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Second periodic reports of States parties

Albania*

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Abbreviations

ACRTT	Albanian Center for Rehabilitation from Trauma and Torture
AG	Albanian Government
AGHR	Albanian Group for Human Rights
AHC	Albanian-Helsinki Committee
BMP	Border and Migration Police
CAT	Committee against Torture
CCEPT	Committee of the Council of Europe for the Prevention of Torture
CCP	Code of Criminal Procedures
CiE	Council of Europe
DCM	Decision by the Council of Ministers
DPEO	Directorate of Policies for Equal Opportunities
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FP	Family Planning
GA	Government of Albania
GDP	General Directorate of Prisons
GDSP	General Directorate of State Police
HUC	Hospital University Center “Mother Tereza” Tirana
IEPD	Institution for Executing Penal Decisions
IIS	Internal Inspection Service
ILO	International Labor Organization
INSTAT	Institute of Statistics
IOM	International Organization for Migration
ISSH	Institute of Social Insurance
ITAP	Institute for Training in Public Administration
MAFCP	Ministry of Agriculture, Food and Consumer Protection
MEFWA	Ministry of Environment, Forestry and Water Administration
MES	Ministry of Education and Science
MFA	Ministry of Foreign Affairs
MH	Ministry of Health
MI	Ministry of Interior
MICS	Multi-Indicator Cluster Survey
MJ	Ministry of Justice

MLSAEO	Ministry of Labor, Social Affairs and Equal Opportunities
MTCYS	Ministry of Tourism, Culture, Youth and Sports
NATO	North Atlantic Treaty Organization
NCMH	National Center for Mental Health
NGO	Non-governmental Organization
NMPT	National Mechanism for the Prevention of Torture
NAPISAA	National Action Plan for the Implementation of the Stabilization and Association Agreement
NPO	Non-profit Organization
NRCVT	National Reception Center for Victims of Trafficking
NSGE&FV	National Strategy for Gender Equality and Family Violence
OPCAT	Optional Protocol to the Convention against Torture
OSCE	Organization for Cooperation and Security in Europe
PA	People's Advocate (Ombudsman)
PC	Penal Code
RA	Republic of Albania
SAA	Stabilization and Association Agreement
STI	Sexually Transmissible Infections
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children Fund
USAID	United States Agency for International Development
WHO	World Health Organization

I. Introduction

1. The Republic of Albania acceded to the International Covenant on Civil and Political Rights under Law No. 7510, dated 08.08.1991. This Covenant entered into force for Albania on 4 January 1992. Under Article 40 of the Covenant, Albania submitted in 2004 its First Report to the Human Rights Committee, which contained general information on the implementation of the articles of the Covenant. The Committee reviewed the First Report of Albania during its meetings No. 2228, 2229 and 2230 on 19 and 20 October 2004 and adopted the relevant conclusions in its meeting No. 2245 on 1 November 2004.
2. The Second Periodic Report was compiled in accordance with the specific guidelines of the Human Rights Committee on the compilation of periodic reports.
3. The Second Periodic Report contains updated information on the measures that the Government of Albania has undertaken pursuant to the Covenant in compliance with the obligations emanating from the provisions of Article 40. Through this Report, Albania presents the progress made during the years 2004–2010 and, more specifically, the amendments made to the legal and administrative terms for the implementation of the first 27 articles of the Covenant. The First Report and the measures for implementation contained in the conclusions and recommendations of the Human Rights Committee have also served as a point of reference for the compilation of this Second Periodic Report. For the purpose of collecting the most complete information on the implementation of the articles of the Covenant, as well as the conclusions and recommendations of the Human Rights Committee, this Report has addressed provisions of the laws endorsed prior to 2004 (according to the specific fields), which were not revealed in the First Report submitted by Albania. Likewise, this Report has also submitted different laws or specific provisions, which may have been in force before and during this period, but which are no longer in force, since they have been reviewed or amended.
4. Under the Order by the Prime Minister No. 201 dated 05.12.2007 on Setting up the Working Group for the compilation of national reports in the framework of the international treaties to which the Republic of Albania is a party, the Ministry of Foreign Affairs was tasked with compiling the Periodic Reports in cooperation with State institutions, so that they would reflect the current state of play, the progress achieved and the problems in the human rights field. This Second Report was prepared by the Ministry of Foreign Affairs in cooperation with central and independent institutions, according to their field of competence on the issues addressed by the Covenant. Under the Order of the Prime Minister, an Inter-Institutional Working Group was set up with the participation of representatives from central institutions (Ministry of Justice, Ministry of Interior, Ministry of Labour, Social Affairs and Equal Opportunities, Ministry of Education and Science, Ministry of Tourism, Culture, Youth and Sports, Ministry of Economy, Trade and Energy, Ministry of Defence, Ministry of Environment, Forestry and Consumer Protection, General Directorate of State Police, General Directorate of Prisons), State institutions (National Council of Radio and Television, Albanian Committee of Cults, Institute of Statistics, State Committee of Minorities), and independent institutions (People's Advocate, Commissioner for Personal Data Protection, Central Electoral Commission) which contributed in providing the necessary information for the compilation of this Report.
5. Special attention in this Report is also devoted to the problems raised by the Human Rights Committee in the material drafted after the Albanian Government had submitted its First Report. To this end, the Report has also included replies to the comments and recommendations of the Human Rights Committee.

6. The Second Periodic Report on the implementation of the Covenant was adopted by the Council of Ministers in its Decision dated 22 June 2011.

II. General information

7. Albania has shown and continues to have an ongoing commitment regarding the continuous upgrading of the standards for the protection and observance of human rights and fundamental freedoms. A clear expression of Albania's commitment is the ratification or the accession to almost all international human rights conventions. Albania has also acceded to the First Optional Protocol to the International Covenant on Civil and Political Rights under Law No. 9725, dated 7.05.2007, as well as the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty under Law No. 9726, dated 7.5.2007.

8. The Constitution of the Republic of Albania, as well as the ratified international treaties which are part of the domestic legal system, the laws and normative acts of the Council of Ministers and the sub-legal acts guarantee in practice the implementation of human rights. Albanian legislation which is under a continuous upgrading process is a guarantee for upholding human rights and fundamental freedoms, reflecting also the spirit of the Covenant.

9. The International Covenant on Civil and Political Rights, which after its ratification under the Constitution of RA has become part of domestic legislation, constitutes the underlying basis for the adoption of measures for respecting the rights defined therein.

10. During the period to which this Report refers, the priority of governmental policies has been Albania's integration in the Euro-Atlantic structures, supporting the fulfilment of European standards through the observance and protection of human rights, political, social and economic transforming processes, the approximation of Albanian legislation with the *acquis communautaire* and others. An integral part of the process of integration in the European structures is also the improvement of the level of observance of human rights. Negotiations for the signing of the SAA between the EU and Albania were officially launched on 31 January 2003, whereas the signing of the Agreement was finalized on 12 June 2006, entering into force on 1 April 2009, after the ratification by the EU Member States. Albania submitted its application for EU membership on 28 April 2009 and in April 2010 it submitted the replies to the Questionnaire of the EU Commission. The issues covered by the Questionnaire address in detail the current situation in the country, with regard to the compliance with obligations in the context of the implementation of the SAA, the commitment to meet them in the future and the prospect of complying with the relevant standards. Albania has been engaged in implementing the recommendations of the European Commission and the fulfilling the obligations in the framework of Albania's European integration, part of which is also the protection and respect for human rights and fundamental freedoms.

11. The Council of Ministers has adopted the National Action Plan for the Implementation of the Stabilization and Association Agreement (endorsed under Council of Ministers Decision No. 463, dated 5.07.2006, which is updated each year). The important elements of the Plan are the institution of legal and institutional reforms and reforms in the judicial system for providing and realizing human rights and fundamental freedoms, in compliance with international standards. This document defines also the short- and medium-term priorities of the GA concerning the observance of human rights and fundamental freedoms.

12. Thanks to the reforms undertaken in view of meeting international obligations, in April 2008, Albania received an invitation to join NATO and a year later, in April 2009,

became a full-fledged member of the organization. This new reality encourages even further the institution of reforms in all areas compliant to the international commitments and engagements.

III. Implementation of articles 1 to 27 of the Covenant

Reporting period: 2004 to 2010

Article 1

Right to self-determination

13. Paragraph 1: Ensuring and observing the right of self-determination by the Albanian people in the Republic of Albania is achieved through the Constitution of RA, international acts to which Albania is party, as well as normative acts which are part of domestic legislation.

14. Paragraph 2: The economic aspect of the right of self-determination: *the right of freely possessing natural resources and assets*. Pursuant to ensuring property rights, the amended Law No. 9235, On the Restitution and Compensation of Property, dated 29.7.2004, was adopted. The object of this law is to regulate the right under the provisions of Article 41 of the Constitution, for the issues of the right of property arising from expropriations, nationalization or confiscation conducted under legal, sub-legal acts, penal decisions by the court or decisions taken under any other incorrect manner by the communist regime from 29.11.1944, and its compensation when the restitution of property under this law is impossible. Under this law, the proprietor is restituted without restriction for the immovable property and if restitution is impossible, proper compensation according to the provisions stipulated under the law is given.

15. Under the above-mentioned law, the sole agency that decides expropriation or restriction on exercising the property right is the Council of Ministers, which decides on expropriation at the request of the institution (State agency) in whose favour the expropriation is requested, upon the proposal of the competent Minister. Expropriation or restriction on the exercise of the property right is based on the principle of transparency, equality of nationals and protection of their own property interests and rights. Expropriation may occur in favour of the State, public or private juridical persons, foreigners or nationals, for the realization on their own part of a project, investment or object which, under this law, is of public interest.

16. The range of the right to the free possession of assets by Albanian citizens and the property right is also guaranteed for farming land, established as follows:

(a) Law No. 9244 On the protection of farm land, dated 17.06.2004, designed, among others, to harmonize the rights and benefits stemming from ownership of farm land, with the obligations and responsibilities for its protection and sustained usage (Article 1);

(b) Law No. 10263 On the usage and exploitation of uncultivated farm land, dated 08.04.2010, envisages the definition of rules and procedures for the use and exploitation of uncultivated farm land in order to ensure the economic function of the property, without infringing on the property right and the function under the law, in the context of rural and farm sustainable agricultural development (Article 1).

17. Another aspect of the right of self-determination, as the right to the free possession of natural resources by Albanian citizens, is embodied in the international treaties that Albania has ratified and/or acceded to in compliance with the constitutional principles. The

Constitutional provides for the principle of the right to information on the environmental situation and protection (Article 56) from which also stems the right of free possession of natural resources by Albanian citizens.

18. Given the above, a series of legal and sub-legal acts on the environment have been adopted, which specifically stipulate environmental legal aspects, specify the right of citizens to be informed on the environmental situation, the measures undertaken for its good management, the role of public society, its utilization by citizens and others.

19. Public and non-profit organizations are kept informed of the environmental situation through the publication of data by public bodies, physical and juridical persons and by requesting data from the relevant bodies. The Minister of the Environment defines the rules to make public and distribute data on the environment by the relevant environmental protection agencies.

Legal and international acts of environmental nature

20. Law no. 8934 on the protection of the environment, dated 05.09.2002, whose main goal is “the improvement of environmental conditions related to the quality of life and the protection of human health”. With regard to the basic principles of environmental protection, “the principle of public awareness and participation in environmental decision-making” is specified. These two important elements ensure the free utilization of natural assets and resources by Albanian citizens. By being well-informed on the environment, the premises of the law, legal and decision-making initiatives at the local and central levels, society could be in a position to become part of the decision-making aimed at the use of the environment for commercial, research and other uses.

21. For the purpose of possessing natural resources, the above-mentioned Law states that “each and everyone is entitled to lodge complaints to the State environmental bodies for every activity that uses, threatens, damages and pollutes the environment and he/she may urge its closure in case of danger”. In this framework, the law specifies the right of the public to file lawsuit with the court against the public agency or the physical or juridical person damaging the environment or threatening to do so (Article 81).

22. As far as “use” in the first meaning of the word is concerned, society has the right to do use the environment under the laws in force and without infringing the obligations arising from international treaties and conventions. For example, right to fish as a real means of using the natural resources or water reservoirs, by which various companies develop businesses or employ other fishermen who make a living for their own families. The right to fish or the right to use the national waters is regulated under the amended Law No. 7908, on fishing and aquaculture, dated 5.4.1995. This Law defines the criteria for using the water resources, the modes and persons authorized to do so, so that the activity would be most productive for its users (fishermen, conserver and others). At the same time, the law is designed to protect these assets from misuse and damages and it may also be in harmony with the obligations stemming from international treaties such as that of the International Commission for the Conservation of Atlantic Tunas (ICCAT), to which Albania acceded under Law No. 9822, dated 29.10.2007.

23. Another equally important element of the environmental legislation is the legal framework for forestry and forests. Albania is rich in forests and pastures and equally rich in legislation governing the situations for their preservation, administration and utilization. The public plays an important role in the treatment and utilization of the forestry fund which is available to various timber companies or companies conducting activities in these territories. These activities are licensed in order to better serve the people concerned, but in harmony with the defined rules for the protection of these assets from damages.

24. The bilateral and multilateral treaties which Albania has signed and/or ratified and the domestic legal framework embody the principle of non-deprivation from earning a living for Albanian citizens who live on incomes derived from this category of activities. However, while complying with this principle, banning or restricting the conduct of these activities¹ have also been envisaged, which serves as a bridge between environmental protection rights and human rights.

Article 2

Human rights, protection and non-discrimination

25. Albania considers the principle of non-discrimination as an obligation emanating from the country's major orientations in respect and in protection of human rights and fundamental freedoms. These rights are ensured through the Constitution of the Republic of Albania and the legislation in force in line with international standards. Albania is committed to the ongoing upgrading of the standards related to upholding and respecting human rights and fundamental freedoms, including equal protection before the law, as well as the prevention of and protection from discrimination, in keeping with the international obligations in the field of human rights. The policy of the Albanian State relies on legal guarantees and the practical implementation of a non-discriminatory treatment of rights to ensure the full enjoyment of all human rights, as well as the civil rights and political freedoms that the Constitution and legislation in Albania acknowledge for Albanian citizens.

