



**KOMITETI SHQIPTAR I HELSINKIT  
ALBANIAN HELSINKI COMMITTEE**

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**REPORT ON THE SITUATION OF  
RESPECT FOR HUMAN RIGHTS IN ALBANIA  
2013**

Tirana, December 2013



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The contents of this report are the exclusive responsibility of the Albanian Helsinki Committee and do not reflect the stance of Civil Rights Defenders.

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## *A- INTRODUCTION*

The Albanian Helsinki Committee prepared even this year the report on the situation of human rights in the country and we hope that will be welcome not only by public, but also to put into motion state institutions, with aim to be reflected positively in their activity, in order to increase the care for the respect of the human rights and freedoms, in the high interest of our country' Like always, in drafting this report, we have used the findings resulting from our monitoring activity and from requests and complaints received from citizens; we have also exploited information provided by the media and from reports by international organizations, which we have often checked on site.

Generally, the situation of human rights in the country for 2013 is characterized by a decline in standards. Likely seems as a ill luck the fact the fact that in election years, particularly parliamentary elections, it is noted a decrease of sensitiveness of state institutions towards the respect of the rights and freedoms, because the political class engages intensively in the electoral campaign; both the majority and the opposition leave out of their attention the vital problems that are of concern for citizens. Also, frequently the public administration is oriented toward carrying out duties of significance for and with potential political impact on the electoral campaign, subsequently directing budgetary spending toward that end.

Our report does not elaborate all the range of human rights and liberties provided by Albanian Legal Framework. We have been focused and handled a part of them, especially to those human rights and liberties which are mostly violated, and which have been subsequently object of reactions from citizens and thematic of our activity, but not only. In this report we elaborate problematics related to the violation of citizens' rights, especially those which affect the life, health and property of citizens, problematics regarding the exercise of the right to vote, freedom of expression and due legal process. A special attention in this report has been paid the sitation of respect of the rights of citizens who are deprived of their liberty in prisons, pre-trial detention, police commissariats, because their status constitute a potential possibility for violation of their rights.

It is important to bring to the attention of readers that, with regard to problems and concerns contained in this report, AHC has made the necessary reactions and intervention, at the right time, with relevant bodies, or has been directed to the broader public opinion when problems have appeared flagrant or recurring. In order to be introduced with our reactions and interventions you may consult our internet website where are published our reports, studies, press statements and everything else that AHC has produced in years. To that end, or you may contact us should you need further information.

***Vjollca Meçaj***  
***Executive Director***



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## *EXECUTIVE SUMMARY*

During 2013, criminality was at high levels, particularly involving criminal offences that jeopardize the life, health, and wealth of citizens, such as murder, injury, threats, domestic violence, forced sexual relations, violent robberies, etc.

The causes of crime against life and health of citizens remain mainly those of a social-economic nature, such as conflicts because of property, poverty, unemployment, jealousy, conflicts between criminal organizations, etc. The placement of remotely-controlled explosives in vehicles or private residences has been and remains disturbing. Besides, criminal activity has increased overall, particularly murders and robberies, with the northern part of Albania having a higher percentage of crimes involving the use of weapons.

The difficult situation and very poor safety of roads, which are worn out or featuring incomplete investments, deficient road signs, and poor road use by drivers, remains a major concern. Only the first half of this year saw 1,104 accidents, involving 155 deaths and 1,362 injured persons, thus marking a significant increase. Driving without driving licenses, the use of alcohol, negligence of pedestrians, lack of road signs and amortization of roads, as well as deficient technical vehicle inspections, etc., are some of the direct reasons for accidents.

Domestic crimes have taken the lives of 19 women this year, while the phenomenon of blood feuds remains present in the painful Albanian reality. It is suggested that the institutions/bodies of police, prosecution office, courts, local governments, the education and health systems, must improve their activity in order to prevent such phenomena. There has been an increase this year in *reporting by citizens claiming negligent treatment by public or private health institutions*. Between January and September, there were 25 criminal reports and 12 medical doctors have been sued (according to broadcaster “Vizion Plus” and cases followed by AHC).

In our view, it is necessary to carry out a profound analysis of the situation of crimes against life, health, and wealth of citizens in order to draft programs and undertake appropriate measures for the prevention and minimization of this unlawful activity.

In the June 23 elections, we found visible improvements in terms of the quality of the voter lists, respect for voting as well as vote-counting procedures. The electoral administration generally demonstrated correct behavior, although there were also sporadic interferences with voters, which may be considered a violation of the freedom of vote. Persisting problems that should be resolved are guaranteeing the exercise of the right to vote for Albanian citizens living abroad, for persons in health institutions (hospitalized), and for voters with disabilities. Work should be improved in terms of educating, sensitizing, and informing voters. Meanwhile, the obligation of citizens working in the public administration as well as students should be entirely avoided. It remains an important duty of the Assembly of Albania to further improve electoral legislation, enable the depoliticization of the electoral administration, and ensuring its better training.

The right to property still appears to not have received proper recognition by the state. The legislation, practices used by the public administration, long bureaucratic procrastinations, not always just adjudications by the judiciary about property conflicts point to incorrect stances toward this right. On the other hand, frequent amendments of legislation have led to a contravention of interests and social conflict between former owners and citizens who have lived, based on a contract with the state, in apartments reinstated to the former owners. The process for the return and compensation of properties has been highly disputed while the compensation of owners has not proceeded systematically due to the lack of funds. Legislation and its enforcement in practice have led to differentiated treatment and social contradictions between former owners and persons



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regularly sheltered by the state in apartments of the former owners. It is our opinion that undertaking legislative initiatives seeking to reinstate property to the former owners should be accompanied with the undertaking of necessary measures that would enable the sheltering of persons who lived legally in these apartments for many years.

The media play an important role in the development and application of the right to information and expression.<sup>1</sup> During 2013, there were sporadic cases of interferences or obstacles that infringed upon freedom of the media. Concretely, there were cases of harassment of members of the media because of their work.

The judiciary is an important pillar of our democratic state. It should guarantee the protection of fundamental human rights and freedoms of citizens as well as their reinstatement in cases of their violation by state structures or private entities. During 2013, we have received numerous complaints with regard to the right to due legal process, its procrastination, refusal of information by the courts, failure to execute judicial rulings, etc. The issue of the procrastination of judicial cases has to do not only with the time and high number of trial hearings, but also with the frequent return for adjudication of cases by the High Court to the lower instance courts. It results that the procrastination of judicial processes come from reasons such as: unjustified absence of defense attorneys, absence of prosecutors, inability to form the panel of judges, neglect by judges, etc. Another concern with regard to the judicial system is the loss of confidence of citizens in it and the existence of the perception that this system is corrupt, while the Ministry of Justice, the HCJ and the General Prosecution Office, recently have pledged to fight this phenomenon.

AHC is of the opinion that fighting corruption and increasing citizens' trust in the justice system have to do with the punishability of corruption cases and the verification, better than to date, of the moral integrity of candidates aspiring to become judges and prosecutors or those being promoted within the system.

Free state legal aid is an activity that the Ministry of Justice should provide in order to improve access to justice by citizens with scarce incomes, in the context of civil conflicts they are involved in. This service also represents a standard that the country should meet in the context of European integration. We find that it has not functioned to the extent and in the manner it should.

AHC has also received complaints from citizens who claim unjust decisions of prosecutors dropping or not initiating investigations, corrupt practices among prosecutors, procrastinations beyond legal deadlines and procrastinations of investigation processes, failure to take into consideration requests by damaged parties during this process for more profound and quality investigations, prejudice of investigations and expression of views before the completion of investigative actions, etc. There are a considerable number of criminal cases whose perpetrators are yet to be found, such as the murder of E.A., the murder of the late SHISH officer I.Ç., the murder of volleyball player J.G., etc.

One violation of the right to access to justice bodies is that of cases when persons damaged by the criminal offence and their heirs are not granted an active role in the investigation process and then in the judicial process. To that end, AHC petitioned the High Court on the case of the refusal by the prosecution office to start a criminal case on the death of SH.K., while serving a prison term, in the absence of necessary health service. In our opinion, Albanian courts have created a wrong practice by not granting heirs the opportunity to appeal in the court the prosecutors' decision to

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<sup>1</sup> Castelles vs. Spain, 1992; Prager and Oberschlick vs. Austria, 1995



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not initiate investigations. Such a stance does not serve the interests of justice and violates the right to access to justice.

The prosecutor's office has an important role in the execution of penal decisions. In spite of great work carried out in this regard, in accordance with the law, there are cases when prison terms are not calculated accurately and, as a result, inmates remain in prison even after the imprisonment term is over. There have also been complaints about execution orders in that the time detainees have spent in penitentiary institutions in other countries where they were initially arrested has not been taken into consideration; there have also been cases of different calculation of detention time spent in pre-trial detention institutions abroad, with time calculated as 1 day of detention equals 1 day of imprisonment in some cases and 1 day of detention equaling 1.5 days of imprisonment in some others.

Humane treatment and respect for the rights of persons deprived of their liberty in Institutions for the Execution of Penal Decision assumes special significance since these persons are deprived of liberty and therefore run a greater risk of having their rights and freedoms violated. The penitentiary system in Albania has seen positive developments in terms of legislation, its implementation, and the development of infrastructure and in institutional aspects; however, we noted that during 2013, there was a decline in the overall environment in prisons and pre-trial detention institutions. The infrastructure of institutions where prison terms are served, inherited from the 1990s, is problematic; however, even maintenance of institutions built more recently leaves to be desired. Overcrowding remains a problem in some pre-trial detention institutions and prisons, while supply of medicaments, although detained and convicted persons were included in the health insurance scheme, is yet to find a solution because practices in this regard need further improvement. Furthermore, we have encountered deficiencies in completing specialized medical personnel in some institutions as well as inappropriate medical infrastructure, etc. In the Prison Hospital Center, it is not possible to carry out medical examinations due to the lack of equipment and tools. All examinations, surgeries or micro-surgery interventions are conducted in the QSUT Civilian Hospitals, which in some cases are postponed or conducted late because public hospitals give priority to their own patients.

One problem we have encountered has to do with the fact that persons with issues of mental health but responsible for the criminal offences committed, are placed in the same rooms with other persons who do not have such problems; this takes place at a time when prisons still have persons for whom courts ***have ruled that they receive compulsory medication in a health institution***. This year, we found that the number of these persons, kept in prisons unjustly, has increased although there is new legislation in force that expressly prohibits this. In some cases, prosecutors and the courts, in violation of the law, decide and establish in their decisions that compulsory medication be conducted in prisons.

We have received complaints about use of physical and/or psychological violence, although these have seen a decrease in comparison to the previous year, as well as complaints about inmates kept in separation premises in the absence of disciplinary measures. Due to very difficult conditions and continued stigmatization by other inmates, two of the LGBT inmates had attempted suicide.

As pertains to State Police bodies, there are claims by citizens that they fail to obtain criminal reports by citizens or to intervene on time in various conflicts, as well as regarding the effectiveness of their work. We have encountered problems such as: conduct of wrong practices regarding the accompaniment, detention, and arrest of persons; failure to reflect or erroneous reflection of data in relevant logbooks about the time of entrance and departure of an accompanied, detained, or arrested person; failure to make accompanied, detained, or arrested persons aware of their rights;



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failure to notify their families, etc. The transfer of persons accompanied by State Police from one commissariat to another, without any traces on logbooks, covers up the violation of time requirements for holding citizens and is one of the wrong work practices in this regard. For more efficient and better service by police for citizens, AHC considers that there should be better organization of State Police, which should be positioned closer to citizens. This should be accompanied by the addition of financial, human, and infrastructural resources. To that end, we suggest a strengthened role of the Internal Control Service so as to achieve the best possible evidencing of abusive cases. Special importance should be devoted to complaints by the State Police Trade Union with regard to prolonged work hours by State Police officers and failure to pay extra hours of service.

It has resulted that at the Kakavijë Border Crossing Point (BCP), during the period August 1 – September 19, 2013, a total of 488 citizens<sup>2</sup> of third countries coming through Greece have been detained. They were mainly from Pakistan, Somalia, Afghanistan, Syria, Sudan, Algeria, Palestine, Morocco, India, Ghana, and Iraq. During interviews of return procedures, there are difficulties in communication as there is a lack of interpreters for some of these languages. The presence of a psychologist was never ensured, also due to the fact that the BCP does not have one such. Infrastructure conditions of the receiving premises of the Kakavijë BCP are good, but of small capacity.

