



**Albania's Compliance with the Convention on the Elimination of All Forms of
Discrimination Against Women
Suggested List of Issues**

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996
and

The Human Rights in Democracy Center (HRDC)

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence.

The Human Rights in Democracy Centre (HRDC) is a non-profit and non-religious organization whose mission is to work for the protection and promotion of fundamental human rights and freedoms in Albania and to raise the awareness of the Albanian society on the state of human rights, with a special focus on the most vulnerable groups in society, such as women / girls, minors, minorities, etc. One of the objectives of the HRDC is to prevent domestic violence and to provide support services for victims/survivors of domestic violence. The HRDC has continuously contributed to the capacity building of the institutions responsible for the implementation of legislation against domestic violence and gender-based violence. Since 2015, the Center has

monitored the decisions of the Tirana Judicial District Court regarding issues related to the issuance of Immediate Protection Orders / Protection Orders.¹

¹ The Center monitors the implementation of laws in practice and undertakes initiatives to improve legislation in the field of human rights protection, with a special focus on gender equality, domestic violence and gender-based violence. During the reporting period, the HRDC has contributed to the amendment of Law no. 9669/2006 "On measures against domestic violence", bylaws for its implementation and Law no. 10221/2010 "On protection from discrimination" - has provided suggestions regarding the drafting of Law no. 111/2017 "On legal aid guaranteed by the state" and Law no. 22/2018 "On Social Housing". Considering the adoption of bylaws important for the effective implementation of measures against domestic violence, the HRDC has recently given recommendations on amending the Decision of the Council of Ministers no. 334/2011 regarding the functioning of the Coordinated Referral Mechanism, in order to adapt it to the latest amendments to the legislation against domestic violence and international standards adopted by Albania.

EXECUTIVE SUMMARY

1. The State fails to adequately protect women in Albania. It has made some progress with new amendments to expand the scope of discrimination legislation. Despite these amendments and awareness-raising activities with women, however, gender-based discrimination remains largely unreported.
2. Women lack adequate access to justice and legal aid. Bailiff offices have failed several times to enforce court decisions in a short and reasonable time by avoiding delays in execution, especially in family and divorce trials. In Albania there is still lack of information about how to access free legal aid, especially for women and girls living in rural areas.
3. Domestic violence remains a problem in Albania. Despite legislative progress, the State has not adequately implemented new protocols. The cooperation between all members of the Coordinated Referral Mechanism for handling domestic violence cases in the local level (CRM) is not adequate. There are still passive institutions in the CRM, in terms of joint and holistic handling of cases of violence (Prosecution, free legal aid guaranteed from the state, health institutions, Probation Service, etc.).
4. The State fails to provide adequate support services to address the needs of victims of domestic violence (emergency shelters, social housing programs, employment services etc.). The State has failed to establish rehabilitation programs for perpetrators of domestic violence and gender-based violence (Programs of rehabilitation from alcohol/ drugs/ mental health disorders, parent training programs). The majority of municipalities do not have budgets designated specifically to address gender-based issues and provide financial support for victims of violence.
5. Women in Albania still face barriers to participation in public and political life, especially women living in rural areas and Roma women. Women also face significant barriers to adequate employment.
6. The State could do much more to improve the physical conditions of penitentiary institutions for women and girls in detention, respecting their right to a fair legal process and their treatment according to the standards provided by legislation in force.
7. The information in this report is based on direct information from Albanian human rights defenders about women's rights. This stakeholder report addresses Albania's failure to comply with its international human rights obligations and suggests questions to address and improve the human rights situation in Albania.

I. Legal Status of the Convention and Harmonization of Laws

8. In its 2016 Concluding Observations, the Committee on the Elimination of all Forms of Discrimination Against Women (“CEDAW”) expressed concerned that legal professionals and members of society have an inadequate knowledge about non-discrimination.²
9. Law 10221 dated 4.02.2010 “On Protection from Discrimination,” as amended by Law no. 124 dated 15.10.2020,³ provides protection from gender-based discrimination and is a safeguard which addresses discrimination cases in education, work, goods, and services.
10. The following legal changes were adopted:
 - Albania’s legislation protects against discrimination based on new grounds of citizenship, sex characteristics, living with HIV / AIDS, and physical appearance.⁴
 - The law adds new forms of discrimination, including: multiple discrimination, cross-sectoral discrimination, hate speech, segregation, and sexual harassment. The legal changes define "severe forms of discrimination," "sexual harassment,"⁵ and “segregation.”⁶
 - The Commissioner for Protection from Discrimination (CPD) is the institution charged with monitoring implementation of the law "On gender equality in society.”
 - Some changes guarantee NGOs’ role in protection from discriminatory behaviors through the filing of complaints to the CPD or a lawsuit to the court, on behalf of the victims for the public interest. NGOs are not obliged by a special procedure to represent the victim in the procedure before the CPD.
 - The amendments recognize the right of the CPD to file lawsuits in court, on behalf of victims for the public interest.
 - The amendments recognize the CPD’s authority to make a request to the Constitutional Court when it finds that the law or normative act violates the fundamental rights and freedoms of individuals.

² Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on the fourth periodic report of Albania, (25 July 2016) UN Doc. CEDAW/ALB/CO/4. ¶8.

³ Law no 124/2020 “For some changes and adding to Law 10221/2010 "On Protection from Discrimination" which entered into force on 18 November 2020.

