



KOMITETI SHQIPTAR I HELSINKIT  
ALBANIAN HELSINKI COMMITTEE

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**REPORT ON THE SITUATION OF RESPECT  
FOR HUMAN RIGHTS IN ALBANIA  
FOR 2015**

Tirana, December 2015



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## ACRONYMS

The Albanian Helsinki Committee	AHC
Civil Rights Defenders	CRD
Institute for Development Research and Alternatives	IDRA
National Food Authority	NFA
Council of Ministers	CM
National Urban Construction Inspectorate	NUCI
General Directorate of Prisons	GDP
Police Directorate of Tirana District	PDTD
Commissioner for Protection from Discrimination	CPD
The Supreme State Audit	SSA
Legalization Urbanization and Integration Agency of Informal Areas/Constructions ALUIZNI	
Agency for Property Restitution and Compensation	APRC
The European Court of Human Rights	ECHR
The Public Radio and Television	RTSH
The High Inspectorate of Declaration and Audit of Assets	HIDAA
HIGH COUNCIL OF JUSTICE	HCJ
European Convention on Human Rights	ECHR
Penitentiary Institution	PI
European Commission	EC



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## *INTRODUCTION*

Adhering to the standards of human rights and freedoms, constitutes already an aspect that is assessed on an ongoing basis by many domestic and international bodies, because since it is one of the basic elements of a democratic society, it determines the degree of development of the country in this direction. The Albanian Helsinki Committee (AHC) too, turned it into a tradition the preparation and presentation of an annual report in this regard, and that for many years now. In this scope, the presented report contains facts and conclusions about the situation of observation of human rights and freedoms for 2015<sup>1</sup> and aims, in addition to addressing the problem, informing the public and international organizations, also to raise the awareness of relevant state institutions, through some recommendations.

The findings in this report are the result of the careful scrutinizing of the documents produced during the monitoring activity carried out by AHC, especially in prisons, police stations, courts and prosecution office. They are the conclusions arising from the issues raised in the complaints of citizens that have reached AHC. They are data obtained from local media<sup>2</sup>; from reports of other organizations of civil society and reports of international organizations.

In particular we want to emphasize that AHC is not focused only on finding and evidencing the cases of violation of human rights and freedoms, but during this year has tried to boost its activism, by reaching even closer to the citizens to verify concerns and indications that they have brought to us, and has made efforts and the necessary interventions for the restoration of rights, through judicial or administrative means. During 2015, AHC has processed more than 250 complaints from citizens who claimed violation of rights. It has addressed 48 recommendations for administrative or criminal measures against employees responsible and has reacted publicly with press statement on 17 cases. AHC has monitored 55 penitentiary institutions, prisons, remand and police stations, courts, border crossings, etc. Also, to improve legal standards regarding the sanctioning and protection of freedoms and human rights, AHC's staff, this year, gave suggestions and made observations for 12 draft laws and regulations.

Although there has been some partial progress in terms of observation of human rights, also this year there were identified violations in several directions, which are conducted by state public bodies, as well as in the private sector. Unfortunately, the efforts in terms of information and education of citizens and respect of freedoms and human rights is not yet up to the mark. The school system and public administration do not do enough in terms of information and education for human rights, and civil society, for several years, has reduced its activity in this area, perhaps because donors do not consider it a priority to be funded systematically.

To learn more about this report as well as other activities undertaken by the AHC, please consult our website or Face-book page that contains numerous materials such as reports, research, press releases, and other documents. You can also contact us, via snail mail or email, if you need more detailed information about issues that are covered in this report, or beyond (*Find below the mail or electronic address of AHC*).

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<sup>1</sup> The findings came as a result of the data gathered until end of November 2015

<sup>2</sup> Understand: Visual and written media.



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## *EXECUTIVE SUMMARY*

The year 2015 was an important year for Albania also because on June 21, 2015 were held local government elections, which were held in accordance with the new administrative and territorial division. This year, besides the progress of the local territorial reform, commenced also the first initiatives for reformation of the justice system, reform which is considered one of the most important of the post-communism events of the 90s. This reform will be carried out as a necessity part of the progress of the country, but also as one of the 5 tasks set by the structures of the EU, in the scope of European integration and obtaining the status of candidate country in 2014. It is well known that these primary task have to do with combating crime in general and organized crime in particular, combating the phenomenon of corruption, creation of a public administration that is professional and depoliticized, improve and strengthen the independence of the judiciary, and protection of human rights.

To strengthen the functioning of the rule of law, it is ascertained that the state authorities have been working to increase public safety, have toughened the fight against production and trafficking of narcotics, corruption, tax evasion; strengthening the rule of the law with regard to the administration of the territory, prohibition of abuse of electricity, more efficient measures are taken to protect the forests, etc. However, it is observed that sometimes these actions, positive in their intention as they are, are associated with violations of the law and of the rights of citizens, causing other social consequences. Despite the measures taken and the results achieved, the standard of living for citizens did not improve.

In June were held the elections for the governing bodies of local government, the first of the new administrative division of territory that eventually determined the existence of 61 municipalities across the country. In general, the electoral process was well conducted, improving the standards of compliance with legislation in this area and better respecting the suffrage for citizens who displayed an interest in the voting. There were not recorded serious incidents of a political nature or of serious consequences for citizens. In its final report, the OSCE / ODIHR termed these elections positive, but underlined the politicization of electoral administration, the collective voting and other irregularities in the voting procedure and recommended concrete measures to improve the process, while the local political opposition claimed that these elections were weaker than previous elections, that they were damaged by running for office of the individuals that were in conflict with justice, that there was bribery and vote buying, etc. AHC underscored in its report that despite positive developments, problems were evidenced which marred the standards of these elections, among which we highlight: the changes in Electoral Code were not made according to the needs identified in accordance with the recommendations of the OSCE/ODIHR or those of the domestic observers. The few amendments were implemented not only late, but without proper transparency nor public involvement. Electoral Code did not clearly state the possible restrictions on the exercise of the suffrage, in accordance with Decision no. 40, dt. 16.11.2007 of the Constitutional Court. The legislation in force does not provide the necessary safeguards so that voters have an opportunity to learn about the qualities of the candidates, especially candidates that run for councilors; transparency of CEAZ's activity is still very dismal, because there are no clear legal provisions for the obligation of these authorities to make public their activities and to facilitate public participation in their decision-making. There were claims for the criminalization of some candidates, but they were not followed through and therefore voters had no opportunity to obtain further information in this regard. There are still problems with the unification of case law concerning the examination of issues on the voting rights. Also, other issues pertaining the



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electoral process and court decisions are not always published with the reasoning of the decision. Remain unresolved some problems related to the voting of voters residing abroad, employees who perform specific tasks, far from their residence on election day (such as the State police officers, etc.), persons with disabilities and hospitalized persons etc. To improve the situation, alongside the recommendations of international organizations, AHC has made 19 recommendations of its own.

Also, the politicization of electoral administration remains the main concern for the welfare of the electoral process also for the European Commission, which in its Progress Report on Albania in 2015 states that: "*The local elections of June 21, 2015 were held without major incidents. Doubts about the impartiality and professionalism of election officials and the politicization of the overall electoral process, are still issues to be resolved.*" Other recommendations of the OSCE / ODIHR have not yet been taken into account, including those on the enhancement of impartiality of the election committees, campaign financing transparency and effective resolution of electoral disputes.<sup>3</sup>

Regarding the Reform of the Justice System, the Committee of High Experts, approved by the Assembly, successfully conducted the analyzing of the situation and identification of the needs for institutional, legal and human improvements, and presented that to the stakeholders and the general public. Results of the analysis of experts and the proposals of the largest parliamentary parties were sent for the professional assessment of the Venice Commission, while top experts presented a draft version of amendments to the Constitution, which would pave the way for further legal amendments and institutional changes in the field of justice. This project too is being discussed with stakeholders and other national specialists.

AHC is of the opinion that the judicial reform needs broad parliamentary consensus and broad involvement of the justice system, but also that of the interest groups because the rendering of justice is a service. Justice reform must also respect the principle of separation and balancing of powers and to pay particular attention to raising standards of respect for human rights and freedom.

Legal initiatives have also been undertaken by members of parliament of both position and opposition, to remove or inhibit, the hiring in government bodies and public administration (both central and local), of persons who have had, or that still have problems with justice. For this purpose there were approved additions and amendments to the Law no. 137/2015, On amendments and additions to Law no. 8417, dated. 21.10.1998, The Constitution of the Republic of Albania, amended, and was approved the Law no. 138/2015 dated. 17.12.2015, "To ensure the integrity of the persons elected, appointed or that exercise public functions".

In the situation described above that characterized 2015, AHC has ascertained that the situation of respect for human rights and freedoms stands as follows:

**The right to life**, despite all the measures that have been taken, it continues to be affected by the criminal events, domestic violence, traffic accidents, work related accidents, medical malpractice and improper treatment, human trafficking, although in 2015, overall it was noted a decline in the number of these crimes.

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<sup>3</sup>See "Progress Report on Albania in 2015, of the European Commission", p. 6



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**With regard to the respect the right to property**, it was found that the process of legalization of illegal construction has progressed at an accelerated pace, but **the restoration and compensation of property has not scored any significant developments**, because of the sluggish decision-making and execution of decisions of PRCA and other responsible bodies. ECHR has continued to issue decisions, wherewith it is evidenced the violation of this right by the Albanian Government, and has forced it to refund the applicant of the cases in litigation with significant monetary values. Governmental structures have failed to reach agreement with stakeholders to draft a bill that would address the interests of the litigants, especially regarding the formula of compensation for property. However the state managed to provide more security for the property and therefore the crimes of armed robbery were reduced by 13.8%.

**From the legal perspective, the domestic media continue to be free to pursuit** their editorial policies, but there was noted a political-class influence on their owners. Also, the professional independence of journalists did not improve. Journalists' working conditions are not yet in compliance with the law. They still are not provided with a work contract and insured in accordance to the legislation in force for their performed work.

**Due legal process** is violated, mostly in terms of the disrespecting of the solemnity of the trial, unnecessary delays of lawsuits and delays in delivering justice. The general public, the political class and international organizations, have often accused of corruption the judicial authorities, especially judges and prosecutors. Free legal aid, provided by a structure within the Ministry of Justice has continued not to be efficient and not providing to all citizens in need, the free legal protection in relevant civil and administrative litigation.

**Respect for the legal rights of persons deprived of liberty**, despite the improvements observed, in the police stations, prisons and detention are manifested serious shortcomings regarding the respect of the rights of persons deprived of their liberty. In some cases, there are instances of violence perpetrated by police officers. The accompanied were not granted the procedural guarantees at the time of detention. Some detention facilities are in deplorable condition to that degree that may constitute inhuman or degrading treatment of the people held there.

Although new prisons were opened, overcrowding in the prison system has reached high levels, exceeding 30% on average over the existing capacity, due to the escalation of criminal policies of the governing majority. Several government legal initiatives have provided for stronger legal sanctions with prison sentence, considering it the best legal remedy to prevent and punish offenses. Violation of the rights of prisoners and detainees has been caused also by the absence of a proper health service, lack of appropriate social and rehabilitative activities, by the low quality of food, poor hygiene, disrespect of their personal rights, etc. The allegations of violence were less compared to those from a year ago, but the persons deprived of their liberty have raised allegations of corruption by senior prison staff. A specific case in this regard was that of the director of the Korça Prison against whom was taken the measure of dismissal from office and the starting of the penal procedure.

In full contradiction to the laws and medical standards for treatment, over 160 citizens with the medical measures "*Forced medication at a medical institution*" are still kept in institutions of the penitentiary system. However it was reported that the government has made available to the Ministry of Health and the General Directorate of Prisons, two public lands, in order for them to build upon two institutions for this category of citizens.



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Although Albania did not play a role in the influx of asylum seekers who moved to Europe, during 2015, AHC, through its monitoring concluded that some of the facilities that serve the accommodation of persons who for various reasons are detained at the border crossing points, were lacking in terms of the heating system, electricity supply, beds and other equipment, sanitation, running water, hot water, beddings and tools for cleaning, medical staff and psycho-social support. The finances for the food for aforementioned were lacking also.

Despite the improvement of the work of the Commissioner for Protection from Discrimination and the Ombudsman's office, there have been instances of discrimination against socially vulnerable groups, persons with disabilities, Roma, children, women and LGBT. It is reported that violence against women within the family, as the most severe form of discrimination, is on a high rate. Roma communities continue to face major problems with regard to housing, employment and education of children. They remain exposed and helpless to save their homes from infrastructure initiatives undertaken by central or local government, while these initiatives do not contain any measures to accommodate and secure housing for these communities. Legalization of illegal buildings does not provide any solution for these citizens, including other poor citizens, who have already solved the right to housing of the family by building modest shacks, with surrounding materials that do not meet the criteria of the residence envisaged by this legislation.

**Right to Information** marked a positive step forward with the adoption of Law no. 119/2014 "On the right to information", but it has not started to be implemented yet by many public institutions. The study of the nonprofit organization "Respublika" shows that 48% of requests for information have gone unanswered, while 7% of the complaints received by AHC are related to the violation of this right, especially for prisoners. Only about 1/3 of institutions have fulfilled legal requirements for the transparency program.

Regarding **the right to organize** progress has been made, both in terms of its exercise, as well as from the standpoint of freedom of action of NGOs. According to a research conducted by the organization "Partners Albania" it turns out that freedom of organization is guaranteed to everyone and is practiced generally speaking freely and without significant controlling intervention by the state authorities. The activity of civil society organizations is widespread in the country, although it gravitates mostly in Tirana, and has been extended in various areas of social interest such as problems of youth, women and children, problems related to culture and education, social services, environment, health, strengthening of democracy and the rule of law, etc. However, the funding of these organizations remains an issue, and therefore the organizations remain dependent on international donations and the state has not made all the necessary legal arrangements to facilitate the sector's fiscal obligations. Parliament passed the law creating the National Council of Civil Society, without taking into consideration the remarks of the EU delegation, the Ombudsman and local civil society. Also, the legislation pertaining the public's involvement and consultation, does not seem to have been implemented effectively.