The vulnerable groups of the Albanian society, such as the Roma minority, LGBT community, women, persons with disabilities, the elderly, children, etc., have been victims of various forms of discrimination. The Roma minority continues to face the same problems as in the past, such as lack of shelter, deficiencies in infrastructure in their quarters, unemployment, problems with education, health care, social services, registration with civil registry offices, etc. The silence of our public institutions with regard to the issue of 502 Roma children who have disappeared in Greece, in spite of recommendations and tasks assigned to the state by international organizations that have reviewed it, show for an unacceptable indifference of our public institutions towards this community.

We have found discrimination also toward persons with disabilities. The problems that they encounter have to do with delays and abuse with their disability allowances, the lack of unemployment opportunities, the lack of social service centers and social services, problems with education for disabled children tailored to their specific needs, lack of infrastructure in psychiatric hospitals for persons with mental health problems, violation of or inability to exercise the right to vote, etc. AHC considers that the temporary interruption and delays caused by disability payments for invalids represent discrimination toward this category of citizens and deprives them of a calm family life and a violation of article 8 and 14 of the European Convention of Human Rights.

For years, our country has been criticized for unjust and abusive, politically motivated, dismissals from among public administration employees. The media has reported about a high number of dismissals, which AHC has encountered also through its observations among police bodies and the prison administration as well as elsewhere. We recommend a careful addressing of the situation, in the conditions when the normative act “For the suspension of the implementation of the law ‘On the civil servant status’” was declared by the Constitutional Court as incompatible with the Constitution. Administrative needs may not be resolved to the detriment of citizens’ rights while dismissals should only be done only on those cases and based on those criteria prescribed by law.

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<sup>2</sup> Of these, 355 were caught at the border and 133 others were caught in the territory.



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## ***B- ACHIEVEMENTS AND PROBLEMS WITH REGARD TO RESPECT FOR HUMAN RIGHTS IN THE COUNTRY***

### ***1. CRIMINALITY THAT HAS INFRINGED UPON THE LIFE, HEALTH, AND PROPERTY OF CITIZENS***

In recent years in Albania, criminality has been at high levels, especially criminal offences that have jeopardized the life, health, and property of citizens, such as murders, injuries, threats, domestic violence, forced sexual relations, violent robberies, etc. During 2013, there were a series of murders that shocked public opinion due to their dynamics, the way they were committed, the categorization of victims, etc.

Causes of crimes against life continue to remain those of a social-economic nature, such as conflicts due to properties, poverty, unemployment, jealousy, conflicts between criminal organizations, etc. The murder of a citizen in the city of Laç for political reasons related to the electoral process of June 23 was added this year to the broad range of social-economic causes. With regard to the age of the perpetrators of offences against the life and health of citizens, based on a general analysis of articles published by the media, it results that the young 20-30 years old age group dominates.

Organized crime remains a serious problem although overall, the situation of security and public order has improved, the report *“Crime and Security in Albania 2013”* by the Bureau of Diplomatic Security of the U.S. Department of State. According to this year’s report, unlike the two previous years, street crime has seen a considerable rise and is very disturbing in urban areas, particularly during the night. The use of remotely controlled explosives placed at private vehicles or residences, for criminal purposes, also remains disturbing. There has been an increase in criminal offences of murder and robberies, whereby the northern part of Albania has seen the highest crime of crimes involving the use of weapons.

Also very disturbing is the difficult situation and very poor safety of roads for public transport, which are worn out or feature unfinished investments, poor road sign systems, and a deficient culture of the use of vehicles by drivers. This has led to a very high number of accidents in Albania leading to the death or injury of persons. According to official statistics by the Institute of Public Health, published from 1991, during the first six months of 2013, the number of traffic accidents in Albania reached 20,00, which has led to light injuries of 15,000 persons, serious injuries for about 8,000 persons, and the death of 7,000 others.<sup>3</sup> Only during the first half of this year, there were 1,104 accidents, with 155 victims and 1,362 injured persons. A characteristic is the increase in the number of pedestrian victims in our roads, both inside cities and outside. Of the total of accidents for this year, about 35% of the victims are pedestrians and 30% are motorbikers. A very serious and tragic accident took place on the Tiranë-Shkodër road axis in October 2013 that led to the death of 5 young men. Most recently, Democratic Party MP, Mr. Sokol Olldashi, also lost his life in a traffic accident.

Driving without driving licenses, the violation of road traffic rules, the use of alcohol, the negligence of pedestrians, lack of road signs, and the amortization of roads and incorrect technical inspection of vehicles, etc., are some of the direct causes of accidents. The injured persons belong to almost all age groups, from the most minor to the elderly.

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<sup>3</sup> Institute of Public Health, November 19, 2013, <http://www.ishp.gov.al/dita-boterore-ne-kujtim-te-viktimave-nga-aksidentet-rugore/>





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State structures have the responsibility to guarantee safety in public traffic. Harsher road police controls, the fight against corruption and nepotism in institutions responsible for issuing driving licenses, the strengthening of criteria for the issuance of driving licenses, better periodical technical controls of vehicles, and the improvement of road conditions, etc., are some of the measures that need to be undertaken by state structures in order to reduce the number of traffic accidents, secure the life and health of citizens using them. Greater care should be shown also on health services provided to victims of traffic accidents, particularly during their transportation from the accident sites to health institutions.

In particular, domestic crimes have claimed the lives of a considerable number of women (over 19 for 2013), while the phenomenon of blood feuds remains present in the painful Albanian reality. In sporadic cases, according to the print media, victims of domestic violence say that, when they report acts of violence to the police, the latter do not provide support and consider the incidents ordinary.

During 2013, crimes against life and health have not spared public functionaries, committed while they were on duty or because of their duties. Thus, we may mention the acid assault against the judge of the Vlorë Judicial District Court and the serious injury of the anti-crime section chief of police in Burrel. The Albanian Helsinki Committee reacted in this regard with two public statements, precisely on the criminal and inhuman act of the accused A.P. the particularly socially dangerous pedophile,<sup>4</sup> and on the painful incident of the serious injury of M.S., head of the anti-crime section, of the Burrel police, on the line of duty.

Based on official data published by the Ministry of Interior, there are an average of 4 criminal offences every hour and about 95 criminal offences every day in Albania.<sup>5</sup> The fight against criminality and organized crime in particular, guarantees citizens the necessary tranquility to carry on peacefully with their lives, creates better conditions for the country's economic development, and increases the chances for the country's quicker integration into the EU.

There is an evident need for a profound analysis of the situation with crimes against the life, health, and property of citizens, the identification of concrete duties for responsible bodies, in order to minimize these cases. The presence of this kind of criminality clearly points to the need for increasing investigative, prosecutorial, and adjudicating capacities on offences of such nature in order to discover, prosecute, and adjudicate such criminality as quickly as possible. On the other hand, the judiciary should better exercise its own controls on processes for the adjudication and punishment of perpetrators in order to guarantee that the understanding and enforcement of the law is unified by all prosecutors and judges.

Also during 2013, *the number of suicides of citizens* was very high. Reports by the World Health Organization have raised concern about self-sacrifice worldwide and even more so in developing countries, where Albania belongs. According to reports, the causes, circumstances, or intellectual development of persons committing suicide varies. In our country, causes leading to citizens' suicides are depression, poverty, unemployment, domestic conflicts due to the clash of mentalities among generations, jealousy, loss of loved ones, post partum depression, etc. Most of the victims belong to the 10-30 age group. Among males, the phenomenon appears more widely spread and the main cause appears to be failure to resolve problems and situations they find themselves in

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<sup>4</sup> Statement by AHC, March 20, 2013, [www.ahc.org.al](http://www.ahc.org.al)

<sup>5</sup> See Ministry of Interior, Police Statistical Bulletin, November 2013



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during their lives. In terms of the geographical spread of the phenomenon, we find that the inhabitants of rural areas are most affected. The most widespread manners of self-sacrifice include self-hanging, poisoning, immolation, and by fire arms.

Considering all cases of suicides occurring in Albania and particularly when minors are the victims, we deem that special importance should be devoted to their prevention by public order bodies, education institutions, mental health institutions, and other institutions of a social nature.

Another problem highlighted during 2013 by the print media is that of *denunciations by citizens who claim careless treatment by health personnel* in public or private hospitals. From January to September, there have been 25 criminal reports for careless medication nationwide while 12 medical doctors have been accused, according to a story published by broadcaster *Vizion Plus*. Cases have to do mainly with surgeries whereby there are claims that careless medication or interventions have caused physical and health harm to patients. In the context of the Free Legal Clinic, AHC has received several complaints by citizens who have filed criminal reports with the prosecutor's office on these cases. Their complaints mainly consist in objections to forensic expertise and the prolongation of investigation deadlines.

## **2. RESPECT FOR THE RIGHT TO VOTE**

Elections are an important moment for the country's democratic development. They are important also in terms of the exercise of direct democracy by citizens. The conduct of free and fair elections had been considered by international partners to be a significant test in the context of Albania's aspirations for integration in the European Union.

During the past 22 years, although there have been positive developments from one election to the next, the Copenhagen standards have yet to be met; however, there was consensus among monitoring bodies that the June 2013 elections marked considerable improvements.

AHC monitored these elections, the pre-election period, voting day, the vote count, focusing on respect for the right to vote of citizens eligible by law.

Visible improvements were seen in these elections in terms of the quality of voter lists, respect for voting procedures and vote counting procedures; there were also positive steps in terms of enabling disabled persons to vote. Voters turned out massively in the elections (about 54% of them), thus demonstrating respect for their constitutional right to vote. Only a small number of voters turned to the courts to request their intervention to enable the exercise of this right when they could not find their names on the voter lists. Problems remain to be resolved by legislation and the electoral administration in terms of the right to vote of Albanian citizens living abroad, persons hospitalized in health institutions, and some categories of voters with disabilities.

The electoral administration generally demonstrated a correct behavior with voters, although there were sporadic interferences, which may be considered a violation of the freedom to vote. A flagrant case is the spread of family voting in areas where it had not been encountered before and it represents a flagrant case of the violation of the secrecy of and freedom to vote.

Improvements were noticed in the activity of State Police, which carried out its duties nearby VCs, correctly, without causing concern among voters. Nevertheless, these bodies should have worked better in terms of preserving public order and calm, during the election preparation period, to



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prevent and tackle criminality manifested during this period that smeared the environment on the eve of the elections.

Electoral subjects, particularly the then-ruling majority should have avoided the exploitation of inaugurations for electoral purposes or the use of the public administration and school students in electoral events, which is in violation of article 5 of the Copenhagen Document of 1990 and represents a violation of the rights of these citizens. OSCE/ODIHR and domestic civil society observers have constantly criticized this.

During the pre-election period, irregularities, or the most marked non-compliance with standards were encountered with regard to voter education and sensitization. These activities are related directly with the very essence of the right to vote. In order to vote consciously, freely, and directly, voters need to become familiar with the electoral process and to be informed about the way to vote. They need to become aware of the programs of electoral subjects, the names of candidates for deputies, and their human and professional values. The electoral campaign was not only carried out in violation of legal deadlines but they were also conducted mainly by the leaders of political parties, thus avoiding direct conversations among voters and candidates for deputies. Few informative and discussion meetings were organized with candidates for deputies, mainly by the civil society.

With regard to the conduct of free and fair elections, it remains an important duty of the Assembly of Albania to further improve relevant legislation, review the possibility of depoliticizing electoral administration bodies, and improve their activity so as to exercise the competences prescribed by law, especially in the vote counting process and in producing results within a reasonable deadline, to match the voters' will.

### **3. RESPECT FOR THE RIGHT TO PROPERTY**

The right to property is guaranteed by article 41 of the Constitution, while article 42, item 1 stipulates, ***“Freedom, property, and rights recognized by the Constitution and the law may not be violated except for by due legal process.”***

AHC has received some complaints that raise concerns with regard to claims about unjust decisions by administrative bodies, the prosecutor's office and judges related to property conflicts. These citizens complain about the long procrastination of administrative, investigative, and judicial processes, the presence of corrupt practices by functionaries of the public administration and justice bodies, frequent legislation amendments, which may have led to the violation of the principle of judicial certainty, etc. Often times, property conflicts between citizens have become a cause for the commitment of criminal offences such as beatings, injuries, murders, etc. Furthermore, property conflicts have degraded to domestic crimes, such as injuries or murders among brothers, sisters, etc.