⁴ Article 1 foresees “This law regulates the implementation and respect of the principle of equality related with age, gender, gender identity, sexual orientation, family or marital condition, civil status, health status, genetic predispositions, restricted ability, economic, education.”

⁵ According to article 3, point 14, “sexual harassment is a form of discrimination that happens in cases of unwanted attitude, verbal or not, of sexual nature, which aims or effect infringe of dignity of person and creation of a frightening environment, hostile, contemptuous, humiliating or offensive.

⁶ Pursuant to Article 3, point 16, "Separation" is that form of discrimination, which occurs in cases where a person or group of persons are separated from others without an objective and reasonable justification and this separation is made for at least one of the reasons provided in article 1 of this law.

- 45 days after the decision on the sanction with a fine is communicated, the CPD's decision is transformed into an executive title and executed by the bailiff's office.
11. Despite awareness-raising activities with women, especially those living in rural areas,⁷ gender-based discrimination remains largely unreported. The CPD's annual reports (2017-2019) show that of 549 registered cases, only 25 claimed discrimination due to gender. The number of complaints alleging gender-based discrimination remains relatively low, with victims mostly women. In many cases, the complainants allege multiple discriminatory acts. Discrimination in employment due to pregnancy, childbirth, and health status remains a problem within both public institutions and private entities.⁸
 12. Despite awareness-raising activities conducted with women, gender-based discrimination remains largely unreported. The 2017-2019 annual reports of the Commissioner for Protection against Discrimination show that only 25 of 549 registered cases were gender-based discrimination cases. The number of complaints involving gender-based discrimination continues to remain low, even though the majority of victims are women.⁹
 13. In many cases, women claim discrimination on multiple grounds. Discrimination faced in work settings due to pregnancy, childbirth, and health status, both by public institution and by private entities, remain problems.¹⁰
 14. **Suggested questions** relating to non-discrimination:
 - What awareness-raising campaigns has Albania undertaken to educate legal professionals and society at large about the principle of non-discrimination?
 - What steps has Albania taken to implement non-discrimination legislation, especially with respect to women belonging to marginalized groups?
 - What steps has Albania taken to encourage women to report gender-based discrimination and to investigate these cases fully?

II. Access to Justice and Legal Aid

15. In its 2016 Concluding Observations, the Committee expressed concern that, despite the introduction of new legislation to provide access to legal aid for victims of gender-based

⁷ During the years 2016-2020 HRDC has conducted 90 trainings in suburban areas of the Municipality of Tirana, from which 1262 women / girls have benefited. In the years 2018-2019 HRC has conducted 24 trainings with women and girls of the community, in different areas of the Municipality of Kamza. 655 women / girls from the area participated in these trainings. During 2020, the HRC conducted 12 community trainings in Vora, Fushë Krujë, Krujë and Tropojë, in which 125 women / girls participated. In total, HRDC during the period 2016-2020 HRC has conducted 126 trainings, in which 2042 women / girls participated. The purpose of these trainings was to inform women / girls about issues of violence against women and domestic violence as well as the protection mechanisms provided by the legislation in force.

⁸ Reports of CPD, 2016-2020.

⁹ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

¹⁰ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

violence, access remains inadequate.¹¹ The Committee was also concerned about non-execution of court orders and the failure of the State Party to reverse the burden of proof for cases of gender or sex-based discrimination.¹²

Legal Aid

16. Law no. 9669 dated 18.12.2006 “On measures against domestic violence,” as amended, obligates the state to provide free legal representation for victims. According to HRDC’s 2016-17 study, "Respect for the Rights of Victims / Survivors of Domestic Violence, in the light of the Decisions of the Tirana Judicial District Court," the victim is represented by a lawyer in only 43% of domestic violence cases. Of this group, NGOs provide a lawyer in 20% of those cases, with another 21% represented by private lawyers, and only 1% represented by lawyers of the National Shelter for the Treatment of Victims of Domestic Violence. In only one case did the Commission of Legal Aid represent the plaintiff in changing the protection order (PO). Just 1% of cases are defended by a court-appointed lawyer, specifically for juveniles. The Court has appointed lawyers mainly in criminal proceedings for juvenile citizens (victims / perpetrators). Thus, the lack of free legal aid impedes the effective judicial process for victims, who are without legal representation in 57% of cases. Providing victims with a free lawyer would reduce the cases of dismissal by the court, impact the implementation of effective measures, an enhance compliance with trial deadlines.¹³
17. Law no. 111/2017 changed the procedure for obtaining free legal aid. This procedure is initiated through a request for secondary legal aid by the applicant, either through the postal service or the prosecuting authority who initiates the investigation. The request can be made before the trial, at the beginning, and / or at any stage of the judicial process, until the judicial investigation is closed.¹⁴ This procedure makes it difficult to access assistance, especially in cases of domestic violence that are tried on a shorter timeframe.¹⁵ HRDC has identified a lack of information regarding the procedure to obtain legal aid, especially for women and girls located in rural areas.¹⁶
18. Law 111/2017, "On legal aid guaranteed by the state" provides the possibility of exemption from the payment of court fees, for the categories in need. Exemption from this payment is requested through the submission of a Ministry of Justice-approved form. This request can be submitted together with the request for secondary legal aid. Especially for cases of divorce by victims / survivors of domestic violence, HRDC found no cases where the court accepted the

¹¹ Committee on the Elimination of All Forms of Discrimination Against Women, *Concluding Observations on the fourth periodic report of Albania*, (25 July 2016) UN Doc. CEDAW/ALB/CO/4. ¶12.