26. In the Republic of Albania, international law enjoys a privileged position vis-à-vis domestic law. Article 5 of the Constitution defines the obligation for the Albanian State to make international law applicable. As a follow-up, Article 22 of the Constitution states that every international agreement ratified by the Assembly becomes part of domestic law after publication in the Official Journal. Such agreement is implemented in a direct way, except when it is not self-applicable and when its applicability requires the enactment of a law. International treaties ratified by law prevail over domestic laws in the event of incompatibility.

27. On this basis, the international human rights conventions which provides for the exercise of rights without any discrimination on the ground of nationality, ethnic or social origin, sex, race, colour, language, religion, faith, public or any other opinion, property, birth, incapability, age or any other instrument which the Republic of Albania has acceded to or ratified are part of the domestic legislation. In this framework, the Albanian State is committed to upholding and observing human rights and fundamental freedoms, as defined in these international treaties, in the economic, social, cultural, political or in any other field, free from any discrimination.

International human rights treaties

28. Albania is party to the following human rights treaties:

In the context of the United Nations:

- First Optional Protocol to the International Covenant on Civil and Political Rights (accession under Law No. 9725, dated 7.05.2007)

¹ For example, different kinds of hunting of birds, animals or even fish.

- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (accession under Law No. 9726, dated 7.5.2007)
 - Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (accession under Law No. 9834, dated 22.11.2007)
 - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (accession under Law No. 9833, dated 21.12.2007)
 - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (accession under Law No. 9703, dated 02.07.2007): Albania undertakes to implement this Convention for the whole process of migration, for all migrant workers and members of their families without distinction on the grounds of gender, race, color, language, religion or faith, political or other convictions, national, ethnic or social origin, nationality, age, economic situation, property, civil or any other status
29. In the context of the Council of Europe:
- European Convention on Nationality (signed 1999, ratified 11.2.2004, entered into force 1.6.2004)
 - Convention on the Participation of Foreigners in Public Life at Local Level (signed 9.6.2004, ratified 19.7.2005, entered into force 1.11. 2005)
 - Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (signed 26.5.2003, ratified 26.11.2004, enacted 1.3.2006)
 - Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, (ratified under Law No. 9264, dated 29.07.2004, on the prohibition of discrimination)
 - Council of Europe Convention on action against Trafficking in Human Beings (ratified under Law No. 9642, dated 20.11.2006): In implementing the provisions of this Convention, Albania should ensure all measures to protect and foster the rights of the victims, without any sort of discrimination as to sex, race, colour, language, religion, political or other convictions, national or social background, affiliation to a national minority, property, birth or any other status
30. In the context of UNESCO:
- Convention on the Protection and Promotion of the Diversity of Cultural Expression (ratified September 2006)
31. In the framework of the International Labor Organization (ILO):
- Convention No. 168 concerning Employment Promotion and Protection against Unemployment, 1988 (ratified under Law No. 9547, dated 1.6.2006): As a party to this Convention, Albania will take all proper steps to coordinate the systems for protection against unemployment and the employment policy, in order to ensure equality of treatment for all persons, and protection without any discrimination on the grounds of race, gender, faith, political opinion, national background, nationality, ethnic or social origin, capacity or age.
 - Convention No. 143 concerning Migrant Workers (supplementary provisions), 1975 (accession under Law No. 9564, dated 19.6.2006): As a party with full-fledged rights to this Convention and in the framework of human rights and fundamental

freedoms for all migrant workers, Albania should adopt all necessary measures, both within its own jurisdiction and even when it is required in cooperation with other Members to define whether there are migrant workers employed unlawfully in its territory and if any trafficking of migrants for employment passes through its territory, whereby any migrants, during their trip, on arrival or during their stay and employment in its territory have become subject to conditions contrary to the relevant bilateral or multilateral international instruments or treaties or even conditions violating national laws and by-laws.

- Convention No. 156 concerning Workers with Family Responsibilities, 1981 (ratified under Law No. 9773, dated 12.07.2007). The introductory provisions of this Convention provide for the obligation of States parties to establish effective equality of opportunity and treatment of workers, both men and women, with a view to enabling persons with family responsibilities, who are engaged or who want to be engaged in a job, to exercise their right to do so without discrimination and according to the available opportunities, without any conflict between their profession and family responsibilities. Likewise, under these provisions, “discrimination” implies discrimination with regard to work and profession, as defined in articles 1 and 5 of Convention No. 111 concerning Discrimination (Employment and Profession), 1958.
- Convention No. 147 concerning Minimum Standards in Merchant Ships, 1976 (ratified under Law No. 9809, dated 27.09.2007).
- Protocol 147 to the Convention concerning Merchant Ships (Minimum Standards), 1996 (ratified under Law No. 9809, dated 27.09.2007). As a Member country, Albania will take measures to draft rules or laws for ships registered in its territory with a view to guaranteeing social security standards, including with regard to competence, working hours and residence, in order to guarantee life safety in the ship, by avoiding any discrimination, exclusion or preference made on the grounds of race, colour, gender, religion, political convictions, national background or social origin, which would have an impact on the annulation or absence or equal treatment in employment and profession.

Domestic legislation ensuring protection against discrimination

Legal framework for protection against discrimination

32. The Constitution of the Republic of Albania and the Albanian legislation ensure equality before the law, non-discrimination on the grounds of race, gender, ethnicity and language, as well as specific laws and provisions, which guarantee non-discrimination in various areas.²

33. The Constitution ensures the general principle of equality of all citizens before the law (Article 18, paragraph 1) and prohibits unfair discrimination on such grounds as gender, race, religion, ethnicity, language, political, religious or philosophical conviction, economic, social and educational situation, or parental affiliation (Article 18, paragraph 2). Article 18, paragraph 3 specifies that “No one maybe discriminated against on the grounds mentioned in paragraph 2, if there is no reasonable and objective ground.” This Constitutional provision provides the opportunity to apply positive discrimination for undertaking specific favourable measures, giving specific treatment or supportive

² These provisions shall be addressed in more detail in the comments related to Article 26, Equal protection without discrimination before the law.

opportunities to certain categories, individuals or groups, when there are reasonable and objective grounds to this end.

34. The Penal Code of the Republic of Albania is based on the constitutional principles of the rule of law, equality before the law, justice in setting blame and punishment, and humanism, ensuring the principle of non-discrimination and equal treatment for all nationals (for more details, refer to comments for Article 26).

35. The Code of Penal Procedure adopted under Law No. 7905, dated 21.03.1995, with the relevant amendments, in its Article 1 specifies that the penal legislation of procedures is designed to ensure a fair, equal and due legal prosecution, protect personal liberties, lawful rights and interests of citizens, help strengthen the juridical order and the implementation of the country's Constitution and laws.

36. The Civil Code, as adopted under Law No. 7850, dated 29.07.1994, with the relevant amendments, states that each physical person shall enjoy full and equal ability to enjoy civil rights and obligations within legally defined boundaries.

37. The Code of Civil Procedures adopted under Law No. 8116, dated 29.3.1996, with the relevant amendments, has as its major principle the definition of binding rules, equal and similar, for the arbitration of civil and other disagreements specified in the Code and in separate laws.

38. The Labour Code of the Republic of Albania, as adopted under Law No. 7961, dated 12.07.1995, with the relevant amendments, embodies protection from discrimination for all status in the field of labour and social insurance (for more details, refer to comments for Article 26).

39. The Code of Administrative Procedures of the Republic of Albania, adopted under the Law No. 8485, dated 12.05.1999, in its Article 11, paragraph 1, specifies, among others, that in "relations with private persons, the public administration is guided by the principle of equality and with the meaning that no one should be privileged or discriminated against".

40. The Family Code, in relation to the definition of marriage, declares the moral and juridical equality of the couple as a basic and important principle of life. This Code addresses the protection of children's rights, including the general principles of the conventions, international acts and instruments related to the protection of children's rights without any discrimination, and more specifically the provisions of the Convention on the Rights of the Child.

41. Law No. 10221, dated 4.02.2010, "For the Protection from Discrimination³" was endorsed in February 2010 by Albania's Assembly. The compilation of this law benefitted from the contribution of the civil society and the assistance of international experts in the field; this law is also fully in line with EU directives.

42. The Law on protection against discrimination regulates the implementation and observance of the principle of equality concerning gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical faiths, economic social or educational status, pregnancy, parental affiliation, age, family or marriage status, civil status, residence, health status, genetic inclinations, inability, affiliation to a specific group or on any other ground.

43. The Law is designed to ensure the right of each person for: (a) equality and equal protection before the law; (b) equality of opportunities and opportunities to exercise the

³ More detailed information concerning the provisions of this Law are contained in the comments to Article 26.

rights, enjoy the freedoms and participate in public life; (c) effective protection against discrimination and from any form of conduct that instigates discrimination. Likewise, for the protection of the human rights and fundamental freedoms without any sort of discrimination; the institutional frame has already been established and is continuously upgraded to ensure these rights.⁴

Article 3

Equality between men and women

44. The principle of equality between men and women is an integral part of the legislative system, which is enshrined in the Constitution and in the domestic legislation. Since Albania has ratified the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) under Law No. 7767, dated 09.11.1993, the Albanian Government has placed the issue of gender equality in the focus of its agenda of priorities, considering that the country's socio-economic development cannot be realized without due treatment and concrete achievements in this regard and in view of the integration of the international standards in the domestic law. For this purpose, the public institutions are committed to observing and promoting the rights and freedoms which CEDAW guarantees. The principle of gender equality has an important place, both in the Albanian Constitution and in CEDAW. In the Constitution (Article 18, point 2), the principle of non-discrimination is formulated thus: "*No one should be discriminated against unfairly on such grounds as gender, race, religion, ethnicity, language, political, religious or philosophical convictions, economic, social and educational status or parental affiliation*". While the Constitution does not explicitly provide a definition of discrimination, it has been clearly evidenced in the relevant legislation on gender equality and in CEDAW.

45. Apart from upgrading domestic legislation, during the period 2004–2009, Albania also ratified a number of international acts aimed, among others, at the elimination of discrimination against women:

- Protocol No. 12 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, ratified under Law No. 9264, dated 29.07.2004, whose subject is also the abolishment of discrimination in general.
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified under Law No. 9094, dated 03.07.2003.
- European Convention on the Compensation of Victims of Violent Crimes, ratified under Law No. 9265, dated 29.07.2004.
- Council of Europe Convention on Action against Trafficking in Human Beings, ratified under Law No. 9842, dated 20.11.2006. The Republic of Albania, in the framework of the implementation of the provisions of this Convention should ensure all measures to protect and promote the rights for the victims, without any sort of discrimination.

⁴ The institutional framework for the protection of individual rights is addressed in the comments on Article 26.

Improvements in the legal framework and other specific measures for eliminating gender discrimination

46. A novelty in view of reaching contemporary standards for ensuring gender equality is the adoption of Law No. 9970, dated 24.07.2008, on Gender equality in society, under which the most important international principles in this respect are taken into account. The Law provides the full definition of gender discrimination. Under that Law, “discrimination on the grounds of gender” is “any sort of discrimination, exclusion or restriction on gender grounds, aimed at or producing as effect, the failure of each gender to acknowledge, enjoy and exercise on equal footing the human rights and fundamental freedoms specified in the Constitution and in the laws, in the political, economic, social cultural and civil fields”. The goal of this Law is to protect citizens from any sort of discrimination on the grounds of gender, ensure equal chances and opportunities for men and women, in view of achieving the highest possible standards in the area of gender equality.

47. The Law provides, as interim measures, the introduction of the following quota: (a) up to 30% women in the legislative, executive and judiciary power and in other public institutions; (b) inclusion of not less than 30% of each gender in the lists of the candidates submitted by each political party of coalition for the proportional system of elections in the Assembly of the Republic of Albania.

48. Article 30 establishes that any complaint about violation of gender equality shall be reviewed or judged by the administrative bodies in harmony with the provisions of the Code of Administrative Procedures. For the settlement of disputes, the parties could freely follow the procedure of dispute resolution through conciliation or mediation. Likewise, the Law recognizes the right to prosecute cases to the administrative bodies or the competent court. The Law does also stipulate sanctions in case of gender discrimination, which vary under the provisions violated, ranging from disciplinary measures to fines. Under Article 29, “compensation for the material and moral harms” caused by the infringement of the provisions of this law, including the restitution of the infringed rights is effected through judiciary means under the Civil Code.

49. The Penal Code (approved by amended Law No. 9686, dated 26.02.2007 on some amendments to Law No. 7895, dated 27.01.1995) of the Republic of Albania) in Article 6 provides as an aggravating circumstance of committing the offense, motives related to gender, race, religion, nationality, language, political, religious or social opinions. In the Penal Code there are no gender differences in specifying criminal offences. Article 253 sanctions that “differences on the basis of origin or sex performed by State employees or the public service that results in unfair privileges or denial of a right or benefit derived from the law shall be punishable by fine or imprisonment up to 5 years”.

50. Law No. 9888, dated 10.03.2008, on the Rights and treatment of prisoners and detainees, in its Article 5, provides that the execution of the sentence of imprisonment is done by respecting the dignity of detainees and through human feeling. It does also provide the main principles for the treatment of prisoners, such as fairness or non-discrimination on grounds of sex, nationality, race, economic and social status, political views and religious beliefs. Convicts must be provided with such living conditions that reduce the minimum negative prejudicial effects of imprisonment and changes with the lives of other citizens.

51. Pursuant to this Law, the General Rules and Regulations of Prisons have been adopted, which provide, among others, the obligation of the administration of prisons to achieve humane treatment of prisoners and education through effective modern management methods, without discrimination on the grounds of race, colour, sex, language, religion, political opinion, national origin, or social and economic status or other. Under this regulation, every convict should be acquainted with his rights and obligations deriving from the law, from this regulation and from internal prison regulations. For this purpose,

the library of the institution makes available the necessary legal acts and regulations to women in prison. For offenders who do not know how to read or write, communication is provided verbally by the education service.

52. Law No. 9376, dated 21.4.2005, on Sports stipulates that exercising a sport is the right of all citizens in the Republic of Albania, and bans any sort of discrimination in sports events on grounds such as political, religious, racial, ethnicity, social and economic status. Likewise, among others, this Law establishes that during sports events at all levels or during their transmission in public or in venues where they occur, it is prohibited any provocation or attempt to or any provocation of political, social, racial, religious and gender nature, which is aimed at instigating hatred and violence against participants in sport events or/and spectators.