Based on media monitoring during 2013, it results that issues related to the principle of the right to property have the same features as those highlighted during previous years. The process for the return and compensation of properties remains very controversial. Associations of the former owners complain about lack of planning of real funds in the state budget that would enable the compensation of the former owners continuously as they have been waiting for years for the realization of this right. In spite legislative developments and numerous changes in work practices, there are still clashes of interests among the former owners and other persons who claim they use those properties based on legitimate contracts with the state.



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During 2013, AHC staff has followed the implementation of the Normative Act of the Council of Ministers no. 3, dated 1.08.2012, “*On the vacation of houses of legitimate owners by homeless citizens who have lived in former homes of expropriated subjects.*” We have noticed that the implementation of this act has caused social conflict between the group of citizens who are former owners of immovable properties returned by law to the tenants of these properties, who in some cases have turned to the court to seek the protection of their rights. AHC has monitored some trial hearings of a civil case on “*Vacation and delivery of an object,*” where by the former owners were the suing party and the former tenants were the sued party. The judicial case, which is ongoing, has lasted beyond any reasonable deadline not only beyond deadlines prescribed by the Civil Procedure Code, but also beyond the average period of adjudication of similar cases. The main cause for the procrastination have been requests by the lawyers of both parties to postpone hearings.

Based on complaints received by AHC, it results that the families that were forcefully ousted from the homes of the former owners did not get another shelter as their income has been inadequate to receive favorable loans for the purchase of social apartments, as prescribed by law. They complain that they have not been offered any other alternative shelter and do not have adequate incomes to afford rents currently prevailing in the rent market in the country. The situation has been very disturbing for those families of tenants who live in the properties of former owners and include elderly persons, children, and adult unemployed members. In the context of these complaints, there have been claims for failure to implement the law by responsible authorities such as the National Homes Entity, police, bailiff offices, etc.

The ousting of tenants from the homes of former owners aside from generating social problems with consequences of citizens being deprived of the right for a calm family life, in some cases, they were accompanied by such incidents as suicide attempts or death due to very severe living conditions imposed as a result of the lack of an alternative shelter. We may mention the case of the loss of life of the 87-year old woman Sofie Qendro, a regular tenant in the home of a former owner in the city of Durrës. The elderly woman, together with her 67-year old nephew, after being forcefully ousted from the home, they were forced to live for 6 weeks in very severe and inhuman conditions in improvised barracks, built at a garden near Durrës Municipality.

AHC respects the right of citizens to property, but wishes to draw the attention of state authorities that legislative initiatives that aim at returning property to former owners should be accompanied by regulations that impose the undertaking of necessary measures that would ensure shelter for all those citizens who legally inhabited these properties and do not have the financial capabilities to secure their own shelter. The undertaking of such measures is not only an indicator of the existence of a social state, but also of the equal treatment of citizens.

During 2013, AHC handled a collective complaint by some Tirana inhabitants about expropriations for public interest with regard to the project for the prolongation of the “Zog I” Boulevard. They claimed a violation of property rights as a result of the expropriation as well as of other legitimate interests. Concretely, the inhabitants of the expropriated land claimed there had been lack of transparency by the working group of the Special Expropriation Commission at the Ministry of Interior in the preliminary assessment of their properties, the application of procedures not founded on the law, inequality and discrimination in the assignment of expropriation value, and the provision of compensation that does not even enable the minimal vital standard for shelter, etc.

#### **4. FREEDOM OF THE MEDIA**



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Freedom of speech represents one of the foundations of a democratic society. The press plays a prominent role in the development of this right and its application in daily life. Considering cooperation with the media an important tool in sensitizing citizens as well as an essential source for obtaining information about violations of citizens' rights, AHC has followed with attention respect for the right to freedom of speech and information. During 2013, we have noticed sporadic cases of interferences or obstacles that violated freedom of the media. Concretely: the correspondent of A1 Report and Shqiptarja.com P.N. in Gjirokastrë stated that he received life threats from the technical director of the Gjirokastrë Hospital, in the morning of February 12, 2013. According to him, the threat had been made because a few days before, the media outlet had published a story about hospital waste issues being thrown into public premises near the hospital without taking measures to prevent the threat posed to citizens' health. According to the reporter, the public official threatened him verbally and sought to hit him in a public site, indicating clearly that this was a reaction to the mentioned story.

***According to the media, on 18.06.2013, cameraman of Top Channel TV's "Fiks Fare" show, on the day of the Tiranë-Elbasan tunnel inauguration, was threatened and forced to hand over the videotape he had prepared during the ceremony on the inauguration of a public investment by officers of the Republican Guard and the personal bodyguard of the Prime Minister, because the organizers of the inauguration ceremony did not agree with the reporter's characterization of the event, considering it a political event and electoral propaganda. Through a press statement, AHC highlighted that such actions were not only beyond the mission and competence of the Republican Guard of the RA, but also unlawful as they directly violate freedom of the media.***

Another incident that violated freedom of the media was disallowing the live broadcast of a documentary devoted to family members of the citizens who lost their lives in the January 21, 2011 events. According to the media<sup>6</sup>, on 21 January 2013, the live broadcast vehicles of broadcasters were stopped in the pedonale "Murat Toptani" by municipality employees who claimed that permission should have been received the day before for the live broadcast

Aside from the above, a concern that has spurred public debate is the legal foundation of procedures followed by the Audio-visual Media Authority (AMA). According to media reports, AMA has violated the law on audio-visual media, carrying out its activity with a deficient structure and in the absence of almost half the members of the decision making body, taking decisions to start procedures on strategic and historical operators without a qualified majority, which is prescribed by law. Furthermore, the chairperson of AMA did not consult with other members about the remarks and suggestions by broadcasters as interested parties. Another claim was the one about failure to give necessary time to stakeholders to become familiar with draft regulations.

Issues related to freedom of the media in Albania received continued attention from international institutions and organizations. "Reporters without Borders" consider that freedom of the media in Albania worsened in 2013, marking a decline of 22 spots from the 80<sup>th</sup> spot the country held in 2010. On the other hand, "Freedom House" considered that on media freedom, the country marked progress, climbing 2 spots in the rankings. Nevertheless, the report highlights that Albania remains in the category of countries with partially free media.

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<sup>6</sup> <http://gazeta-shqip.com/lajme/2013/01/22/incident-ne-perkujtimin-e-21-janarit-blokohen-mediat-te-transmetojne-live/>



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The UN Committee on Human Rights, during a session in Geneva, when the Albanian delegation was reporting on Civil and Political Rights, expressed concern about freedom of the media in the country. In their view, the concerns were related to attacks on journalists, lawsuits against them, as well as attempts to limit media freedom. In fact, one member of the Committee raised suspicions that the Albanian Parliament had tried to wiretap journalists' telephone conversations.

### **5. RESPECT FOR CITIZENS' RIGHTS BY JUSTICE BODIES**

#### **a. Regarding the functioning of bodies of the Judiciary**

The judicial system is an important pillar of the rule of law that should guarantee the protection of fundamental human rights and freedoms of citizens as well as their reinstatement in cases of their violation by state institutions or other private subjects. Observation and analysis of the activity of this system is another aspect of AHC's activity. Citizens' access to justice bodies and respect for the right to due legal process are two of the priorities that AHC has had under continued focus of its activity for years.

In the context of the program Free Legal Clinic, AHC has addressed numerous complaints addressed to bodies of the judiciary. Complaints by citizens claim the issuance of unjust judicial rulings, violations of due legal process, dragging of judicial processes, courts' failure to provide information, failure to execute judicial rulings, etc. Citizens' complaints about undue legal process or unjust judicial rulings are mainly related to penal cases having to do with the determination of alternative sentences or reduction of sentences, unjust imprisonment decisions, as well as irregularities in the review of civil property cases.

According to media reports, there have been a high number of complaints about the conduct of judges, presented to the High Council of Justice. Only during the first 9 months of 2013, there had been 539 complaints in this institution about judges, with 9 featuring serious violations of duties. 119 cases are under verification and 25 of them have been classified as light violations.

#### **b. Length of judicial processes**

Many of the complaints received by AHC have to do with the lasting of judicial processes beyond reasonable deadlines and their long procrastination. The issue of dragged out judicial cases has to do not only with the length and high number of hearings conducted by the courts, but also with the return by the High Court of cases to lower instance courts many times. AHC wishes to highlight particularly the case of petitioner V.A. who has been complaining about the judicial process against the defendant accused for the murder of her nephew going on for 10 years. The case has been heard three times at the High Court, in the context of appeals brought by the parties and in all three cases, the Penal College of the High Court has ruled to annul the rulings of lower instance courts and send the case back to the Tirana Court of Appeals for re-adjudication. With regard to this case, AHC has addressed the High Court and suggested that when the case arrives at the High Court for the second and third time, the Court consider the possibility of adjudicating it through accelerated procedures in order to respect the principle of reasonable adjudication deadlines. Such delays cause suffering and loss of trust in justice bodies among family members of the victims.

Based on media monitoring during 2013, AHC observations, and reports by other organizations, the causes highlighted for the dragging of judicial processes include the unjustified absence of defense lawyers, absence of prosecutors, inability to form the panel of judges due to overburdening



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of judges, negligence of judges, etc. The High Court has expressed concern continuously about *the large case backlog “in line” to be reviewed, approximately 12,000 cases*. They have proposed also the need for legislative changes that would reformulate the right of parties for the application of appeals to the High Court.

### *c. The phenomenon of corrupt cases in the judicial system*

Another much-debated issue recently is the phenomenon of corruption in the judicial system. As in 2012, based on contact and communication with citizens who have brought their complaints to us, it appears that citizens’ trust in justice bodies has dropped even further. There is a widespread perception that judges are corrupt, biased, and in some cases petitioners say the only way to make justice in Albania is self-justice. The Ministry of Justice recently has given priority to reporting cases of corruption and has opened on its online portal<sup>7</sup> a page where all citizens may report cases of corruption in the judiciary. Until the beginning of December 2013, the number of denunciations on this portal was about 450.

In the Transparency International report, based on citizens’ perception of corruption, in 2013, Albania ranked 116<sup>th</sup> as opposed to 113<sup>th</sup> it was in 2012. A flagrant case related to the phenomenon of corruption in the judiciary was highlighted by the “Fiks Fare” show, which had investigated the denunciation of a citizen claiming corrupt practices by the Chief Justice of Pukë Court, the prosecutor of this Court, and some employees of the judicial administration.<sup>8</sup> At present, all state institutions, including the Prosecutor General, have considered the fight against corruption a priority of their work. In spite of promises, AHC is of the opinion that there is a need for clear will of all political actors and beyond as well as the undertaking of multi-faceted measures. An important element for creating trust among citizens in justice bodies has to do with the level of punishability of corrupt behavior, Misuse of powers, manifested by special subjects of the Penal Code, such as judges, prosecutors, representatives of high state institutions, etc. During 2013, was adjudicated the criminal case on charge of the judge of Judicial District Court of Durrës, N.T, who was accused by office prosecutor for “Misuse of Powers, for non publishing the innocence judgment of the defendant I.Xh. In spite of the charge for “abuse of office” brought by the Prosecutor’s Office, the charge was rejected by the Durrës Court, which declared the judge innocent. The Durrës Judicial District Court considered the failure to publish the judicial ruling for a very long time a violation of administrative nature and, in its view, this behavior may not be a cause for penal liability.

### *d. Violation of rights from judicial activity.*

Adjudications of the cases “Dajti,” “Gërdeci” and “January 21,” have been much debated in the print and broadcast media.

**“Dajti” Case** – for 4 years, the case is being adjudicated by the First Instance Serious Crimes Court and it represents a very harmful precedent in judicial practice in terms of dragging judicial processes. It appears that until the end of October 2013, there had been 242 judicial hearings. The 119 defense lawyers assigned by the court have resigned and the judiciary with its structures have failed to find a solution for the problem of ensuring assigned defense for the defendant. This fact represents a serious threat for the judicial system and the lawyer system, making Albanian judiciary “fail” on this issue. In many cases, the media has reported threatening statements by the defendant

<sup>7</sup> Ministry of Justice, <http://ankesa.justice.gov.al/>

<sup>8</sup> <http://www.top-channel.tv/video.php?id=34312>



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against the judges. The media has reported extensively on the precedent of the “Dajti” case, but there has been little analysis by the judicial system, prosecutors, lawyers, legal institutions, etc. in order to find a legal solution to the problem.