**Protecting the rights of children and their welfare** has often been the subject of discussions and round tables organized by the civil society and public institutions, but results that would bring about effective changes in this regard are yet to be seen. There have been cases of trafficking of children, their employment in violation of the law, as well as cases of their abuse in schools or on the streets and families. The involvement of minors in criminal activities and



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their recidivism, remains a concern. The tools used for the education and the rehabilitation of this category of juveniles were not efficient at the desired scale. Integration in school and in life for children with disabilities, and obtaining the benefits of health care and social services remains at low levels.

**Corruption is a widespread problem** in the bodies of the three branches of government and public administration, both local and central. There is an increase in the extent of 24.5% of the number of public officials prosecuted for corruption, but few are the cases of civil procedure at higher levels. Many criminal proceedings initiated, especially those against senior officials, were closed by the Prosecution Office.

**Environmental protection has been in the focus** of the Ministry of the Environment, but also in that of the media and public opinion, however, there have not been observed qualitative changes in the standards and quality of the air, the use of natural resources, protection of water, or other natural resources. Patos-Marinez disaster in Fier, the Fier and Vlora flooding, pollution of the sea by hydrocarbons in Durrës, unlawful use of forests and river beds have caused extensive and irreparable damage to the environment. The Ministry of Environment has reported the launch of an initiative for a moratorium on forest harvesting and export of timber for a 10-year period. However concrete tracking of problems in the country must be improved and made more effective.

AHC has raised its concerns during the year, in various forms at the relevant state bodies, regarding this issue, as well as informed the general public, through statements or press releases or articles in the local printed media. For the most flagrant cases, we approached the judiciary, seeking termination of violation of the rights, or the holding responsible the perpetrators of these offenses.

### KEY FINDINGS BY AREAS OF RIGHTS

#### 1. RESPECT OF THE RIGHT TO LIFE

The state has the obligation to protect the life and health of citizens and for that purpose needs to organize an effective system, to ensure security and public order, health care services, improve and monitor the movement of citizens in streets, improvement of environmental conditions, etc. The state has the responsibility to provide and perform a criminal and administrative policy, according to the situation and needs of the country in this regard.

Among the constitutional rights, the right to life is the foremost due to its nature and the importance it bears compared to other rights. Referring to the Constitution, *fundamental rights and freedoms are indivisible, inalienable and inviolable and stand at the basis of the entire juridical order. The bodies of public power, in fulfillment of their duties, must respect the fundamental human rights and freedoms, as well as contribute to their realization.*<sup>4</sup>

Despite that in 2015, there were adopted or amended a number of legal provisions, to improve the delivery of health care services, and were carried out some public investment in this area,

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<sup>4</sup>The Constitution of the Republic of Albania, Article 15



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yet this sector continues to manifest numerous problems related to corruption, low standards of services offered, poor infrastructure and poor organization. The secondary health service, hospitals for serious illnesses, mental hospitals and gynecological services, all remain problematic.

International SOS organization ascertained the worsening of the delivery of the health service. In the map of countries' ranking pertaining the delivery of this service, in **2014 Albania was classified as "a medium or medium to high risk"**<sup>5</sup>, while in **2015<sup>6</sup>Albania was classified as one of high risk.**

Media reported that many hospitals and public health care clinics in the country are in deplorable conditions. In the hospital centers, there have been cases of lack of equipment, or possibilities for specific analysis, and lack of medicines, forcing citizens to purchase them on their own. For example, it is noted that, for a certain time period, the Radiology ward at the University Hospital Center of Tirana was out of order, forcing patients to have their x-rays and radios copies made in private clinics.<sup>7</sup>

In the monitoring of medical institutions, especially those psychiatric, there were some disturbing findings pertaining respect for human rights. AHC has monitored some of these institutions and found deplorable living conditions in psychiatric institutions of Vlora and Elbasan. Regarding the accommodation of the patients, the room furniture is very concerning, where there are only beds and where there are accommodated 10 or more patients. These rooms are cold and damp. Patients do not have on their disposal cabinets or tables, despite the fact that they stay there for long periods in these hospitals, due to the nature of their disease. Also, the activities carried out with these patients are not sufficient in terms of their recreation, engagement and rehabilitation.

There have been complaints against public and private hospitals regarding careless medical treatment, like the case of denunciation made against the physician at the Hospital of Korça<sup>8</sup>, but the treatment of these complaints from the protection bodies of the patient, the administrative bodies and those of justice, was not convincing to the general public.

Some infringements of the right to life are caused by the crimes of murder, domestic violence, theft with consequences to the life and health of citizens, trafficking of human beings, etc.

On concrete terms, **domestic violence** continues to be a concern considering its broad spread. In many cases, the victims are the wife, children, elderly family members, relatives, etc.<sup>9</sup> Although crimes of murder, serious bodily injury and minor injury have declined significantly, 35% of homicides committed during this year, occurred within the family. The phenomenon of violence perpetrated against women appears still very worrying and in some cases, the victim has suffered death as a result.<sup>10</sup> Often, the abused women do not report to the competent authorities

<sup>5</sup> The Shqipnewspaper, Dated 27.01.2015

<sup>6</sup> Referring to the official webpage of the "International SOS" organization  
<https://www.internationalsos.com/en/files/HealthRiskMap2015.pdf>

<sup>7</sup> The Shqipnewspaper, Dated 13.07.2015, P. 10

<sup>8</sup> The Panoramane newspaper, Dated 28.01.2015, P. 12. The Shqipnewspaper, Dated 06.02.2015, P. 15

<sup>9</sup> The Shqiptarenewspaper, Dated 19.02.2015, P.11; The Panoramane newspaper; Dated 09.02.2015, P. 21

<sup>10</sup> The Panoramane newspaper, Dated 19.01.2014, P. 19



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the violence perpetrated against them or withdraw the charges they had previously made, because they have no choice to further livelihood. In a case that happened in Lapraka, Tirana, where a woman was murdered by her husband, it was found that violence was perpetrated continuously against her. She had addressed the court with a petition for divorce, but that did not happen because her husband killed her, his mother in law and then himself<sup>11</sup>. Referring to cases of domestic violence, it is noted that they mostly occur in those families that are faced with economic problems. There have been also cases of violence perpetrated against men, such as the case was in the city of Gjirokastra where the wife hit her husband and caused his death.<sup>12</sup>

Often, the loss of life is a consequence of the failure to abide by traffic rules as a result of lack of awareness of citizens on how to obey these rules.<sup>13</sup> In this area, with all the measures taken, it is observed that there is an increased number of traffic violations, with serious consequences. Disputes over ownership have been another cause of violation of citizens' lives this year<sup>14, 15, 16</sup>, but killing for settling old disputes concerning drug trafficking<sup>17</sup>, or as a result of the large amounts of debt, are those that constitute the most numerous causes encountered regarding the violating the lives of people. However, we should mention the positive fact that the blood feud did not strike any victim this year. The parliament has adopted a resolution and recommendations on the blood feud, envisaging the restoration of the Coordination Council for Blood Feud, established in 2005. Also, educational and social programs are planned in rural areas where this phenomenon is present. Also, more in-depth investigations by state prosecutors and police are made on vendetta murders, and more efforts are made for conflict prevention<sup>18</sup>.

The right to life is violated also due to **the breach, or absence of technical and security conditions, mainly** in the mining, construction sites, hydro centrals etc., turning it into a phenomenon that is steadily taking lives of people. For this reason, AHC reacted publicly<sup>19</sup> underlining the fact that, for the prevention of such painful incidents ending in loss of life of employees must be taken the technical safety and labor protection safeguards, and constant checks on the operators of the field must be conducted, demanding more responsibility for the implementation of legislation in this area. We have noticed that such measures have been sporadic and ineffective. These actions are taken only when such events occur and when the health and life of humans is damaged or excessively endangered.

AHC is of the opinion that incidents of this nature, resulting in the loss of human life must be subject to review and analysis by the relevant structures of the state. Article 21 of the Constitution stipulates that: "*Life is protected by law*", while Article 55 stipulates that: "*citizens are equally entitled the right to health care provided from the state ...*" From this vantage point,

<sup>11</sup> The Shqipnewspaper, Dated 12.03.2015, P. 14

<sup>12</sup> The Shqipnewspaper, Dated 23.02.2015, P. 11

<sup>13</sup> The electronic newspaper Shqiptarja.com, Dated 17.03.2015, P. 10

<sup>14</sup> The electronic newspaper Shqiptarja.com, Dated 26.03.2015, P. 4

<sup>15</sup> The electronic newspaper Shqiptarja.com, Dated 14.10.2015, P. 12

<sup>16</sup> The Shqipnewspaper, Dated 18.10.2015, P. 15

<sup>17</sup> The Panoramane newspaper, Dated 02.10.2015, P. 9

<sup>18</sup> Progress-Rapport of 2015 of EC on Albania

<sup>19</sup> Press release "Another miner dies at work", dt. 30.06.2015



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the protection of human life is a fundamental task for the state. For this reason there has been developed an extensive legislation, but its implementation is not supervised enough. AHC has recommended that the authority of the Prosecutor for criminal investigation into these events, be more objective, holding legally accountable those responsible, and to prevent the recurrence of such violations.

**Trafficking and exploitation of persons for prostitution**, still remains a phenomenon of our society, despite the measures taken and controls done by the competent authorities. Based on the data obtained through the mass-media, there were cases of detention of groups that exploited prostitution, generally in bars or hotels (Elbasan, Tirana, Durrës, etc.)<sup>20</sup>. The report on human trafficking, of the US Department of State for 2015, states that: "*Albania continues to be a source and destination country for men, women and children subjected to sex trafficking and forced labor*".<sup>21</sup> The report provides some recommendations for the Albanian government, related to the investigation of criminal acts of trafficking, health care for victims of trafficking, to strengthen the capacities and control of the Police in Border Crossings, to increase the funds available to fight against this phenomenon, etc.

Violation of the right to life and health has affected younger age-groups. In schools where there have been physical altercations between teens for weak motives and in some cases criminal proceedings were initiated against them.<sup>22</sup> These cases point to the need for greater attention by management and teaching staff, to create a safer environment in schools in order to strengthen education in this regard, and to prevent these events.

### 2. RESPECT OF THE RIGHT TO ELECT AND TO BE ELECTED

On June 21, 2015 elections were held for local government bodies and AHC monitored the implementation process. These were the first elections for the appointment of mayors and municipal councilors in 61 municipalities, created by the administrative reforms of 2014.

In fulfillment of its mission, the OSCE / ODIHR monitored the electoral process and published their "*Final Report on Local Elections, June 21 2015*". In this process Report, it was stated that: "*Although there were obvious choices between a wide range of candidates and fundamental freedoms of expression and assembly were generally respected, the constant politicization of state institutions still persisted, which in turn undermined the effective administration of the electoral process. Overall, the Election Day was positive, but there were observed many cases of collective voting and some important procedural irregularities*". OSCE / ODIHR has made 23 recommendations related to: de-politicization of electoral administration, changing of the Electoral Code in regard to the complainants and the jurisdiction pertaining changes in the voter list, the guaranteeing of maximum secrecy of the vote, the repeal of criminal defamation provisions, the banning of broadcasting news footage produced by political parties, the removal of the general restrictions on the right to vote of persons with mental disabilities on case by case base, the increase of security and legal stability regarding the registration of candidates, the increase of the efforts of elective subjects and law enforcement agencies to "punish" the vote-

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<sup>20</sup>The Panorama Newspaper, Dated 22.01.2015, P. 13, The Panorama Newspaper, Dated 04.03.2015, P. 15

<sup>21</sup>The report on human trafficking, the US State Department, 2015

<sup>22</sup>The Panorama Newspaper, Dated 03.02.2015, P. 13



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buying practices, appointing members of the AMA in a way that enhances its political independence and impartiality, etc.<sup>23</sup>

Also, the politicization of electoral administration remains the main concern for the welfare of the electoral process also from the perspective of the European Commission, which in the Progress Report on Albania in 2015 considers that: "*The local elections of June 21, 2015 were held without major incidents. Doubts about the impartiality and professionalism of election authorities and the politicization of the overall electoral process, are still issues to be resolved.*" **Other recommendations of the OSCE / ODIHR have not yet been taken into account, including those on deepening of the impartiality of election committees, electoral campaign finance transparency and effective resolution of electoral disputes.**<sup>24</sup>

Regarding the quality of the elections of 21 June 2015, AHC in its monitoring report pointed out that it can be said that, generally, these elections marked **a step forward in meeting the standards of the Copenhagen Document**<sup>25</sup>, as they in some ways, can be considered better than previous elections. Improvements were noted in the following ways: *They marked better standards regarding freedom of vote, creating better opportunities for citizens to exercise their right to vote. They also fulfilled generally speaking, the standard of secrecy of the vote, and the equality of voters and their votes. Elective subjects were given the opportunity to present, without discrimination, lists of their candidates and campaigning in support for them, expressing freely their opinions and the programs they had prepared. The voters showed they have increased their understanding of the role they have in the voting process, they appeared more aware of the free exercise of the right to vote. The turnout was satisfactory given that more than 1 million voters live abroad. The voters were more willing to declare the pressure that was exerted upon them, concerning the manipulation or vote buying, despite that these declarations remained at the level of claims and there were no reports made to the competent authorities. Many of the candidates displayed a correct and calm behavior during the campaign, being distanced from aggressive and offensive language used sometimes, representatives of electoral subjects that had included them in their lists. The tone of communication of the representatives of political forces was somewhat calmer than in previous elections and therefore there were not recorded cases of serious incidents between militants. Voter lists marked further improvement, the presence of observers, domestic and foreign at the VC was welcomed in general, and they were not obstructed in performing their duties. The State Police continued to carry out its task with professionalism also in these elections. As a result of the establishment of the gender quota in the Electoral Code, there was a significant increase in the participation of women in local government bodies that emerged from these elections, but more care ought to be shown for the representation of minorities in the candidates' lists.*