¹² Committee on the Elimination of All Forms of Discrimination Against Women, *Concluding Observations on the fourth periodic report of Albania*, (25 July 2016) UN Doc. CEDAW/ALB/CO/4. ¶12.

¹³ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

¹⁴ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

¹⁵ The trial of cases with the object of issuing the immediate protection order is carried out within 48 hours from the registration of the claim for adults and within 24 hours for juveniles.

¹⁶ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

request for exemption from court costs. We do not have data on decisions about the applied request. In most cases, the plaintiff in divorce proceedings is a woman, and she pre-pays court costs, so this legal provision must be applied in practice to better support victims seeking divorce.¹⁷

19. Another problem identified by the HRDC relates to the low number of cases of violence supported by free state legal services. In the last three years, free state lawyers provided representation in a very low number of cases in the Tirana Judicial District Court.¹⁸

Enforcement of Court Decisions on Women's Rights

20. The HRDC¹⁹ has identified delays in the enforcement of court decisions on divorce due to delays in the Appeals Court. According to the Code of Civil Procedure, the District Courts' decisions become final when they are not appealed within the legal rules. They can only be executed when final. The Bailiff's Office must execute both final court decisions as well as some categories of administrative decisions (so-called execution orders).²⁰
21. Meanwhile, the Court of Appeals' decisions are considered final for enforcement effects even if they are appealed. As a result, delays in cases awaiting trial in the Appeal Court have serious consequences, especially regarding child support obligations, as well as visitation.²¹ The execution of such decisions in most cases is not carried out voluntarily, but it is necessary for the decision to become final for the Bailiff's Office to intervene through compulsory execution.²² From its client's experiences, HRDC identified delays of up to one year and more.²³ As most cases deal with child custody, these delays force mothers to bear all costs of raising and educating their children. Such delays cannot be justified from the vetting process²⁴ nor from the period of pandemic and quarantine (lockdown) where the courts, like any other institution, were closed.²⁵
22. The HRDC found a lack of cooperation between various Bailiff's Offices in enforcing court decisions on divorce. In some cases, the Bailiff's Offices do not execute the decisions involving food alimony (food pensions) because they cannot find the debtor's address, although the debtor is an easily traceable subject; moreover, in some cases the debtors have been enrolled

¹⁷ The HRDC during 2020 has made 12 requests for exemption from court costs to the Tirana Judicial District Court, but these requests have not been accepted in any case. In 2021 the court has started the positive practice to accept these requests.

¹⁸ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

¹⁹ HRDC serves as complaints office where citizens address claimed violations of their rights (individually or in group).

²⁰ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

²¹ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

²² Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

²³ HRDC has found that the Decision of the Tirana District Court dated 28.02.2019, registered in the Tirana Court of Appeals on 06.05.2019 is judged in this court in 13.07.2021, so after 2 years and 5 months from first instance court decision.

²⁴ Out of 31 magistrates of Appeal Court of Tirana, only 13 remained in service.

²⁵ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

in a social disability program.²⁶ Inability to locate the address of the debtor does not legitimize the non-execution of a child support obligation for a long period of time.

23. Bailiff Offices, especially those in cities, often misinterpret the law when it comes to debtors living with disabilities. HRDC found that bailiffs justify their omission to execute decisions when the only source of income for the debtor is his or her payment as a person with disabilities (WCAC).²⁷
24. According to article 529(6), of the Code of Civil Procedure, the debtor is not excluded from paying support for food (in this case to the minor child), even when he receives a disability pension. In such cases, a debtor should pay only half of the pension. Interpreting this provision gives a clear understanding that food alimony should be executed even for debtors who live with disabilities.

Burden of Proof

25. Law no 10221/2010 “On protection from discrimination” shifted the burden of proof to the defendant in cases of discrimination.²⁸ The changes made through Law 124/2020 also provide for administrative procedures for the CPD. This change was preceded by two important legal amendments:
- Shifting the burden of proof in cases of discrimination in the field of employment through legal amendments to the Labor Code,²⁹ Article 9(10).³⁰
 - Shifting the burden of proof in administrative cases, through Article 82(2) of the Code of Administrative Procedures approved by Law no. 44/20151, in article 82/2 provides a special regulation on the burden of proof for cases of discrimination.
26. Amendments to the Code of Civil Procedure, implemented in 2017, did not include the CPD’s recommendation to shift the burden of proof in cases of discrimination beyond those regulated by the Labor Code and the Code of Administrative Procedures.³¹
27. **Suggested questions** relating to access to justice and legal aid:

²⁶ Work Capability Assessment Commission (WCAC).

²⁷ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

²⁸ Article 36, point 6, of Law 10221/2010 stipulates that: “After the plaintiff presents evidence, on which he bases his claim and on the basis of which the court can presume discriminatory behavior, the defendant is obliged to prove that the facts do not constitute discrimination according to this law.

²⁹ Law no.136/2015, dated 5.12.2015.

³⁰ Article 9, point 10 of the Labor Code, provides that: “10. In all appeal procedures, which are followed according to point 9 of this article, if the complainant or the plaintiff presents facts from which it can be claimed that he has been discriminated in the exercise of the right to employment and profession, the person against whom the complaint is filed or the respondent is obliged to prove that the principle of equal treatment has not been violated.”

