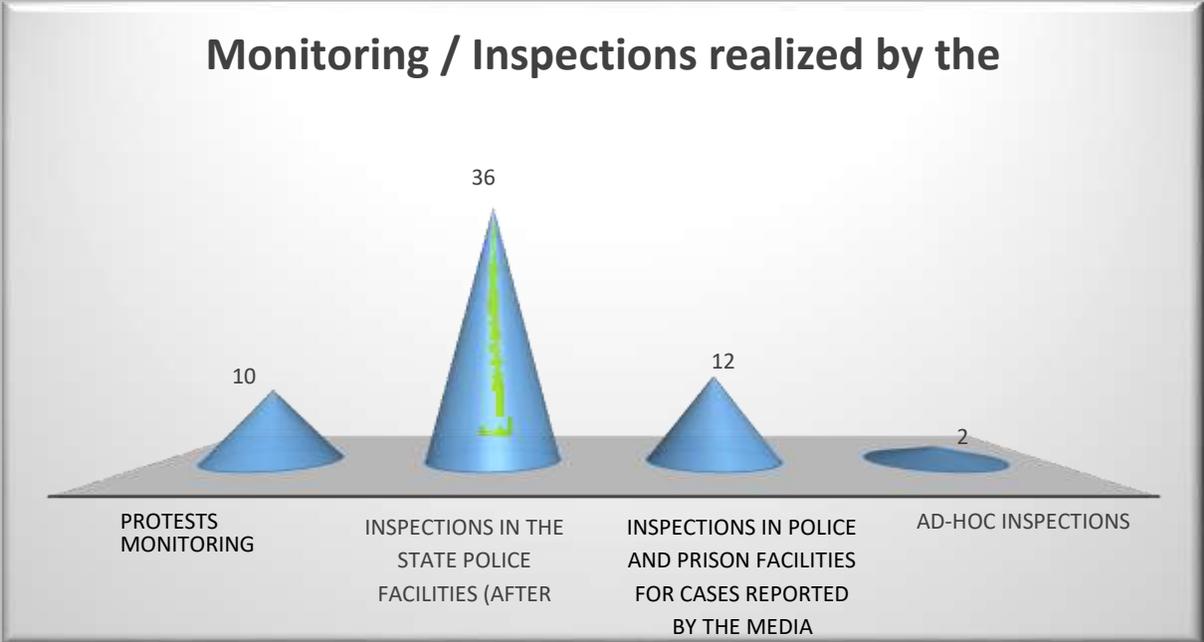


Graphic presentation of monitoring / inspections carried out by the institution of the People's Advocate.