**“January 21” case** – this is another high profile case. On February 8, 2013,<sup>9</sup> AHC reacted through a press statement about the decision of the Tirana Judicial District Court that declared innocent the two persons indicted for the killing of 4 demonstrators on January 21, 2011. In the press statement, AHC said it is aware that judicial rulings may only be annulled or altered by higher instances of the judiciary, but expressed that criticism toward them may not be stopped. AHC expressed civic concern about the mentioned court ruling because it is not convincing, both in terms of delivering justice and in its impartiality. The decision of Tirana Judicial District Court was appealed from the prosecutor office before the Court of Appeals. In its ruling, the Court of Appeals rejected prosecutor claims and qualified the criminal offence committed by the defendants from “intentional murder” to “careless murder.” The Court of Appeals has sentenced with 1 year of imprisonment the defendant N.P. and 3 years of imprisonment the defendant A.Ll., time which was considered executed through house arrest for the first defendant, and served through pre-trial detention for the second defendant.

The January 21 case has spurred numerous reactions by representatives of international organizations and the diplomatic corps accredited to Tirana. European Union’s Enlargement Commissioner Stefan Füle commented on the January 21 case, “*The legal review of the case is not over; procedures should end with a credible judicial process, demonstrating impartiality, independence and accountability.*” One month away from the anniversary of the March 15, 2008 tragedy at the weapons dismantling depot in Gërdec, the Court of Appeals issued its ruling on the 29 defendants of the case. The ruling of the Court of Appeals on the “Gërdec” case caused a new wave of strong reactions by public opinion about the credibility of justice bodies and judges. Meanwhile, in September 2013, the High Court ruled to reject a recourse submitted by the prosecutor’s office, considering that the Gërdec tragedy was a technological accident and there are no elements of the penal offence of intentional murder as none of the defendants aimed at the death of 26 persons. According to the judges panel, the tragedy was caused by failure to implement technical safety rules at those responsible for the incident, where 26 persons were killed, were the employers.

### **e. Free Legal Aid.**

Enabling citizens’ access to justice bodies through the provision of free legal services by the Ministry of Justice is a standard to be achieved by our country for rapproaching domestic legislation and practice with EU’s. Free legal service, created for some time in our country, has not functioned to the extent and in the manner it should due to lack of funds and misadministration of this institution. The staff of the legal clinic of AHC and other NPOs have offered a series of free legal service to fill this void, raising funds from foreign donors.

Some of the cases of legal aid offered by AHC are the following:

- I. ***The case Lika & Laska*** -With regard to the judicial review of the case, the Court of Strasbourg has found that there was violated due legal process. After our petition one year ago the High Court ruled to review the penal decisions issued in this case, the defendants were represented at the Shkodër Court of Appeals, which ruled to cease the penal case as their guilt could not be proven. The ruling put an end to many years of efforts of AHC to reinstate the violated right of the petitioners for due legal process.

<sup>9</sup> Albanian Helsinki Committee, <http://www.ahc.org.al/site/index.php?mid=&art=1673&info=more>





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- II. Another case that AHC has been following since 2011 is the representation of the case of *a person who lost his life in inhuman conditions in the premises of a public hospital*, where he was hospitalized while serving a penal sentence. The case is still under review by the High Court and the Prosecutor General's Office, as the Tirana Judicial District Court did not agree to legitimize the petition of the brother of the victim against the decision of the prosecutor to reject the start of a penal case. The long time, over 18 months, that the case has been waiting for review by the High Court reduces the chances for a just reinvestigation of this case.
- III. *The case of the violation of the right to protest for a group of former political prisoners* who were dispersed and not allowed to continue their hunger strike, through a ruling of the Tirana Judicial District Court of 17.10.2012, where the protesters were not invited to participate, nor were considered a party. AHC appealed the ruling of the Tirana Judicial District Case and represented the petitioners in the Court of Appeals, which ruled to not accept the petition. Given that such judicial rulings represent wrong precedents that have harmful consequences on the enjoyment and exercise of the right of citizens to manifest and protest, AHC has filed recourse with the High Court. The legal argument presented through the petition is the violation of the right to due legal process due to the violation of the access of the interested party, a violation of the right to manifest, and a violation of material jurisdiction by the Tirana Judicial District Court. At present, the case is being studied in the High Court.
- IV. *The case of citizen O.K. with a security measure of "temporary hospitalization in a psychiatric hospital"* - The case was represented at the Pogradec Judicial District Court and, at the end of the judicial investigation, AHC lawyers demanded the cessation of the penal case and the establishment of the medical measure "Ambulatory medication." O.K. had been given a personal security measure of "temporary medical measure" due to problems of mental health. While the Penal Code and the Penal Procedure Code clearly state that these measures are to be executed at a psychiatric health institution, in violation of the law, the measure was executed by placing the person at the Prison Hospital Center. This is not the only case that such judicial rulings are executed in this manner. The Pogradec Judicial District Court ruled to give the person a medical measure of "compulsory medication at a psychiatric health institution." Unfortunately, we have encountered over 120 such cases at the Zahari Penitentiary Institution of Krujë, the Prison Hospital Center, etc. At present, regarding the manner of execution of this ruling, the case is being pursued with the General Prosecution Office. AHC is authorized to follow the case to demand compensation for the period of unjust stay of this citizen in pre-trial detention.
- V. *The case of citizen D.I.*, who was not being granted the pardon benefited by Decree of the Presidium of the People's Assembly of 1989 and, as a result, remained in prison, illegally, beyond the sentence deadline. For two years, AHC lawyers, administratively, pursued the case and closed it successfully as the General Prosecution Office, upon pertinent verifications, ordered the release of the person from prison. The legal pursuit of the compensation of this citizen, kept in jail unjustly for a long time, and finding those responsible for causing the violation of the right of this citizen are to be followed.

The number of requests to AHC to represent citizens in court keeps growing. Through these cases, which are followed administratively and through the courts at the national and international level, we seek not only to reinstate violated rights but also to "create" new



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practices in terms of respect for citizens' rights, as well as to fill the void created by the inadequate functioning of free legal services provided by the state.

Presently, we are studying a number of cases related to the use of undue violence by police, failure to grant specialized medication at the Prison Hospital Center, failure to recognize the pre-trial detention period on behalf of Albania in countries where inmates were extradited from, assistance to complete requests to the European Court of Human Rights for violations of the European Convention of Human Rights, representation of cases of inmates seeking to benefit from alternative sentences, reduction of sentences, etc.

## **f. *Violation of rights caused by the activity of the Prosecutor's office***

During 2013, AHC has received some complaints from citizens claiming unjust decisions to cease or to not initiate investigations by the prosecutor's office, corrupt practices among prosecutors, surpassing of deadlines prescribed by law and dragging of investigation processes, failure to consider requests of damaged parties during this process, claims of failure to conduct more profound and better investigations, prejudice of investigations and expression of opinions before the official completion of investigations, etc. With regard to these cases, AHC has notified the chief prosecutors of relevant judicial district prosecutor's offices and has addressed the General Prosecution Office on special complaints.

Based on media reports, it results that in some cases, the court, based on complaints by interested parties, has ordered to send back the penal case for further more profound investigations, which has increased public lack of confidence in the prosecution office.

Due to complaints about decisions by the prosecutor's office to not initiate investigations to cease them, AHC has carried out a research study on decisions by the prosecution body in the Judicial Districts of Tiranë and Durrës.<sup>10</sup> According to research data, it results that for a considerable percentage of cases that are investigated, the prosecution decides to not initiate or to cease the penal case. Cases of non-initiation of cases are particularly numerous and according to prosecutors' decisions, this is done because the elements of a penal offence are lacking, there are no perpetrators, they are offences to be pursued by the damaged parties in court, there is insufficient evidence to start penal proceedings, etc. What we notice as a disturbing trend is that in some cases, there has been no investigation whatsoever or they have been incomplete and it appears there is hesitation on the part of the prosecutor's office to investigate various leads, etc.

According to complaints filed by citizens and based on media monitoring, it results that there is a considerable number of penal cases, for which no perpetrator has been found because they were impossible to identify. During 2013, officials of the General Prosecution Office have analyzed high profile murders occurring in the past five years. One of these cases has to do with the murder of a SHISH officer, the late I.Ç. based on a request by the Prosecution Office, investigations on this case were reopened and it is believed that precisely German Forensic expertise turned the flow of investigations. Media reported that because of the persistence of family members, the case was not closed under that category.

Another penal case without a perpetrator is the one of the killing of volleyball player J.G., for which the prosecution office has suspended investigations as it was not possible to identify the

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<sup>10</sup> The research study was conducted in the context of the project "Better respect for human rights, Legal Clinic," supported financially by the Swedish organization Civil Rights Defenders



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perpetrator. Family members of the victim have expressed indignation, stating that missing justice is a second killing of the volleyball player.

According to article 58, item 3 of the Penal Procedure Code, *“The damaged party shall have the right to submit requests to the prosecution office and demand to obtain evidence. When his request is not accepted by the prosecutor, he shall have the right to file a complaint with the court within days from becoming aware of the rejection,”* while article 291 of the PPC, on the non-initiation to start proceedings, stipulates, *“The decision shall be made known immediately to those who filed the report or complaint and they may petition it in court within five days from receipt of the decision.”*

AHC notices that damaged parties and their heirs are not granted an active role in the investigation process, even when the case is transferred to court. For this purpose, AHC sent to the High Court the refusal to start penal prosecution for the death of Sh.K., petitioned by the mother and brother of the victim. It is our opinion that the prosecutor’s office is creating a wrong practice by not giving heirs the opportunity to challenge in court the decision of prosecutors for not initiating penal prosecution. Such attitudes do not serve justice, the resolution of penal cases, and violates the right to access to justice. Through recourse on this issue to the High Court, we have asked for a unification of practice in this regard in order to enable respect for the law.

In spite of the above, AHC considers that there is a need to review the Penal Procedure Code regarding the above and, to that end, the Ministry of Justice should consult with legal services of the civil society, aside from groups of interest, lawyers, judges, and prosecutors.

Another group of complaints submitted to AHC are those related to actions carried out by the Forensic Medicine Institute. Citizens have submitted claims regarding forensic expertise by the Forensic Medicine Institute, ordered by the prosecution office, during investigations. These claims have to do with the fact that forensic expertise is not conducted professionally, delays, and in some cases even claims of corrupt practices.

With regard to the above, AHC has reached the conclusion that there is room for improvement in the quality, objectivity, impartiality, and inclusivity of proceedings and investigations. The investigative role of the prosecutor’s office should be further enhanced and there should be greater cooperation with other structures domestically and abroad in order to increase the efficiency and discovery of crimes as well as their prevention.

### ***g. Regarding the execution of penal decisions***

During 2013, one of the issues under AHC’s focus was the execution of penal decisions. We mentioned above the case followed by the AHC Legal Clinic regarding the inaccurate calculation of the prison term served by a convict in IEPD Peqin who was released upon orders by the General Prosecution Office. Aside from this serious case, there are also other problems related to the execution of penal decisions that have to do with the transfer of convicts to serve the remainder of their prison terms, from other countries to Albania, and cases of extraditions upon request by the Albanian state.

Complaints submitted to AHC have to do with the fact that execution orders do not calculate the time that convicts or detainees have spent in penitentiary institutions of the countries where they were initially arrested, such as the U.S., Germany, Greece, etc.



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Another concern is that of different practices of recognizing the time spent in pre-trial detention institutions abroad, with some cases recognizing 1 day in detention as 1 day of imprisonment and other cases recognizing 1 day in detention as 1.5 days in of imprisonment. With regard to this issue, AHC will represent in court a case identified in IEPD Korçë and will intervene with competent authorities in order to seek a unification of the practice.

## ***6. RESPECT FOR THE RIGHTS OF PERSONS DEPRIVED OF THEIR LIBERTY IN PENITENTIARY INSTITUTIONS***

Human treatment of and respect for the rights of persons deprived of their liberty in Institutions for the Execution of Penal Decisions is one often strategic directions where AHC has focused for many years. The penitentiary system in Albania has seen positive developments in terms of legislation, its implementation, infrastructure, and institutionally. Civil society organizations, the Ombudsman, and international actors have made special contribution in these developments.