However, AHC found that, despite the above-mentioned results, these elections also **highlighted a number of problems, some of which have also appeared in previous elections:** *Changes in Electoral Code were not made according to the identified needs and recommendations made by OSCE/ODIHR, or domestic observers. The few amendments were implemented not only late, but also without proper transparency nor public's involvement. The election legislation contains some problems that need to be amended such as: the restrictions on independent candidates, creating differences, or by imposing additional conditions on them,*

<sup>23</sup>For more information see "Final Report on Local Elections of 21 June 2015", the OSCE / ODIHR

<sup>24</sup>See "Progress Report on Albania in 2015, of the European Commission", p. 6

<sup>25</sup>Copenhagen's document of the year 1990, of the Conference on Cooperation and Security in Europe (OSCE)



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*which do not exist for candidates of political parties. Electoral Code is not clear about the possible limitations regarding the suffrage in elections for local government bodies, as expressed by its decision no. 40 dt. 16.11.2007 the Constitutional Court. The law does not provide the necessary guarantees so that voters can have an opportunity to learn about the qualities of the candidates, especially candidates for councilors; election administration, although at a more reduced level, showed again that the appointment of the members of the election administration only by parliamentary political parties, entails their political bias, and causes them to be biased and not to adhere strictly to the law. This form of selection of members of the election administration, denies the right of voters, as stakeholders of the electoral process to be represented in these bodies. The transparency of CEAZ's activity is very dismal, because there are no clear legal provisions that would oblige these authorities to make public their activities and to facilitate public participation in their decision-making. Not enough was made by the election administration and election subjects that full information be provided to voters on the merits of the candidates running for mayors and councilors of municipal councils. Claims for the criminalization of some candidates were not elaborated upon and therefore the voters were not given the opportunity to receive relevant information in this regard. There are still problems in the unification of case law concerning the examination of issues pertaining the suffrage as well as other issues involved in the electoral process. Court decisions are not always made public together with the reasoning of the verdict. In some cases, there were problems with the quality of the electoral materials that were made available to VCs on the Election Day. There remain unresolved some problems with the voting of voters residing abroad, of the workers performing specific tasks, far from the residence, on election day (such as the State police, etc.), of persons with disabilities and persons admitted to health care institutions. The local election results also this time were announced late, because the examination of complaints of electoral subjects, directed to the CEC and the Electoral College, took a long time. Domestic and foreign donors, with the exception of the US State Department, did not sufficiently support the independent domestic monitors.*

In order to improve the standards of the coming electoral processes, in the Final Report for the local elections of June 21, 2015, AHC has presented **19 recommendations**, which relate to the need for legislative amendments in order to guarantee the impossibility of manipulating of the voters, ban the use of the administration and of public funds in the election's campaign, the right of domestic observers to make written objections during the vote counting process, de-politicization of electoral administration bodies<sup>26</sup>, Electoral Code restriction on repeated running by Mayors, to facilitate voting by citizens with the right to vote but who live in emigration, improving the Electoral Code in order to strengthen the role of voters during the electoral process, etc.<sup>27</sup>

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

The right to property is the basis for building a functioning market economy, it is also one of the fundamental and subjective rights of the individual. According to democratic standards, the state should not hinder the enjoyment of this right, but ought to rather engage in concrete actions for its protection and further enhancement.

<sup>26</sup>Recommendations of the Final Report on the elections of 21 June 2015, the OSCE / ODIHR

<sup>27</sup>See *Final Report on Local Elections dt. 21 June 2015, AHC*



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In the Progress Report of the European Commission for 2015 on Albania, it is provided that: *"More efforts are needed to update and implement the strategy 2012-2020 for **property rights** and to complete the process of property registration, to ensure the implementation of court decisions and continue the process of restitution and compensation of property"*.

During 2015, AHC has ascertained an increase in the activity of the National Inspectorate for the Protection of the Territory (NIPT), through interventions in different parts of the country, for the demolition of illegal constructions (Tirana, Vlora, Pogradec, Lushnja, Shkodra, etc.). During these actions, there were numerous objections from affected citizens, who claimed that their constructions were in compliance with the law. Meanwhile, the legalization process is still underway by ALUIZNI concerning constructions that are in a similar situation to the demolished ones aforementioned.

The Property Restitution and Compensation Agency (PRCA) has issued 26,000 decisions of which only 862 were executed in part. At the current pace, this process will require a very long time to finish. In the state budget of 2015 was allocated an amount for the execution of the decisions of the ECHR, which had found cases of violation of property rights for the Albanian citizens<sup>28</sup>, but the government requested the ECHR a one year suspension of the revision of the decision for violation of property rights, since the cost of regulating the situation and payment of obligations is difficult for the state budget.<sup>29</sup> That court took not into account such a request, because the rate of restitution and compensation of property remains low. Conflicts of ownership are subject to a number of proceedings, often accompanied by accusations of corruption of public administration and judicial system. A large number of cases continue to turn to the ECHR alleging infringement of property rights by the Albanian state, after having exhausted domestic remedies, which did not provide a solution to satisfy the applicant. The annual budget allocated by the government has resulted insufficient and allows for the compensation of a limited number of prejudiced owners.

The government has drafted and approved a bill for the treatment of property and the finalization of property compensation process, which aims to accelerate this process through an effective and realistic scheme, planning a designated budget for this purpose. The law in question is challenged by the owners associations, who claim that their compensation cannot be made by cadastral land title at the time of expropriation, but on the basis of fair value and its current price.

A violation of the right to property is considered also the failure to register the estates obtained in accordance with the law, in rural areas of the coast in the south of the country. This situation hinders the development and the full enjoyment of property by the owners.

An unresolved issue is the housing situation of Roma, as well as that of other citizens with low incomes, whose illegal constructions do not meet the criteria of housing provided by the law on legalization, despite the fact that those constructions constitute the only residence for the families of these citizens. Consequently, dozens of families from these communities were

<sup>28</sup>The Shqip Newspaper, Dated 17.03.2015, P. 15

<sup>29</sup>The Sot Newspaper, Dated 06.05.2015, P. 7



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forcefully displaced from the area of Selita, from the park near the artificial lake in Tirana etc. Their displacement from central and local authorities was made without a preliminary detailed plan that would meet the needs of living and housing of these citizens. The competent authorities made a decision to offer free rent for a period of 2 years, which resulted an ineffective and not long term solution. The same, non-long term solution was provided also for the residents of the city of Vlora, because the area where they lived was affected by the construction of intersection connecting the Trans-Balkan road and Levan-Vlorë highway.<sup>30</sup>

#### 4. FREEDOM OF MEDIA

Freedom of media is closely related to freedom of expression, the right to information and expression of opinion. According to the report of the association "Reporters without Borders", last year Albania was found to be ranking 3 places higher than the previous year, in terms of media freedom, specifically the 82nd of 180 countries.<sup>31</sup> However, problems of this sector have continued throughout 2015.

The report of "Freedom House" organization<sup>32</sup>, about press freedom, concludes that in Albania, "media are powerful and quite diverse, however, they often exhibit a strong political bias and their reporting is influenced by the economic and political interests of their owners." According to this organization, the auto-censorship remains a serious concern due to the economic and political interests of media owners. Blogs and other online media, constitute the most reliable option in relation to the independence from certain political and economic interests.

EC also, in its Progress Report of 2015 for Albania, stated that: "*As regards freedom of expression, it was reported that another journalist received death threats after reporting a police drug operation. Due legal prosecution and court process needs to be ensured. Although rare, these cases remain causes for concern*".

There have been times when the media has abused its freedom by publishing quasi pornographic pictures. AHC has slammed such actions via public responses, stating that, although censorship on the media is not allowed, press freedom is not unlimited, it has limitations in cases of violation of privacy, social morality, or the education system of children.<sup>33</sup>

Meanwhile, employment of journalists without work contracts persist to be an issue, and so does also the problem of their lack of professional independence which affects standards of media and the correct and accurate information of the public. According to the report of "Freedom House", the economic crisis in Albania since 2011 has affected many of the funding sources causing delays in payments of worker's wages. It follows that "*... some journalists compensate their low wages with other sources of income which in turn can lead to conflicts of interest in their reporting.*" Union of Journalists has repeatedly listed the problems and difficulties faced by the majority of journalists in terms of their salaries, stating that only a very small number of visual and written media are professional in terms of timely payment of

<sup>30</sup>The Panorama newspaper, Dated 17.02.2015, P.14

<sup>31</sup>The electronic newspaper Shqiptarja.com, Dated 13.02.2015, P. 6

<sup>32</sup><https://freedomhouse.org/report/freedom-press/2015/albania>

<sup>33</sup>Press Release "The rights of citizens and journalistic ethics ought to be respected" dt. 02.10.2015, AHC



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salaries.<sup>34</sup> Regarding this problem, the Progress Report on Albania in 2015, of the European Commission, states that: "*Weak enforcement of the Labor Code for full-time and independent journalists, is a concern. Most journalists work without work contracts or have contracts that may terminate arbitrarily. Many journalists face delays in payment of their wages and /or social security unpaid years.*" AHC considers more worrying this fact, related to the stability and development of journalism, because it affects the growth of media freedom.

There have been cases when journalists are prevented, physically, to perform their task and get the proper information regarding special events, or are attacked or threatened<sup>35</sup> during or because of their work. AHC has reacted publicly also against such flagrant behavior<sup>36</sup>, calling the event of the threat of journalist News 24 a violation of freedom of expression. Protection of journalists requires complete investigation of these events, punishing those responsible and the ensuring of the freedom of the media.

In its report, "Freedom House" stated that the public broadcaster, RTV, is financially dependent on the state and usually prejudiced as pro-governmental. Only two private television stations have national coverage, whereas dozens of small television and small local radio stations, operate in a poorly regulated environment. The report states that no government restrictions on access to the Internet exist, which is accessed by 60% of the population, but access in rural areas remains limited. However, AHC expressed also previously its concern that RTSH, as a public media, funded by taxpayers, has to address issues of broad public interest, more than hitherto, by expanding its cooperation with the civil society, free of charge, for treatment of these issues. AHC considers that further investments in the field of information technology, not only will positively affect the economic development of the country, but will also help to ensure effective right to information through enhanced media coverage. Yet, we observe with concern the politicization of the management of this media institution and the obstruction, for political reasons, of the election of the Director General of RTSH.

In the EC's Progress Report of 2015 on Albania, a consideration worth mentioning is: "*some lawsuits cases have been reported with charges of defamation against journalists by public administration, but there has been no case of libel suits against journalists by politicians. Further efforts are needed to ensure proper implementation of the amendments on libel and guidelines on reparations at a reasonable level, especially through the training of judges and prosecutors. The new amendment in the Civil Code was proposed for more responsibility from the administrators of the news portals to filter comments that offend human dignity. This may impose unnecessary restrictions to freedom of expression.*"

### **5. RESPECT OF THE RIGHT TO DUE LEGAL PROCESS**

Well-functioning of the judicial system has been and remains one of the priorities of the AHC's work, because the activity of this power is essential to the consolidation of the rule of law and to guarantee the rights and freedoms of citizens.

EU, EC and other international bodies, consider that the administration of justice is slow and court decisions are not always executed. Independence of the judiciary is not fully guaranteed,

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<sup>34</sup>The Shqip Newspaper, Dated 04.05.2015, P. 10

<sup>35</sup> The Panorama Newspaper, Dated 16.06.2015, P. 13, The Panorama Newspaper, Dated 30.09.2015

<sup>36</sup> ma.ar/ed.meBalkanweb



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they say, and that the trust on judges and prosecutors is insufficient, as corruption in the justice system is considered *widespread*. Cross-institutional cooperation is weak and material and financial resources available to this power are deemed insufficient.

The EC has recommended that a new strategy be adopted for judicial reform and the action plan accompanying it, continuing with the process of inclusive consultation, drafting and adoption of necessary institutional, legislative and procedural measures, taking into account European standards and best practices.

In response to the foregoing there was established a Parliamentary *Ad Hoc* Committee on Justice Reform and a group of high-level experts (domestic and foreign) were commissioned to work in this direction, so that the process is not politicized. They prepared and presented, this year, an analysis of the current situation in the Albanian judicial system, as well as the needs for its improvement. On this basis it is adopted an action plan with appropriate recommendations. The third phase is related to the design, discussion and approval of new legislation. In fact, work has begun on drafting a package of constitutional changes, which were discussed at roundtables with experts and representatives of civil society and at the same time, the package is sent for a specialized opinion to the Venice Commission. The parliamentary opposition and one of the ruling coalition parties have made public the remarks about drafts drawn, while civil society has concerns about the depth of public information and the degree of the latter's involvement in this process. AHC is of the opinion that the judicial reform needs a broad parliamentary consensus and broad involvement of the justice system, but also that of the interest groups because justice is a service. Justice reform must also respect the principle of separation and balancing of powers and to pay special attention to raising the standards of respect for freedom and human rights.

Filling of vacancies in the Supreme Court and administrative courts, the expansion of the electronic system for unified management of litigation, as well as publishing all court decisions with the relevant reasoning, within a reasonable time, are among some other recommendations of Progress-Report addressed to the justice system.

### *a) Duration of Lawsuits*

A considerable number of complaints have reached AHC<sup>37</sup> concerning the functioning of the justice system, of which dominate the claims for unjust judicial decisions, delays in the judicial process or lack of secrecy of judicial administration. There have been cases of non-execution of final form court decisions by the bailiff or high state institutions, including the Supreme Judicial Council. 20% of the total complaints that have reached us, consist of claims for violation of individual rights from the operation of the justice system, particularly the courts.

During the monitoring carried out by the AHC it was ascertained that, often, judicial processes have been stalled due to the absence, in hearings planned and announced, of the prosecutor, defense counsel and, in some cases, the judge of the case itself. In general, it was concluded that judicial processes have continued to be held in judges' offices, which lack adequate space and conditions, thus violating not only the solemnity of the trial, but its publicity as well. In some cases it is observed an irregular behavior or ethics violations during the trial, such as the

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<sup>37</sup>Ranking second for the quantity with a total of 25 complaints.