53. Law no. 9669, dated 18.12.2006, on Measures against violence in family relations is designed to “prevent and reduce violence in the family in all its forms, through appropriate legal measures, as well as ensure protection through appropriate legal means of family members who are victims of family violence, paying special attention to children, the elderly and persons with limited abilities”. This Law is designed to establish the coordinated network of governmental institutions to respond in a timely manner to cases of family violence and the issuance of instant orders for court protection.

54. The National Strategy on Gender Equality and Family Violence (NSGE&FV) 2007–2010, drafted in a comprehensive process with the support of United Nations organizations operating in Albania, adopted under a decision of the Council of Ministers No. 918, dated 19.12.2007, is an inter-sectoral strategy based on the critical fields and recommendations of the Beijing Platform of Action in the Albanian context. Its goal is to include gender issues and family violence in public policies through concrete action plans in order to lay the foundations for the advancement of gender equality and the minimization of the phenomenon of family violence in the future, based on international documents, recommendations and interests and referring to Albania’s concrete circumstances. The strategy is accompanied by a plan of action broken down into specific actions over 2008–2010 under eight (8) guidelines that have yet to be defined. The strategic priorities of these documents are shown below:

- (a) Strengthening the legal and institutional mechanisms aimed at ensuring gender equality in Albania;
- (b) Empowerment of women through its increased participation in the decision-making process;
- (c) Economic empowerment of women and the boost in opportunities for employment and professional training;
- (d) Promotion of equal access by women and girls to qualitative education;
- (e) Upgrading the social status of vulnerable women by improving their approach to qualitative social services;
- (f) Protection of population health by improving the health system tailored to the specific population needs in this area;
- (g) Improvement of the role of media to foster a new mentality which responds to contemporary requirements concerning gender equality in society and increased women’s representation in this profession;
- (h) Increased awareness of the occurrence of violence, enhanced legal and administrative defence and support for victims of, individuals affected by and perpetrators of family violence.

55. The principle of gender equality is enshrined, among others, in Law No. 10221, dated 4.2.1010, on the Protection against discrimination. Article 1 of this Law states that it regulates the implementation and compliance with the principle of equality regarding gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious and philosophical convictions, the social economic and educational status and others. The law is designed to ensure the right of each person to: (a) equality and equal defence before the law; (b) equal chances and opportunities to exercise rights, enjoy freedoms and take part in public life; (c) effective defence from discrimination and from any form of conduct that instigates discrimination.

56. A novelty introduced by this Law is that it also provides a definition for different kinds of discrimination, e.g. “direct discrimination” and “indirect discrimination” (article 3, paragraphs 1, 2, 3). Direct discrimination is the form of discrimination that occurs when a person or group of persons is treated in a less favourable way than another person or other group of persons in the same or similar situation, based on any grounds mentioned in Article 1 of the said Law. Indirect discrimination is the form of discrimination which occurs when a provision, criteria or practice that is impartial in appearance would place a person or group of persons in unfavourable conditions concerning the grounds specified in Article 1, in relation to another person or group of persons, as well as when that measure, criteria or practice is not objectively justified by a lawful intention or when the means to reach this intention are either not appropriate or not necessary and in a right proportion to the situation which has produced it.

57. Article 7, paragraphs 1 and 2 establish the prohibition of discrimination when it is due to omission or commission by public authorities and the physical or juridical persons that take part in the public and private life of persons which lay the foundations for the denial of equality against a person or group of persons or when it exposes them to unfair and unequal treatment, when they are under similar or the same circumstances as other persons or groups of persons. Likewise, the elimination of all privileges and unfair discrimination is ensured for all citizens (including the gender aspect), under the personal, political, economic, social and cultural rights provided in the Constitution of the Republic of Albania and the international acts ratified by Republic of Albania and the laws in force.

58. The juridical means that ensure the effective defence from discrimination or any other form of conduct that produces discrimination under the above-mentioned law is the Commissioner for Protection from Discrimination who is supported by the Office of the Commissioner for Protection from Discrimination. The competences of the Commissioner are the following: review complaints filed by persons or groups of persons claiming to be discriminated against; examine complaints by organizations that have a lawful interest to operate on behalf of and with written consent of the individual claiming to have been subject to discrimination; conduct administrative inquiries after receiving reliable information on violation of the law; decide administrative sanctions under the legal definition; foster the principle of equality and non-discrimination, especially by sensitizing and providing information on these issues, including the provision of written information; monitor law enforcement, making recommendations for the competent authorities, especially by proposing the adoption of new legislation or the reform of existing ones. The Commissioner also submits a written opinion on any issue related to discrimination at the court’s request, which examines the issue and others (Article 32, point 1).

59. Likewise, all public institutions and private entities are obliged to support the Commissioner in performing his duties, specifically by providing the necessary information (Article 32, point 2). The Commissioner, while examining the complaints lodged, complies with the norms stipulated in the Code of Administrative Procedures, except for the procedures specified by law. In case the person against whom the complaint is made does not inform the Commissioner within 30 days from the latter’s request, or fails to comply

with the Commissioner's decision to take measures to set right the violation within the specific deadline, then the Commissioner shall fine the person. Every person who violates the legal provisions shall be punished as follows: (a) for the physical person, from 10,000 up to 60,000 lekë; (b) for the juridical person, from 60,000 up to 600,000 lekë; (c) for the physical person within the juridical person who is accountable for the violation, from 30,000 up to 80,000 lekë; (d) for the person who holds a public function and who is accountable for the violation under the law, from 30,000 up to 80,000 lekë. As a last resort, especially when the physical or juridical person does not comply with the decision of the Commissioner and fails to pay the fine within three months following the deadline set by the Commissioner, and the sanction has not been contested in the court, the Commissioner may ask the competent authorities to withdraw or suspend the licence or authorization for the physical or juridical person to conduct his activity (Article 33, points 11, 13, 15).

Participation in politics and public life

60. The following important improvements have been made to the legal framework. The Election Code, adopted under Law No. 10019, dated 29.12.2008, in its Article 3 establishes that "Every Albanian citizen, who has turned 18, even on the election day, without distinction to race, ethnicity, *gender*, language, political, religious or philosophical conviction or economic status has the right to elect and to be elected in compliance with the rules stipulated in this Code." Furthermore, Article 67, point 5, states that "For each constituency, at least 30% of the multi-nominal list and/or 1/3 of the first three names on the multi-nominal list should belong to each gender. For the election of local government bodies, one in each three names in the list should belong to each gender."

61. This quota is neutral from the gender viewpoint since such list is designed to represent both genders by not less than 30% in the above-mentioned bodies. In the case of failure to comply with the quota, the Law envisages sanctions. Article 15, point 3, states that "Political parties shall pay a fine of up to 1/10th of the State funding for the financing of the election campaign if the provisions of this article are violated up to the rectification of the violation."

62. Likewise, Article 175 of the Election Code stipulates sanctions concerning failure to respect gender equality during elections. Failure to comply with one of the conditions envisaged in Article 67 of this Code concerning the composition of the multi-nominal list for elections in the Assembly of Albania (hence also Article 67, point 5 for parliamentary elections) shall result in the rejection of the list by the Central Electoral Commission (CEC). The party that fails to comply with the quota envisaged for local elections shall be fined with an amount of 30,000 lekë for each constituency.

63. Law No. 10221, dated 4.2.1010, on Protection from discrimination, in its Article 9 specifies the prohibition of discrimination while exercising the right to be elected, to elect and to be appointed to public office on the grounds of gender, race, colour, ethnicity, language, gender identity, sexual orientation and other.

64. Law No. 8872, dated 29.3.2002, on Education and professional training in the Republic of Albania expresses and upholds the right of citizens to education and professional training, albeit their social or health status. Article 5, paragraph c, of this law establishes that beneficiaries of education and professional training are also specific groups, which seek professional rehabilitation, as well as persons with limited abilities, mothers with several children, persons under 18 years, long-term unemployed and others. Order No. 782, dated 04.04.2006, on Tariffs for professional training, which was issued by the Minister of Labour, Social Affairs and Equal Opportunities, defines free registration tariffs for the Roma community, trafficked girls and women, persons with limited abilities and others for professional training courses offered by public centers of professional training.

65. Law No. 9970, dated 24.07.2008, on Gender equality in the society defines the obligations of employers to respect the principles of gender equality and the rights of the employees; measures in the case of discriminatory notices; duties of the responsible authority to respect gender equality in relations of employment and with other institutions; assessment for unpaid labour; measures for professional education and qualification; sanctions in the case of failure to abide by the law and others. Under Article 16, point 5, of the Law, the employer is obliged to provide equal and appropriate labour conditions, equal opportunities for information, equal training and qualification and equal treatment for employees during employment.

66. The employer should for the purpose of promoting gender equality prior and during employment ensure equal chances for men and women regarding application for vacancies; apply the same criteria for all recruitment procedures; hire without gender differentiation for each and every job or vacancy, at all levels of the professional hierarchy; promote equal distribution of genders at various kinds of jobs and within different categories of employers, through training, cultivating professional capacities and other interim measures; provide equal and appropriate working conditions as well as equal chances for information, training, qualification and treatment for employees during employment; apply the same criteria when assessing performance. The employer shall not apply an assessment criterion which is supposedly neutral but which in practice is detrimental to the persons of the other gender; give equal pay for work with equal value; adopt measures to prevent discrimination, sexual concerns and harassment against the job seeker.

67. The Law stresses that it should not be qualified as discrimination on the grounds of gender, when the State adopts specific measures, including legal provisions, which are aimed at the following:

(a) Special protection for women during pregnancy and delivery of the child; young mothers and young parents due to natural delivery of child or child adoption, providing in this way the conditions for their protection and job facilitation; social insurance and aid; providing the necessary health assistance for mothers and babies; ensuring and promoting the social service system favorable to the development of the network of crèches, homes and kindergartens;

(b) Facilitating assistance for persons who hold special family responsibility related to the daily care of disabled family members, on the account of age, physical or mental disability or other disability.

68. Law No. 10221, dated 4.2.1010, on Protection from discrimination establishes the obligations of the employer as follows: (a) implement, protect and promote the principle of equality and prohibit any sort of discrimination (including gender); (b) adopt other necessary measures, including disciplinary measures for the protection of employees from discrimination and victimization, within a month after being notified; (c) reply effectively and in compliance with this Law to the complaints received on the account of the discrimination lodged by employees, within a month after receipt of such information. Likewise, the employer is obliged to raise awareness of this Law by placing it in the public places of the employment premises and enable its thorough comprehension through his own means or with the assistance of specialized entities. Viewed from the same perspective, the Law on the protection from discrimination also ensures the rights of the employee: (1) each employee has the right to complain to the employer and to the Commissioner for Protection from Discrimination or to the court, if he believes he has been subject to discrimination; (2) during the period of the examination of the complaint, the employee has the right to continue working under the contract terms; (3) the employee has the right to receive information at any time concerning the treatment of the complaint and to receive explanations for the decision taken by the employer in response to his complaint, once it is examined; (4) if the employer does not take measures to investigate and resolve the

complaint of discrimination, the employee lodging the complaint has the right to interrupt work, without losing the right to a salary, for as long as it is necessary to protect himself from discrimination. Under this article, the employee shall return the salary received if the alleged discrimination is not confirmed by a final court decision.

Remuneration

69. The Constitution of the Republic of Albania, in its Article 18, establishes the principle of equality and non-discrimination on the basis of gender. Chapter IV, article 49 on economic, social and cultural rights and freedoms also establishes the right of each and everyone to earn a living by means of lawful work, which he/she has chosen on his/her own; likewise, self-employed persons have the right to social protection. Although it mentions discrimination as a generic concept, Article 18 also applies to non-discrimination on the basis of gender in labour relations and in the concrete case of equal remuneration.

70. The principle of equal salary for equal work is specifically provided for in Article 115 of the Labour Code; paragraph 3 specifies that the employer shall pay equal salary to men and women for work with the same value. Also under the Labour Code, in the case of violation of this principle, the employer is obliged to pay the discriminated employee an amount including all benefits as the employee of the other gender (Article 115, paragraph 4).

71. Law No. 9970, dated 24.07.2008, on Equality of gender in the society defines as one of the employer's obligations the application of the principle of equal salary for work with equal value. Article 17, point 1, paragraph a, establishes that the employer's actions in the public or private sector are discriminatory on the grounds of gender if differentiated salary standards are used against employees for work with equal value.

72. With regard to sanctions in the case of discrimination in labour relations, the Labour Code defines sanctions amounting to 50 times the minimum wage. Likewise, Law No. 9770, dated 24.07.2008, on Gender equality in the society defines sanctions which vary from the disciplinary measures to fines.

Education

73. The practical achievement of gender equality makes very necessary the creation of an educational and cultural balance between men and women. The elimination of any form of discrimination in education against females constitutes an important basis on which gender equality may be achieved in a broader spectrum. Thanks to the complete and contemporary legal framework in this field (e.g. Law on Pre-university education, Law on Education and professional training in the Republic of Albania, Law on Higher education) and the measures adopted by the Government (e.g. National Strategy for Education), the compulsory nine-grade education is pursued by 98% of girls, whereas secondary education is attended by 53.4% of girls. A positive indication is the fact that the number of females who graduated from Albanian universities over recent years is almost twice as high as the number of graduated males.

74. The principle of equality in education from the gender point of view accounts for an important place in domestic legislation which regulates education and training at all levels. The legal framework in the field of education protects and promotes human rights and prevents all forms of discrimination against individuals. Law No. 9832, dated 12.11.2007, on additions and amendments to Law No. 9741, dated 21.5.2007, on Higher education in the Republic of Albania offers potential for life-long benefits from higher education without any discrimination. Article 1 of this Law establishes that in the Republic of Albania, higher education is public and non-public. Higher public education is ensured and financed by the State as well as other lawful sources, and is secular.