In our annual reports, we have paid special attention to the fulfillment of standards of and respect for the rights of inmates or detainees given that, in the circumstances of deprived liberty, they are at greater risk of having their fundamental rights and freedoms violated.

In spite of positive developments in this area, based on complaints that AHC has received from persons deprived of their liberty in the penitentiary system, as well as on monitoring during 2013, we find that problems still persist and they require greater attention and further measures.

### ***a. Infrastructural Conditions***

According to our direct findings and to the European Commission Report on Albania for 2013,<sup>11</sup> infrastructure of institutions where imprisonment terms are served, inherited from the older system of government, remains problematic; even maintenance of recently built institutions leaves to be desired. Overcrowding has declined overall during 2013, although there are still problems in some detention institutions and prisons, which require more studied work for disseminating persons deprived of their liberty in these institutions.

AHC has conducted a series of verifications, sporadic or focused, through which it has verified complaints about the general conditions and the treatment of persons in different IEPDs. There are problems with amortization in IEPD Burrel,<sup>12</sup> lack of logistics in toilets in the Kavajë<sup>13</sup> and Vaqarr<sup>14</sup> Institutions, malfunctioning artificial lighting system and amortization of sink taps at the Kavajë IEPD; lack of airing for cells and their small size in the Vaqarr IEPD, which creates overcrowding; lack of drinkable water and warm water in the Vaqarr IEPD, etc.

### ***b. Psycho-Social Services***

During 2013, there were improvements in psycho-social services provided to persons deprived of their liberty, although based on the verification in the Korçë IEPD on July 11, 2013, our observers received complaints about a lack of social and educational activities and limited access to the premises of the library in the institution. Moreover, inmates complained that education employees

<sup>11</sup> Report published on October 16, 2013, Ministry of Integration, website <http://www.mie.gov.al/>

<sup>12</sup> Sporadic verification mission, October 3, Burrel IEPD

<sup>13</sup> Sporadic mission conducted on October 4, 2013

<sup>14</sup> Verification mission on October 1, 2013, in Vaqarr IEPD



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did not have close and systematic communication with them. Based on the monitoring of July 26, 2013, in Zahari IEPD, Krujë, it resulted that due to the high number of persons with mental problems, the reduced social-educational staff could not respond to their needs. There were deficiencies also regarding psycho-social services for minors in separation rooms and persons with mental health problems.

### *c. Health Services*

The approval of the joint order No. 2469/3 of the Minister of Justice and the Minister of Health “*On the inclusion of detained and convicted persons in the health insurance scheme*” has seen broad implementation in IEPDs during 2013; however there were problems related to the implementation of this order in practice. The inclusion of convicts and detainees in this scheme enables them to obtain without payment only reimbursable medicaments listed in a prescription by the institution doctor. To this end, trilateral agreements have been signed between the Regional Insurance Directory and the Health Care Institute, the IEPD and medicament distributors to provide medicaments financed by the health insurance scheme. According to decision no 51, dated 03.09.2012, all institutions for the execution of penal decisions have entered into individual contracts with pharmaceutical distributors against prescriptions issued by the institution’s doctor. This has limited the range of medicaments necessary as it is difficult to anticipate the list of illnesses persons deprived of liberty may suffer from during the year. In these circumstances, cases of illnesses requiring medication, which is not included in the reimbursement list, or rare illnesses, are difficult to find proper medicaments for at the right time in order to treat ill inmates and detainees, thus violating their right to appropriate and discrimination-free health treatment.

Also, based on our monitoring, it results that the GDP has limited the budget for IEPDs to directly secure medicaments and for emergency medications. We have also encountered deficiencies in completing staffs with specialized health personnel in some institutions as well as inappropriate medical infrastructure, etc.

More concretely, our monitoring has shown that: in the Korçë IEPD<sup>15</sup> and the Peqin IEPD,<sup>16</sup> there were complaints about *health services due to lack of medicaments*, thus forcing inmates or their family members to purchase them privately. In the Vaqarr IEPD,<sup>17</sup> there were complaints about the quality of medicaments provided to ill persons.

During the observation at Zahari IEPD, we encountered deficiencies in health personnel, which envisioned having two psychiatrists although the institution had none. The presence of the psychiatric doctor at the Zahari Institution in Krujë is very important as there is a concentration of inmates suffering from mental health problems. The monitoring at this institution showed also that there were deficiencies in meeting the needs of this category of persons by caretaker and sanitary personnel and there was a need to increase personnel numbers. The institution did not have sufficient funds to purchase some expensive medicaments, which are necessary for mental patients but were not included in the reimbursement scheme. The institution’s ambulance was entirely worn out and lacked the necessary equipment to move and meet the health needs of patients who needed to be transported almost on a daily basis to the Krujë Hospital and once every 15 days to the PHC. As in previous years, one problem encountered at the Prison Hospital Center is that the institution cannot handle medical examinations due to the lack of equipment and tools. All examinations,

<sup>15</sup> Monitoring conducted on July 11, 2013, in the Korça IEPD by AHC staff

<sup>16</sup> Monitoring conducted on October 2, 2013

<sup>17</sup> Monitoring conducted on October 1, 2013



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surgeries or micro-surgery interventions are conducted in civilian hospitals of TUHC, which in such cases are postponed or carried out late as the public hospitals give priority to their own patients.

In the Tirana Prison Hospital, convict Xh.H., sentenced to 7 years in prison, died while he had been examined and it was concluded he suffered from a serious illness. He had 1 more year of imprisonment to serve and had addressed the Lezhë Judicial District Court for early release but his petition had been rejected. Another case verified and followed by AHC is the complaint by convict F.Z., who complained about lack of specialized medical treatment about his diagnosis “*St. post fracture femur sinistra fixed with pads and screws et fracture of the plate.*” The convict, on January 17, 2007, was shot with fire arms by police during a pursuit and as a result was injured in his left leg. Through surgery, a metal pad was installed in the injured limb, but it broke during his stay in prison and as a result led to major health complications. From contact with the medical staff of the institution, we were told that the PHC and other public health institutions do not possess the necessary materials for a surgery on him. Keeping the person in the Prison Hospital Center while he may not be offered specialized medical service and a necessary surgery may not be ensured represents inhumane treatment. AHC has institutionally referred the case to the GDP while taking upon itself to represent it in court.

One problem encountered also in other years has to do with the fact that the persons with mental health problems, but responsible for the committed offence, are placed in the same rooms with other convicts who do not have such problems. In some institutions where there are convicts with mental problems, there are Special Care Sections but it has been noticed that such sectors, due to overcrowding in prisons and other problems with organization, either have been shut down or have lost their function and purpose they were first established for. Such lack of attention may pose risks for the life and safety of other convicts without mental health problems.

#### **d. *Human Treatment***

##### **▪ *Cases of use of violence***

Complaints about use of physical and/or psychological violence have seen a decline compared to the previous year. Nevertheless, AHC notes that the implementation of procedures in these cases and the evidencing of injuries on persons deprived of their liberty in medical files, in psycho-social files, etc., or regarding claims of convicts about the use of violence leave much to be desired.

During 2013, AHC has received a series of complaints about maltreatment or use of physical and psychological violence. In most of the cases, the complaints were too difficult to verify. Such cases are justified or covered up by the institution personnel. We have found that complaining convicts are placed in separation rooms, claiming that they have been injured during the transfer to these premises, where they have been put for violating prison rules and for aggressive behavior toward personnel. During verification at the Burrel Institution on October 2, 2013, we addressed the complaint by convict D.N. who claimed he had been physically violated by the institution personnel. After a physical examination, we noticed scars in half of the front of the left leg and the thorax between ribs. We found no notes about this in the medical file of the convict. Senior staff of the institution claimed that they were aware of the convict’s claims, but stated that the inmate had hit the police guards in the Burrel IEPD and therefore a disciplinary measure had been ordered.

Based on the observation at the Korçë IEPD on September 26, 2013, it resulted that detainee Xh.T., who complained that he had been physically violated by police forces of the Ersekë



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Commissariat on July 19, 2013, had not been checked immediately upon admission in the institution. His medical card did not reflect his claim for use of violence, while the ICS, after becoming aware, conducted an inspection on the physical condition of the detainee, before he was transferred to the Korçë IEPD; after finding traces of violence, a request was filed for the start of penal prosecution on responsible police officers. Cases of not evidenced use of violence on persons deprived of their liberty have been encountered in almost all IEPDs, while there are approved protocols and trainings have been conducted with relevant staff pursuant to these protocols.

- ***Keeping persons in isolation***

The Albanian Helsinki Committee has reacted in previous years about convicts being kept in observation rooms beyond legal deadlines, about convicts being kept in separation rooms in the absence of disciplinary measures, and the denial of their rights. With regard to this situation, which is in contravention of article 14 and 51 and the General Regulations of Prisons, AHC has made several recommendations and has suggested the undertaking of measures necessary to accommodate convicts in appropriate premises, in relevant IEPD regimes.

Based on a verification in the Shën Koll IEPD on July 16, 2013, we found the case of a citizen who had remained in separation premises for 6 months, in the absence of disciplinary measures (initials E.M.). The person claimed that verbal violence was used toward him and an examination of the premises he was kept in showed he was living in inhuman conditions. The convict admitted having problems of adjustment with other convicts due to old conflicts from his stay in the institution. AHC intervened with the General Directory of Prisons on this case but is yet to receive a response from it.

In this regard, we have also received complaints from members of the LGBT community. On November 1, 2013, AHC staff verified in the Shën Koll IEPD the case of three convicts from the transgender community who had been placed in the institution's observation rooms for three months, while the General Regulations of Prisons stipulate that newcomers are kept in the admission premises for no more than 10 days. Living conditions in the observation premises for these three convicts were inhuman and in disregard of their dignity.<sup>18</sup> Due to the very difficult conditions and continued stigmatization from other convicts, two of the convicts had attempted suicide. According to senior institution personnel, the accommodation of these persons in regular regime rooms would be a source of conflict with other convicts and would jeopardize their personal safety. Based on verifications in the psycho-social cards of the three convicts, it resulted that they only participated in educational activities, which were individual. Regarding this case, AHC issued a recommendation to the GDP and requested the immediate improvement of the discriminating situation for these persons.

In the end of September 2013, the media reported that three inmates in the Rrogzhiñë Prison entered into an indefinite hunger strike as prison officials had not accommodated them according to regulations, but had left them in isolation rooms for over one month. The inmates were quoted in the media as saying that isolation rooms were “*real hell*” as they met no living standard whatsoever.

## ***e. Disciplinary Measures***

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<sup>18</sup> Namely, there were no information means, TV and radio, lack of necessary tools for eating, such as tables, chairs, thus leading convicts to eat on the ground.



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During the observation at the Vaqarr IEPD, it resulted that of 17 disciplinary measures issued in that period, 13 of them had been issued for possession of forbidden items, mainly mobile phones. AHC deems that the issuance of such disciplinary measures could be prevented by increasing security and control measures for staff and visitors entering the institution to meet persons deprived of their liberty and by increasing accountability and responsibilities of staff responsible for the physical inspection of persons.

## **f. Reflection of work conducted by inmates**

Based on verifications and complaints, it results that IEPDs do not follow the same procedures with regard to recognizing labor by convicts and rewarding it. AHC has also received complaints about failure to register work by convicts on behalf of the institution. Such cases have been encountered in some IEPDs, such as the Jordan Misja IEPD in Tirana where a convict's work as a barber was not registered during his time in the institution. Such problems are noted even in other IEDP. These cases have been referred to principals of relevant institutions and the General Directory of Prisons, but they mentioned justifications that the number of imprisoned persons who may work is planned and planning doesn't always respond to the needs of the institution. As a result, labor is recognized to the inmates who carry it out but up to the planned limit.

## **g. Other**

During 2013, there have been claims about abusive and corruptive practices by personnel of penitentiary institutions with regard to the issuance of rewarding leave permits, special leave permits, room changes, or of persons in the rooms, improving the documentation that the prison administration submits to court, during the review of cases about 'reduction of sentence,' 'benefiting from alternative sentences,' requested by persons deprived of their liberty.

## **7. RESPECT FOR CITIZENS' RIGHTS BY STATE POLICE**

### **a. Prevention and fight against criminality**

The mission of Albanian State Police is "*Guaranteeing a safe environment for the community through policing with the highest performance standards, the creation of a contemporary management culture supported by the most advanced infrastructure.*" One of the important functions of State Police is to prevent and fight against criminality.