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interruptions by the parties or their representatives, the use of phones by judges or litigants during the court sessions, violating of the impartiality of the judge towards the litigants, etc.

Within the evaluation of the standard "reasonable time", under Article 6 of the European Convention on Human Rights (ECHR), comparatively, of the selected countries, **Albania was shown to have the longest civil and criminal processes in Europe**<sup>38</sup>. This fact is influenced by long delays in trials of appeal and the ambiguity of the provisions of the Codes of Civil and Criminal Procedure in this regard. In the High Court are accumulated thousands of cases pending their trial despite having issues of high public interest, for which is not yet rendered a decision (court case of January 21, 2011).

### **b) *Free legal service.***

About 15% of the concerns addressed by citizens to AHC are related to requests for free legal services, particularly free legal advice, from convicted citizens, but also there have been cases of request for their court representation of their claims. They feel legally vulnerable and verifications on the spot evidenced a severe lack of orientation and addressing their issues for resolution.

The right to a lawyer in a criminal, civil or administrative trial, is an essential element of the right to due legal process. During 2015, AHC has received notice from various citizens pertaining different issues, mainly those who are deprived of their liberty, evidencing that many of them are unable to afford the costs for legal assistance from private lawyers. AHC and several other NGOs have continued to contribute in this direction, in the framework of support from various international donors, mainly the organization Civil Rights Defenders.

Also, it is found that lawyers appointed mainly by the court and the prosecution do not always carry out their task of defenders with high professionalism and efficiency. Another problem is the fact that the lawyer, primarily that of the defendants without sufficient income, is appointed by the prosecutor in the case, who is not interested that, during the relevant judicial process, to be confronted with a lawyer that is very proficient and in turn this relationship between the prosecutor and the lawyer gives room to cronyism. AHC was focused in 2015 on information and awareness raising of the defendants on their constitutional right to free counsel when they do not have sufficient income, and has explained to them the relationships they should be in with their counsel. However, the dissatisfaction of citizens who receive these services, continue to be numerous.

The Free Legal Aid Commission, for citizens in financial difficulties, which functions within the Ministry of Justice, in accordance with law no. 10 039 dated. 22.12.2008 "On legal assistance", as amended, has resulted inefficient and has lost the trust of citizens. Lack of budget and other sublegal acts necessary for the service has affected its dysfunction. Recently, EURALIUS mission in Albania in the framework of justice reform, has taken an initiative to draft a bill to amend the law "On legal assistance", for the normal operation of this service to the citizens in need.

### **d. *Deficiencies in the functioning of the judiciary***

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<sup>38</sup> Progress Report of 2015 on Albania, CE



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It is noted that the courts apply, massively the "Summary trial", even in cases when the offense is of very serious consequences for the state or citizens. So in the case of K.XH, who despite having been proven of having murdered four people, the court accepted, without hesitation, his request for an expedited trial. This raises the need to amend the Criminal Procedure Code or the need for a unifying practice for the courts and the establishment of clear criteria for the approval of the summary trials, in order to prevent favoritism when rendering the sentence of recidivists or those that pose a high social risk.

Another problem of the judiciary is the publishing of decisions by judges within the deadlines, hampering this way the access to justice and the exercise of the right of appeal for litigants.

High Council of Justice is not engaged enough with these problems concerning the functioning of the courts of Albania, but the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest has filed criminal charges against several judges of different instances for hiding assets or for false statement of income.

Well-functioning of the prosecution, its professionalism, independence and integrity of employees, are essential for high work efficiency in the prosecution bodies for holding legally liable the incriminated persons. In this regard, the General Prosecution has applied testing, with two stages<sup>39</sup> of its employees. There are conducted at least 2 tests this year, but there have still been claims regarding the procedures for the appointment and removal of key staff in the Prosecutor General and the transparency and impartiality of the process by filing the claim that the role of the Council of Prosecutors should be strengthened<sup>40</sup>. Initiatives being undertaken within the reform in justice, envisage also measures to improve work in this direction, in order to avoid possible political influence in the process of appointments, or during prosecution.

The procrastination of the investigative process remains a concern regarding the activity of the prosecution office, whereas the prosecutors themselves, submit concerns about the capacity of the investigative police, lack of auto-technician experts in the State Police, their absence at the scene of traffic accidents, and failure to timely administer the toxicological forensic.<sup>41</sup> Numerous remarks were addressed to the prosecution authorities regarding the processing and adjudication of senior state officials. However, in a statistical research of the activity carried out by the Prosecutor General<sup>42</sup>, it is claimed that, for the first half of 2015, for the offense of "abuse of office", the proceedings have increased by 75%, for the offense of "theft by abuse of office" increased by 69%, for the offense of "passive corruption from public persons" the registered proceedings have increased 5 times, for the offense of "passive corruption of judges, prosecutors and other officials of the judicial bodies", etc. have increased 2.5 times. However, this statistic does not reflect the dynamics of registered cases, because many of them were later dismissed. So, if we refer to the Report on Human Rights of the US Department of State<sup>43</sup>,

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<sup>39</sup> [http://www.pp.gov.al/web/Zhvillohet\\_procedura\\_e\\_testimit\\_per\\_9\\_prokurore\\_te\\_rinj\\_853\\_1.php#.Vlëj-tKrTGg](http://www.pp.gov.al/web/Zhvillohet_procedura_e_testimit_per_9_prokurore_te_rinj_853_1.php#.Vlëj-tKrTGg)

<sup>40</sup> Progress-Report of 2015 on Albania, of CE, p.53

<sup>41</sup> According to written media

<sup>42</sup> [http://www.pp.gov.al/web/Statistikat\\_6\\_mujore\\_Prokuroria\\_Shqiptare\\_forcim\\_luftes\\_kunder\\_korrupsionit\\_dhe\\_krimet\\_te\\_organizuar\\_819\\_1.php#.VlxA59KrTGh](http://www.pp.gov.al/web/Statistikat_6_mujore_Prokuroria_Shqiptare_forcim_luftes_kunder_korrupsionit_dhe_krimet_te_organizuar_819_1.php#.VlxA59KrTGh)

<sup>43</sup> <http://photos.state.gov/libraries/albania/10984/vangjelim/06242015HHRReportShqip.pdf>



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Progress Report of the European Commission in 2015 for Albania, the speeches by US Ambassador, Ambassador of the Delegation of the EU, etc., it is stated that politicians, judges, prosecutors and people with powerful business interests, often avoided prosecution. The prosecution has closed or refused to start procedures for senior official, with the exception of isolated cases, such as the request for trial against the former Minister of Education<sup>44</sup>.

AHC is of the opinion that the Prosecutor General should measure and evaluate its work not by statistical percentages, but with concrete results and blows it deals against the lawlessness and offences that are currently evidenced in the country.

With the proposal of the Council of Prosecution, Prosecutor General's Office has taken measures against three prosecutors, two remarks and a case was proposed to the President of the Republic<sup>45</sup>, dismissal of a prosecutor. Transparency, accountability, professionalism, integrity and independence of prosecutors are but some of the aspects in which the work in these bodies needs strengthening. On the other hand the necessary security prosecutors ought to be guaranteed. The threat to prosecutor of Durres District Prosecutor's Office, indicated by the media<sup>46</sup>, shows the need for investigation and prevention of such cases.

Despite that the Prosecutor's relations to other institutions seem fair, there have been cases of criticism, just as the Ombudsman and the High State Audit expressed reservations regarding denunciations that these bodies have made.

### ***6. RESPECT OF THE RIGHTS OF PERSONS DEPRIVED OF LIBERTY***

During 2015, AHC monitored the activity of the State Police at the police stations, detention centers and prisons in the country, and pursued with priority complaints of persons deprived of their liberty, which generally had to do with health care, transfers, prohibition of torture and inhuman treatment, preservation of physical integrity and safety of prisoners, living conditions, method of issuing leaves, etc. Despite the improvements of the work, consisting in increasing the capacity of the staff of these institutions, realization of investments for expanding and improving living spaces, in some institutions, AHC has found some serious shortcomings. It was found that there was a shortage of medicines; medical or sanitary staff, especially trained staff for mental health; delays and lack of provision of health services; cases of lack of security and protection of the physical integrity of prisoners, especially in the high-security prison of Peqin; the overcrowding in prisons and detention facilities; the use not according to legal criteria of isolation and observation rooms, accommodating there in ordinary prisoners; etc.

More than 20% of complaints that reached AHC were claims for conditions that are not in accordance with the standards of penitentiary institutions and violence perpetrated by the administration or other prisoners. Although in small numbers, there have been concerns raised regarding the tampering with their correspondence, or the arbitrary manner of monetary

<sup>44</sup>[http://www.pp.gov.al/web/Prokuroria\\_e\\_Pergjithshme\\_dergon\\_per\\_gjykim\\_kerkesen\\_ndaj\\_ish\\_ministrit\\_te\\_Arsi\\_mit\\_dhe\\_deputetit\\_Myqerem\\_Tafaj\\_834\\_1.php#.VlxLrNKrTGg](http://www.pp.gov.al/web/Prokuroria_e_Pergjithshme_dergon_per_gjykim_kerkesen_ndaj_ish_ministrit_te_Arsi_mit_dhe_deputetit_Myqerem_Tafaj_834_1.php#.VlxLrNKrTGg)

<sup>45</sup> The ShqipNewspaper. Dated 31.07.2015

<sup>46</sup> The electronic newspaper "Shqiptarja.com", November 11, 2015



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compensation of the work of prisoners and about half of these complaints are on the human rights violations by the prison/remand's administration. Also, referring to complaints that have reached AHC, it was shown that 22% of them refer to violations related to articles 3 and 6 of the ECHR, which have been the subject of several previous decisions of the ECHR.

AHC has sent to the relevant institutions, many recommendations and suggested measures in order for a better implementation the legislation in force. These recommendations have been generally welcomed. Institutions such as the Prime Minister, Attorney General, Ministry of Justice, the General Directorate of Prisons, the Police Directorate of Tirana District, penitentiary institutions and other institutions, have replied to us regarding the issues raised and we have been informed about the measures taken, or to address them in the near future. However, in many cases, some governance institutions have not sent any response to the recommendations of AHC, or the measures that were taken have resulted incomplete, which caused reoccurrence of the problematic situation.

Given the phenomenon of corruption in the penitentiary system and in order to increase transparency in penitentiary institutions of the whole country it has been established the Anti-Corruption Board at the General Directorate of Prisons (GDP).<sup>47</sup>GDP has developed an awareness raising and information campaign against the phenomenon of corruption in the penitentiary system, through which a significant number of prisoners and detainees were informed about the types of corruption appears in the penitentiary system.

Security at prisons was paid special attention by the GDP. Regarding this issue, the Director General of Prisons stated that "... were discovered over 80 cases in which family members of prisoners have attempted to smuggle in phones and SIM cards in prisons".<sup>48</sup>Internal Audit Service of Prisons, in its function as the structure that prevents, detects or documents the criminal activity committed by Police officers or civilian employees in the prison system, has been completely restructured and is also extended to all penitentiary institutions<sup>49</sup>, however, AHC suggests that these controls be made more frequently and that the fighting against the phenomenon of impunity in this system be boosted furthermore.

It should be noted that, during monitoring conducted by AHC in prisons, we have had a good cooperation with these institutions. GDP has signed cooperation agreements with AHC, offering cross-institutional cooperation, which continues to be positive, professional and in respect to the independence of the parties.

### ***c) Overcrowding, infrastructure and living conditions***

Although in 2014 were built several new penitentiary institutions such as the prison of Fier, and that of Berat, yet, the issues of poor and inadequate infrastructure for the treatment of prisoners in some of the monitored institutions such as the Special Health Institution for Prisoner (SHIP), the Prison of Kruja, the Prison of Saranda, Tepelena, the Prison in "Ali Demi" street, the Prison

<sup>47</sup><http://www.drejtesia.gov.al/al/newsroom/lajme/ritja-e-transparences-ne-ievpenale-ngrihet-bordi-anti-korrupsion-ne-sistem-penitenciar>

<sup>48</sup>The Shqip newspaper, Dated 27.04.2015

<sup>49</sup>The PanoramaNewspaper, Dated 02.06.2015, P.10.



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in "Mine Peza" street, Tirana, and the prison of Kukës, still persist. Unfortunately, the problem of inadequate infrastructure has also been noted in several relatively new institutions such as, the Prison of Fushë Kruja, the Prison of Durrës, Lezha and Peqin. Damp walls, poor hygiene, lack of beds, lack personal mattresses and clean beddings, lack of water supply 24 hours, are only some of the worrisome problems in some institutions such as, the Prison of Kruja, Peqin, the Institution of Vlora, Lezha, the Prison at "Mine Peza" street, the prison at "Ali Demi" street, etc. This situation has negatively affected the personal hygiene of prisoners. Particularly in the institution of Kruja in which are kept citizen suffering from mental illness and those for whom the court appointed medical measure "forced medication at a medical institution" the hygiene situation was very aggravated.

Overcrowding is still a serious problem that affects the treatment and safety in the prison system. Except the prison in the "Ali Demi" street of Tirana, in all other prison institutions there is overcrowding. Overcrowding during 2015 reached as high as 90% of capacity in several institutions such as the prison of Saranda. That of Tepelena etc.

Even according to the Report of the Mechanism for Prevention of Torture under the Ombudsman, the situation in prisons is worrying because, in some cases, inmates sleep in shifts, cells were damp and infested with insects, whereas toilets and kitchen out of the standards.<sup>50</sup>It remains a common conclusion that stricter penal policies by the ruling majority, led to a heightening of the prisoners' number for certain offenses such as illegal construction, driving without a driving license, illegal harvesting of forests, theft of electricity, which altogether caused an overpopulation of penitentiary institutions.