75. An important instrument in this regard is the National Strategy for Gender Equality and Family Violence (2007–2010) and the Action Plan for its implementation, adopted under Council of Ministers decision No. 913, dated 19.12.2007. It is aimed at upgrading to a considerable extent the issues with a gender basis in Albania's educational system, foster dialogue for the realization of gender equality in view of ensuring equal participation of men and women in social, economic and political life, equal opportunities to enjoy their rights and to use all their individual potential to the benefit of the society; improve protection, response from the judicial system and support for the victims of family violence and place much more emphasis on prevention, addressing the cause of family violence and abuse: One of the objectives of this Strategy is involving in manufacturing activities unemployed women in the Roma community, violated women, women heads of household, trafficked women and others. The Action Plan of the Strategy contains a series of concrete measures addressing the issue of gender equality and prevention of family violence. Some of the legislative and administrative measures undertaken recently by the MES in the context of the National Strategy for Gender Equality and Family Violence (2007–2010) are shown below:

- In the context of integration and gender equality as standard in education, working groups have been set up in the Institute of Curricula and Training, composed of specialists in gender equality. The teaching programs of compulsory education have been analysed.
- The extension of the school psychological service continues at all schools and kindergartens. This service has introduced a novelty in addressing pupils' problems, both in and outside school, conducting training activities with pupils, teachers and parents to raise awareness and all-inclusiveness in education and in view of avoiding various negative occurrences, such as school dropout, violence in the family and at school, gender inequality and others.
- MES and the Institute for the Development of Education (IDE), in cooperation with the Network of the Associations of Education have drafted 14 teaching modules to be implemented in classes I to IX. These modules are designed to raise the pupils' awareness of their own rights.
- The teachers of the low and medium cycle have been trained in gender equality by IDE and the Gender Alliance for Development. A product of the cooperation with UNDP is the issuance of the roadmap for the inclusion of gender issues in teacher training.
- MES, in cooperation with Kulturkontakt, Austria, is implementing pilot projects in four Regional Educational Departments (RED) for the integration of gender equality in secondary education, designed to raise teachers' awareness on the aspects of gender integration while teaching and to forward concepts which make gender integration part of the school life.
- In some REDs, the teachers, particularly in the north of the country, have launched door-to-door awareness campaigns, distributing leaflets on gender equality and the importance of involving females at all school levels.
- Pursuant to Instruction No. 23, dated 31.08.2009, and issued by the Minister of Education and Science, RED/EZ and the School Directorates have already included the following in their annual work program: planning, realization and monitoring the relevant activities for the strategies.
- The vertical training system is also institutionalized. Order No. 22, dated 18.8.2009, issued by the Minister of Education provides for the use of the training funds to train workers in the pre-university education system. This vertical training provides all

teachers and educational workers with the opportunity to be trained in themes related to school dropout, all-inclusive education, including from the gender viewpoint.

76. Law No. 10221, dated 4.2.1010, on Protection from discrimination has devoted the whole Chapter III to protection from discrimination in education. Article 17 states as follows: "Any distinction, restriction or exclusion on the grounds mentioned in Article 1 is prohibited (among others, respect for the principle of gender equality) and which is related to the establishment of public or private institutions, which deliver educational or professional services, containing principles and criteria for the educational activities, including teaching programs and methods, the treatment of students and pupils, including the acceptance, assessment the implementation of disciplinary measures or their exclusion should not refuse a person or a group of persons admission to a public educational institution on the grounds mentioned in Article 1 of the Law. Also prohibited is any sort of harassment, especially sexual harassment of students, pupils and employees in the educational institutions.

77. On the other hand, the implementation of specific and interim measures based on the grounds mentioned in Article 1 of this Law aimed at speeding up equality in education is not considered as discrimination. These measures shall be interrupted when the objective of treating and providing equal opportunities is achieved.

Consciousness and religion

78. In its Article 18, point 2, the Constitution protects every individual from discrimination on the grounds of political, religious or philosophical convictions, ensuring in this way the freedom of thought. Whereas its Article 24 states that the freedom of religion and consciousness is ensured; each and everyone is free to chose or to change the religion or the convictions, as well as to show them in public, individually or collectively, in public or in the private life, through rules, education, practices and while performing rites. No one should be forced or prohibited from affiliation to a religious community or in its practices, or to make public his faith or conviction. Another guarantee to protect consciousness and religious faith and the freedom to express them freely is also ensured through the constitutional provision of the impartiality of the State in the issues of faith and consciousness (Article 10, point 2).

79. Regarding Law No. 10221, dated 4.2.1010, on Protection from discrimination, its Article 10 enshrines the prohibition of discrimination concerning the exercise of the freedom of consciousness and religion, especially when it relates to other individual or collective expression, in public or in private life, through rules, education, practices or rites. Likewise, the Law stipulates the permission of discrimination on the account of exercising the freedom of religion and consciousness, which could be established only through law for a public interest or for the protection of the rights of others. Yet, exclusion on this ground should be in the proper proportion with the state of things that imposes the need for discrimination (Article 10).

80. Governmental policies on gender equality. For the purpose of implementing the "National Strategy for Gender Equality and Family Violence" (2007–2010) and the Action Plan for its implementation, all governmental institutions at central level have been engaged (line ministries and their subordinating institutions) local institutions (prefectures and municipalities) and the network of gender officials, both at central and local level, in partnership with the academic institutions, the media, civil society, international organizations; the coordination is made by the MLSAEO, as the responsible authority for the gender equality issues.

Strengthening institutional mechanisms for gender equality

81. Responsible governmental structures for gender equality issues:

- The establishment of new and the consolidation of the existing structures for the protection and promotion of the equal rights between men and women has been an ongoing priority of the Government, based on important programs in this regard, as the ONE UN Program “For gender equality in Albania”, the project of the Austrian Government “Equality in governing”.
- The Minister of Labor, Social Affairs and Equal Opportunities is the responsible authority for gender equality issues. The Minister complies with the laws, as defined by the law and he monitors the activity for the gender equality issues through the structure he has at his disposal to this end – The Directorate of the Policies for Equal Opportunities (DPEO). Article 13 of the Law for Gender Equality defines the Minister’s competences.
- The Directorate of the Policies for Equal Opportunities is operating from year 2006, as the responsible structure for the gender equality and family violence in the MLSAEO. It is the responsible structure designed to “promote gender equality and a broader participation of women in the economic, political, social and cultural life of the country” and “to be engaged into the fight against family violence”.
- Gender officials: The integration of gender politics in the public policies at central and local level is achieved in cooperation with the gender officials in the line ministries and municipalities, in compliance with Articles 13 and 14 of the Law on gender equality. Their work consists in: monitoring and implementing the commitments of central and local government, as expressed in the national strategies and the legal framework, as well as in the international conventions and statements on gender equality and family violence issues. Likewise, it supports the integration of gender equality issues in the policies, programs and laws drafted by the Ministry or the Municipality where the gender official is working.

82. Advisory bodies:

- The National Council of Gender Equality (NCGE): it is set up pursuant to the Law no. 9970, dated 24.07.2008 “For the gender equality in the society”, upon orders issued by Prime Minister No. 3, dated 8.1.2009, “For the functioning of the National Council of Gender Equality”, as an advisory body for gender policies. This Council is chaired by the Minister who covers the issues of gender equality; it has 9 deputy Ministers and three representative members from the civil society. The tasks of this Council are defined in Article 12 of the Law on gender equality and under point (b) of this article NCGE “assures the gender integration at all areas, especially in the political, economic and cultural areas”.
- The Inter-Institutional Working Group (*IIWG*) deals with the collection of gender statistical figures and the definition of the indicators in Albania. Set up pursuant to the Law on gender equality, this group has worked on drafting the list of gender indicators for gender equality and family violence.

83. At the parliamentary level, the gender issues are addressed in the parliamentary Commission of Health, Labour and Social Affairs.

84. During the period 2004–2005 from the governmental mechanism for equal opportunities (former Committee for Equal Opportunities) there are implemented a series of projects designed to train media outlets with elements of gender equality and the elimination of stereotypes in the mass media. During the year 2004, a cycle of training has taken place on the gender perspective for the journalists of printed media. During the year

2005, another training cycle with the students of the last year of journalism took place on gender problems in health system; they were trained on the issues of journalistic ethics, the introduction to the gender legislation in the field of health and others. Likewise, in the context of awareness campaigns, cycles of TV broadcasts have taken place in the national TVs to raise the awareness of the public opinion for gender issues.

85. During the period 2003–2005, the Committee for Equal Opportunities held some events to increase the number of women present and active in decision-making. As such one may mention: training in 123 country districts “Fostering participation of women in politics” aimed at training almost 350 women and girls, in their capacity as potential candidates for the local elections 2003, supported by the “Assistance by the Norway people” (ANP); round tables in various districts with the Foundation “Friedrich Ebert” concerning the awareness of the local government for the increased women participation in politics; in the context of the Stability Pact, in cooperation with the group of associations “Millennium” trainings were organized with political activists and women holding leading offices in the sector of political decision-making. These activities were organized in several country districts during the general and local electoral campaigns. In the framework of the project “Women in leadership” financed by the “Swedish International Development Agency” (SIDA) and UNDP, the training of women candidates for local elections was held for the members of the women political fora; it was designed to train and support women candidates. In this case, there were trained about 1,100 women and girls from all over the country. Despite these trainings and awareness campaigns, the concrete situation does not tell a high presence of women in the political decision-making process.

86. The Albanian Government is making continuous positive efforts for the women empowerment, the protection of her own rights and increased participation in the political and public decision-making. In the Strategy on Gender Equality 2007–2010, one of the major directions is: Women empowerment through increased participation in the decision-making process. During the years 2007–2009, an important contribution in meeting this objective has been the implementation of various projects financed by international organizations on the issues of gender equality in Albania.

87. Cooperation with international and domestic organizations in the area of gender equality. Regarding gender equality issues and the fight against family violence, the Albanian Government during the years 2006–2009 has been supported by organizations and donors operating in this area. The support is extended in the context of the program ONE UN “For the gender equality in Albania”; CE, Project of the Austrian Government (2007–2010) “Equality in Governance”.

88. During the year 2008–2009, special attention was devoted to raising the awareness of governmental structures on central and local level, the media and the public opinion in general for the introduction and implementation of the NSGE&FV and the importance of gender issues.

Media awareness campaigns and publications

89. Raising awareness campaigns “Progress is with me – it’s your turn to join us”: On the occasion of the 8th of March, Women International Day, the Ministry of Labour, Social Affairs and Equal Opportunities organized the awareness event: “Progress is with me – it’s your turn to join me”. This event marked the launch of the awareness campaign on national – wide scale for the introduction of the rights for women and girls. The TV spot: “Progress is with me, it’s your turn to join me now” was prepared and launched. The relevant posters were also distributed.

90. Awareness campaign “Gender equality – an issue to be resolved”: Round tables to become familiar with the NSGE&FV 2007–2010, at the local level in the 123 country

prefectures for the period April–July 2008”. The goal of this campaign is to introduce the social opinion with the NSGE&FV and the coordination of events with the local government actors for the implementation of the Action Plan of this Strategy at the level of Prefectures, with concrete defined duties on gender equality.

91. In conclusion of the awareness campaign, in the 12 country prefectures it was held the final meeting in Tirana “For an equal society free from violence”. During this conclusive meeting, the Minister of Labour in person assured once again for the support and the efforts of the institution he runs to meet the challenge of gender equality.

92. Broadcasts and interviews in the TV stations: Klan, Top Chanel, Nesër TV etj. Articles and publications have been also issued on gender issues during the year 2008. For the purpose of the sensibilization of the public opinion on the inter-institutional mechanism for gender issues and for the introduction to the legal domestic and international frame, pursuant to the objectives of the Strategy, they have been distributed to the central institutions, Prefectures, NGOs, international organizations, the focal points of the line ministries and to the Prefectures. Articles have been published on the tender issues and the prevention of family violence by various authors in the printed media, as in daily newspapers: Shekulli, Republika, RD, Standart, Tema, Gazeta 55, Koha Jonë and other newspapers.

93. Training of various subjects in the framework of CEDAW and the Law on gender equality. In the framework of the joint program “One UN” For gender equality in Albania”, the MLSAEO, in cooperation with UNIFEM, with the support of the NSGE&FV have conducted training sessions for the acquaintance and implementation of the law on gender equality and CEDAW, with representatives of central and local government: one – day trainings” On piloting the handbook of training for the Law on gender equality and CEDAW, organized by the DPGE and UNIFEM with the focal points of the Ministries, with a view to increase the degree of knowledge of the officials of the state responsible institutions with the duties emanating from the law; training TOT for the LGE and CEDAW”, organized by the DPGE in cooperation with UNIFEM and with representatives from all groups of interest; the goal of this training was to set up a team of trainers who continued the trainings in the country’s municipalities; two – day trainings: “Gender Equality and the role of actors of the judicial system” – the Law on gender equality in the society”, organized in cooperation with the High School of Magistrate and financially supported by the UNDP, with 82 judges and prosecutors being trained there; trainings with representatives of the administration at local level, in the cities of Durrës and Lezha, in cooperation with the respective municipalities there were organized trainings, financially sponsored by UNIFEM, in the framework of the Annual Working Plan (2008–2009) of the MLSAEO, for the support of the implementation of the Joint program “One UN – For the Gender Equality in Albania” “. The goal of these trainings was to upgrade the knowledge of the representatives of the local government on the tasks emanating from the law and the comprehension of the legal obligations in the work within their institution as well as the increase their knowledge on the Convention CEDAW and on the Additional Protocol; trainings for the gender budgeting at local level in the municipalities of four cities: Elbasan, Lezhë, Kukës, Shkodër Gender-Mainstreaming through the gender budgeting at local level” financially sponsored by UNIFEM in cooperation with the respective municipalities and the Center of Advanced Studies.

94. In the framework of the Austrian project: “Equality in governance” (2007–2010), whose major goal is to have an equal governing and political dialogue in Albania, by operating and strengthening the gender structures and by establishing ties among governmental and non-governmental partners who work on gender equality at local, regional and central level, the following trainings have taken place:

- Training in municipalities with representatives of local government” Issues of gender affiliation and the inclusion of these issues on local government”. Nearly 721 officials of the local administration have gone through these trainings.
- Training for the gender integration in the local government in some pilot municipalities: “The cycle of development of the gender Action Plan in the Local Government”. Nearly 145 civil officers from the local administration have benefited from these trainings.