During 2013, based on monitoring conducted in local police structures, we noticed an improvement of police activity toward respect for the rights of persons receiving services from them or who are held, for different reasons, by these structures. Important achievements include the openness of these bodies to monitoring by civil society, cooperation with them to improve legislation and work practice, in order to ensure respect for human rights, and the application of the practice to post the rights of arrested, detained, and accompanied persons to commissariats and the equipment of these persons with copies of the rights of persons held in police commissariats.

We have also concluded that besides good work in this regard, there have also been cases of leakage of information on important police operations by State Police officers, which represents not only an abuse of office but also harm to tackling criminality. Thus, according to the media, the Serious Crimes Prosecution Office has cast serious suspicions that senior police officers who organized the police operation for the arrest of a person demanding €100,000 from an Albanian emigrant in the





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U.S. had leaked information, thus allowing the escape of suspects. The media cast doubts on the impartiality of police in resolving criminal cases, which in one case were politically motivated, such as is the case of the killing of an LSI supporter in Laç, the attacks on the SP branch head of the Prezë Commune in Tirana, etc.

Another problem is that of claims by citizens for failure of police to react on time in property conflicts, fights between citizens, issues related to public order, etc. Also, in some cases, citizens have complained that the police have taken the side of one of the parties involved in the conflict, thus disregarding the mandatory impartiality in its duties. According to complaints, the illegal, arbitrary, biased, and subjective actions by police officers, in some cases have harmed ongoing investigation processes or have had a negative role in resolving conflicts.

In order to ensure more efficient and better police service to citizens, it is our opinion that it should be better organized. The project 'Community Policing' should be accelerated in its implementation and should be accompanied by the necessary financial, human, and infrastructural resources. Special importance should be devoted to complaints by the State Police Union about prolonged hours by State Police officers and failure to pay them. All of these problems lead to a weaker role of State Police in preventing and tackling criminality in the country, thus leading to serious consequences on citizens in terms of tranquility and safety.

## **b. Respect for the rights of persons accompanied, detained, and arrested in the act**

Based on monitoring of police bodies during 2013 as well as on information collected from other sources, aside from successes, we also encountered problems, such as: pursuit of wrong practices regarding the accompaniment, detention, and arrest of persons; failure to record or inaccurate records in pertinent logbooks for the time of entry or departure of a person that had been accompanied, detained, or arrested; failure to make accompanied, detained, or arrested persons aware of their rights; failure to notify their families, etc. There were also complaints about taking the statements of detained persons or of persons under investigation in the absence of a defense lawyer.

Another category of complaints has to do with keeping accompanied persons beyond legal limits prescribed by law. The transfer of persons accompanied by State Police forces from one commissariat to another, without always keeping track in relevant logbooks, covers up the keeping of these persons beyond legal limits and is one of the wrong forms of work in this regard.

One problem highlighted by State Police officers themselves is that of cases when public order and tranquility are upset in public premises by persons with mental health problems. Police states that accompanying these persons to police commissariats leads to no improvement of the health situation of these persons; to the contrary, in some cases, these persons have damaged accompaniment and security premises, have upset order and calm in those institutions. Police claim that cooperation with mental health institutions has not been fruitful as persons with mental problems are not kept sufficiently in these institutions until they are stable mentally through necessary medication.

## **c. Humane treatment**

Violence used by police forces toward different citizens, surpassing the need for its use, remains problematic. The phenomenon of violence used by State Police violates not only the physical



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integrity of violated citizens, in some cases reaching even categories of inhuman treatment or torture, but also harms public trust in these forces. With regard to this situation, we have found that the prosecution office, which sends the case to court, qualifies cases of violence used by police as “Beating,” “Light Injury” or “Arbitrary Actions,” thus demonstrating improper understanding of these penal offences. Nevertheless, we would like to stress that cases referred to AHC for the use of violence by State Police forces have seen a decrease compared to the previous year. One of the cases that AHC verified was the complaint by citizen Xh.H., who complained about use of violence by police forces of the Ersekë Commissariat, in an attempt to forcefully take a statement, without a defense lawyer present. The verification indicated that there were discrepancies in information found in the Logbook of Detained Persons and the Logbook of Taken Statements and the issuance of Orders with regard to actions involving this person. The discrepancies had to do with the time in which the person had arrived at and had departed from the Ersekë Police Commissariat. Furthermore, police forces admitted that the person had been questioned without a lawyer present, stating that his interview was done late at night and, due to the distance, it had not been possible to have a lawyer present. On his part, the complaining person stated that the commissariat officers had punched him, kicked him, and hit him with batons, during the transfer from the Përmet Police Commissariat to the Ersekë one. Scars of such actions were evidenced in the forensic report on Xh.T., which is found in the prosecutor’s investigation file, while citizen Xh.H. was not examined by any doctor during his stay in the Ersekë Police Commissariat. His examination was only done when he was transferred to the Korçë Police Commissariat. The case was referred to the Korçë Prosecution Office., which will decide about penal proceedings and the submission of acts to the court. The case is being followed by AHC lawyers.

Aside from the above, there are also reports of some other cases of use of violence by police forces. It is worth mentioning in this report the case denounced by the father of 16-year old juvenile A.H., who claimed that his son, suffering from mental health problems, had been sent by Tirana police forces to the Dajti Mountain where he was beaten and tortured. The citizen claims that he saw his son in his cell, without clothes and handcuffed. Another penal report has been filed with the prosecutor’s office about police violence against a girl in Tirana, as indicated by an article published in daily “Standard” of May 29, 2013. Her parents claim that their daughter, who has problems with alcohol, was beaten in the police commissariat premises. Another case, widely reported in the print media, was violence used by police against supporters who turned out in support of the Kavajë Mayor. Citizen R.A., one of the protesters, reportedly went through the same and passed away a few days after the use of police violence.

In closing, we wish to highlight that used violence is not always reported and addressed. Therefore, we would suggest the establishment of more efficient control structures among police ranks as well as the strengthening of the role of Internal Control Service in order to do the best possible job of highlighting cases of abuse.

#### **d. Respect for rights at Border Crossing Points.**

During recent years, there have been significant investments at border crossing points. They have improved working conditions for border police officers as well as the services provided to Albanian and foreign citizens who cross through them or stay there for verification purposes. Furthermore, services are faster and communication of personnel with citizens in these points has improved. One problem encountered in this sector is that of the different forms of discrimination demonstrated, in some cases, toward citizens.



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During 2013, there were cases of discrimination against Albanian citizens from the neighboring countries, during their passage through BCPs. Greece is the typical example of this issue, requiring greater attention by local authorities, which should not hush toward such behavior. Albanian authorities should employ all appropriate tools and ways to resolve problems created by the Greek side for Albanian emigrants who carry Albanian toponyms in their passports. With regard to this issue, AHC wrote to the Ministry of Foreign Affairs and requested that it act more speedily and better to resolve this problem, which is causing a violation of citizens' rights as well as to prevent such behavior at BCPs.

During 2013, there were also cases of illegal crossing of borders in a clandestine manner. Clandestines mainly come from countries in conflict, mainly through the Middle East, crossing illegally into Greece and with a destination in the Western Europe countries.

In this context, upon receipt of information from the media, AHC conducted a verification on September 20 at the Kakavijë Border Crossing Point. It resulted that between August 1 and September 19, 2013, a total of 488 citizens<sup>19</sup> were detained, coming originally from third countries, through Greece, according to their own statements. They were mainly from Pakistan, Somalia, Afghanistan, Syria, Sudan, Algeria, Palestine, Morocco, India, Comoros, Ghana, and Iraq. Only 2% of them were women, while there were also 4 children. Upon verification, it resulted that during interviews for the return procedure, there were difficulties in communicating with them due to the absence of interpreters who could speak some of the languages. It also resulted that the presence of a psychologist had not been secured in any of the cases as the border crossing points do not include one such in their personnel. Infrastructure conditions of receiving premises at the Kakavijë BCP were good, although there had been difficulties when the number of clandestines had been high (30-40 persons) as the capacity of the relevant premises can accommodate up to 15 persons. With regard to ensuring health services, clandestines with health problems had been sent for treatment at the Gjirokastrë regional hospital.

The caught clandestines were issued in every case by the relevant authority a voluntary departure order. One problem referred by Albanian authorities was the fact that Greek police stopped them from turning back into Greek territory where they had come from and there was no effective cooperation between our police forces and Greek police to resolve this problem.

### 8. CORRUPTION

Corruption is a negative phenomenon in the Albanian society. Different reports by domestic and international organizations highlight that corruption in Albania is at high levels, especially in the areas of the judiciary, customs, taxes, State Police, health services, education, etc. The fight against corruption has been and is also one of the key priorities for the country's integration into the European Union.

A credible measure of the perception of corruption is undoubtedly the publication of findings by the organization Transparency International Albania (TIA), which publishes the corruption 'barometer' in the country for 2013, resulting in 66% of those surveyed perceiving that corruption has increased. The judiciary and the health sector are perceived as the most corrupt. The highest number of officials sued for proceedings and investigation by the prosecutor's office belongs to the Agency for Legalization, Urbanization, and Integration of Informal Constructions and Areas.

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<sup>19</sup> Of these, 355 were caught at the border, while 133 others were caught in the territory.



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Increased transparency and public confidence in justice bodies is an important element of the rule of law. Due to the specifics of penal offences involving corruption and the very harmful consequences they produce, especially in the normal functioning of the state apparatus and to the citizens' private interests, justice bodies should devote special attention to the rigorous implementation of penal legislation, in order to ensure the effective investigation and adjudication of these penal offences.

During 2013, media has reported different cases of corrupt practices, some of which penal proceedings have been initiated against. Concretely, the print and broadcast media have reported on abuse discovered by the High State Audit in tenders conducted in Durrës Municipality; abuse by the Labor Inspectorate with inspections of formal employment rules; charges by the prosecutor's office for "document fraud" against four former Sarandë Municipality employees with regard to the issuance of construction permits; charges brought by the General Prosecution Office for document fraud related to the issuance of two construction permits by the Vlorë Mayor, charges against one employee of the civil registry office in Vlorë; charges against the former head of the Tirana Tax Office and 7 other officials of this institution for the penal offence 'Stealing through abuse of office,' the case of 2 HAS audits reported for abuse of office during an inspection at the Durrës Customs, etc.

Based on complaints received from citizens at AHC, there appears to be a high level of perception for corrupt practices among judges and prosecutors; nevertheless, in fact, cases of penal proceedings against judges and prosecutors are scarce, not to say inexistent. Prosecutor General Adriatik Llalla ordered the conduct of inspections at the Tirana Judicial District Prosecution Office's anti corruption unit after considering that procedures followed for the wiretapping of 5 judges some years ago had been conducted illegally. The media reports suspicions about the involvement of a prosecutor at the Berat Judicial District Prosecution Office in corrupt affairs, after seeking 9 months of imprisonment for the head of public order in Kuçovë, as well as the latest case made public in the media regarding the corrupt practices of the Pukë Judicial District judge and prosecutor, etc.

In order to contribute to legal and institutional reform that seeks to prevent and tackle corruption, AHC has conducted a study on penal judicial rulings in the area of corruption and that of abuse of office. The research seeks to analyze practices pursued by the court and the prosecutor's office during proceedings and judicial review of these cases. The sample of researched rulings, which belong to the period 2007-2012, include cases that have had a high profile in public opinion and have been extensively analyzed by the print and broadcast media due to suspicions of involvement of senior state officials. The fact remains that the punishability of these unlawful acts in Albania still remains at low levels. Full information regarding this study has been presented during a working session held by AHC.

### **9. EQUALITY BEFORE THE LAW AND PROHIBITION OF DISCRIMINATION**

In spite of positive legal and institutional developments that took place during 2013 for the prevention and protection against discrimination, it was noticed that vulnerable groups of the Albanian society such as the Roma minority, the LGBT community, women, disabled persons, the elderly, children, etc., were more often the victims of different forms of discrimination.

#### ***a. Discrimination against the Roma Minority***



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The Roma minority continues to face the same issues as in the past, such as problems in registering with the civil registry, lack of shelter, deficiencies in infrastructure in the areas they live in, unemployment, difficulties in child education, in receiving health care, etc. AHC considers that little and particularly slow work was done during 2013 toward improving the conditions of this minority.