³¹ Code of Administrative Procedures, approved by Law no. 44/2015, in article 82, point 2, provides that “In cases when the party presents evidence on which it bases the allegation of discriminatory behavior and on the basis of which it can be presumed that there has been discrimination, the other party and / or the public body is obliged prove that the facts do not constitute discrimination, despite the obligation of the public body to make available to the parties the evidence possessed by it.

- What efforts has Albania taken to ensure police share information with women upon first contact about access to free legal aid?
- What measures has Albania put in place so that court decisions, especially those aimed at dissolving marriage and its legal consequences, are executed in a short time, without unjustified delays?
- To what extent does the authority managing free state legal services interact with the CRM?
- To what extent does the government of Albania encourage and fund cooperation between the Bailiff's Offices of different cities to ensure enforcement of court decisions in a short and reasonable time and avoid delays in execution? What ongoing training has Albania provided to Bailiff Offices on dealing with cases involving persons with disabilities, especially those in other cities, like Berat, Kukes, Puke, etc.?
- What measures has Albania undertaken to implement the CPD's recommendation to shift the burden of proof in cases of discrimination beyond those regulated by the Labor Code and the Code of Administrative Procedures?

III. Gender-based Violence

28. In its 2016 Concluding Observations, the Committee expressed concern about the prevalence of gender-based violence. The Committee was also concerned about low reporting rates of gender-based violence cases, insufficient implementation of the national referral mechanism, an insufficient number of shelters, and failure to enforce protection and emergency protection orders.³²
29. The Decision of the Council of Ministers no. 334/2011 "On the functioning of the Coordinated Referral Mechanism" is under process of review³³ to be adopted with the latest legislative changes against domestic violence, CEDAW recommendations, and Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) recommendations, as well as to address the needs and gaps identified in practice.

³² Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on the fourth periodic report of Albania, (25 July 2016) UN Doc. CEDAW/ALB/CO/4. ¶22.

³³ HRDC has contributed to the amendment of DCM. Our suggestions are: Administrative Units should have dedicated staff for handling DV cases, who should cooperate closely with the Local Coordinator in charge of handling domestic violence cases. (Chapter II, point 3) Involvement in the composition of the Steering Committee of these structures: · Responsibilities of authorities in charge of running of rehabilitation programs; · Responsible authority to provide free legal aid; - Responsible authority from Probation Service (Chapter II, point 6 letters g, h and point 8 letters ç) 3. Adapting of responsibilities of local coordinator in accordance with changes occurred in domestic violence legislation (Chapter II, point 31) Monitoring of the implementation of protection measures against violence by local coordinator. (Chapter III, point 14) Coordinated Referral Mechanism should also address other forms of violence against women not only to limit its operation to domestic violence; (Chapter II, point 25, Chapter III, point 1.1).

Consultations have been organized among the responsible actors and civil society organizations.³⁴

30. The approval of “Protocol for management of DV cases on [the] local level,” a document with steps to be followed when responding to domestic violence, is a significant step forward to developing responsibilities for addressing domestic violence cases. This protocol becomes obligatory following approval from the respective Steering Committee of Referral Mechanism. The Steering Committee at the Municipality of Tirana has approved this protocol. Addressing cases according to this protocol is in its first phases and requires the inclusion and commitment of each actor to treat cases effectively.³⁵
31. The multidisciplinary treatment of domestic violence cases is an important process in improving the situation for victims. Women and girls, who are victims of other violence such as sexual violence, persecution, forced marriages, and forced abortion, need multidisciplinary services for their rehabilitation. However, such treatments depend mainly on Health and Police Structures, which can make them difficult to obtain.³⁶ Of 1,928 lawsuits for immediate protection orders brought in Tirana District Court during 2016-17, 484 protection orders were granted. Given the high number of cases and victims’ need for coordinated support, multidisciplinary treatment is imperative.³⁷
32. Based on the Center’s practice, the largest percentage of the above-mentioned cases have not proceeded through multidisciplinary treatment. In practice, the victim reports to the police station, police file a lawsuit seeking an immediate order of protection, and the case is submitted to the Court.³⁸
33. It is difficult for a local, municipal coordinator to manage cases and coordinate services at the same time, especially in large municipalities where rates of violence are higher. This is due to the high number of reported cases and their complexity. The lack of local coordinators in some local units or the allocation of this responsibility to an employee with other duties does not provide for adequate or stable treatment of the cases.³⁹ Efforts to establish structures of responsible staff for domestic and gender-based violence complies with amendments to the Law "On measures against domestic violence," under which local government units and

³⁴ The HRDC has prepared a report with relevant suggestions, which was submitted to the Ministry of Health and Social Protection. HRDC also participated in the first consultative meeting with civil society organizations on 25.06.2020. HRDC contributed to improvement of DCM no. 334 dated 17.02.2011 "On the Work Coordination Mechanism for the referral of cases of domestic violence and the manner of its processing."

³⁵ According to the UNDP Report on the analysis of the Coordinated Referral Mechanism functioning for cases of domestic violence, at the local level in Albania, September 2019, the Coordinated Referral Mechanism in the Municipality of Tropoja has been evaluated as one of the most successful Mechanisms in the country.