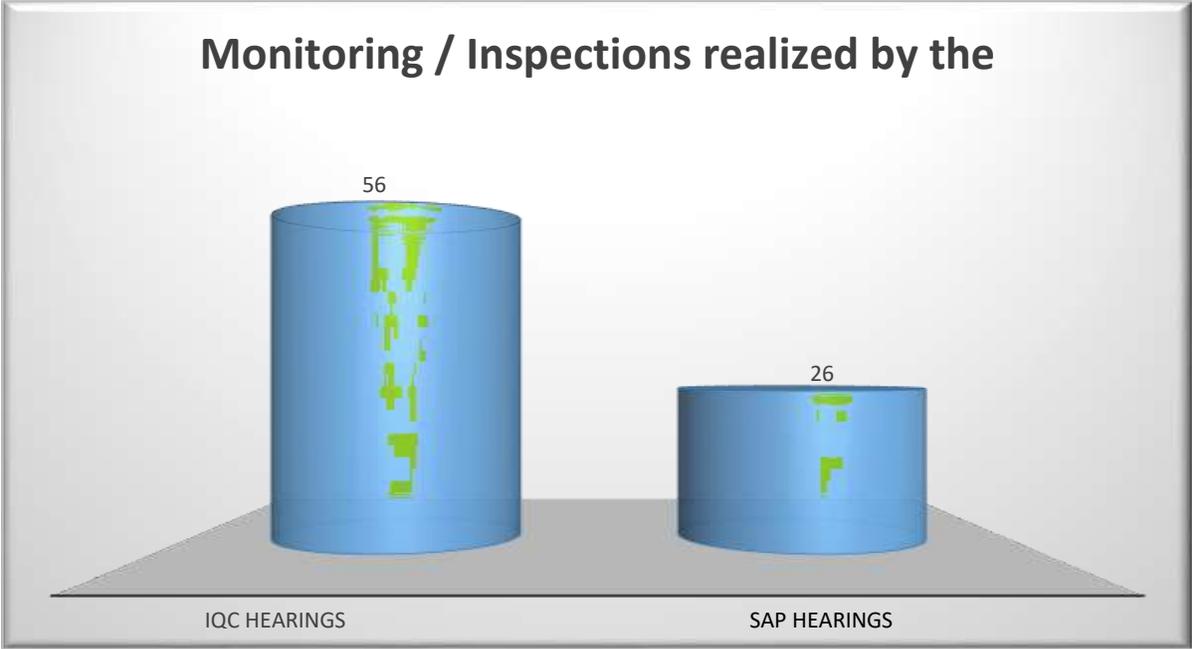


Graphic presentation of monitoring / inspections carried out by the General Section.

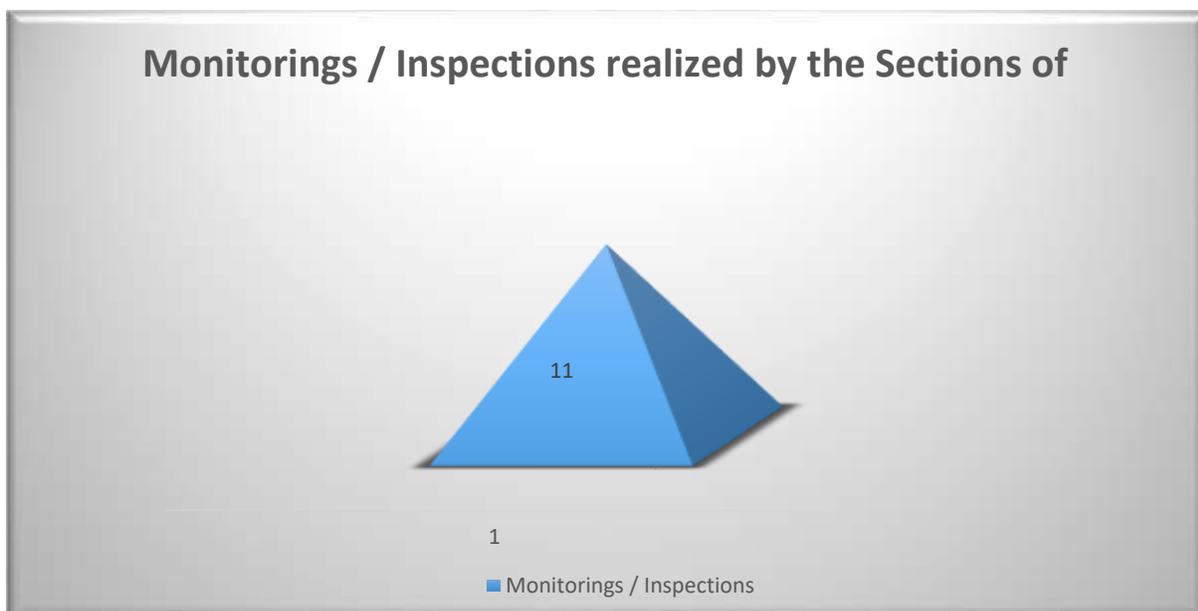
<sup>195</sup> For more information on inspection / monitoring activity refer to Chapter IV



Graphic presentation of monitoring / inspections carried out by the Special Section.



Graphic presentation of monitoring / inspections carried out by the Special Section.



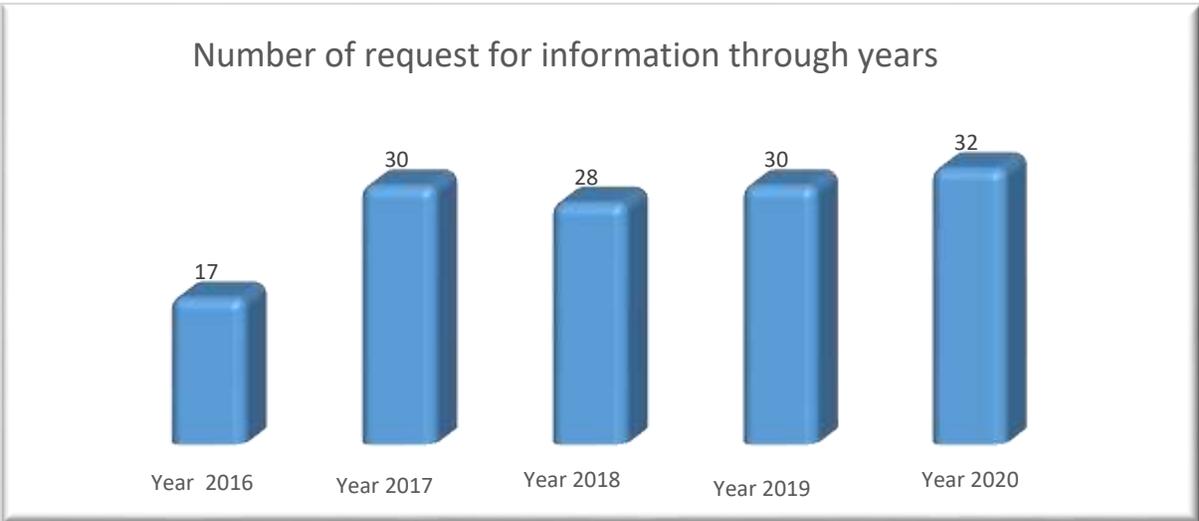
Graphic presentation of monitoring / inspections carried out by the Children Section.