With regard to the above, on August 15, 2013, AHC made public a press statement regarding the forceful ousting by Tirana Municipality employees of 40 Roma families who had settled in the area of the “Pallati me Shigjeta.” The Ombudsman also issued valuable recommendations for the improvement of the situation of this community; there were also statements and reactions by representatives of the EU, the OSCE, Amnesty International, etc.

One day after this community was ousted from its shelters, the “Federation of Albanian Roma” and Roma youth called upon relevant state institutions to urgently undertake measures for sheltering the Roma community members that had been forcefully ousted from their shelters. Regrettably, Tirana Municipality did not react positively and undertook no concrete measures.

AHC finds positive the fact that on October 13, 2013, the Minister of Social Welfare and Youth and the Minister of Defense, in consensus with the Roma minority members in question, accommodated them in the buildings of a former military base, adapted as living quarters.

AHC is of the opinion that the negligence of state authorities to resolve Roma minority issues is one form of discrimination toward this community. A typical example, widely reported in the media, has to do with the inhabitants of a Roma neighborhood in Krujë that has had no drinkable water for 5 years. The new water supply system began to operate in the city and it supplies water to the entire city but not the Roma neighborhood. Roma inhabitants get water through wells, opened privately and uninspected; these often have polluted water that causes illnesses among inhabitants of this community, particularly their children.

During 2013, AHC intensified its interventions and joint activities with the Greek Helsinki Monitor regarding the issue of 502 Albanian children who had disappeared in the Greek social care institution “Aghia Varvara.” With regard to this issue, an alternative report was submitted to the UN Human Rights Commission. Afterwards, the Committee (HRC), in its periodical report on Albania,<sup>20</sup> called upon the Albanian state, the Ombudsman, and the civil society to intensify efforts, together with Greek authorities, in order to resolve the disappearance of 502 Albanian children. It is regrettable that the institutions of the Albanian state have undertaken no concrete action whatsoever to resolve the fate of these 502 Albanian children who are suspected to be lost. Meanwhile, in September 2013, the Greek state, through Athens Prosecutor Panayiota Fakou, announced that it had ordered the reopening of the penal case, with the same charge “Kidnapping of minors.”<sup>21</sup> This initiative comes immediately after the request of the Greek Minister of Justice to investigate the “Aghia Varvara” case and the appeal of Greek MP Ms. Marietta Giannakou. It has been made public that the new investigations will involve all employees of the orphanage of the period 1998-2002 and will also follow new investigation leads related to suspicions of organ trafficking or beggar networks or prostitution networks in Greece and elsewhere.

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<sup>20</sup> Second periodical report on Albania, session I 108, 2-26 July 2013

<sup>21</sup> We emphasize that the penal file of this case had been deposited in November 2005 in the archive of unknown perpetrators of penal offences



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Therefore, on December 5, 2013, AHC sent an Open Letter<sup>22</sup> to all responsible Albanian authorities, including the Chair of the Council of Ministers, calling upon them to undertake the necessary actions for the investigation of this serious case, for finding these children and identifying relevant responsibilities, and for coordinating initiatives with Greek institutions.<sup>23</sup>

### ***b. Discrimination of Disabled Persons***

During 2013, persons with disabilities encountered a series of difficulties due to the violation of some of their constitutional and legal rights. Among these we may mention the lack of sufficient financial resources to lead a normal life, delays and abuse with their disability payments, lack of employment opportunities, lack of social services and social service centers, problems with the education of disabled children tailored to their specific needs. There were also sporadic cases of abuse with children with mental health problems or problems with adjustment of infrastructure at psychiatric hospitals, violation or failure to create the conditions for disabled persons to exercise their right to vote, in general, etc.

Media has reported about a protest by 84 persons with motor disabilities who reacted about the lack of social centers for them. The discrimination that these persons encounter is two-fold, due to their physical disabilities and their age; they are beyond the age allowed for treatment at Development Centers, while the country has no special centers for the treatment of persons with disabilities above 25 years old.

Media reports that persons with disabilities in the Kukës district find it impossible to cope with life as this category is not part of benefits from schemes that encourage employment and are still seen as passive members of the society. This situation has been verified and encountered also by AHC.

Delays with disability payments for persons with disabilities remains a repeated problem carried over from previous years. The Minister of Social Welfare and Youth has denounced abuse with this scheme and namely the inclusion in it of family members of local officials, leading to 'exhausted' relevant funds and leaving out the persons really in need. As a result of this situation, the Ministry of Social Welfare and Youth has begun to conduct the verification of documentation of beneficiaries and stopped until December 2013 custodian service payments for disabled persons and the provision of economic aid only for families living in extreme poverty. The statements of the Minister of Social Welfare and Youth caused a wave of protests among disabled persons. With regard to this situation, AHC deems that the temporary interruption of economic aid and delays caused in disability payments for invalids represents discrimination for this category of citizens and deprives them of a calm family life, in violation of articles 8 and 14 of the European Convention of Human Rights. State structures have the duty to take all measures in order to meet the financial needs of this community, which because of its particularities, should be given priority, and not allow abuse with this scheme. Verifications of the lawfulness of decisions on benefiting from social schemes may not violate the rights of persons in need.

Another case of discrimination was the one about the admission of a 6-year old girl, displaying features of autism, to the artistic lyceum in Durrës. The case caused a major debate in the community and among parents, the child's family, school teachers and senior staff, focused on whether this category of children should be admitted to public schools where, as a rule, children without mental health problems study. The girl's parents declared in the media that their child was

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<sup>22</sup> Albanian Helsinki Committee [http://www.ahc.org.al/site/html/leter\\_hapur\\_4\\_dhjetor2013.pdf](http://www.ahc.org.al/site/html/leter_hapur_4_dhjetor2013.pdf)

<sup>23</sup> The initiative was supported by the Open Society Foundation for Albania - Soros



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being discriminated against with regard to education. AHC deems that relevant institutions should devote greater attention to these problems that keep increasing and find preliminary solutions for such cases, reflecting them in acts that regulate school activities. Children with disabilities have the right to be educated, in accordance with their special needs.

### *c. Discrimination against other vulnerable groups*

As mentioned above in this report, other groups of the Albanian society, such as women, the LGBT community, the elderly, children, etc., are also at risk from different forms of direct and indirect discrimination, negative stereotypes, and social exclusion. Based on information obtained from the media as well as the activity conducted by AHC during 2013, it is worth mentioning briefly some cases.

Women and girls in Albania continue to encounter different forms of discrimination, abuse, violence, exclusion, and deprivation of equal opportunities. Discrimination and negative stereotypes toward women and girls mostly happen in families, at work, in schools, on the street, and other public premises. Domestic violence is a phenomenon whose dimensions keep expanding. Failure to implement gender quotas in the lists of candidates for MPs presented by the leading political parties led to their being fined by the Central Election Commission; nevertheless, gender discrimination in the context of including women in decision making bodies remained a fait accompli. AHC notes that there is a need for more profound and inclusive policies toward achieving gender equality as well as higher engagement of state structures tasked with implementing relevant legislation.

With regard to respect for the rights of the LGBT community, it is worth stressing that the forms of stereotypes existing toward members of this community represent one of the most sensitive problems, which makes them victims of different forms of discrimination and abuse. Members of this community state that they feel discriminated at home, in school, in the society, at work, etc. and that these prejudices intimidate them to declare and publicly accept their sexual orientation that is different from the rest of the society. The existence of stereotypes was noticed by AHC observers during the monitoring of the case of three transgender convicts in the Shën Koll prison who had been isolated in observation premises because they were not accepted and were labeled by other inmates. This unjust separation of transgender prisoners not only violated their rights but, because of their isolation, two of them had attempted suicide. AHC intervened and asked the institution personnel to resolve the problems it encounters in its activity without violating the rights of prisoners.

For years, our country has been criticized for unjust and abusive politically motivated dismissals from the public administration. This issue has been extensively covered in reports of international organizations and particularly the European Commission's Progress Reports on Albania. Media has reported about a high number of dismissed persons from State Police ranks, without legally founded motivations, in the first days of the new majority in office.

## **10. GOOD GOVERNANCE AND RESPECT FOR THE RIGHTS OF CITIZENS BY NATIONAL AND LOCAL GOVERNMENT BODIES**

AHC's focus for 2013 included good governance with regard to those aspects affecting the rights and freedoms of citizens. Special attention was devoted to citizens' access to the decision making process on important and vital issues of public character. In this regard, we paid special attention to such essential aspects for a democratic state such as transparency, accountability, responsibility, and consultation with stakeholders.



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While studying requests received by AHC, it results that they address claims related to lack of information and the impossibility of obtaining documentation from the public administration, unjust denial of invalidity pensions, lack of consultation with stakeholders about important urban development projects, citizens' discrimination in the provision of services or in the exercise of competences by state bodies, etc.

Based on media monitoring, it results that some of the most sensitive issues that draw most attention are: lack of preparations to tackle natural disasters, such as flooding, blocked roads from snow, landslides, excessive environmental pollution, which is really jeopardizing the life and health of citizens (in Gjirokastër, about 15 children were hospitalized in the infective diseases section of the Gjirokastër Hospital with different infection symptoms, but in most cases they were infected with hepatitis). In all these cases, it is possible to highlight the lack of funds and lack of coordination between the Civil Emergency Headquarters and other institutions to come to the rescue of persons affected by natural disasters.

Environmental pollutions have often caused different reactions by citizens who raise concerns about harm to their health and lives. Cases published by the media have varies. In the case of gas pipe breaks in the Mye village in Portëz Commune, inhabitants said that they are being poisoned and no state entity has taken upon itself to solve the issue. Inhabitants of the Zharrëz have had problems with environmental pollution and complain that their lives are at risk because the company conducting oil drilling has not taken the necessary measures to avoid polluting the surrounding area. The same situation has been encountered in the Rrajc Commune in Librazhd, where citizens claim they feel threatened as different entities conduct dynamite explosions in search of minerals in various parts of this commune. Inhabitants state that dynamite explosions by unlicensed entities threaten their lives, pollute the environment, and seriously harm the flora and fauna of the area, including cattle owned by villagers around the area.

Media has also reported about an increase in problems with mental health of inhabitants in a neighborhood of Berat due to pollution caused by the former Battery Factory. The alarm was raised by the environmental office of Berat Municipality, which refers to analysis conducted by the Public Health Institute. According to data, it results that the soil and territory around the former Battery Factory in the Uznovë neighborhood in Berat is polluted in all elements (water, air, etc.) with lead, which has caused mental health problems among inhabitants of the area.

In April 2013, the President of the RA decreed the date for a popular referendum on waste imports. The Alliance Against Waste Imports managed to collect 60,000 signatures to hold a referendum. The review in parliament of a draft law amending legislation contested by the protesters suspended the further advance of referendum procedures. The Constitution recognizes the right of citizens to demand or participate in a referendum. According to constitutional experts, who have spoken publicly, an obstacle for the exercise of these rights is the absence of a specific law on the conduct of a referendum as stipulated in the Constitution.

A very significant problem that must be effectively addressed through special social policies is the fight against poverty, which affects a considerable percentage of the population. The level of economic aid payments does not respond to the needs of families with many members. With the scarce incomes, they are not able to meet minimal needs for food, clothing, education, health care, and other services that are necessary for a family. AHC is of the opinion that the fairest way to support this category of citizens is to include them in employment, education, and qualification.





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## 11. LEGAL REFORMS AND CIVIL SOCIETY ACCESS TO THIS ACTIVITY

A legal system that is complete and in keeping with the standards and principles of human rights is an important pillar of the rule of law. Without ensuring such a system, we would not be able to guarantee respect for the fundamental rights and freedoms of individuals.

Again during 2013, AHC focused in its activity on following improvements in legislation and the incorporation of the best standards in it in order to guarantee human rights and freedoms. AHC lobbied and contributed with suggestions to hearing sessions in Parliament Committees, in discussions about different legal initiatives such as the draft law “On some changes in the Penal Code of the RA,” the law “On the state information service,” the draft law “On oversight of information and security services,” etc. Recently, AHC participated in the meeting of the Committee of Laws and Public Administration to provide its comments on amendments to the Penal Procedure Code that sought to enhance activities to tackle corruption.