³⁶ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

³⁷ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

³⁸ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

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the local coordinator have new competences, such as monitoring and executing courts' decisions on protection orders.⁴⁰

34. While the Coordinated Referral Mechanism increases coordination between the institutions responsible for domestic violence procedures, some institutions are not actively engaged in this mechanism and have not adequately addressed the needs of victims and survivors.
35. Police have new obligations regarding case management, such as risk assessment and monitoring and executing the protection orders or immediate protection orders. Despite legal changes,⁴¹ implementation of this practice does not occur in each case. The first institution victims encounter is the State Police. As such, police first responders must play a more active role, not only in referring cases to RM, but in the joint treatment of cases.⁴²
36. During 2018-2019, HRDC conducted a series of trainings with Tirana police officers. Several problems were identified in these trainings. Police officers were not informed of their legal obligations (especially recent amendments), and they did not understand their role in coordinating work with other responsible parties, particularly the local coordinator.⁴³
37. Healthcare Institutions, according to the Law, have several duties for cases of domestic violence. In particular, their role and contribution should be increased, and they should play an active part in solving problems and supporting victims.⁴⁴
38. The Prosecutor's office, which is a very important institution of RM, does not offer contribution in the meetings of the Interdisciplinary Technical Team and does not adequately support victims with written evidence, such as through The Forensic Examination Act, or other file extracts, which the victim can use as evidence in court (namely in a protection order trial). According to the Law "On measures against domestic violence," the Prosecutor's office has the right to request a protection order for adults and minors, but the Prosecution institution has not filed a public lawsuit since 2006.⁴⁵
39. The HRDC appreciates the work being done by the Coordinated Referral Mechanism⁴⁶ in some municipalities of the country, especially where HRDC has given and continues to work.

⁴⁰ Law no. 47/2018 On some additions and amendments to the law no.9669 dated 18.12.2006 "On Measures against Domestic Violence", amended.

⁴¹ Common guideline of Minister of Interior and minister of Health and Social Protection no.866 dated 20.12.2018 "For procedures and model of risk assessment for cases of DV - Common guideline of Minister of Interior and minister of Health and Social Protection no. 912 dated on 27.12.2018 "For procedures and model of Preliminary Measures of immediate Order, UPM.""

⁴² Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁴³ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁴⁴ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁴⁵ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁴⁶ HRDC is a member of the RM at the Municipality of Tirana since 2017, HRDC has assisted since 2012 and onwards the establishment and strengthening of the RM in the Municipality of Tropoja has given its contribution to the reactivation of the RM at the Municipality of Kamza in 2018, establishment and functioning of the RM at the Municipality of Vora since 2020, as well as since November 2020 is supporting the functioning of the RM at the Municipality of Kruja.

The HRDC encourages the advancement of the ongoing efforts done to strengthen these mechanisms.

Specialized Support Services

40. In practice, despite the efforts of local coordinators and RM members to address specific cases, victims do not always benefit from support services. The number of women and girls involved in support programs is low in proportion to the need. This happens mainly due to the limited number of services, required procedures, and lack of coordination between the service providers.

Economic Assistance to Victims of Domestic Violence

41. Law no. 57/2019 "On Social Assistance in the Republic of Albania" provides that victims of domestic violence are entitled to benefit economic assistance in the amount of 3000 lek, about 30 USD, for the duration of the protection order. Only victims/survivors who are granted protection orders by court can benefit from this economic program.⁴⁷
42. The Law "On measures against violence in family relationships," as amended in its article 10,⁴⁸ foresees that the Court, based on the request of a victim/survivor, can order local government units (administrative units) to financially support the victims during a certain period of time. Execution of this measure requires municipalities to dedicate a portion of their budget to gender issues and support for victims of violence.⁴⁹
43. This assistance is minimal and not sufficient to serve the needs of violence victims, and it is inaccessible to all survivors of violence due to lack of information, as well as other reasons, such as delays in the court's translation of the decision, prolongation of legal trials, perpetrators appeals, etc.⁵⁰
44. The HRDC has noticed that domestic violence survivors are not usually enrolled in economic assistance schemes if they are already beneficiaries of economic assistance in another program that provides assistance to specific demographic categories identified to be in need.⁵¹ In practice, if a domestic violence victim is employed, she has the right to receive economic assistance as a victim of violence. If a victim of violence is granted a protection order, however, and she receives simultaneous economic assistance support as a family in need, she may not also receive the economic aid (3000 lek) as a victim of violence.⁵²

⁴⁷ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁴⁸ Article 10 (k) provides that "by ordering the competent authorities, the social services of the respective local self-government units and / or the organizations providing services, to, as the case may be, to support with psycho-social, health and financial assistance the abused persons in the family , as well as to monitor the observance of protection orders by the parties, submitting the relevant reports to the local coordinator for referral of cases of domestic violence.

⁴⁹ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁵⁰ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁵¹ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁵² Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