### **d) Health service**

AHC has paid special attention to health care for persons deprived of liberty, because of the serious consequences that can cause the lack of adequate treatment for the health and lives of these people. The Constitution, in its Article 55 & 1, states that "*Citizens are entitled, equally, the right to health care from the state.*" In particular, this right should be applied to persons deprived of their liberty because they are located, with obligation, under the responsibility of the authority of the state and due to their lack of freedom, cannot access, freely, the private health services. From persons deprived of their liberty, the AHC have received a high number of complaints related to non-provision of adequate health services. Lack of medicines, lack of specialized medical staff, lack of funds and equipment for visits and examinations, the annual insufficient budget of the penitentiary institutions are some of the most significant problems that AHC has found and addressed for solutions to the relevant institutions.

In October 2015, AHC raised concerns about guaranteeing the rights of prisoners in the institution of Kruja (Zahari), where it was ascertained an aggravated situation with regard to: health care, infrastructure conditions, overcrowding, lack of social activities, standards of hygiene, food quality, etc. For this aggravated situation and the fact that despite frequent recommendations, the situation had not changed, were notified the highest institutions of the state such as the President of the Republic, the Parliament, Prime Minister, Minister of Justice, the General Directorate of Prisons, etc. A group of members of the Sub-Committee on Human Rights, the Commission on Legal Affairs, Public Administration and Human Rights, joined us

<sup>50</sup> The PanoramaNewspaper, Dated 21.07.2015, P. 15



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to go in the field and to monitor the situation again. The findings, unfortunately were the same. In addition, the Directorate General of Prisons drew up a concrete plan for measures that should be taken in order to resolve these problems, regarding which they informed also AHC.

During 2015, in addition to the path of administrative intervention, to ensure adequate health care for persons deprived of their liberty, AHC in three cases used also judicial intervention tools, as follows:

***The case of F.Z.*** – This case is about the lack of health service delivery, which has caused the inhuman and degrading treatment of the prisoner F. Z. The fact that a surgical intervention he had needed from 7 years in one of his legs, was never granted, had caused suffering and worsening of his overall health condition and several body organs specifically. Therefore AHC, having communicated several times with the relevant institutions which had not provided the solution for the case, filed in the District Court of Kruja, a request to "*Ensuring appropriate medical services from the General Directorate of Prisons and the prison of Kruja and termination of inhuman and degrading treatment that results from the lack of this service.*" With the decision dated 10.03.2015, this Court accepted our request and ordered the termination of inhuman treatment (Article 3 ECHR) against F. Z. and the performing the necessary surgery on him, with funds from the state budget.

This case marked the first instance in the Albanian judicial practice in terms of adhering to the right to be protected from inhuman and degrading treatment, granted by the internal justice system, at the request of the victim.

***The case of M. I.*** - This person was serving his sentence in the prison in Lezha, but he was not being guaranteed adequate medical treatment for his severe health condition due to "B Cell Lymphoma" (skin cancer), he was suffering from.

AHC, based on the law, addressed officially the Ministry of Justice and sent a copy to the President, asking on behalf of and authorized by the citizen, the starting up of procedures for the pardoning of the remainder of his sentence, but received no notice of them. Meantime, this citizen turned to the court to demand his release due to his health condition, based on Article 478 of the Code of Criminal Procedure and AHC undertook to represent him in Shkodra Court of Appeals. With decision dated. 18.01.2015, this Court accepted the appeal of AHC, reversed the decision of the District Court of Lezha and ordered the immediate release from prison of M.I., 3 months prior to the expiration of the sentence, putting an end to the situation that created the conditions for inhumane and degrading treatment of the citizen and that end angered his life.

### ***e) Treating citizens with medical measures "forced medication at a medical institution" in the prison system***

During 2015, rather than decrease, the number of people with medical measures "*Forced medication at a medical institution*" instead rose to 164 people. These citizens, despite the fact that they have committed a criminal offense, having serious problems with mental illnesses, the Court has ruled that they undergo the forced medication. Unfortunately, these judicial decisions are not implemented in accordance with the court ruling, and many of them are for more than 15 years in the prison system (in SHIP -55 persons; prison of Kruja 109 people), where they cannot obtain the health services they need. In fact in Albania there is a lack of a dedicated institution for this purpose, as required under law no. 44/2012 "On mental health" but the prosecuting



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authorities, who are responsible for the execution of these court decisions have applied double standards to persons in such conditions and some of these decisions are executed at health institutions that are under the authority of the Ministry of Health and others under the prison. This situation creates discrimination, but also conditions for inhuman and degrading treatment of persons held in prisons, in conditions that do not meet their treatment by appropriate medical protocols.

Regarding this situation that is present for many years in Albania, and that has been heavily criticized also by international institutions, *in the case of the citizen A.S.*, AHC has opposed judicially, demanding the repeal of the Order of execution, issued by the Prosecutor of the District court of Tirana, in flagrant violation of the law. This case has been followed in Tirana District Court and Court of Appeal and is currently forwarded by recourse to the Supreme Court.

This situation is dealt with in the District Court of Tirana and with the request for termination of inhuman and degrading treatment, as well as termination of the restriction of personal liberty in violation of the law, but the District Court of Tirana and the Tirana Court of Appeal refused the request on the grounds that despite legal provisions, in our country there is not a special institution for this category of people. Thus, the court recognizes the deterioration of conditions and violation of the rights provided in the law of these individuals, because the state does not invest in the creation of special institutions, while in the country there are already some ordinary health institutions, for the treatment of mental illness. This issue will be referred to the ECHR, as it has created a broad and just practice in this regard.

Regarding the above-mentioned situation, AHC has filed two criminal charges, at the Prosecutor of Tirana District Court, seeking prosecution of the prosecutor and the Director of the prison of Kruja, that in violation of the law and ruling of the court, have wrongfully executed the medical measure "Forced medication on a medical institution", by placing the injured party in the prison system. Unfortunately the prosecution rejected the initiation of proceedings with the same reasoning, and did not treat the problem from the standpoint of respect for the rights and freedoms of this citizen.

### ***7. RESPECT OF FREEDOMS AND RIGHTS OF CITIZENS THAT ARE UNDER THE CARE OF THE STATE POLICE***

During this period, AHC has prudently followed also the activity of bodies of the State Police, which have scored positive results. Referring to the data of the State Police in 2015, it is shown that there has been an improvement of public safety as more severe blows are given to the cultivation, trafficking and trade of narcotics, the crime of murder decreased by 45%, there has been no case of blood feud, it is decreased the number of serious and light injuries, as well as that of armed robberies. Also, the State Police carried out with professionalism and impartiality its duties during the electoral process for local government bodies, and has increased by 24.5% cases of action on corruption cases in the office. However there have been complaints from citizens, of which we highlight those of violence during detention / arrest or accompaniment by the police. About 7% of complaints that reached AHC were of this nature. These complaints are related to obstruction of the right to organize a rally, submitted by some students, the use of violence during the moment of detention or accompaniment of some youth in Korça and Kavaja etc. AHC has signed cooperation agreements also with the Directorate General of State Police,



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which in all the visits we have conducted has shown full cooperation, appreciating the bilateral cooperation, as well as the recommendations, observations and trainings conducted by AHC in order to help improve the activity of the State Police and better respecting of human rights and freedoms of citizens.

Some of the main problems that can be mentioned regarding the State Police are cases of non-respect for the rights of persons deprived of liberty, allegations of corruption, as well as charges related to the quality of the investigation and performing the examination of the crime scene due to lack of laboratories and specific equipment to carry out these procedural actions<sup>51</sup>.

The monitoring and complaints showed that in police stations, there is still violence perpetrated against citizens that are accompanied by the State Police such as in Korça, Kavaja and Fushë-Kruja. Even in the media there were made public video footage depicting police officers exerting violence against arrested/detained or accompanied people. In one case, the violence was of that magnitude that it was necessary to hospitalize the citizen due to his aggravated health conditions. For this case, the Prosecutor initiated criminal proceedings against the deputy director of District's Police, who to begin with, was later suspended from duty<sup>52</sup>. AHC has reacted<sup>53</sup>by requiring from law enforcement authorities the condemnation of these cases, considering these acts as containing elements of torture or inhuman and degrading treatment.

The case of the protest of some citizens from Kukës, who sought the canceling of debts and interest on unpaid bill of electricity escalated to physical clashes between protesters and police, with one police officer pointing his weapon at the protesters.<sup>54</sup>AHC has reacted, again publicly<sup>55</sup>for this case, condemning the violent breaking up of the protest and required administrative and criminal measures against those responsible for that violence. The Minister of Interior Affairs, reacted immediately and announced the suspension from office of the Head of Crimes Department in Kukës Police Station, for arbitrary acts and devolution.<sup>56</sup>Similar cases of taking disciplinary action, occurred also at the Police Station no. 3 and that no. 4 of Tirana, at the Elbasan Police Station, etc.

Referring to the monitoring conducted by the Albanian Rehabilitation Centre for Trauma and Torture, a non-profit organization that operates in monitoring the closed institutions, it was found that violence is perpetrated against persons with mental retardation in detention and in police stations. In its report, the Center states that *there are identified flagrant cases of abuse or degrading treatment of people with mental disorders of the categories "abandoned" and unidentified*.<sup>57</sup>Based also on the monitoring results from the local organization Tirana European Institute, it was shown that the absence of the psychologist in the detention premises

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<sup>51</sup>The Panoramane newspaper, Dated 24.04.2015, P. 12.

<sup>52</sup>The Panoramane newspaper, Dated 24.02.2015, P.13.

<sup>53</sup>Press Release "We condemn the illegal violence of police in Korça" dated.23.02.2015.

<sup>54</sup>The Shekulline newspaper, Dated 05.05.2015, P.10.

<sup>55</sup> Press Release "Police violence against protesters is unacceptable", dt.05.05.2015.

<sup>56</sup>The Ditane newspaper, Dated 06.05.2015, P.10

<sup>57</sup>The Shqipne newspaper, Dated 09.02.2015



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*of citizens has led to aggravation of their psycho-physical condition. Inter alia was ascertained a lack of the basic conditions and the lack of mastering by the staff of the legislation regarding the treatment of persons arrested and detained in the premises of the State Police.<sup>58</sup>*

AHC welcomes the fight of the structures of the State Police against the cultivation and trafficking of narcotics, and that for the period January - September of 2015, reportedly, the police authorities had destroyed 650 thousand cannabis plants, worth 7 billion euro.<sup>59</sup> During these actions, a policeman of police special forces RENEA was gunned down in Lazarat, Gjirokastra. AHC condemned the serious criminal case, expressing its support to the State Police forces and urged the citizens to show understanding and cooperation in the fight against crime<sup>60</sup>, as well as called for better measures on protecting the lives of police officers.

A problematic case of the police stance was that of police action against student activists in early November 2015, where demonstrators threw eggs against the Prime Minister, and where there was allegedly violence by police.<sup>61</sup> In this case, the Ombudsman was obstructed by the Tirana District Police Directorate, in monitoring the situation of accompaniment and treatment of protesters,.

During 2014, the governing majority launched a legal initiative to further strengthen the role of the State Police, but the Constitutional Court repealed as unconstitutional in 2015, articles of law no. 108/2014, on "State Police" in connection with the National Bureau of Investigation. According to the Court, there was not a clear division of powers between the Prosecution and the National Bureau of Investigation (as part of the State Police).

### **a) *Infrastructure and living conditions in areas of accompaniment and detention***

By monitoring the police stations, it was noted a commitment of the authorities to improve the physical condition of the accompaniment/detention premises. Thus, the premises at some police directorates such as that of Durres, Tirana, Tropoja, Fier, etc. were renovated, But the premises of police stations in Gjirokastra, Korça, Durrës, in the Police Directorate of Tirana and that of Lezha, remain in the minimum standards, while the situation in the remand facilities of the police departments and police stations in Saranda, Kukës, Berat, Lushnja, Shkodra, Vlora, the Police Stations no. 1, no. 3, no. 4, no. 5 and no. 6 in Tirana, do not meet any of the standards for treatment of accompanied and detained people by the police.

Detention rooms in these institutions were cramped without sufficient natural or artificial lighting, with no ventilation, no sufficient toilets and without suitable hygienic conditions, with old and dirty mattresses, and in some cases, without personal beds. These conditions have elements and can lead to inhuman / degrading treatment. None of the persons detained / arrested consulted during monitoring had had the opportunity to take a shower while in police custody.

<sup>58</sup>The Panoramane newspaper, Dated 20.01.2015, P. 12

<sup>59</sup> The Shqipnews newspaper, Dated 15.09.2015

<sup>60</sup>Press Release "We condemn the serious criminal incident in the village of Lazarat", dt.25.06.2015

<sup>61</sup> The newspaper Panorama, Dated 04.11.2015, P. 9



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In some cases, it is ascertained the infringement of the right to be informed and become acquainted with the rights that the law guarantees for this category of persons.

It is also found that, although there is a Memorandum of Understanding between the Directorate General of Prisons and the General Directorate of State Police, there is still a lack of cooperation between these institutions and the transfer of persons detained by the police, in prisons or detention is delayed, exacerbating the situation of treatment of this category of persons.

***b. Respect for the rights of the accompanied, detained and arrested in the act, while kept at the premises of the State Police***

Respect for procedural guarantees about the legal rights of citizens in police premises, is an important moment in the framework of respect for the rights of these citizens. Based on the monitoring of police facilities, in 2015, we found cases where these procedural rights are not respected. The reasons for such violations are diverse, but often they stem from the old mentality of the dictatorship time that justifies the violation of citizens' rights and the use of methods of physical violence, aiming hereby to achieve results for the detection and combating of crime. This mentality, despite it being not widespread, should be fought and changed.

During this period, there have been many complaints about illegal actions of the police or violence during arrest or detention procedures. Within the total complaints that AHC received, this issue constitutes 8% of them.