It is extremely important that in the rule of law, reforms and different legal initiatives undergo the process of the broadest possible discussion and consultation with stakeholders, relevant specialists, representatives of civil society organizations, etc. Compared to previous years, there is an improvement with regard to transparency by the legislative branch and access by civil society. Nevertheless, often consultation with stakeholders and human rights organizations is scheduled for the last days and time available to them does not provide for quality expertise. A draft law has been drafted recently “On notifications and consultation” that seeks to regulate relations during the public consultation process. The draft envisions for consultations to be transparent, inclusive, timely, and will be an obligation for public national and local bodies, both about the decision making process on issues of public interest and on draft laws of this nature, strategic documents, and policies for which there is high public interest. This draft law establishes minimal procedural rules that should be implemented in order to guarantee transparency and democratic participation in policymaking and decision making processes within public entities.

During December 2013, the law was being consulted with civil society actors and AHC gave its contribution.



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## ANNEX I

### STATISTICAL DATA ON COMPLAINTS RECEIVED AND LEGAL SERVICES PROVIDED (JANUARY – DECEMBER 2013)

#### 1.1 DATA COMPLAINTS ACCORDING TO CATEGORY/SUB-CATEGORY

Category of Complaints	Sub-Category	Number of Complaints
<i>Prison/ Pre-trial Detention</i>	Violation (physic or physiological) exercised from the staff/ other inmates	8
	Poor conditions in prisons and pre-trial detention	36
	Lack of response from state institutions for the requests/complaints of inmates	1
	Lack of the supply with the health and social services in prison	20
	Lack of information from the administration of prison as regards the amnesty and pardon	1
	Work of Inmates	3
	Violation of rights in pre-trial detentions/prisons	28
	Others	10
	Complaints regarding the transfers from one institution to another/ within the same institution	3
<b>Total of the number of complaints for Prison/Pre-trial Detention</b>		<b>110</b>
<i>Different civil rights</i>	Complaints regarding the property law' application	7
	Complaints on domestic violence/ divorce/ children' registration	3
	Complaints regarding the non-transparent procedures from the center and local public administration	9
	Complaints on economic status	1
	Requests for economic aid/pensions	7
	Others	1
<b>Total of the number of complaints for Different Civil Rights</b>		<b>28</b>
<i>Judicial Power</i>	Complaints for non application of sentences' reduce/ pardon requests	1
	Lack of access to information by the courts	4
	Undue legal process	10
	Exceed of the pre-trial terms	2



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	Unfair judicial decisions/ claims for innocence	11
	Length of judicial process	3
<b>Total of the number of complaints for Judiciary</b>		<b>31</b>
<i>Employment' Relations</i>	Complaints for discrimination in employment relations	1
	Complaints for unfair dismissals	2
<b>Total of the number of complaints for the employment' relations</b>		<b>3</b>
<i>State Police</i>	Violation (physic or physiological) exercised from police staff	4
	Unfair and arbitrary acts from police staff	7
<b>Total of the number of complaints for State Police</b>		<b>11</b>
<i>Prosecutor Office</i>	Procedural' violation of investigation process	1
	Unfair and arbitrary acts from the prosecutor organs	7
<b>Total of the number of complaints for Prosecutor Office</b>		<b>8</b>
<i>Advocacy Services</i>	Complaints for the state or private advocacy services	1
	Assistance for fulfilling the documentation	38
	Requests for free legal aid services (representation before the court)	9
	Free legal Counseling	25
<b>Total of the number of requests/complaints for the Advocacy Services</b>		<b>73</b>
<i>Others (Justice system)</i>	Complaints as regards the non execution of the judicial decisions from Bailiff office	6
	Requests for extradition	3
<b>Total of the number of complaints for the Justice System</b>		<b>9</b>
<b>Total</b>		<b>273</b>



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## 1.2 DATA COMPLAINTS ACCORDING TO CITIES/INSTITUTIONS

CITIES	PRISON	FREE STATUS	POLICE COMMISSARIATS	PRE-TRIAL DETENTION	NUMBER
BURREL	4	0	0	0	4
DURRËS	2	2	0	1	5
ELBASAN	0	0	0	2	2
FUSHË-KRUJË	20	0	0	1	21
GJIROKASTËR	0	0	1	0	1
KAVAJË	2	0	0	0	2
KORÇË	10	6	0	5	48
KRUJË	1	0	0	0	1
LAÇ	0	1	0	0	1
LEZHË	30	11	0	1	42
LUSHNJE	1	0	0	0	1
PEQIN	19	0	0	0	19
PESHKOPI	0	2	0	0	2
POGRADEC	1	4	0	0	5
RRËSHEN	0	1	0	0	1
RROGOZHINË	12	0	0	6	18
SHKODËR	0	2	0	0	2
TEPELENË	1	2	0	11	14
TIRANË	25	31	0	7	73
TJETËR	0	7	0	0	7
VLORË	0	0	1	3	4
<b>TOTAL</b>	<b>128</b>	<b>69</b>	<b>2</b>	<b>37</b>	<b>273</b>



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## 1.3 DATA COMPLAINTS ACCORDING TO THE VIOLATED RIGHTS

Violated Rights	Number
Access to information	9
Article 13 of ECHR (Right to an effective remedy)	1
Article 14 of ECHR (Prohibition of Discrimination)	8
Article 3 of ECHR (Prohibition of Torture)	55
Article 5 of ECHR (Right to liberty and security)	7
Article 6 of ECHR (Right to a fair trial)	29
Article 8 of ECHR (Right to respect for private and family life)	4
Protocol no.1 of ECHR (Property law)	9
Others	151
<b>Total</b>	<b>273</b>



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## 1.4 DATA COMPLAINTS ON LEGAL SERVICES PROVIDED

Legal Service' provided	Number
Assistance in filling the documentation	5
Legal Counseling	127
Monitoring of the hearing sessions	12
Intervention to State Authorities	87
Representation before the Court <sup>24</sup>	21
Treatment of complaints	584
Verification <sup>25</sup>	378
<b>Total</b>	<b>1,214</b>

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<sup>24</sup> This number is referred to the hearing sessions represented by AHC lawyers

<sup>25</sup> This number is referred to the number of persons whose complaints were verified



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## ANNEX II

### STATISTICAL DATA ON SPORADIC MONITORING MISSIONS (JANUARY – DECEMBER 2013)

#### 2.1. PRISONS

Number	Institution of Execution of Criminal Judgments (IECJ)	Date
1	IECD Shën Kollit, Lezhë	16 July 2013
2	Hospital Center of Prisons	18 July 2013
3	IECD Kukës	July 2013
4	IECD Korçë	04 September 2013
5	Hospital Center of Prisons	23 September 2013
6	IECD Korçë	26 September 2013
7	IECD Shën Kollit, Lezhë	01 October 2013
8	IECD Korçë	02 October 2013
9	IECD Peqin	02 October 2013
10	Hospital Center of Prisons	05 November 2013
11	Hospital Center of Prisons	18 November 2013
12	IECD 325 Tiranë	18 November 2013
13	IECD Rrogozhinë	18 November 2013
14	IECD Fushë Krujë	18 November 2013
15	IECD 313 Tiranë	19 November 2013
16	IECD Korçë	19 November 2013
17	IECD Rrogozhinë	20 November 2013
18	IECD Durrës	21 November 2013
19	IECD Shën Koll, Lezhë	25 November 2013
20	IECD Burrel	25 November 2013
21	IECD Tepelenë	27 November 2013
22	IECD Vaqarr	13 December 2013
23	IECD Burrel	17 December 2013
24	IECD Shën Koll, Lezhë	26 December 2013

#### 2.2 POLICE COMMISSARIATS

Number	Police Commissariats	Date
1	Police Commissariat no. 2, Tiranë	17 July 2013
2	Police Commissariat, Ersekë	25 September 2013
3	Police Regional Directory of Korça District	26 September 2013



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## *2.3 SPORADIC MONITORING MISSIONS IN OTHER FIELDS*

Number	Object of Monitoring	Date
1	Çase of suicide of D.D – Verifications in: Police Commissariat of Bulqize, Hospital of Bulqiza, Police Regional Directory of Dibra District, Prosecutor office of Judicial District of Dibra, Coroner charged with the medical expertise, familiars of the victim	24 January 2013
2	Verification on conditions and treatment of clandestins who cross illegally the Albanian Border and who are being kept in Cross Border Point of Kakavijë	20 September 2013
3	Verification in city of Vlora as regards the news published media for not allowing the residents of a blocked apartment from the National Urbanity Building Inspectorate to enter in their apartments	5 November 2013





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## 2.4 SPORADIC MONITORINGS IN COURTS/OFFICE PROSECUTOR

Brief Description
1. Civil case with object "Freeing and delivering of the object" with plaintiff Gj.M, Tirana Judicial District Court (30.09.2013)
2. Civil case with object "Invalidity of the decision no.720 date 08.10.1996 of the Commission of Restitution and Compensation of the Properties, Tirana Judicial District Court (25.10.2013)
3. Civil case with object "Freeing and delivering of the object", plaintiff Gj.M, Tirana Judicial District Court (01.11.2013)
4. Criminal Case with object "Theft of Energy", Tirana Judicial District Court (05.11.2013)
5. Civil case with object "Request for exception of the judge", plaintiff Tirana Judicial District Court (08.11.2013)
6. Criminal case on charge of a prisoner accused for "Hitting as result of duty" from the police effectives of IECJ Burrel, Mat Judicial District Court (25.11.2013)
7. Monitoring of the criminal case in Vlora Appeal Court for the appeal filed by an accused with a serious illness regarding the assessment of security measure "Arrest in Jail" (27.11.2013)
8. Verification mission in Office Prosecutor of Mat judicial district for criminal case initiated on charge of a prisoner accused for "Hitting as result of duty" (27.11.2013)
9. Criminal case on charge of a prisoner accused for "Hitting as result of duty" from the police effectives of IECJ Burrel, Mat Judicial District Court (17.12.2013)
10. Verification mission in Prosecutor Office of Korça Judicial District (October 2013)
<b>Total of the Monitoring Hearing Sessions</b>



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## 2.5 PLANNED AND THEMATIC MONITORING MISSIONS IN IECJ AND POLICE COMMISSARIATS

Number	Monitored Institution	Date of monitoring
<b>Monitoring in Institutions of Execution of Criminal Judgments</b>		
1	IECJ Korçë	11 July 2013
2	IECJ Elbasan	10 July 2013
3	IECJ Zahari Krujë	26 July 2013
4	IECJ Vaqarr	01 October 2013
5	IECJ Kavaje	04 October 2013
6	IECJ Fushë Krujë	18 November 2013
7	IECJ Shën Koll, Lezhë	25 November 2013
<b>Monitoring in Police Commissariats</b>		
8	Police Commissariat of Elbasan	12 July 2013
9	Police Commissariat of Fier	12 July 2013



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## Annex III

### Press Statements, Press notices, Open Letters January - December 2013

15 January 2013	Gratitude, Support and Quick Recovery for Mr.Musa Skura
22 January 2013	Allocation of mandates for every electoral zone of administration – An important condition for respect of the equality of the votes
8 February 2013	A decision that considerably shakes trust in justice
20 February 2013	3 March, the last legal term for notification of electors in their homes for their inclusions in the extracts of electoral components
20 March 2013	A grave and shocking act that requires general reflections
10 April 2013	State police should give more support to journalist and the broader public
18 April 2013	State institutions and political class should improve the atmosphere and create appropriate conditions for fair elections
11 June 2013	Incidents cause tension in the situation before the Elections of 23 June
12 June 2013	Freedom of vote is guaranteed in the constitution and nobody should violate the voters' right
14 June 2013	Press Statement
18 June 2013	Should not to be infringed Freedom of Media
19 June 2013	Public press statement of civil society regarding the Parliamentary Elections of 23 June
19 June 2013	Three prizes “Lions of Cane” for Swedish Organization, Civil Rights Defenders
24 June 2013	Preliminary conclusions on the development of the voting process in the Parliamentary Elections of 23 June 2013
31 July 2013	Press Statement Final Report on Parliamentary Elections of 23 June 2013
13 August 2013	Hate incitements and national – chauvinist declaration are punishable



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- 15 August 2013      Human Treatment of the Roma Requires an Urgent Solution
- 29 August 2013      Emergency solution required for Tirana's Roma Minority
- 24 October 2013      Press Statement
- 25 October 2013      The government should not lose sight of the Rights of Citizens, especially vulnerable groups
- 8 November 2013      Press Statement  
Grave Tragedy in Our Mines ... 7 Dead
- 4 December 2013      Open Letter – On the need for reaction and better cooperation with Greek Institutions on the Investigation and Resolution of the case of the disappearance of 502 Albanian Children in Greece