95. Trainings of the local government staff (the newly established structures at the circuit level, municipality and commune) who covers the programmes of social aids and services for the disadvantaged women and girls.

- For the improvement and reinforcement of the capacities of specialists of the regional offices of the State Social Service (SSS) in the local government for the assessment of the needs, the administration and financing of social services with community basis, SSS is implementing the Project: “Raising the professional capacities of the local government structures (Municipality, Circuit), Regional offices and the officers of the institutions of the State Social Care for the implementation of the standards and legislation in the field of social care”.

96. Trainings journalists of printed and electronic media. MLSAEO/DPGE in cooperation with the Albanian Media Institute and supported by UNFPA have trained journalists of the printed and electronic media with the focus on the gender equality: “Major issues of development and problems of professional ethics”.

Article 4

Rights in emergency cases

97. As it is also highlighted in the First Report on Albania, the Constitution stipulates as follows: (1) Restrictions of the human rights and fundamental freedoms specified in this Constitution maybe imposed only through law for the purpose of a public interest or for the protection of the rights of the others. The restriction should be in the right proportion with the situation which has imposed it; (2) These restrictions cannot infringe the essence of the rights and freedoms and they should, on no account, overstep the restrictions stipulated in the European Convention on Human Rights (Article 17).

98. The First Report has listed all the relevant articles of the Constitution that establish the rights and freedoms which maybe restricted and those that cannot be restricted under the circumstances of the establishment of the emergency case or the state of war. The law 9722, dated 30.04.2007, “On some amendments to the Law no. 8003, dated 28.9.1995 “The Military Penal Code of the Republic of Albania” endorsed by the Assembly of Albania, the death penalty has been abolished; it was specified as a punishment term in the cases of committing serious military criminal offences in time of war by the subjects defined in this Code.

Article 5

Restriction of rights

99. The Constitution of the Republic of Albania defines the protection of human rights and fundamental freedoms. Constitutional provisions in general, the human rights and fundamental freedoms, which they provide for specifically, are the major indicators for the assessment of democracy in the Republic of Albania.

100. An internal and inseparable part of the Constitution is also the European Convention on Human Rights and Fundamental Freedoms, ratified under law no. 8137/1996. Article 17 of the Constitution stresses that the legal restrictions of the human rights and fundamental freedoms can in no case overstep the restrictions defined in this Convention. Regarding the protection of human rights and freedoms, the Convention refers to its provisions mainly related to their restriction, proclaiming it a law which introduces restrictions of the rights and freedoms beyond the Convention as anti-constitutional.

101. In the area of the protection of human rights and freedoms, the Constitution ensures the following:

- *Right to life* – The Constitution (Article 21) stresses that “the Life of a person is protected by law”. This provision expresses the guarantees to the right to life and it is not stated on its restrictions, pointing out the importance it has for its protection.
- *Freedom of expression, freedom of press, and electronic means* – Article 22 of the Constitution has enshrined a wide-ranging recognition of the freedom of expression, which accounts for an important place, right after the right to life shows how important and essential such a freedom is in a democratic system. Special place is devoted to freedom of electronic means, through which it is realized the right to expression and audiovisual communication, becoming an inseparable part of the freedom of expression and press i.e. freedom of information the broadest sense of the word.
- *Right to information* (Article 23) – This right is enshrined in the Constitution, with a view to protect the general interest for information, representing one of the most important rights, the good functioning of democracy in a country.
- *Freedom of religion and consciousness* (Article 24) – Article 24 of the Constitution, freedom of consciousness and religion is shown as double-fledged, as in all European constitutions. First, this means that each one is free to choose or to change his religion and religious conviction; secondly, it means that each one is free to exercise “the freedom of the cult”.
- *Personal freedom* (articles 27 and 28) – It consists in the freedom of the person from any sort of coercion which prohibits or restricts him/her during his/her acts or actions.
- *Constitutional guarantees for the defendant during the penal process* – the Constitution provides for a series of rights, which ensure the real protection of the defendant. The latter has the right to know why he is accused (article 31/a); he has also the right to be active in the process of finding out and receiving the evidence (article 31/d); The defendant enjoys the right of defence with a lawyer (article 31/c); the defendant who is a minor has the right to be provided with juridical or psychological counseling.
- *Right to enjoy a secret private life* (articles 35, 36, 37) – The Constitution has enshrined the right of confidentiality and the definition of legal detailed rules, as the sole possibility to comply with this constitutional right.
- *Right to a due penal process* (Article 42) – which under the Constitution is a constitutional right – guarantee. Under Article 42, a due legal process is the one that is achieved as follows: through due public judgment; judgment within a reasonable deadline; trial by a legally defined court; trial by an independent and impartial court.

102. In the field of the protection of human, civil and political rights the Constitution ensures the following:

- *Right to vote* – Article 45 of the Constitution affirms the election right, as a fundamental right and freedom with political character, turning it into a wide-ranging constitutional interest.
- *Right and freedom to assemble collectively* – the first paragraph of Article 46 of the Constitution defines the right of each one to be organized collectively for whatever lawful purpose.

103. In the field of protection of the economic, social and cultural rights and freedoms, the Constitution ensures the following: The right to marriage and to have a family (Article 53) – Under the Constitution, the marriage and the family enjoy special protection by the state. The right to marriage and to establish a family is a fundamental right recognized also by the Constitution and guaranteed through it. This means that this right should be recognized and ensured for all. This is a right of each one, under the definition made in Article 53 of the Constitution.

- *Right to receive education* (article 57): Article 57 of the Constitution, the right to education is shown as a civil right and duty. This article harmonizes this duality very well.
- *Right to work* (articles 49, 50): The Constitution acknowledges the right to work and the freedom of profession. Apart from this, it acknowledges and ensures the right of the employed people to assemble in trade union organizations for the protection of their working interests. The Constitution establishes for the first time the trade union pluralism. Likewise, the strike is specified as a constitutional right, (article 51) which is exercised under the laws that regulate it. The right to work is established in a specific and detailed way by the Labor Code and the relevant legislation.

Article 6

Right to life

104. The life of a person is protected under the law. This is how the juridical concept of the protection of human life is embedded in the Constitution of the Republic of Albania. This formulation does clearly and in a straight way explain the protection of the life of an individual, which contains a constitutional right. The Constitution qualifies the right to life as a value, from which arise all other rights. The fundamental principles of life protection find full-fledged support in these provisions. Life is a right, a fundamental attribute of the human existence and when this life is deprived or it is taken in whatever form, then a human being is eliminated as a bearer of rights and obligations.

105. The Chapter of human rights and fundamental freedoms is incarnated by the concept of their non-violation. Under Article 15 of the Constitution, the human rights and fundamental freedoms are inseparable and inviolable; they stand at the very foundations of the whole juridical order; this explains the existence of the primary and constitutional obligation of the state to observe and protect these rights through its agencies. Even the penal legislation in the Republic of Albania (Penal Code and the Code of Penal procedures) establish the principles, types of criminal offences committed against the life of an individual and the punishment terms for the relevant offences. A thorough legal and institutional frame ensures the right to life. Based on the best world practice, the health institutions apply the protocols for the treatment of diseases, ensuring an up-to-date treatment of diseases. There is a whole network of health institutions at the service of the life protection all over the country, as well as a considerable number of doctors and auxiliary personnel.

Abolishment of death penalty

106. Upon the approval of the amended Law No. 8417, dated 21.10.1998 “Constitution of the Republic of Albania” life protection is stipulated by law in specific provisions, abolishing in this way the death penalty. This punishment has never been applied in the Republic of Albania from the moment of the ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms (in 1996) as well as the adoption of the Constitution (in 1998) although the Albanian state has ratified the Protocol 13 of the European Convention, which abolishes the death penalty in 2006. Death penalty in Albania is applied in any circumstance, both at time of peace or at war.

107. Below are shown the legislative steps undertaken for the abolishment of death penalty in our country under a chronological order:

(a) In compliance with the Law No. 7959, dated 11.07.1995, Republic of Albania acceded to the Statute of the Council of Europe;

(b) On Decision No. 65, dated 10.12.1999 (V – 65/99) of the Constitutional Court of the Republic of Albania, with its object “Incompatibility with the Constitution of the Provisions of the Penal Code of the Republic of Albania, which specify death penalty”, under paragraph II of Article 17 of the Constitution,⁵ this Court has ruled to repeal death penalty, as incompatible with the Constitution of the Republic of Albania, at time of peace, in articles 29/1, 31, 73, 74, 75, 77, 78, 79, 109, 141, 208, 209, 219, 221, 230 and 334 of the Penal Code and articles 59/2 and 77 of the Military Penal Code and to extend the juridical effects of this decision to all court decisions containing death penalty and that are not executed yet;

(c) In compliance with the Law No. 8641, dated 13.07.2000, Republic of Albania has ratified the “6th Protocol of the European Convention for Human Rights and Fundamental Freedoms concerning the abolishment of the death penalty in time of peace;

(d) Under Law No. 8733, dated 24.01.2001 “On some additions and amendments to Law No. 7895, dated 27.01.1995, the Penal Code of the Republic of Albania” the death penalty in time of peace has been declared null and void;

(e) Under Law No. 9639, dated 09.11.2006, the Republic of Albania has ratified Protocol No. 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms for the abolishment of death penalty under all circumstances;

(f) Under Law No. 9726, dated 07.05.2007, the Republic of Albania acceded to the Second Additional Protocol of the International Covenant for the Civil and Political Rights under which “each party is committed to adopt all the necessary measures for the abolishment of death penalty within its own jurisdiction”;

(g) Under Law No. 9722, dated 30.04.2007 “On some amendments to the amended Law No. 8003, dated 28.9.1995, “The Military Penal Code of the Republic of Albania”, all the provisions stipulating the death penalty in time of war were repealed.

108. While interpreting the legal regulation for the protection of the individual rights required under Article 21 of the Constitution, it is only thorough law in specific cases related to death, in the meaning of Article 2, point 2 of the European Convention for Human Rights, that should permit even the deprivation of human life. In concrete terms, these two cases have been legally accommodated in the general provisions of the penal

⁵ This article specifies that the restrictions with the rights and freedoms stipulated in the Constitution cannot infringe the essence of rights and freedoms and that under no circumstance may the restrictions foreseen in the European Convention for Human Rights be overstepped.

Code of the Republic of Albania, which envisage the juridical institute for the necessary protection or under the amended Law No. 8290, dated 24.02.1998 “On the use of fire weapons”, which authorizes the Armed Forces of the Republic of Albania, the police, and the civilian armed guards to use fire weapons in the defined cases.

109. The Penal Code of the Republic of Albania, which during the period 2004–2010 was amended through Law no. 9188/2004, law no. 9275/2004, law no. 9686/2007, law no. 9859/2008 and Law no. 10023/2008, apart from its general principles, has also established the types of punishment terms. The latter are specified in its Article 29, which is part of Chapter V. the Penal Code specifies as major punishment terms the following: “Life imprisonment, imprisonment and fines”. The Penal Code does also provide for in its Article 22, as a general rule for the criminal offences that everyone, who attempts to commit a crime is accountable for that. This means that a person is held criminally accountable for the criminal offences against the life of a person, even if the effect he had desired is not produced. Likewise, the Penal Code, in its articles 25–27 specifies as a general rule that the executor, the assistant, the inciter and organizer are held accountable for committing the said offences.

110. In many of its provisions, the Penal Code is designed to respect life and in more concrete terms:

Chapter I specifies the Crimes against Humanity, as the gravest type of crimes against the person as “genocide” stipulated under Article 75, “Crimes against the humanity” stipulated under Article 76 and “War Crimes” specified under Article 77. For the purpose of ensuring criminal prosecution for the perpetrator of a criminal offence, the Penal Code in its Article 67 stipulates that “The War crimes and crimes against humanity are not subject to statutory limitation of criminal prosecution”.

111. The Penal Code has specified the criminal offences against life. Thus, a punishable criminal offence is “Intentional murder”, specified under Article 76, which is sentenced by imprisonment terms from 10–20 years; “intentional murder related to another crime”, specified under Article 77, which is sentenced by imprisonment terms not less than 20 years “premeditative murder” specified under Article 78, which includes even the cases of murders done for interest, blood revenge or revenge, which are sentenced by imprisonment terms not less than 20 years or even life imprisonment. The qualification of the crimes of this type in this provision of the Penal Code has taken place in response to the traditional phenomenon of blood feud and revenge, which is present in the country’s limited territories and the occurrence of the new phenomenon as murder for certain specific material or monetary interests. “Murder in qualified circumstances”, stipulated under Article 79, which provides for sentences with imprisonment terms from 20 years to life imprisonment and fines. Murder under such circumstances includes the cases when it is committed against a minor, against persons with limited physical or psychical abilities, against a seriously diseased person or against a pregnant woman, against an MP, a judge, a prosecutor, lawyer, policeman, military, or against other public functionaries on duty or on its account, against the denouncer, eye-witness, the aggrieved or parties involvement a trial court. This provision is also applied when the murder is addressed against to or more persons, when it is committed more than once, in a painstaking way for the victim and in a dangerous way for the life of several other persons; “murder of the baby” as provided under Article 81; “Murder under the conditions of strong psychological shock”, specified under Article 82; “Murder committed while overstepping the boundaries of necessary defence” specified under Article 83; “Serious intimidation for revenge of blood feud”, specified under Article 83/a; “Instigation for blood feud”, specified in Article 83/b and “Intimidation”, specified under Article 84.