AHC monitored the case of physical violence perpetrated by some police officers of the Kavaja's Police Station, during the apprehension of two citizens that had been in the wanted list of the police, as they were suspected as perpetrators of an offense. Disciplinary measures were taken against the police officers involved in the incident, specifically: "suspension from duty until the completion of criminal investigations" and had started criminal proceedings against the Chief of the Section of Public Order of the Kavaja Police Station, for the crime "Committing of arbitrary acts".

During 2015, AHC followed up on the case of X. T., a citizen who was physically violated by the police officers of the Erseka Police Station, during his detention in this police station. Lawyers of AHC officially followed up all stages of the investigation by the District Prosecutor's Office of Korça to bring the case to trial in the District Court of Korça.

Although we are still skeptical about the accuracy of the qualification of the offense of the authors in this case and the sentence imposed, nevertheless, it is positive that the decision dated 13.01.2015, by Korça District Court, declared guilty the police officers for exercising physical violence against the detained citizen.

It should also be brought to attention also the finding of inappropriate treatment of mentally ill persons that are accompanied and kept at police stations. AHC has identified the need for not only a differentiated treatment, towards the mentally ill that disrupt public order, in accordance with their specific needs, but also better cooperation with their caregivers and the relevant health institutions, while their rights as human beings are being respected.

***c. Respect for human rights in Border Crossings***



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In January 2015, AHC conducted monitoring of treatment conditions and the respecting of the rights of foreign nationals who illegally cross the Albanian border, destined for European Union countries. AHC conducted a number of monitoring in 8 border crossing points (BCP) with Greece and Macedonia, namely border crossings Tre Urat and that of Qafë Botë (Saranda), Kakavija (Gjirokastra), Pustec, Kapshticë and Gorica (Korça), Tushemisht and Qafë-Thanë (Pogradec). In some of the premises of these border crossings that serve for the accommodation of persons, there were shortcomings in terms of the necessary conditions for heating, electricity, running water, appliances, beds, funds allocated for food etc. Regarding the food supply, it was found that it was provided them with the expanses of the border-crossing's staff or on their own expense.

Regarding health services, it was found that when needed, this service was provided by the nearest health center to the border crossing point or at the regional public hospitals. In general, the staff of these institutions did not include a *doctor or a psychologist*.

It was found that foreign nationals who crossed illegally the border into Albanian territory, were not examined at the border crossing point in terms of their health condition, except when such a need was very obvious. These border police structures did not possess a guide, prepared by the specialized health bodies, on how to identify and treat the infectious or epidemics diseases. There was a lack of special protective gear such as face masks, special clothing, etc.

In most of the monitored border crossing points, introducing the foreign citizens to their basic rights under the ratified conventions, the RA Constitution and laws, was not made. Only in a few of them were displayed posters or billboards, which contained a list of these rights.

In some BCP, generally speaking there was a lack of female staff and for the body-check of women who were apprehended at these points, were utilized women who performed other civil tasks, such as janitors etc. Finances and logistics on several BCPs were lacking in terms of the vehicles for the transport, communication devices, electricity, fuel, electronic equipment, office supplies, etc.

We bring to attention in this report that in 2015 the troubling phenomenon of Albanian citizens leaving to some EU countries like Germany, the Netherlands, France, etc. where they sought asylum, aggravated significantly. European governments have repeatedly stressed that Albania, just like all other Balkan countries, is a safe country of origin and asylum applications from citizens of these countries will not be granted. However, the substantial influx of Albanian citizens who have sought asylum indicates the lack of effective actions from the part of the authorities of the Albanian government to prevent the situation, a low level of awareness of citizens and the absence of objective research of the phenomenon in order to build policies that would stop this flow that is draining away from the country mainly the youth.

In June of this year, AHC conducted a monitoring at border crossing points of Tirana and Durrës for the observation of movement of Albanian citizens to the Schengen area, as well as the respect of the EU's free movement, ratified by law No. 9815, dated 08.10.2007 "On the Ratification of the Agreement between the Republic of Albania and the European Community, to facilitate the visa regime." In some cases, we have witnessed abuses by the staff of the border



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crossing points, as the documents and formalities required were beyond the criteria adopted in this Agreement, thus violating the right of free movement.

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

The Commissioner for Protection against Discrimination (CPD) has increased its activity in 2015, but on the other hand it is found that citizens are becoming more and more aware in this regard. Different NGOs, who have the mission to protect the citizens of the most vulnerable categories have helped these categories of persons to seek protection of the right to non-discrimination to the Office of the Commissioner, or the relevant courts. These documents include cases of initiatives undertaken by the Centre for Legal Civic Initiatives, in Tirana, which has supported many women who have allegedly been discriminated against, those of the organization the Albanian Foundation for the Protection of the Rights of Disability, in Tirana, which has helped people with disabilities to seek putting an end to discrimination, or of other organizations that operate in the protection of Roma and the LGBT community. Despite the results achieved, there is room for improving the work and specifically we mention the need to improve legislation regarding the "*burden of proof*" that the law be approximated to the EU standards. Below we discuss some findings regarding discrimination against different communities of citizens. Individuals who because of certain personal qualities of their own, belong to the most vulnerable, need special protection from the state in this regard.

#### ***a) Respect for the rights of women and the prohibition of gender discrimination***

Despite the fact that the Constitution provides that children and mothers enjoy special protection from the state, in many cases it is found that this obligation does not apply in practice.

According to the study on the situation of discrimination against women in Albania<sup>62</sup>, conducted by the CPD with a contribution also from AHC, it is stated that "*One of the most serious violations of gender equality, is violence against women.*" Through this paper, the CPD has raised some concerns wherewith the women in Albania are faced, among which also the domestic violence. The population-based national survey, showed that the "*Domestic violence in Albania*", affected about 59.4% of women (*more than 1 in 2 women*), which are said to have suffered domestic violence during family life in marriage or intimate relationships, and that 53.0% of women (*approximately 1 in 2 women*) were currently experiencing domestic violence (*within 12 months prior to interview*). Referring to the data of the Ministry of Justice for the period, 2012-2014, there is a considerable increase in crime of "*domestic violence*". In the statistics of the General Directorate of Police, it is shown that during the first six months of 2015, there were 5 cases of women victims of the crime of murder in the family.

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<sup>62</sup> <http://kmd.al/skedaret/1448456514-studimi.pdf>



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EC also stated that: *"The number of prosecutions for domestic violence has increased. The courts have begun to prosecute domestic violence cases more effectively, especially in Tirana. The number of national shelters and reintegration services, needs to grow, and existing volunteer shelters are yet to be supported by the authorities"*<sup>63</sup>. However, despite developments in the Criminal Code and administrative and civil law, effectivity in implementation of legislation against domestic violence, needs to be strengthened even more. It calls for a higher public awareness, to eliminate this phenomenon and educational and the media institutions ought to treat extensively the phenomenon, emphasizing the fact that such phenomena and behavior does not comply with the principles of democratic and civilized society.

According to the Survey cited above, *the women are faced also with discrimination in their labor relations*. CPD found direct and indirect discrimination due to gender, by public administration bodies, but also by private entities. In the area of goods and services, the CPD has found also, that *women face inequality and forms of direct and indirect discrimination*. This area constitutes the basis of the greatest number of complaints that have reached this organization.

Only 14.4% of companies with 50 or more employees, are managed by women, with the highest concentration in terms of female CEOs in the capital of the country. Whereas, to increase political representation of women, in April 2015 were approved some amendments to the Electoral Code, ensuring gender quota to the level of 50% for female candidates as a condition for receiving the lists of candidates for municipal councils, with the refusal of lists that did not meet this quota. This led to the improvement of respect for gender equality in municipal councils, following the election of the 2015, but much remains to be done in terms of executive functions both in the central government and local governing authorities, as only 9 women were elected as mayor in 61 municipalities in total, while the National Parliament has in its composition only 21% female members.

### ***b) Respect for the rights of persons with disabilities***

Another category that deserves special attention is that of persons with disabilities. Their non-discrimination and integration in the community is a common task and mission of both state authorities and civil society, enabling access to this category, in social life and granting the space needed for education and employment. As far as schools are concern, there is a persisting problem with the integration of children with disabilities, due to lack of funds or relevant associated infrastructure, or barriers to the enrollment of some minors with disabilities.<sup>64</sup>Persons with disabilities continue to face difficulties in education, employment, health care and social services. Their representation or involvement in decision-making, is still at low levels.

Despite the approval of the use of sign language in the visual media, for people with hearing disabilities, state institutions have not yet brought any improvement. AHC considers that such

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<sup>63</sup>Progress Report on Albania of 2015, the EC, p.60

<sup>64</sup> The ShqipNewspaper, Dated 14.09.2015.



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cases that are made public also by the media<sup>65</sup>, such as that one in the Municipal Unit no. 11 in the capital, where more than 1,600 disabled persons, for two months had not received the payment of disability, should not be allowed to be repeated. To ensure this, such cases ought to be analyzed with responsibility and must be accompanied by punitive disciplinary measures for those responsible.

### *ç) Non-discrimination of the Egyptian, Roma communities*

In the scope of the principle of non-discrimination and protection of the rights of Roma, Elbasan Municipality has started to implement the project of the Ministry of Urban Development and Tourism for the reconstruction and construction of 25 houses of Roma in the city. AHC appreciates such initiatives, but remains a concern the transparency of the scoring system that is used in order to obtain social assistance, which is highlighted also by the Ombudsman in his report.

A positive fact has been also the increase of the budget for community housing and providing Emergency Transit Centre in Shish-Tufinë, Tirana, within the project "Support for Social Inclusion of Roma and Egyptians" of the European Union.<sup>66</sup>

However, AHC deems it insufficient for the finding of a final solution for all those in need. In some areas of the country, besides the subsidizing of the rent for a two-year period, most families have not received assistance to find a new residence, adapted to their specific needs. AHC has processed complaints by Roma in Elbasan on this issue by addressing the problem to Social State Service in Elbasan.

According to the Ombudsman, the rights of Egyptian and Roma communities in Albania were violated also in 2015 and the issue of integration of Roma into society remains unresolved. The legislation recognizes and guarantees them formal equality with the rest of the population, but the reality denies them the essential equality.<sup>67</sup> Despite the measures taken over the years, the situation has not undergone qualitative and significant changes in terms of the livelihood of these communities. They face a number of vital issues such as, wandering from one place to another due to the lack of a stable residence, begging on the streets because of unemployment, evictions from their makeshift homes, lack of education, trafficking, physical and psychological abuse, difficult living conditions, lack of healthcare, lack of social protection, low employment, lack of adequate housing, etc. Improved legal and institutional framework set for the registration of births of Roma, did not yield the intended results. The problematic registration and identification of this community, in general, was evidenced also by the AHC in the pre-election period, in several cities of the country, which resulted in their involvement in the voter lists.

Trafficking of children or forced labor should be better addressed with preventive measures and punishment for those responsible, as the case is of a mother forcing her child to beg in the city of Tirana.<sup>68</sup> Maximum attention should be given to raising public awareness and to the members of Roma and Egyptian communities themselves on the importance of education for children.

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<sup>65</sup> The ShqipNewspaper, Dated 11.05.2015, P.10.

<sup>66</sup> The PanoramaNewspaper, Dated 14.07.2015, P. 9.

<sup>67</sup> The Telegrafnewspaper, Dated 09.04.2015, P. 3.

<sup>68</sup> The PanoramaneNewspaper, Dated 24.03.2015.



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### *c) Prohibition of discrimination of LGBT*

During this year there were no cases of violence or serious violations of life and health of persons belonging to the LGBT community, however the awareness of the general public regarding the specifics of the citizens of this community, remains low, due to the taboos that exist and the minimal treatment of the problem at a social level. It is noteworthy that on May 7, 2015 the National Parliament adopted the Resolution<sup>69</sup> for the protection of the rights and freedoms of persons belonging to the LGBT community, which should be accompanied by concrete action plans, with legislative changes and other organizational measures that would enable the protection of the community against discrimination and violation of rights.

LGBT community was organized also through its own organizations that are increasingly better protecting their rights as citizens. It is worth noting the establishment of a shelter, which is managed by the community itself. Also, it is noted with satisfaction the cooperation and support that this community receives from the rest of civil society. A good cooperation has begun between NGOs of LGBT community with the State Police authorities and media institutions.

EC stated that "*Discrimination against transgender and cross gender persons should be removed from the legislation*"<sup>70</sup>. Local organizations that defend the rights of these people have been constantly seeking changes in the Family Code, to guarantee the right to family or the regulation of the co-existence institution to enable also members of LGBTI community persons to legally coexist with one-another.

During 2015, the AHC has received only one complaint and request for legal assistance from the community. The complaint related to alleged discrimination of a person from Fier, who was living in a shelter in Tirana, but at the same time was wanted by the police. AHC carefully followed the case and the claim resulted not true.

### **9. INFORMATION, INVOLVEMENT AND PARTICIPATION OF THE PUBLIC IN PUBLIC MATTERS**

**The right to know the public information** is regulated by Law no. 119/2014 "On the right to information", which was adopted in September 2014. This law appoints the Commissioner for Freedom of Information and Protection of Personal Data with supervisory and monitoring duties and powers, and to impose sanctions, to the persons responsible for the violation of this right.

In the monitoring of the "Respublika", the findings of which were released in December 2015, it is ascertained that in general, the new legislation is more efficient than the previous one and that the information already required by citizens is released faster. Also there is a growing demand for information from the public administration and that it is released faster. Also it is evidenced an active role of the Commissioner for the Right to Information and Protection of Personal Data and the Ombudsman, which are two public structures operating in this direction. However, public institutions generally are lacking the transparency programs or they are not compliant to the legally required standards.

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<sup>69</sup> [http://www.parlament.al/web/pub/projektlgbt\\_22320\\_1.pdf](http://www.parlament.al/web/pub/projektlgbt_22320_1.pdf)

<sup>70</sup> Progress Report on Albania of 2015, p. 61.