45. Victims who are unemployed experience unequal treatment before the law because they cannot access economic assistance as a victim of violence. Considering this fact, the HRDC has addressed a Relation/report to the Commissioner for Discrimination Protection and is following the progress of this issue by the CPD institution.⁵³ When survivors of violence cannot access both programs at the same time (as a group in need and as a victim of violence), this puts victims in unequal positions with other groups of victims of violence who are unemployed and as a result enrolled in economic aid programs.⁵⁴
46. Despite the fact that legislation provides victims / survivors of domestic violence with economic assistance from the moment they are granted protection orders, local government units provide this assistance only for cases that secure protection orders of longer than one month and where the court's decision is final. Through this practice, they exclude women who are granted immediate protection orders (two weeks' duration.)⁵⁵ Victims/survivors of violence have the legal right to benefit from economic aid during the validity of their protection order, but in practice, they benefit from this program only for the remaining period when they appear before the economic aid of municipality/administrative unit.⁵⁶
47. Another difficulty victims face is the appeal of a protection order. According to article 21 of Law no. 9669 dated 18.12.2006 "On measures against violence in family relationships," as amended, the Court of Appeals must release a decision within 15 days from the date of appeal registration, but the review by the Appeal Court is often delayed for several months.⁵⁷
48. This delay impedes survivors from accessing financial aid until the decision is final. As such, survivors may lose the right to benefit from the assistance for the duration of the case proceedings in the Appeal Court. There are many cases when the victim loses most economic assistance because the case was appealed, and the decision took months to become final.⁵⁸
49. Legislation foresees that domestic violence victims benefit from economic assistance if they are provided with a protection order from the Court or an immediate protection order. Sometimes victims withdraw the case for reasons such as: to ease the legal situation of perpetrator; threats or fear; a lack of information on the legal consequences of the protection order; family pressure; etc.⁵⁹ Often, therefore, though she is indeed a victim/survivor of violence, she has no court decision to prove the fact. Apart from this situation, the victim has

⁵³ On 04.12.2020, the HRDC submitted to the Commissioner for Protection against Discrimination the report on "Enabling parallel access to the support scheme with economic assistance, as a category in need and as a victim of violence equipped with UMM / UM" and for the information of the People's Advocate.

⁵⁴ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁵⁵ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁵⁶ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁵⁷ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁵⁸ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁵⁹ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

the same access to social and economic assistance programs as other victims who are granted protection orders from the court.⁶⁰

Establishing Emergency Shelters

50. Many municipalities lack emergency shelters for victims and their children, as well as support programs which provide housing for victims of violence who urgently need lodging.⁶¹
51. Emergency shelters are a necessity which should be provided at least on the municipal level, but nevertheless do not exist in most municipalities. Municipalities should be aware that this type of service does not only mean a place of residence for the victims / survivors. This service needs to be complete and comply with all standards, considering both the support provided during the emergency period and the availability of qualified staff.⁶²

Establishing a Rehabilitation Program for the Violators

52. Rehabilitation programs for violators are not only required according to international standards, but they are also emphasized in the legal changes of Law 47/2018.⁶³ We have identified the need to establish rehabilitation programs, especially for young perpetrators, to help minimize or prevent further episodes of violence.

Social Housing Programs

53. Social housing programs aid the victims /survivors of domestic violence and are regulated by Law no. 22/2012 "On Social Housing." These programs include social housing, rent bonuses, and social loans.
54. The HRDC found that these programs are not offered in all municipalities. When provided, they are in limited quotas. In some municipalities, social housing programs do not even exist. In the Municipality of Tirana where these programs are set up, there is a low number of applications or beneficiaries from the categories of victims / survivors of domestic violence due to a lack of information and bureaucratic procedures.⁶⁴

Provision of Services by Health Institutions

55. Based on legal duties, health institutions provide medical, emotional, and psychological assistance. Further, they must record cases of domestic violence in a special documentation process, and they must provide victims with a special medical report, a document of indisputable value in proving eligibility for services before the court. According to the

⁶⁰ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁶¹ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁶² Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁶³ Law no. 9669 dated 18.12.2006 "On Measures against Domestic Violence", as amended.

⁶⁴ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

monitoring of court decisions conducted by HRDC,⁶⁵ only seven cases of domestic violence were provided with the special medical report document, which were later presented as written evidence to the court for cases with the aim of issuing a protection order.⁶⁶

Enforcement of Court Decisions

56. The Court decision on an Immediate Protection Order or Protection Order is an executive title since it is proclaimed and is immediately executed. For this reason, the Court must issue an Execution Order (Article 511 of Procedural Criminal Code) at the same time as when a protection order or immediate protection order is granted. This is to facilitate its execution and to save time since the case is of an emergency nature and is based on the Code of Civil Procedure.⁶⁷
57. Based on the study conducted in Tirana district court (2016-2017), the HRDC observed problems related to the execution of a protection order where the decision is appealed as well as when the trial is conducted in the absence of the defendant party.⁶⁸
58. The HRDC found that Bailiff Office of Tirana demanded the payment of taxes from victims of domestic violence. However, these victims should be excluded from all financial obligations from 2010 going forward.⁶⁹ Even this problem is not encountered in current practice.
59. Cases of domestic violence should be handled with special care by all professionals, including judicial bailiffs. During its practice, the HRDC encountered a case of survivor P.P., who had a protection order. Previously, the Tirana Judicial District Court⁷⁰ had issued a Protection Order for the citizen P.P. and her two minor children and ordered supervised meetings⁷¹ of the father with the children. After being provided with a protection order by the court, she repeatedly reported to the police that he breached the protection order, and she felt insecure for herself and the children. In the end she was fined with a maximum value (50,000 ALL, roughly 461 USD) fine. The case was nevertheless referred for criminal prosecution to the Prosecutor's Office, because she did not enable visits of children to the father (perpetrator husband) with their shared children.⁷²

⁶⁵ Study of HRDC "Respect for the rights of victims / survivors of domestic violence, in light of the decisions of the Tirana Judicial District Court", January 2016-December 2017.

⁶⁶ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁶⁷ Law no. 122/2013 dated 18.04.2013 "On some additions and changes to the law no. 8116, dated 29.03.1996 Code of Civil Procedure of the Republic of Albania", amended.