112. Likewise, the Penal Code for the purpose of protecting personal life, in various of its sections has also specified concrete provisions when a person's life is damaged. In more concrete terms:

1. "Careless medical treatment", provided under Article 96.
2. "Failure to offer aid", provided under Article 97.
3. "Causing suicide", provided under Article 99.
4. "Sexual or homosexual relations through violence with minors from 14–18 years", specified under Article 101, which in its third paragraph stipulates the case of committing a criminal offence, which has caused the death or the child's suicide.
5. "Sexual relations through violence with adults", specified under Article 102, which in its third paragraph specifies the case of committing a criminal offence, which has produced the effect of the death or suicide of the aggrieved.
6. "Sexual or homosexual relations with persons unable to protect themselves", specified under Article 103, which in its paragraph 3 specifies the case when committing a criminal offence has produced the effect of death or suicide of the aggrieved.
7. "Kidnapping or holding a person hostage", specified under Article 109.
8. "Coercion through intimidation or violence for giving the property", specified under Article 109/b, which in its paragraph 3 envisages the case when committing the criminal offence has produced as effect the death of the aggrieved.
9. "Trafficking in human beings", provided under Article 110/a, which in its paragraph 3 has specified the case when the committing a criminal offence has produced as effect the death of a person.
10. "Trafficking of females", provided under Article 114/b, which in paragraph 4 has specified the case when committing a criminal offence has produced as an effect the death of an aggrieved.
11. "Abandonment of minor children", provided under Article 124, which in its paragraph 2 envisages the case when committing a criminal offence has produced as effect, the death of the minor child.
12. "Maltreatment of the minor", provided under Article 124/b, which in its paragraph 2 envisages the case when committing a criminal offence has produced as effect the death of the minor child.
13. "Trafficking of minors", provided under Article 128/b, which in its paragraph 4 envisages the case when committing a criminal offence has produced as an effect the death of the aggrieved.
14. "Violation of rules on poisonous substances", provided in Article 281, which in its paragraph 2 envisages the case when committing a criminal offence has produced the effect of death of the persons concerned.
15. "Violation of the rules on explosive, combustible and radioactive substances", provided in article 282, which in its paragraph 2 envisages the case when committing a criminal offence has produced the effect the death of persons concerned.

16. “Violation of the working discipline in transport”, envisaged in Article 292, which in paragraph 2 specifies the case when committing a criminal offence has produced as effect the death of the persons concerned.
17. “Assistance during illegal border crossing”, provided under Article 298, which in its paragraph 4 specifies the case when committing a criminal offence has produced as its effect, the death of the aggrieved.
113. Likewise, the penal legislation specifies that the classification of criminal offences against the life of a person in the cases, when they are committed both by Albanian citizens and foreigners. This constitutes what is called “universal jurisdiction”. Under this principle, the criminal law of the Republic of Albania is also applicable to the foreign citizen, who is in the territory of the Republic of Albania and who is not extradited, who has committed outside the territory of the Republic of Albania one of the following offences: (a) crimes against humanity; (b) war crimes; (c) genocide; (d) offences with terrorist intentions; (d) torture. The penal legislation is applicable also for the foreign citizen, who is outside the territory of RA and has committed one of the criminal offences, which are referred to specific laws or international treaties, where Albania is a party, define the applicability of the Albanian criminal legislation (Article 7/a of the Penal Code, added under the Law no. 9686, dated 26.2.2007, Article 2).

Measures to ensure the right to life for the children

114. The Albanian legislation under the relevant areas defines a series of provisions that ensure the right to life of the children and their development. Article 3 of the Family Code explicitly stipulates that “The parents are entitled and duty bound to take care for the good upbringing of children, development, welfare, education and teaching of children born out of a marriage or deadlock.” The other provisions address the equality in rights and obligations that the children born out of the deadlock have with the children born out of marriage. Each child, for the purpose of a complete and harmonious development has the right to be brought up in a family environment, in an atmosphere of joy, love and understanding. The Penal Code is based on the principle of equality before the law, making justice while defining the guilt and punishment terms and humanist as well (Article 1, para. c).

115. The Penal Code of the RA foresees as an aggravating circumstance the commission of criminal offences against children. It has specified a series of provisions which are designed to provide for criminal offences and relevant sanctions, in order to protect human life, including the children. In more concrete terms, it has provided for the following criminal offences: Murder (articles 76–83, 85 of the Penal Code); Intimidation (article 84); Torture (articles 86 and 87); injury (article 88/b); serious intentional injury (article 88, 88/a); light intentional injury (article 89); other intentional damages (article 90); serious injury due to carelessness (article 91); light injury due to carelessness (article 92); failure to provide assistance (article 97); causing suicide (article 99); sexual relations (articles 100–107); shameful acts (article 108); Kidnapping (article 109, 109/a); Trafficking (article 110/1 and article 114/b, for the minors 128/b); violation of residence (article 112); exploitation of prostitution (article 114); offence (article 119); abandonment (article 124); maltreatment of minors (article 124/b); failure to provide the living subsistence (article 125); unfair take-away the children (Article 127).

116. The Penal Code has foreseen there provisions concerning disrupt of pregnancy. Article 93 foresees that the disrupt of pregnancy without the woman’s consent, except for the case, when this termination is dictated by a justifiable medical reason, constitutes a crime and is punished with fines or with imprisonment term up to 5 years. Likewise, the interruption of the pregnancy performed in unauthorized places and by unauthorized

persons, as well as granting the means to interrupt the pregnancy constitute criminal offences specified under articles 94 and 95 of the Penal Code.

Health legislation based on the principles of equality and justice

117. The Strategy of the Ministry of Health is designed to distribute, rehabilitate the existing medical centers and cover the country with medical centers and ambulances according to the required standards. The health structures offer care after birth for the mother and the baby, which includes counseling on breastfeeding, nutrition and family planning. For the purpose of upgrading the quality of the care for pregnant women, all protocols for the care for the pregnant women have been concluded for the personnel of the Primary Health Care (PHC) and the protocols for the care for the mother and children before and after birth are being drafted. These protocols are aimed at promoting health care during the critical perinatal period, which extends from 22 pregnant weeks until 7 days after the birth to ensure for the children a healthy start in life and by reducing maternal and perinatal disease and the mortality rate through the promotion of safe motherhood.

118. Family planning is one of the cost-effective interventions for the improvement of the health state of the mother and children and the reduction of their mortal rate. Under the latest survey by MICS 2005, infantile mortality is considered to be 18 for 1,000 live births and the children mortality for children under 5 is estimated to be 19 for 1,000 live births. Based on the administrative data of the MES, it is noted a visible tendency towards the reduction of infantile mortality from 17.5 per cent in 2002 in 12 per cent in 2007. The indicator of infantile mortality is continuously monitored by the MES structures as well. Infantile mortality is closely connected to the level of education of mother and the economic situation of the family and it is considered as an important indicator for the children welfare.

119. The amended Law no. 9739/2007 “For the blood transfusion service in the Republic of Albania” defines the basic principles and rules of the activity for the blood transfusion service. This law is designed to define the national self-sufficiency with blood and its ingredients, as a fundamental task of the national blood transfusion service, the definition in the transfusion service of high quality and security standards for human blood and its ingredients, for the provision of a high protection level for the citizens’ health throughout the country; promotion of the development of transfusion medical service and the promotion of the good use of blood and its by-products in the clinical practice.

120. Law no. 9952/2008 “For the prevention and control of HIV/AIDS”, provides for the rules for the prevention and control of the adoption of measures for HIV/AIDS, the care, treatment and support for the HIV/AIDS affected persons.

121. The Sectoral Strategy for Social Protection defines that a favourable environment should ensure the survival and maximum development of individuals, in respect of physical, mental, spiritual, moral, psychological and social development, in harmony with the human dignity. This Strategy relies on the observance of the rights of individuals, providing that any individual in need has the right to the benefit the same social aid or services.

Legislative and administrative measures on the use of fire weapons

122. Through a series of specific legal acts, the legislator has intended the adoption of effective measures in preventing the use of arms or arms’ possession without permission, with a view to protect their life. In this context, under Article 1 of the Law no. 8290/1998 “For the use of fire weapons”, a fire weapon maybe used as an extreme mean to refrain or paralyze the unlawful actions of a certain person or persons defined under this law, when the other means have not produced result or when it is clearly seen that their use would not

produce results. The Armed Forces of the Republic of Albania, the other police forces defined by law, which are not part of armed forces and the civil. Guards have the right to use the fire weapons in order to protect life, the health, their own rights and interests or the interests of another person from an unjust attack, genuine or accidental, provided that the protective nature should be in the right proportion with the dangerous nature of the attack (in the constitutions of necessary defence) as well as when this is required to face a real and accidental threat, which threatens himself or another person or their assets by a serious damage, provided that it should or be provoked by him and that the damage caused should not be larger than the damage prevented (under the conditions of the extreme need).

123. Law no. 7566/1992 "For weapons", amended lately under Law no. 10137/2009 "For some amendments in the legislation in force for licenses, authorizations and permits in the Republic of Albania" has envisaged the circle of persons, who are entitled to be issued with fire weapons by the public order bodies. The production, sale, illegal possession of military weapons, cold weapons, hunting weapons and sport ammunition, the sale and purchase and trafficking represent criminal offences and are respectively provided under articles 278, 278/a, 279 and 280 of the Penal Code. Controlling by law the possession, the use and sale and purchase of weapons and defining rules over the issuance of persons with weapons helps prevent the criminal activity against the right to life and accordingly, this right is held under protection.

124. The fire weapons are not permitted to be used against the persons, who apparently show to be minor (children), women and elderly, in public venues, where there are rallies and assemblies and when the life of others is endangered. The fire weapons in these cases maybe used only against specific persons, who commit visible violent actions against the person or his assets, which by themselves constitutes serious violations of the law and when the usage of other coercive measures has not produced desired results.

125. Legislative and administrative measures for the use of fire weapons by the police. Among the legislative and administrative measures for the use of fire weapons, which serves as the basis for the police activity while using firearms are the following:

1. Law no. 8290, dated 24.02.1998 "For the use of fire weapons".
2. Regulation of the State Police Services adopted upon the order of the Minister of Interior no. 1749, dated 29.07.2005.
3. Order by the Director General of the State Police no. 1101, dated 03.12.2008 "For the implementation of the program for the use of fire weapons".
4. Regulation for trainings in the State Police, adopted upon the Order no. 1136, dated 09.12.2008 by Director General of the State Police.
5. Standard Procedures of the Public Security Department adopted under the Order No. 1407, dated 11.12.2009 by Director General of the State Police.

Article 7

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment

126. The legislative, administrative and judiciary measures which ensure the prohibition of torture and other cruel, inhuman and degrading treatment or punishment. Measures for the education and information for the prohibition of torture.

127. The Constitution of RA and Albanian legislation have foreseen a series of provisions, which ensure that no one would be subject to torture and to cruel, inhuman and degrading treatment or punishment as well as the prevention of the acts of torture or

maltreatment. The Constitution of RA (Article 25) stipulates explicitly that “No one should be subject to torture, to cruel, inhuman and degrading treatment or punishment”. Under Article 28/5 of the Constitution “each person, who has been deprived of his freedom under Article 27 has the right of human treatment and respect for his dignity”.

128. After the legal amendments to the Penal Code, which date back to the year 2007, torture is specified as a criminal offence and it implies “the intentional commission of offences, through which grave, physical and mental sufferings have been caused to a person who conducts public functions or that with his own overt or covert approval or instigation aimed at: (a) receive from him or another one information or affirmations; (b) to retaliate him/her on the account of an offence committed or which is suspected to have been committed from him/her or another person; (c) to intimidate or exercise pressure over him or over another person; (ç) on any other ground based on whatever form of discrimination; (d) any other cruel or degrading act (article 86). The contents of article 86 “Torture” in the Penal Code is in full compliance with the definition of Article 1 of the Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment, as well as the elements and cases foreseen in this article constitute a criminal offence and are punished with prison terms from 4 to 10 years. Likewise, the Penal Code in its Article 87 defines torture or any other inhuman act and the cases when these actions have produced grave consequences as a criminal offence with the relevant punishment terms.

129. The Penal Code defines as a criminal offence the use of violence by the person charged with the investigation to force the citizen to issue a statement, to testify or affirm his guilt or the guilt of another person. The Penal Code stipulates as an “aggravating circumstance” the commission of a crime, which is driven by motives related to gender, race, religion, nationality, language, political, religious or social convictions. A provision has been also defined (“Universal jurisdiction”), which prescribes that Albania has a universal jurisdiction for the criminal offence of torture. In concrete terms, Article 7/a “The Penal Law in RA does also apply to a foreign citizen who is in the territory of the RA and who has not been extradited and who has committed the crime of torture outside the territory of the RA.”

130. The Code of Criminal Procedures explicitly defines that no one may be subject to torture, to cruel, inhuman or degrading treatment and punishment; likewise, those punished by imprisonment are provided with human treatment and moral rehabilitation (article 5).

131. The Code of Police Ethics envisages the prohibition of any act of torture or other action by the police officers, which infringe the personality and dignity of an individual.

132. Law no. 8328, dated 16.04.1998 “For the rights and the treatment of those punished with prison terms” (with the relevant amendments) has as its object the protection and respect for the rights of the convicted with imprisonment and of the pre-detainees. This Law defines the prohibition of the use of physical force against the convicted, when it is not necessary to stop violent actions, attempts to leave the institution and to overcome resistance, even when it is passive in the implementation of orders as well as the use of violent and coercive means and narcotic substances in the sense of the Penal Code and those with a torturing or hypnosis nature. After the legal amendments, the term of isolation of the convicted and pre-detainees has been deleted.

133. Law No. 9888, dated 10.03.2008 (article 36) defines the establishment of the “National Mechanism for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment and Punishment” to the institution of the People’s Advocate, which ensures the conduct of his activity and monitoring forms. A more detailed information on this mechanism is provided in the comments on Article 2 in paragraphs 18–20 of the report on the Convention against Torture (CAT/C/ALB/2).

134. Law no. 9749, dated 04.06.2007 “For the State Police” ensures the protection and respect for human rights by the State Police officers while conducting their duty under the legislation in force and by laws. This Law defines that the State Police has as its mission the maintenance of public order and public security, in compliance with the law and by observing human rights and freedoms. This law specifies that the police officer should use the minimum level of the necessary force, in keeping with the principle of proportionality and he selects the necessary level of force among escalated possibilities.

135. Law no. 8737, dated 12.02.2001 “For Organizing and Functioning the Prosecution in the RA” defines that the “prosecutors conduct their duty in compliance with Constitution and laws, as well as with their own competences, by observing the principles of due equal and legal prosecution, the protection of human rights, as well as the legitimate interests and freedoms.

136. Law no. 10002, dated 6.10.2008 “For the service of the internal audit in the Ministry of Interior” envisages that “the Officers of this service, while serving on their duty, observe the human rights and fundamental freedoms, as provided under law and contribute for their fulfilment”.