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During 2015, the AHC received complaints (7% of the total) concerning the violation of this right, especially by prisoners. During the implementation of this legislation is deemed necessary its **amendment in two respects: first, the imposition of sanctions for the heads of institutions who do not appoint coordinators for information and, secondly, the need to establish mechanisms that will serve to execute the decisions of the Commissioner for Freedom of Information and Protection of Personal Data.**

In the scope of increasing public participation in matters of interest to it, AHC, and other not for profit organizations and various interest groups, have continued to provide critique against legal acts and regulations, which were created in 2015, among which we mention the amendments to the Criminal Code, the Family Code, the Labor Code; Law no. 8328, dated 16.05.1998 "On the rights and treatment of prisoners and detainees," as amended; Draft law "On Internal Control Service in the Ministry of Justice"; the General Regulation of Prisons; draft law "On the protection of whistleblowers", and many initiatives undertaken in the context of judicial reform and beyond.

It is worth to mention the expertise offered to the bill "On the rights and treatment of prisoners", where proposed changes exceeded the proportionality of restrictions and affected the core of the rights. AHC's remarks and recommendations were taken into consideration by parliamentary committees to a large extent. The bill in question, after being discussed in committees, was withdrawn for reconsideration.

Regarding changes to the Criminal Code, there is a tendency of stricter sanction of imprisonment in areas such as construction, tax evasion, customs, for which civil society has expressed criticism because other means of educating citizens for the fulfillment of obligations under the law are being underestimated, and they create overcrowding in prisons and increase public spending for prisons and detention services.

About the changes in the Labor Code, AHC has suggested amendments consistent to standards of the Directives of the European Parliament and the Council of Europe, aiming that employees are equally protected and work on equal terms with those who sanction these directives.

In early November 2015, the government launched a legislative initiative to amend the Criminal Code criminalizing defamation against senior state officials, and sentences of up to 3 years of imprisonment for any offender to this provision. AHC was officially declared against the initiative, arguing that in such cases priority must be given to the civil judicial remedies in order to restore the damaged reputation. This opinion is supported by the jurisprudence of the ECHR and the constitutional practices of countries with a consolidated democracy. After the discussion in the parliamentary committees, the government withdrew from this legal initiative.

AHC and civil society organizations are closely watching the developments within the Reform in the Justice system, where AHC, inter alia, has been invited to contribute to the process of discussion and adoption of constitutional and legal amendments. Our organization has participated in several round tables held by the Parliamentary Committee *Ad Hoc* and the Ministry of Justice in this regard and expressed opinions and recommendations, while keeping in its focus the strengthening of safeguards for the respect of human rights and freedoms. However, there is still one aspect of formal public consultation concerning legal initiatives, especially at the level of the executive power which takes most of the initiatives in this



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direction. Parliamentary committees prefer that civil society and stakeholders submit in writing the comments and recommendations on the draft, but it is ascertained that they are not taken that much into consideration, while on important issues such as electoral legislation, decriminalization of higher bodies the government and the constitutional changes, which represent the primary vital interest to the general public, the politics tends exclusion of the public consultation.

### ***10. RESPECT FOR THE RIGHT TO ORGANIZE AND FREEDOM TO RALLY***

*According to the Progress Report: "The country has reached a certain level of respect in terms of freedom of expression." Over the past year there is some progress made towards expression and appreciation of the public towards policies that enforce the state authorities. The report further states that the Constitution and relevant legislation is in accordance with international law on human rights, guaranteeing individual freedoms. The conditions, in general, are largely favorable to the exercise of freedom of expression, but a better implementation of legislation is needed. Freedom of assembly and organization is respected in general. A number of peaceful protests and political demonstrations took place without causing major incidents."*

In November 2015, in a university premise, as we mentioned above, the Prime Minister was hit with eggs by some students that belonged to the Movement for the University. Immediately some of them were accompanied by the police and prosecution procedures were initiated while they were not kept detained, for the offense of "The contradiction of the police officer". Some of the students have claimed that violence was exerted against them and therefore complained to the Ombudsman and AHC. They underwent a forensic expertise to validate their claims of suffering violence, while they have claimed that in making the statements in Tirana's RPD, physical and psychological violence was exerted against them. They were also prevented to access and to enjoy medical examination.<sup>71</sup>

The case of the protest of some citizens from Kukës, also shows that not all police officers have the right understanding concerning the right of public manifestation that citizens enjoy.

Progress has been made regarding the right to organize, in terms of its exercise, as well as from the standpoint of freedom of action of NGOs. According to a research conducted by the organization "Partners Albania" it is ascertained that freedom of organization is guaranteed to everyone and practiced, generally freely without significant intervention control by the state authorities. The activities of civil society organizations is widespread in the country, although it is noticed a greater concentration of it in Tirana, and has been extended in various areas of social interest such as problems of youth, women and children, problems of culture and education, social services, environment, health, strengthening of democracy and the rule of law, etc. Yet, the problem remains with the funding of these organizations. Generally speaking they are still dependent on international donations and the state has not made all the necessary legal arrangements to facilitate the sector's fiscal obligations. Funding provided by the Commission for the Support of Civil Society were not sufficient and is accompanied by doubts and discussions from the applicant organizations, that question the correctness of the procedures of founding's approval. The parliament passed the law creating the National Council of Civil

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<sup>71</sup> The PanoramaNewspaper, Dated 04.11.2015, P. 9.



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Society, without taking into consideration the remarks of the EU delegation, the Ombudsman and local civil society, as well as the legislation in force, does not appear that the involvement and public consultation to be implemented effectively. In general there is a need of a more constructive communication between civil society organizations and state authorities. NGOs that provide social services in favor of people in need, should be better involved and funded by central and local government, by inviting it to participate in the public bidding held in this area.

Finally, we emphasize the need for a revision of the law no. 8788, dated 07.05.2001 "On non-profit organizations" in the part about the deregistration procedure of the NGOs, because they are complex, costly and unaffordable by these civil society structures. Consequently, many NGOs have effectively discontinued operations, still result functional from the formal aspect, which gives the people who possess a copy of the decision of registration of these organizations, the opportunity to abuse with it, as they can use that for personal gain purposes. In an USAID ranking of the civil society organizations in Albania was noted that despite improvements, the reputation of NGOs has declined due to several cases of abuses that had made some leaders of these organizations. The Minister of Social Welfare and Youth, that has competences in this regard, should be more attentive to prevent or crack immediately the manifestations of such behavior, along with the community of NGOs which ought to take more care, for maintaining its reputation in the eyes of public.

### ***11. RESPECT OF THE RIGHTS OF MINORS***

During 2015 was ascertained a good effort on the part of the Ministry of Social Welfare and Youth, Ministry of Education and the NGOs operating in this field, to handle carefully the rights of minors and to avoid phenomena causing the infringement of their rights. Initiatives have been undertaken to develop specific strategies and programs, particularly to avoid the dropping from schools, to combat trafficking and the employment of minors, or the use of them for begging. Alo 116 hotline, set up by an NGO, has helped juveniles to obtain the necessary psycho-social counsel and to denounce the violence suffered at school, street, or family. There have been positive initiatives for the registration of minors of Roma families, and to include more children of this community in the education system.

Referring to data presented at a joint UNICEF, "Save the Children" and the Coalition for Children's Education conference, it was shown that, for the academic year 2014-2015, there were registered more Roma citizens in the pre-university system compared with last year. Specifically there have been registered to school 5766 Roma children, and have benefited free textbooks about 3219 students of this community.<sup>72</sup> This fact is quoted also in the Progress Report of the European Commission, of 2015, on Albania, which states that: "*Inclusion of Roma children in the education system has been improved; however, enrollment and dropout remains a serious problem: 42% of Roma children attend pre-school (3-6 years) education, but only 16.1% complete primary education, 2.1% have completed secondary education and only 0.3% have a university education. 40.3% of the Roma population is illiterate.*" However, these results are not sufficient and more work needs to be done specifically and individually for the

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<sup>72</sup> The Shqip newspaper, Dated 25.03.2015, P. 14.



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protection of children's rights. AHC considers necessary the adoption of the National Action Plan 2015-2020 of Roma and Egyptians, to enable the acceleration of the process of their integration in the same way with the rest of society.

Cases of incest in the family are, by all means, the most serious expression of discrimination against minors in 2015. The situation is worrying, because the children, being a vulnerable group, and lacking the necessary maturity to cope with and fully understand this abuse, are faced with confusion and fear about whether or not to disclose the sexual abuse suffered. Such events, as the case in which the father sexually abused his two daughters when they were minors<sup>73</sup>, the rape for 3 years of minor niece<sup>74</sup>, rape of the two minors from an elderly person<sup>75</sup>, the cases when minors are forced to drop school because of sexual harassment by adults<sup>76</sup>, etc., that the media have brought to the attention of the public, shows that this phenomenon needs to be researched and fought with concrete appropriate measures.

The increase of the involvement of minors in criminal activity and the increase of cases of their recidivism, are another concern that calls for a review of all forms of education and rehabilitation of this category of minors. According to a study of "Save the Children", presented on 20/11/2015, it is shown that the rate of increase of offenses by juvenile offenders for 2013-2014 is 12% and that their education in the penitentiary institutions, or regular education, is not carried out effectively. This fact, ascertained also by AHC during its monitoring in penitentiary institutions, must be addressed with adequate strength to state authorities for the creation of a special law for minors, and the rendering of justice by a court specifically for juveniles, qualification and specialization of judges, prosecutors, lawyers, social workers and all other experts who will be involved in the treatment of juvenile offenders. In particular it should be avoided as much as possible the isolation in pretrial and prisons of juveniles and that other and more efficient forms be used instead.

The violence in schools is another rather disturbing phenomenon, like the case of violence at a school in Malësi e Madhe, where the altercation was filmed and posted on the social networks, followed by the reaction of the competent authorities through the suspension of the abusive teacher and her criminal proceedings on charges of "abuse of power".<sup>77</sup> Another flagrant event was that which happened in Shkodra's orphanage where the educator battered the children of the institution, which caused huge indignation and public reaction, including that from AHC<sup>78</sup>. AHC solicited the attention of the authorities, demanding that the sector employed people, not only capable professionally, but also with high honesty and integrity. Education reform must be very much aware of this principle.

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<sup>73</sup> The Shqipnewspaper, Dated 12.02.2015, P. 15.

<sup>74</sup> The Shqipnewspaper, Dated 07.09.2015, P. 10.

<sup>75</sup> The Shqipnewspaper, Dated 20.10.2015, P. 10.

<sup>76</sup> The Shqipnewspaper, Dated 15.10.2015. P. 11

<sup>77</sup> The Shqipnewspaper, Dated 26.01.2015

<sup>78</sup> Press Release "A shocking and painful event", dt. 08.07.2015



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EC stated that *"the system of protection of minors does not have sufficient budget, staff retention nor the right functional standards. More work is needed in order to make the service accessible to juveniles"*.<sup>79</sup>

ECHR, in the case of M. and M. vs. Croatia, application no. 10161/13, states that the shortening of trials involving children, is a must. In this case, that court found violations of Articles 3 and 8 of the ECHR<sup>80</sup> from the part of the Croatian state, due to delays in the investigation and adjudication of claims of mistreatment of the minor girl and the ruling over her custody. In the UNICEF study it is stated that *all professionals in the field of justice in Albania, say that there are no rooms for interviews or court facilities appropriate for cases when children are involved in such processes*. This is a conclusion stated also by AHC, while monitoring the activity of judicial bodies, therefore we raise our concerns about measures that need to be taken in the framework of Justice Reform, in order for the establishment of the legal, infrastructural and institutional conditions for prompt and effective trials, in cases involving children in the trial proceedings, or to protect the highest interests they enjoy. In this context, we should be commending the initiative of the group of Senior Experts, that is working with the judicial reform, which has included this principle in the text of the Constitutional amendment that will be recommended.

According to the EC, *"It is needed a revision of the Family Code to facilitate the placement of children in adoptive families and to guarantee the adoption procedures in accordance with international standards"*<sup>81</sup>.

The Committee on Legal Affairs, Public Administration and Human Rights, in November 2015 discussed the amendments in the Family Code and the Law. no. 9695, dated 03.19.2007 "On the adoption procedures and Albanian Adoption Committee", as amended, for which the AHC has expressed its support for improving the professional level of the officials of the Albanian Adoption Committee and adoptive applicant's criteria, but expressed reservations about the violation of the highest interest of the child, in terms of law and priority that the child live with its natural family, as well as the strengthening of judicial guarantees and procedures, when determining custody for minors.<sup>82</sup>

Special attention is required also for the protection of property and economic rights of minors, which are treated only superficially by the courts. Center for Legal Civic Initiatives explains in its research that many court decisions, for determining the obligations of parents for the upbringing of their children have not been executed, and that the case law in this area is not unified in terms of the amount of the obligation and indicators that the court ought to assess, that it is very difficult for parents to enforce the court decisions that force the other parent, who lives abroad and civil legislation does not oblige the courts, that based on the principle of the best interests of the child, to prescribe in their decision the obligations of parents for the upbringing of children, even when this is not required by the parties. Rightly, the civil society

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<sup>79</sup>Progress Report of 2015 on Albania, the EC, p. 60

<sup>80</sup>The prohibition of torture and the right to respect the private life and family life

<sup>81</sup>Progress Report of 2015 on Albania, the EC, p. 60.

<sup>82</sup>AHC's letter to Parliament, dt.11.11.2015 and 19.11.2015.



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recommended to the High Commission for the Reform of Justice that the time has come to establish a court for minors and to change and amend the legal provisions on custody of minors and agricultural family, in order to offer more guarantees on the respect of property and economic rights of minors, etc.

Regarding child labor, national and international organizations have continued to raise their concern for hundreds of children<sup>83</sup>, mainly Roma and Egyptians, who live and / or work on the street. UNICEF has consistently stated that, in Albania, sometimes parents consider their children as their property and that violence is seen as a common phenomenon allegedly carried out for the disciplining of children. AHC, during the treatment of these problems, suggested, better work coordination between state institutions and civil society, exchange of information pertaining the children, on those that work on the streets, those at risk of being trafficked or abused, in order to prevent to the maximum the phenomenon, the punishment of those responsible, but also the creation of individual programs for each case, with the participation of specialists of the field, in order to achieve positive results to the benefit of all children at risk.