⁶⁸ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁶⁹ The citizen R.C., client of the HRC, was requested to pay the execution fee for the execution of decision no. 68 dated 15.1.2016.

⁷⁰ Decision no 8571 dated 22.10.2018.

⁷¹ In the presence of a relative who will accompany the children at the time of receipt and delivery to the plaintiff.

⁷² Decision no 13350, dated 03.12.2018 of Bailiff Office of Tirana. Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

60. The imposition of the maximum fine for a victim / survivor of domestic violence violates domestic and international legislation and will deter victims / survivors from coming forward to report the violence.
61. During the training of police commissariat staff,⁷³ HRDC observed a lack of cooperation between police and local structures on monitoring compliance with the court decision on protection orders.⁷⁴ The social services offices still do not prepare a monitoring report on victims of domestic violence that have been provided with a protection order, for which police must be notified every 60 days.⁷⁵
62. Also, the Bailiff's Offices do not provide a free-of-charge psychologist for the execution of a protection order involving "visitation of children."⁷⁶ In some cases, victims have been forced to pay for the execution of protection order decisions or a psychologist. Some, but not all, victims have been assisted by an NGO in these matters (free-of-charge).
63. **Suggested questions** relating to gender-based violence:
 - What is planned regarding extension of package of support services (emergency shelters, social housing programs, employment services, programs of rehabilitation from alcohol/ drugs/ mental health disorders, parent training programs) for victims of gender-based violence?
 - What steps has Albania taken to increase access to social housing for marginalized groups and victims of domestic violence?
 - What measures are in place to ensure victim/survivors of domestic violence who already benefit from financial assistance are not excluded from benefiting from financial assistance programs for victims of domestic violence?
 - What measures are in place to ensure victim/survivors of domestic violence who are unemployed can access financial aid?
 - What developments have been made in drafting the Framework Law which includes all forms of gender-based violence? When is it estimated to be approved?
 - What steps has Albania taken toward increasing the number of staff in administrative units responsible for handling domestic violence cases?
 - What training has the government of Albania provided to police officers, prosecutors, health care workers, teachers on implementing domestic violence legislation and new protocols associated with the law?

⁷³ HRDC report regarding the trainings conducted in Police Stations of Tirana, 2019.

⁷⁴ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁷⁵ This obligation is provided by law no. 47/2018 "On some amendments to the law" On Measures against Violence in Domestic Relations "as amended.

⁷⁶ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

- What measures has Albania taken to improve the institutional cooperation between all members of the Referral Mechanism and each involved institution?
- What steps has Albania taken to increase the number of emergency shelters available to victim/survivors of domestic violence and to ensure those shelters comply with best practice standards for dealing with victims of domestic violence?
- What steps has Albania taken to make social housing programs more easily accessible to victims/survivors and to facilitate criteria and procedures (for survivors of violence) to provide real opportunities for inclusion in these programs?
- How has Albania ensured that healthcare institutions effectively execute their legal responsibilities to provide victims of domestic violence with access to support services?
- What short- and long-term services /programs are available for perpetrators of violence who have mental health problems? What about perpetrators who have drug/alcohol problems?
- What, if any, redress has Albania offered to victims who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources, according to Article 30, paragraph 2 of the Istanbul Convention?
- What steps has Albania taken to ensure that police and other responsible institutions effectively enforce protection orders? What steps has it taken to end the practice of fining victim/survivors in the process of obtaining a protection order?

IV. Participation in Political and Public Life

64. In 2016, the Committee noted that the number of women in political and public positions has increased, though it was concerned that Albania still had not met the gender quota under the Gender Equality Law.⁷⁷
65. Although significant progress has been made, women are still under-represented in the public sector, especially in local government, which has failed to include women in political positions and public administration. Women are still under-represented in trade companies or local government agencies.⁷⁸ This underrepresentation constitutes structural discrimination against women.
66. **Suggested questions** related to participation in political and public life:

⁷⁷ Committee on the Elimination of All Forms of Discrimination Against Women, *Concluding Observations on the fourth periodic report of Albania*, (25 July 2016) UN Doc. CEDAW/ALB/CO/4. ¶26.

⁷⁸ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

- What intervention has Albania undertaken to guarantee the representation of women in local public administration at the level specified by the Gender Equality Law?
- What awareness-raising campaigns has Albania undertaken in addition to legal changes to promote gender equity?

V. Employment

67. In 2016, the Committee welcomed the amendment of the Labor Code to shift the burden of proof for cases of sexual harassment. Yet, it was concerned about the gender wage gap and the disproportional number of women working in the informal sector.⁷⁹
68. Women in Albania face challenges and discrimination in education, employment, and receiving goods and services. Albanian women face unequal distribution of household labor and childcare which impedes their ability to participate equally in the job market.⁸⁰
69. The HRDC has found that the number of women involved in employment training programs is low, especially in rural areas and small municipalities, mainly due to the lack of availability or because violence victims live far from training centers and have no access to employment promotion programs.⁸¹ Women are also often expected to take care of children, which may prevent them from taking time away to attend programming. Rural women also have to account for transportation costs due to the distance from their homes to the VTC.⁸²

70. Suggested questions related to employment:

- What awareness-raising campaigns has Albania conducted to combat stereotypes about gender roles in the household and equal division of labor?
- What steps has Albania taken to increase the number of women involved in employment training programs, especially women in rural areas? What measures are in place to remove barriers such as transportation costs for disadvantaged groups of women?