137. Law no. 10032, dated 11.12.2008, “On the Prison Police” defines that the Prison Police ensures the maintenance of order and security in the penitentiary institutions during the process of transfer and escort of the convicted and pre-detainees from the court and to other institutions, in compliance with the law, by observing human rights and freedoms.

138. Law no. 8092, dated 21.03.1996 “On the Mental Health” is the major mechanism to ensure the proper care and treatment for persons with mental disorders, their protection, elimination of discrimination and the promotion of mental health among the population.

139. Law no. 8432, dated 14.12.1998 “For Asylum in the RA” acknowledges the right for asylum or interim protection for foreigners who are in need of international protection, refugees or other persons, who seek asylum in compliance with the provisions of this law and the international conventions to which Albania is a party.

140. Law no. 9959 dated 17.7.2008 “On the Foreigners” among others stipulates the right of complaint for foreigners who have been refused entry or stay in the RA, through a clear definition of administrative and judiciary institutions of complaint and relevant deadlines. The foreigners who are subject to this Law are treated in compliance with the human rights, fundamental freedoms and the international agreements ratified by the RA, while respecting the principle of reciprocity, non-discrimination and treatment not less favourable than for the Albanian citizens.

141. As of 2009, the Institution of “Probation service” has been established and commissioned. It will monitor the implementation of alternative punishments.

142. Under the Constitution, every person who has been damaged due to an unlawful act, action or failure to act by state agencies has the right of rehabilitation and compensation in compliance with the law. The Code of Criminal Procedures of the RA define that “the person affected by a criminal offence or his descendants have the right to ask for the prosecution of the guilty persons and the compensation for the damage”. The CCP defines the procedures concerning the compensation for unfair imprisonment, whereas the Civil Code envisages the compensation for the damage caused in an unlawful way.

143. Law no. 9381 dated 28.04.2005 “For the compensation of unfair imprisonment” is designed to regulate the cases of benefits and compensation for unfair imprisonment, including House Arrest, the degree and mode for its estimation and the procedures for demanding, payment and compensation for unfair imprisonment.

144. Law no. 9831, dated 12.11.2007 “For the compensation of the former politically prosecuted people of the communist regime” is designed to offer financial compensation by the Albanian state for the former politically prosecuted persons of the communist regime who are alive, for the family persons of the victims executed and interned persons or sent in camps as well as a commitment from the democratic state in condemning the crimes of the totalitarian communist regime.

145. Sub-legal Acts include the following:

- General Rules and Regulations for Prisons (adopted under Decision of the Council of Ministers (DCM) No. 303, dated 25.03.2009, amended by DCM No. 187, dated 17.03.2010).
- Order by the Minister of Justice “For the adoption of the Rules of Conduct for the officers of the pre-trial detention system and prisons” (no. 3052/1, dated 25.5.2005). Failure to observe or comply with these rules by the officers of the pre-trial detention and prison system is considered as a failure to perform the job and infringement of the state Office; it represents as well a reason for disciplinary or penal measures.
- The Pre-trial Detention Regulations (adopted upon the Order of the Minister of Justice no. 3705/1, dated 11.05.2006). These Regulations define that “The treatment of pre-trial detainees is done with impartiality and without discrimination, while observing the national and international standards for human rights and fundamental freedoms”. Likewise, it defines the obligation of the prison administration for the realization of human and educational treatment through effective modes of administration, without discrimination on the grounds of race, sex, color, language, religion, political opinion, national or social background, economic status and other grounds.
- Regulations of the Prison Directorate, (adopted under the Order by the Minister of Justice, no. 3706/1, dated 12.05.2006) defines that the officers of the Prison Directorate are obliged to observe the Constitution and all other legal and sub-legal acts related to the treatment for all prisoners.
- Regulations of the Mental Health Services (adopted by Order of the Minister of Health no. 118, dated 15.05.2007) is designed to develop mental health services aimed at promoting, preventing, diagnosing, treatment and rehabilitation in the field of mental health.
- Regulations of Discipline for the State Police, adopted under DCM No. 786, dated 04.06.2008.
- Regulations “For Organizing and Functioning Probation service, defining the standards and procedures, monitor the execution of alternative punishment terms” (adopted under DCM No. 302, dated 25.03.2009).
- Order by General Director of State Police no. 711, dated 11.10.2007 “For the Implementation of the requirements of the Law: “On the State Police” concerning the use of force and the treatment of escorted persons.”
- Internal Regulation of the General Directorate of Inspection at the Ministry of Interior, adopted under the Order issued by the Minister of Interior No. 725, dated 09.05.2008.
- Order issued by General Director of the State Police no. 945, dated 27.10.2008 “On the necessary norms and parameters for the construction and reconstruction of security chambers for those arrested and detained in the Police Commissariats”;

- Order issued by General Director of State Police no. 139, dated 25.02.2009 “On upholding and providing the rights of persons during their escort in the police venues”.

Administrative measures that guarantee the prohibition of torture, cruel, inhuman or degrading treatment or punishment include:

- Reinforcing internal controls by the police staff of the General Prison Directorate in all the institutions of the Execution of Penal Decisions, for the strict implementation of the legal provisions in force, which are also related to respect for human rights and fundamental freedoms for the convicted and pre-detainees on the part of police officers.
- Periodic inspections by specialists of various areas by the General Prison Directorate, in all the IEPDs, having as object the respect for all rights of the convicted and pre-detainees in harmony with the legal and sub-legal acts in force.
- Functioning of the Inspection Commission for the Execution of Imprisonment Punishments, provided in Chapter 3 of the amended Law No. 8331, dated 21.04.1998, “For the execution of Penal Decisions”. This Commission should verify the complaints lodged by the prisoners. The Commission recommends the adoption of instant measures for the restoration of the law or infringed right.
- Placing Post Boxes in all institutions for the correspondence of the convicted with each state institution or domestic and international non-governmental organizations.
- In each IEPD, there are installed two free phone numbers for the convicted and the pre-detainees, which they can appeal for their own complaints the People’s Advocate and the General Prison Directorate.
- Receive and verify complaints by the community for the violation of their rights and the unlawful use of violence by the police personnel. The police structures dealing with the follow up and the implementation of these complaints are the central departments and directorates in the General Police Directorate, under their own jurisdiction. Recently, in the Directorate General of State Police, attached to the Directorate of Professional Standards, a special section is set up dealing with the evidence and treatment of complaints by the community, a measure which will affect the further improvement of the work to evidence these complaints and to define the measures to be adopted, in view of preventing violations in this regard.

146. During this period, no case of resorting to torture has been revealed; however, in the daily activity of the police services cases of other forms of violence have been noted, which under the Penal Code have been classified as arbitrary actions.

Statistics of penal denunciations (2004–2009)

147. For the period 2004–2009, the Directorate of Internal Audit has referred to the Prosecution 185 penal denunciation for 185 police officers on the account of violating human rights and fundamental freedoms while conducting their duty. From them, 10 are medium level police officers, 81 police officers belong to the first leading level and 94 to the implementation level, according to the following table:

Year	No. of denunciations for prosecution	Police officers of the level		
		Middle leading level	First leading level	Implementing level
2004	29	4	16	9
2005	15	1	7	7

Year	No. of denunciations for prosecution	Police officers of the level		
		Middle leading level	First leading level	Implementing level
2006	43	2	19	22
2007	59	2	20	37
2008	29	1	17	11
2009	10	-	2	8
Total	185	10	81	94

148. Referring to this period, different citizens have lodged 440 complaints to the Center for Legal Information of the Internal Control Service, mainly for arbitrary actions and exercise of force while conducting their duty for 6 police officers of the middle leading level, 161 police officers of the first leading level and 273 police officers of the implementing level, under the table shown below:

Year	No. of complaints	Police officers (level)		
		Middle leading level	First leading level	Implementing level
2004	41	-	10	31
2005	31	-	15	16
2006	95	4	37	54
2007	92	1	30	61
2008	67	1	17	49
2009	114	-	52	62
Total	440	6	161	273

Detailed information concerning the legislative, administrative and judiciary measures, which ensure the prohibition of torture, cruel, inhuman or degrading treatment and punishment are provided in the Second Report against the Torture – CAT/C/ALB/2 (comments for Article 2 – paragraphs 20–35; 40–50; 61–67), comments for Article 4 (pp. 77–82), comments for Article 14 – pp. 203–208; comments for Article 16 pp. 218–230). Likewise, detailed information is also provided in the comments mentioned in the Third Part of the Second Report against Torture, with regard to the measures adopted for the implementation of the conclusions and recommendations of the Committee against Torture (CAT/C/CR//34/ALB).

149. Education and information measures for prevention of torture include:

- Letter Order by the Director General of Police No. 1328, dated 23.11.2009 “For the full respect and provision of the constitutional and legal fundamental freedoms of the persons during the activity of State Police” has defined duties for the local police structures for the adoption of measures for the implementation of the recommendations of the People’s Advocate, Albanian Helsinki Committee and CPT, concerning the introduction of the person to the rights he has under legal acts, exhibiting these acts in these places and in other police venues, the physical control, estimation of the detention/arrest time period from the moment of the person’s escort, ensure the medical examination instantly after detention/arrest

- Manual “On the rules of treating and securing the detainees and arrested in the Police Units”, adopted by Order of the Director General of the State Police no. 64, dated 25.01.2010
- Manual of Standard Procedures, adopted by Order of Director General of State Police No. 1417, dated 11.12.2009 “For the adoption of Standard Procedures of the Public Security Department”
- Letter of Instruction by Director General of State Police no. 643, dated 17.09.2007 “For the prevention of arbitrary, negligent actions and of overstepping the use of force by police services while conducting their duty”
- Letter of Instructions by Director General of the Police No. 68, dated 28.01.2008 “On the observance of human rights during escort to the Police Stations in the cases of detentions and arrests”
- Letter – Advice by Director General of the State Police No. 703, dated 07.08.2008 “For the introduction of the preliminary Assessment Report of the delegation of CPT and adoption of measures for compliance with its recommendations”
- Trainings for all police officers. From year 2007 onwards, all police staffs at the implementation level are going through compulsory training to the Center for Police Training, Directorates of Circuit Police, which have envisaged themes on human rights and fundamental freedoms

150. A detailed report on the information and education measures on the use of torture is provided in the comments on Article 10, paragraphs 116–139 of the report related to the Convention against Torture (CAT/C/ALB/2).

151. Information on the legal measures for the prohibition of deportation and extradition in the cases of suspicions for torture, as well as providing acts of torture as extraditable offences under the Agreement on extradition is provided respectively in the comments on article 3 (paragraphs 68, 70, 71–76) and on Article 8 paragraphs 108–110 of the report related to the Convention against Torture (CAT/C/ALB/2).

Legal, administrative and judiciary measures against violence and maltreatment of children and women

Family Violence

152. The Family Code, for the cases of family violence provides for the adoption of urgent measures by the court against the spouse concerned, for the case when one of them fails to comply in a noticeable way with his own obligations and puts at stake the family interests.

153. The Penal Code envisages a series of provisions which treat family violence defines aggravating circumstances when the victim is minor and/or pregnant woman as well as the relevant consequences due to the commission of the criminal offence. The ongoing amendments to the Penal Code have provided specific provisions in view of protecting females and children from maltreatment, sexual abuse, trafficking, prostitution, shameful acts, pornography; besides, the legal developments have continuously specified a considerable escalation of punishment terms against the perpetrators of criminal offences.

154. Law no. 9669, dated 18.12.2006, “For the measures against family violence is designed to prevent and diminish family violence in all its forms through appropriate legal arrangements, as well as to ensure protection through legal measures for the family members who are victims of family violence, paying special attention to children, the elderly and persons with limited abilities. This law is designed to establish a coordinated

network of institutions to respond in the proper time to violence in the family and to issue instant court protection orders. The law sanctions the state agencies which have obligations and competences concerning violence in the family and provides the courts with the opportunity to issue protection orders against the perpetrator, a mechanism in the defence of the victims of family violence. The governmental mechanisms addressing family violence in the family are as follows: The Ministry of Labour and Social Affairs as the major responsible authority which has a coordinative, supportive and monitoring law enforcement role; the Ministry of Interior; Ministry of Health, Ministry of Justice. The Agreement of Cooperation among the ministries which are responsible for the enforcement of this law is designed to raise the mechanism of coordination of the responsibilities for all institutions. Likewise, sub-legal acts have been also endorsed, in view of raising the responsible structures for the issues of violence in the family and the measures for the prevention, evidencing and reduction of violence in the family.

155. The National Strategy of Gender Equality & and Family Violence and the Action Plan are designed to involve the issues of violence in the family in the public policies through concrete action plans for the minimization of violence in the family. A priority of this paper is also the raising the awareness towards the occurrences of violence in the family, legal and administrative protection, support for individuals affected by violence in the family. The Strategy provides for concrete measures for the prevention, fight against violence and the support for the victims of family violence.

By-laws for the prevention and reduction of family violence

156. For the effective implementation of the Law No. 18.12.2006 “For the measures against violence in the family relations”, the Ministry of Interior and the General Directorate of the State Police has drafted and enacted the following by-law acts:

- Order No. 379, dated 03.03.2008 by the Minister of Interior “For the measures to be taken for the prevention and diminish violence in the family, the treatment of the victims of the family violence”, which makes the police responsible for the prevention, registration and the follow-up of the violent cases
- Order by the Minister of Interior no. 251, dated 15.02.2008, “On the compilation of crime statistics”
- Order by the Minister of Interior No. 251/1, dated 22.06.2009, “On the compilation of crime statistics”

The above-mentioned Order defines: (1) setting up special registers to bring to evidence the cases of family violence. (2) Setting up statistical forms to bring to evidence the cases of violence in the family. (3) police “ad hoc” structures for the administration, evidencing and filling up statistical registers and forms.

- Order No. 981, dated 31.10.2008 by Director General of the State Police “For the measures to be taken by the State Police for the prevention and reduction of violence in the family, the treatment of their victims of the violence in the family relations”. In a detailed way, this Order defines the duties of the crime investigation structures and those of public order and security, pursuant to the Law No. 9669, dated 18.12.2006 “For the measures against violence in the family relations”.
- Manual of the Department for the Investigation of Crimes and of the Department of the Public Order and Security “Over the standard procedures that the State Police Officer has to comply with in adopting the measures for the prevention of violence, the protection and offering care to the victims of the family relations”, adopted upon the Order No. 1035 dated 17.11.2008 of the Director General of the State Police.