Finally, we draw the attention to information and education of children and youth with human rights. They are citizens with equal rights and above all are entitled to a special protection by the state, therefore a broader inclusion of them in issues pertaining them, is imperative. In order to achieve that, it is necessary for children and young people to be informed and know better their rights, without excluding obligations to the family, the state and society. AHC concluded that in this regard, not sufficient and not qualitatively work is taking place, therefore we raise concerns that there can be no respect for freedoms and human rights if they are not well known by citizens and if the latter are not made aware and informed about ways and means to seek their rights' protection.

### **12. THE INFRINGEMENT OF CITIZENS' RIGHT BY CORRUPTION AND ILLEGAL OPERATION OF PUBLIC EMPLOYEES**

Despite the blows dealt throughout 2015, corruption continues to be a chronic problem of the Albanian society, the effects of which are felt by citizens and other entities, both domestic and foreign, operating in the country. The fight against corruption is one of the 5 tasks which is assigned to Albania to fulfill in the framework of European integration.

Some government initiatives in the fight against corruption have been progressive, such as the creation of the online portal through which every citizen can denounce cases of corruption in government offices and services.<sup>84</sup> It should be noted that the denunciations of citizens were followed up with prosecution of the corrupted by relevant authorities<sup>85</sup>, but there is still a need to increase the impunity against this phenomenon, especially towards the high state officials and justice officials.

In the Report on Human Rights, of the American State Department<sup>86</sup>, the corruption is considered *widespread in all the branches of government. The government did not implement the law effectively, and officials often were involved in corrupt practices and were allowed to*

<sup>83</sup> According to the Progress Report on Albania in 2015, 2,500 children.

<sup>84</sup> The Panorama Newspaper, Dated 03.02.2015, P. 5

<sup>85</sup> The electronic newspaper Shqiptarja.com, Dated 05.02.2015, P. 8

<sup>86</sup><http://photos.state.gov/libraries/albania/10984/vangjelim/06242015HHRReportShqip.pdf>



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*get away with it. Also, the EC stated that "Albania is little prepared in the fight against corruption. It adopted a new anti-corruption strategy and the action plan. However, corruption is widespread and much more effort is required to mark progress, with the aim of creating a sustainable track record of investigations, prosecutions and convictions at all levels."<sup>87</sup>*

By the monitoring activities of civil society in general and AHC in particular, through the investigation of the media and that of other stakeholders, it was shown that in 2015 corruption is manifested in senior public administration, among the elect of the local government<sup>88</sup>, public administration, mainly in mortgages officials<sup>89</sup>, the border police<sup>90</sup>, health sector<sup>91</sup>, in higher education sector<sup>92</sup>, etc. During this year, there have been claims and numerous alerts of corruption cases among judges, prosecutors and advocates, among which was the case in the District Court of Lezha, where allegedly a judge received a bribe in exchange for a conditional sentence<sup>93</sup>. Corruption is a phenomenon that directly affects the property rights of citizens, their right to fair trial and their legal certainty. Corruption reduces the confidence of the citizens in the governing authorities of the country and aggravates the conditions for economic development and attraction of foreign investments. For this reason, the fight against corruption should not be seen as a battle of politics and statesmen alone, but as a joint struggle of all society, because this phenomenon is damaging to each of us individually and altogether as a society.

The disturbing effect that the problem of corruption in the country creates, has prompted some organizations and international bodies to express their recommendations through their reports published in 2015. In the report of Transparency International, Albania ranks 110 out of 175 countries included in the corruption index, marking an improvement of 6 places. The corruption issue is also tackled by the EBRD through a survey conducted in which it found from the surveyed companies that the main obstacle to business development are issues with the electrical power, the informal competition and corruption.<sup>94</sup>Through the "Freedom House" report<sup>95</sup>for countries in transition, corruption remains the main obstacle to democratization and integration into the EU, of these countries.

During 2015, also the diplomatic corps accredited in Albania has made strong statements about this phenomenon, emphasizing the widespread corruption in the justice system.

AHC is of the opinion that the judicial reform should be aimed at determining the elimination of all forms of abuse of power and corruption, avoidance of undue influence on decision-making bodies of central and local government, as well as in the delivery of justice, but also strengthening of requirements on the integrity of the employees of these sectors, their professionalism and ethical and moral values.

### ***13. ENVIRONMENTAL PROTECTION***

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<sup>87</sup>Progress Report on Albania in 2015, EC

<sup>88</sup>The electronic newspaper Shqiptarja.com, Dated 26.02.2015, P .4.Tirana Observer Newspaper, Dated 05.05.2015, P. 7

<sup>89</sup>The Panorama Newspaper, Dated 26.02.2015, P. 13

<sup>90</sup>The Shqip Newspaper, Dated 14.04.2015, P. 10

<sup>91</sup>The Shqip Newspaper, Dated 27.10.2015, P. 3

<sup>92</sup>The Shqip Newspaper, Dated 14.10.2015, P. 15

<sup>93</sup>The Panorama Newspaper, Dated 27.10.2015, P. 11

<sup>94</sup>The Shqip newspaper, Dated 10.04.2015, P. 10.

<sup>95</sup><https://freedomhouse.org/report/nations-transit/2015/albania>



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The environment and the efforts for its conservation, have gained little improvement in 2015. Experts have provided figures showing improvement in the level of air pollution in the capital and in some major cities. Also, after the local elections there was a greater response by the local and central government, regarding the sector of collection and processing of urban waste. Initiatives have been undertaken to urban environmental planning, and few investments have been made in terms of infrastructure, among which can be noted that of the "Lungo Mare" in Vlora, clearing of the shore of Lake Ohrid, as well as the investment for processing of urban waste in Elbasan. Some nonprofit organizations have taken actions for cleaning of the environment, particularly that of the coastal side.

However, the issue with the preservation of the environment and its improvement, continues to be a problematic sector that requires attention, supervision and greater funding. Residents should see the problem of environmental protection not only as a duty of the state but also of the citizens' community. They should be made aware of the consequences of harming it and for the importance of their contribution to its protection.

Problems are reported in maintaining the quality and increase the quantity of drinking water. The case of the village Shamoll in Korça district, which for two years in a row consumes contaminated and worm-rich water; the case of the Shkoza municipality where residents of the apartment buildings built to serve as social housing, are faced with a lack of water for a long time; occasional interruptions of the water supply in Tirana, mainly in the summer season; the case of the environmental disaster in Porto Romano, where water was polluted by the discharge of hydrocarbons<sup>96</sup>etc., demonstrate the need for an increased commitment of local and central government and urgent interventions to maintain and guarantee the supply with sufficient and clean water of the citizens, as this is a very necessary and vital element for life.<sup>97</sup>

The problem remains with the accumulation of urban waste, pollution and the destruction of the environment by industrial activity. In light of this concern we mention the Sharra landfill area, near Tirana, the environmental pollution from the operation of the Kurum company in Elbasan, etc. A very disturbing event, in 2015, was that of gas explosions in Patos Marinza, Fier, as a result of which the houses in the area were damaged. Also, the drinking water was contaminated which caused the abandonment of the houses by the local residents. AHC reacted through a press release, on September 04/03/2015, stressing that this tragedy could have been prevented, since the situation was made known publicly by the organization, since October 2014. AHC had ascertained that, in the Patos-Marinzë, Fier, the significant reduction the oxygen in the inhabitable areas and the presence of methane in the drinking water, as resulted of tests conducted<sup>98</sup>had severe and critical consequences on the lives of residents. In the area there were identified significant intoxication cases of residents from toxins<sup>99</sup>. After monitoring the situation on the location, AHC also recommended that the law enforcement institutions analyze the situation and take administrative measures, not excluding criminal proceedings, to avoid further mishandling of the environment and the health and property of citizens of the area.<sup>100</sup>

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<sup>96</sup> The newspaper Panorama, Dated 18.11.2015, P. 14

<sup>97</sup>The Shqip Newspaper, Dated. 13.01.2015, P. 15

<sup>98</sup>The Telegram Newspaper, Dated 17.04.2015, P. 2

<sup>99</sup>The Panorama Newspaper, Dated 7.04.2015, P. 10

<sup>100</sup>Press Release "The Serious Marinza Disaster Could Have Been Prevented", dt. 03.04.2015



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Also the reoccurring floods have aggravated the situation of the environment and living conditions of the citizens of these areas. They have been damaged economically as well as in their health. The consequences in material damage, in the private economic sector, were evidenced in animal husbandry, agriculture, housing, machinery and other equipment.<sup>101</sup>

Forest damage as a result of indiscriminately cutting of trees, the use of the gravel from the bed of the rivers in a manner that tampers their natural course, dumping of construction waste on the banks of natural bodies of water such as rivers and lakes, the release of greenhouse gases in the air and other similar actions have caused considerable damage to the environment and the public administration, both local and central, have failed to prevent such acts, or to hold their perpetrators accountable. The Ministry of Environment stated in late 2015 that it would propose the adoption of a moratorium which would prohibit the cutting of forests for a period of 10 years, and passing over of the forest management under the local government. Such measures are welcomed by the public which expects that the control over their implementation be more rigorous.

### 14. CONCLUSIONS AND RECOMMENDATIONS

At the conclusion of this report, we can say that the situation of respect for freedoms and human rights in Albania, in 2015, has improved in some respects, but in some other respects the situation has stagnated or worsened.

In summary, we note that **improvements have been noted in respect to the standards of human rights and freedoms in the following directions:**

- There have been positive results in the scope of the efforts to avoiding blood feuds, in 2015, which resulted in no harming of human life by this phenomena.
- The public safety has improved as a result of better combat against the organized crime, planting and trafficking of narcotics.
- The right to vote and free and fair elections, marked a step forward, as they reached higher standards regarding the freedom of the vote and the suffrage in general; the secrecy of the vote was better respected; there was a significant turnout of voters in elections; the tones of communication of the representatives of political forces were somewhat milder than in previous elections and therefore there were not recorded cases of serious incidents between militants. There was a significant increase in the participation of women in local government bodies that emerged from these elections.
- There is an increase in the requirements and oversight on the legality of activities with public impact, in the area of construction, electricity payments, invoicing of goods traded, while it has advanced at an accelerated pace the process for legalization of illegal buildings, which plays a direct role in the formalization of the immovable property.
- The investments made in the sector of penitentiary institutions are welcomed, but they must be followed also by investments on the premises of the State Police, wherein are kept the accompanied, detained and arrested people.
- The legal basis is broadened and improved in order for providing information services to entities that require it.

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<sup>101</sup> The electronic newspaper Shqiptarja.com, Dated 04.02.2015, P. 2



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- The legal basis and the practice of consulting of the civil society organizations and stakeholders on matters of public interest, has improved.

### **Respect of human rights has remained unchanged or worsened in these directions:**

- Trafficking of persons for prostitution, particularly domestic trafficking of women and children, has increased,
- Remains problematic the secondary health services, especially in hospitals that treat the severe diseases, those for mental illness and gynecological services, creating conditions for the violation of the right to life.
- Domestic violence remains worrisome and widespread. The most frequent victims are women, children and the elderly, while the execution of court decisions in this regard, often did not yield the desired results.
- The right to life has suffered more from road accidents also due to the road infrastructure and road signs, often, are not within the right standards.
- Lives have been lost due to the breach, or the lack of technical and security conditions, mainly in the mining, construction sites, hydro-electrical plants, etc.
- Regarding the election process, the necessary improvement of the relevant electoral legislation in favor of independent candidates was not made. It was not approximated to the decision of the Constitutional Court on the exercise of voting by persons deprived of their liberty. Also the right to vote was infringed because the relevant information on the merits of the candidates on the candidates' lists who ran for a seat in the municipal councils, was not released, and there was no transparency regarding the finances spent by electoral subjects involved in the process.
- The relevant Agency (PRCA) has operated at a low pace regarding the restitution and compensation of property. The state has applied differentiated policies regarding property rights, favoring the legalization of illegal constructions rather than the restitution and compensation of the property to their rightful owners.
- Violation of the right to property was caused also by the non-registration of properties, acquired in accordance with the law, in rural areas of the southern coast.
- There were not undertaken effective measures to accommodate families in need of the Roma community, as well as other citizens with low incomes, whose dwelling have been demolished as illegal constructions which they had built and wherein they lived, because they did not meet the criteria of a proper dwelling place, provided by the law on legalization.
- The media remained influenced by politics, by economic and political interests of their owners and the terms of the work contracts with journalists were not always in accordance with the law.
- Respect of the right to due legal process has suffered deterioration due to malfunction and corruption in the judiciary.
- Overcrowding in prisons and detention increased significantly, thus elevating the risk of inhuman or degrading treatment of persons deprived of their liberty who are treated in these institutions. The funds available to these institutions for health services and medical staff were not in accordance with the needs of prisoners and detainees.
- The fight to eliminate discrimination against women, persons with disabilities, those belonging to the Roma and Egyptian communities and the LGBT community, was not at desired levels. Legislation for Protection against Discrimination has not improved in the aspects suggested by the EC.



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- Involvement and consultation with the public and interest groups was characterized by formalism, especially in relations with the local government.
- Implementation of legislation and strategy for the protection of minors, is not widely implemented, it is not always accompanied with concrete and individual actions for the juveniles in need. No effective initiatives were taken to improve the treatment of juvenile offenders and to prevent the recidivism of the same.
- Activities to inform the citizens regarding human rights is very low and non-qualitative.
- The fight against corruption, especially in justice, health, education and public administration, despite the improved results, was not waged at the needed level and did not apply to persons holding high public offices.
- The control, monitoring and care for the environment, was not within standards and there were concessions made from both local authorities as well as the central ones. Public funds spent for this purpose were slim. Citizen's awareness was not raised, and they were not included on protecting and improving the environment.

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Albanian Helsinki Committee