VI. Women in Detention

71. In its 2016 Concluding Observations, the Committee expressed concern about discrimination against disadvantaged groups of women, including women in detention.⁸³ The Committee

⁷⁹ Committee on the Elimination of All Forms of Discrimination Against Women, *Concluding Observations on the fourth periodic report of Albania*, (25 July 2016) UN Doc. CEDAW/ALB/CO/4. ¶30.

⁸⁰ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁸¹ In the Municipality of Vora, the HRDC has found that no vocational training programs have been set up in its territory and women / girls who need to be included in these programs can only attend them at vocational training centers in Tirana.

⁸² Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁸³ Committee on the Elimination of All Forms of Discrimination Against Women, *Concluding Observations on the fourth periodic report of Albania*, (25 July 2016) UN Doc. CEDAW/ALB/CO/4. ¶38.

also recommended that Albania monitor the implementation of Law No. 40/2014 dealing with women in detention.⁸⁴

72. HRDC has conducted monitoring sessions at the Detention Institution 325 "Ali Demi" in Tirana to assess respect for human rights in detention institutions for many years, including implementation of the legal framework which guarantees proper treatment of women and girls deprived of their liberty. Detained women and girls do not have widespread access to legal services, and HRDC is the only non-profit organization that provides legal services to these women and girls in detention.⁸⁵
73. There are no announcements for the extension of the preliminary investigation. For many detained women, their cases are not sent to court within 3 months from the date of their detention or arrest, which is contrary to Article 324 of the Code of Criminal Procedure.⁸⁶ Also, they are often not given information about their case; specifically, the prosecutor often fails to notify them of the extension of preliminary investigation period or of its termination. This lack of information confuses women and girls in detention regarding the progress of their case.⁸⁷
74. The majority of women and girls in the detention system are not able to review the evidence against them. They are often not aware of or familiar with the evidence that the plaintiff has brought against them. This fact poses a serious problem, because if the defendants are not aware of the evidence that the prosecution has gathered against them, it is difficult for them to defend themselves.⁸⁸ Many women and girls in detention, mainly those who are not represented by a private lawyer, also claim they are not provided with a copy of their statement and, in many cases, do not even have information about the charges against them.⁸⁹
75. Many women and girls in detention do not have adequate counsel for their cases. The appointed lawyer has an obligation to meet the defendant and establish trust for an effective defense. Many women and girls, who are represented by appointed state lawyers, claim they did not meet their lawyers, or they met their defense only after they were in detention. They reported that meetings happened only in court sessions, if the lawyers showed up at all. Poor effectiveness of lawyers' performance affects equal treatment in all stages of procedure in courts as part of the right to a fair trial.⁹⁰
76. There have been reports that defendants are not able to attend their own court hearings, especially in the cases of women and girls. Authorities justify excluding them from their

⁸⁴ Committee on the Elimination of All Forms of Discrimination Against Women, *Concluding Observations on the fourth periodic report of Albania*, (25 July 2016) UN Doc. CEDAW/ALB/CO/4. ¶39(a).

⁸⁵ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁸⁶ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁸⁷ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁸⁸ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁸⁹ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁹⁰ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

proceedings saying that it is unnecessary since their lawyers show up in legal proceedings, and the defendants supposedly do not need to be present.⁹¹

77. Other problems identified by HRDC during monitoring include the extension of stay in the detention institutions for women and girls, lack of transportation of detainees from different cities to attend court hearings, non-payment of work, provision of health services in the institution, the provision of meals, and the provision of heating and hygienic-sanitary products.⁹²
78. In particular, regarding the employment of women and girls in the institution, we found that women and girls employed in detention facilities receive only a reduction of their sentence, respectively 3.9 days per month and do not receive monetary compensation or inclusion in insurance schemes. This causes non-recognition of working time in the institution and is not included in their working years (for insurance).⁹³
79. The above mentioned issues affect more women and girls belonging to the Roma and Egyptian communities due to their educational and socio-economic levels. We noted cases when Roma and Egyptian women did not have the necessary information regarding the court's sentence, their right to appeal, legal deadlines, etc.⁹⁴

80. **Suggested questions** relating to disadvantaged groups of women:

- What are the specific measures, if any, that Albania has taken in order to improve the physical conditions and human rights of penitentiary institutions premises for women and girls in detention?
- What measures are in place to ensure women in detention have adequate access to counsel and to evidence against them?
- What measures are in place to ensure women in detention are properly notified of the extension of the preliminary investigation in their case and that they are able to attend their court proceedings, even if a lawyer is present?
- What trainings, if any, are provided to officials in detention facilities regarding the treatment of women and reducing discrimination against them? List any protocols to prevent discrimination against women in detention, both before and after gaining their freedom.

⁹¹ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁹² Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).

⁹³ Convicted persons who perform different jobs in prison are not treated equally and are discriminated against in relation to other citizens employed outside the prison. In the interpretation of the legal provisions, they are considered "employees" and must be treated in accordance with the Labor Code of the Republic of Albania, as amended; as although a significant number of persons sentenced to imprisonment currently work in prisons, they are not treated by the prison administration in the same way as other citizens employed outside the prison. Convicted persons working various jobs within the prison staff should be rewarded with a minimum wage.

⁹⁴ Personal communication from Albanian NGO to The Advocates, January 2022, via email (on file with authors).