- **Handling information requests**

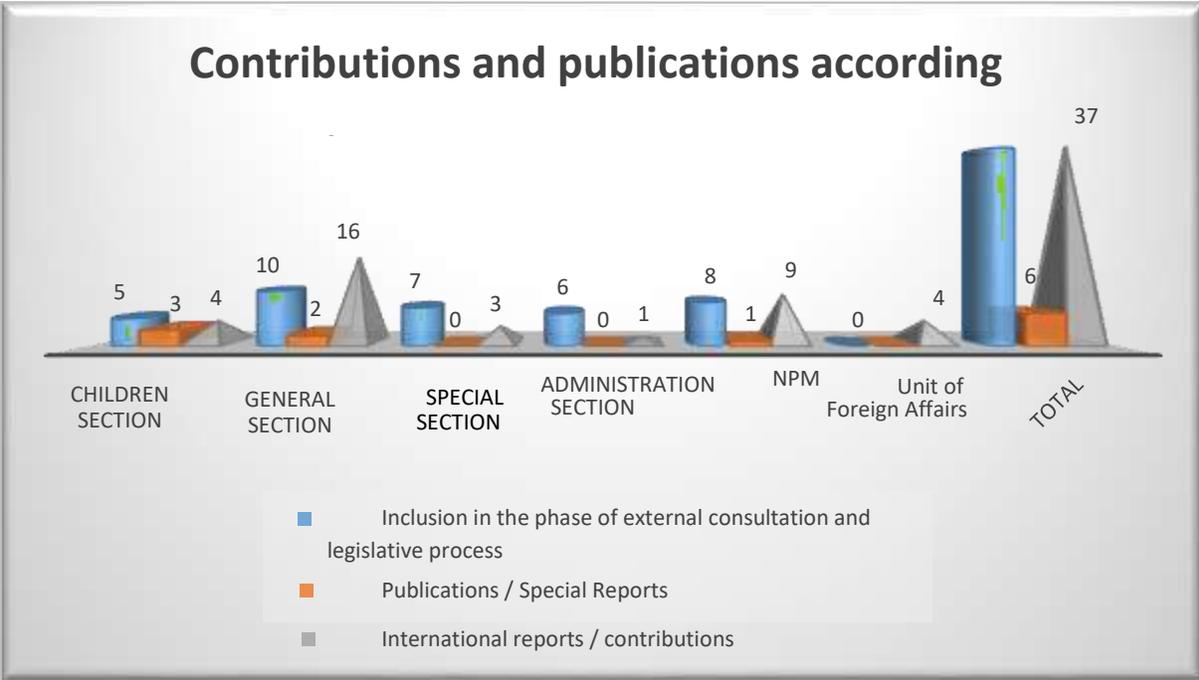
During 2020, a total of 32 requests for information were registered with the institution of the People's Advocate, according to law no. 119/2014 "On the right to information". All requests have been accepted and answered according to the object, ensuring the limitation of personal data according to the legislation in force. The average response time to requests for information is 9 calendar days.

From the total requests for information registered during 2020, it results that 20 of them were addressed by citizens, 2 of them by law offices, 6 by civil society organizations and 4 by the media. Out of the total of 32 requests, 13 of them had as object the request for copy of documentation, 11 of them request for information and 8 requests for information and documentation.

The progress of the number of requests for information registered and handled by the institution of the People's Advocate over the years, from 2016 is presented as follows:



Graphic representation of the number of requests for information over the years.



Graphic presentation of the contributions and publications of the ombudsman institution during 2020.