Police structures for protecting children and victims of family violence

157. The structure of the General Directorate of the State Police in July 2007 has defined the establishment of “ad hoc” police structures for the protection of minors and violence in the family relations as follows: at central level, “Section” and circuit level “Sections” for the protection of minors and violence in the family respectively in the Directorate against serious Crimes, Department for the Investigation of the Crimes and Police Departments in the circuits. The main responsibility of the structure on central level is the adoption of organizational and monitoring measures to ensure the implementation of police arrangements, in order to prevent the criminal activity against minors, their protection through legal means, by making the coordination of the work among the police structures to this end and against violence in the family.

158. The sections for the protection of minors and from family violence at local level conduct monitoring, supporting and recommendation activity for the issues related to minors, for all the police structures in the Circuit, with a view and as an objective the strict implementation of the legal standards and procedures for the minors and the improvement of the work performance towards an adequate and professional treatment of minors and their protection. For the realization of these tasks, the achievement of the goals of the above-mentioned objectives, there is a close cooperation in place with the structures of the Public Order and Security in the Circuit Police Directorate.

159. The Sections for the protection of Minors and from Family Violence, in cooperation with the structures for the prevention of Crime and Community Policing coordinate their work with the local institutions and NGOs, which conduct their activity in the area of legal/psychological protection and assistance for the minors and work on the realization of agreements of mutual cooperation. Likewise, in the organigrammes of the Police Departments in the Circuits, even the function of the psychologist is put in place, whose presence is a legal obligation during the process of interview of the minors in the Police Directorates/Commissariats.

160. Pursuant to Order no. 806, dated 21.07.2009 of the Director General of the Police “On the establishment of the Strategic Steering Police Groups for the Implementation of the philosophy of community policing” at central level, a working group has been established, which is designed to give a new impulse to the implementation measures and activities in order to translate this philosophy into reality.

161. One of the implementation activities of the Operational Action Plan 2008–2010 for the 7-year Strategy of the State Police adopted under the DCM no. 14, dated 09.01.2008 is the “Reduction and Prevention of Family Violence”.

162. A more detailed information on the measures taken against family violence is provided in the Third Part of the Second Report against Torture (CAT/C/ALB/2), namely the comments on the measures taken for the implementation of the conclusions and recommendations of the Committee against Torture. (pp. 394–412).

163. Detailed Information on the family violence and trafficking is provided in the Third Periodic Report on the implementation op the Convention against the Elimination of all forms of Discrimination against Women (CEDAW/C/ALB/3).

164. Likewise, information is provided on the violence against women in the “Replies to the list of issues and questions for the review of this Report (CEDAW/C/ALB/Q/3/Add.1)” – namely comments in the paragraphs 42–58. Comments on the trafficking and sexual exploitation are provided in this document (CEDAW/C/ALB/Q/3/Add.1), paragraphs 58–76).

Trafficking in human beings

165. The legal arrangements in this field are designed to present the phenomenon of trafficking or the prostitution of females and punish vehemently the perpetrators of these criminal offences, specifying and enlarging the aggravating circumstances. As of the year 2001, the Penal Code has established as criminal offences “The trafficking of persons”, “Trafficking of females”, “Trafficking of children”, “Pornography”, “Assistance for illegal border crossing”, “Maltreatment of minors”, which punish the phenomenon of children exploitation for forced labour, begging and other forced services. To this end, the law has been adopted “For the prevention and cracking down organized crime” (2004), the Law “For the protection of the Witnesses and justice collaborators” (2004), the law “The promulgation of the Moratorium for the navigation of motor boats in the Republic of Albania” (2006).

166. The National Strategy for Combating Trafficking in Human Beings (adopted in year 2001 and continuously updated) is oriented in the following major aspects: (1) Penal investigation and prosecution of trafficking crimes; (2) Support and protection for the victims and eye-witnesses; (3) Adoption of concrete measures for the prevention of trafficking and re-trafficking. The fight against children trafficking and their protection, as possible victims of trafficking remains a key concern for the Albanian Government. Apart from other measures, for the first time ever, the National Strategy against the Trafficking in Human Beings is attached herewith an Action Plan and Strategy against the trafficking of children, which address specifically issues related to children trafficking. The Strategy for the fight against Trafficking in Human beings, the Strategy of the Fight against the Trafficking and protection of the Children who are victims of trafficking and the Action Plans (2008–2010) were drafted through a long process of all – inclusive consultations, in which, apart from state structures, international donors have been also present with a very important role played also by the civil society.

167. As it was revealed above, pursuant to this Strategy, the relevant structures have been set up, with a view to bring to evidence the perpetrators of this criminal offence and “ad hoc” structures for the protection and rehabilitation of the social vulnerable victims and categories. There are administrative structures and agencies under operation all over the country for the prevention and the fight against trafficking in human beings and in particular, for the protection of children vulnerable to trafficking.

168. Likewise, a series of events have been organized for the fight and prevention of trafficking. There are organized awareness campaigns, mainly for the vulnerable groups (juniors, women and girls, families with social problems and low educational level, Roma children and others). In order to present trafficking to the vulnerable groups, a series of measures have been taken for their involvement and social inclusion, through the implementation of the law on compulsory education and registration in the civil offices, providing professional education/training for those who have abandoned school. The Ministry of Education has introduced programs in the curricula of secondary schools aimed at raising the awareness for the danger coming from trafficking. From year 2007 onwards, the Ministry of Interior has placed a free phone number which is under operation 24 hours for the denunciation of trafficking cases. Likewise, measures have been adopted for the training of law enforcement structures.

169. Among the most important measures for the protection of the victims of trafficking is also the Agreement of Cooperation for the Establishment of the National Mechanism of Referral for the Improved Identification and Assistance for the Victims of Trafficking in Human Beings (in 2005). This Agreement had as its major goal the setting up of a functional national network among some state and non-governmental agencies to enable the identification, assurance, referral and rehabilitation of the victims of trafficking at home. The Reception and Rehabilitation Centers for the Victims of Trafficking are the major

contributors in support of the victims of trafficking and they have an important role in the identification of the types of services which the victims of trafficking need.

170. A special contribution in fighting against trafficking in human beings and in its prevention has been also provided by domestic and foreign NGOs, offering rehabilitative and preventive services for the victims of trafficking and the vulnerable groups and children, in particular.

Prohibition of medical or scientific experimentation without the free consent of the individual

171. The Code of Medical Ethics and Deontology (articles 46, 47) foresee the prohibition of making experiments on persons without their prior consent. Likewise, they specify that when the person going through an experiment is unable to give his own consent, then such an experiment cannot take place without the consent of his relatives. But this could occur only when the doctor who takes over such a research work with preventive, diagnostic and curing purposes submits the research working plan before a relevant, competent and independent commission concerning his scientific preventive presentation, which should inform carefully the people concerned over the research work projects, on both the possible benefits and damages. Therefore, the application of these methods is possible only after the project examination and approval.

172. Detailed information on the measures taken in the field of mental health is provided in the Second Report against Torture CAT/C/ALB/2, namely in the comments on Article 16, paragraphs 231–243.

Article 8

Prohibition of slavery and forced labour

173. Along with ratification of international Conventions, which ensure prohibition of slavery, the trade of slaves and also humiliation, the Republic of Albania has envisaged also preventive measures in its domestic legislation, actually Law no. 8003, dated 28.09.1995 “The Military Penal Code of the Republic of Albania”, Article 92, which specifies: “Brutal treatment of the wounded and sick people or of prisoners of war, nor enabling and preventing them to exercise their rights ensured based on international agreements acceded to the Albanian state, is punished by imprisonment terms up to three years.

174. Administrative and legal steps that prohibit the perform of forced or compulsory labour: In Article 26, the Constitution of the Republic of Albania specifies that no one is required to perform compulsory work, save for the cases of executing a judicial decision, or for carrying out military service, a service derived from a state of war, for an extraordinary situation or for a natural calamity, which threaten the life and the health of people. Also, the Labour Code, passed under Law no. 7961, dated 12.07.1995, revised, in Chapter III, Article 8 stipulates the prohibition of forced work and it specifies some cases when work in special conditions must not be considered as forced labour. Legislative, administrative and judicial actions that regulate the service in Armed Forces and other alternative national services, services that are required in the event of Force Majeure, calamities, etc. and also those which belong to normal and civic obligations, etc.

175. Regarding legislative measures that regulate the service in the Armed Forces, the basic act is Law 7978, dated 26.07.1995, “For the Armed Forces in the Republic of Albania”, revised. This law specifies the requirements of accession to the Armed Forces, and its stay and leave. Novelties in the military service are also presented in law no. 9210, dated 23.04.2004, “For the status of soldiers the Armed Forces in the Republic of Albania”, which determines that such service might be performed only based on the free will of

nationals who may have promising career there. Also, the law defines their rights and the rights related to their families, and also their obligations towards the state, their remunerations, the right for supplementary or untimely pension. Article 3 specifies that: Military service is a special activity, socially necessary for the state, which is performed based on the wish, the will and on the obligation to serve for the country and the nation, responsibilities for enforcement of law, political impartiality, convictions, professionalism and continuity of the career.

176. Law no. 8756, dated 26.03.2001 “For Civil Emergences” defines clearly the special structures coping with civil emergencies, which respectively include: (a) prevention, mitigation and rehabilitation of any damage inflicted on population, animals, property, cultural heritage and environment during civil emergencies; (b) ensuring proper conditions for governmental, public and private organizations, for enterprises and population to pass to normal life and work conditions in event of emergencies and with minimum losses for maintaining public order and saving the life of people, animals, property and cultural heritage and environment that might be inflicted by civil emergencies; (c) assuring the use of all potential state resources for the purpose of public order, continuous security of national economy, localization of emergency zone and mitigation of losses. Article 3 defines the obligations of every organization and of every national, which, complying with their real possibilities, have the obligation to help with the prevention and mitigation of damages caused by misfortunes. The law specifies the way how any national or organization can provide their voluntary assistance and the way how the state may use any means or asset, (even private ones) for mitigating consequences caused by any force majeure, calamity, etc.

177. Other legislative, administrative and judicial acts that prohibit the economical exploitation of children include:

- The Constitution of Albania (Article 54).
- The initiative of the Ministry of Interior for adoption of Law no. 9859, dated 21.01.2008, “For some amendments and modifications to Law no. 7895, dated 27.01.1995, “The Penal Code of the Republic of Albania”, revised, which, among other things, in its article 124/b — Maltreatment of infants — specifies: Compelling minors to work, to earn incomes, to beg or to carry out activities that might harm their development is punishable with imprisonment up to four years and by a fine varying from fifty thousand to a million lekë.
- When the act has heavily damaged the health of a minor or has caused his death, the crime is punished by imprisonment from ten to twenty years. Pursuant to this law, the General Police Directorate has prosecuted several cases related to maltreatment and abuse with infants, including the compulsion of infants to stay in the street and beg for money. It has been revealed that almost these abuses are performed by the parents or relatives of these infants.
- The Family Code approved under law no. 9062, dated 8.5.2003, specifies respectively in its Article 223 — “The loss of parental responsibility — The parents of a child can lose their parental responsibility under a penal judicial decision that has punished them as committers or cooperators in a penal offence against their child, cooperators in a penal offence committed by their child or that might have been punished for any reasons of abandoning the child, or as long as they haven’t undertaken the obligations that have towards the child, and in Article 228 “Revoke of parental responsibility”, when the parents abuse with the parental responsibility or show high negligence in its performance, or with their acts they affect harmfully the education of their children, the parental responsibility can be revoked upon the request of the other parent, of the relative or on the request of the prosecutor. The

revoke of parental responsibility is done under a law court decision where the responsible parent is the defendant.

Article 9

Right to liberty and security of the person

Right to be promptly informed about the reasons for arrest

178. In Article 28, the Constitution of the Republic of Albania prescribes that anyone, who is deprived of his liberty, has the right to be promptly informed, in a language which he understands, of the reasons of his arrest and of any charge against him. The person deprived of his liberty should be informed that has no obligation to make declaration and has the right to communicate with his advocate and be allowed to execute his rights.

179. Article 6, in the Code of the Penal Procedures of the Republic of Albania, stipulates that 1) the defendant has the right to defend himself in person or through legal assistance. If he has not sufficient means, the defense is given him free through an advocate. 2) the defender assists the defendant in order to ensure his procedural rights and maintain his legal interests.

180. Article 255, in the Code of the Penal Procedures of the Republic of Albania, stipulates that (1) officers and agents of judicial police, who have carried out the arrest or detention of the person or have received the arrested person, inform promptly the local prosecution office where the arrest or detention has taken place. They inform the arrested or detained person that he has no obligation to make declaration and if he wishes to speak, whatever he utters might be used against him in the trial proceedings. The officers and the agents of judicial police inform the detained or arrested person of his right to choose his own defense and they promptly inform the selected defender or, as case may be, the defender who is selected by the prosecutor. (2) Officers and agents of judicial police make available the arrested or detained person to the prosecutor in the pre-trial confinement rooms, by forwarding relevant minutes. (3) If the arrested or detained person is ill or if it is an infant, the prosecutor may order the confinement of the detainee in his own dwelling or in another defended place. (4) The judicial police, upon the consent of the arrested or detained person, should inform without delay his family. If the arrested or detained person is an infant, his parents or his custodian is obligatorily informed.

181. The Order by the General Director of the State Police no. 64, dated 25.01.2010, “For approval of the Manual of Rules and Regulations for the Treatment and Security of arrested and detained person in Police Units”, Chapter III, point 1, “The rights of the arrested person/detainee”, among other things, specifies that “he is informed of the cause/reason of his arrest or his detention and about his legal rights in this stage of the process. For foreigners, such communication should be made in their own languages or in a language which they understand through an advocate or an interpreter; he must be defended and represented by an advocate who selects it himself or it is determined by the prosecutor according to Article 6 and 255 of the Code of Penal Procedures; infants are provided with assistance and the help of an psychologist during their arrest/detention and their stay in these premises; the family or other persons selected by them are informed by calling them in the presence of the police officer about the location, situation, except of the cases when such thing is refused by the arrested or detained adult person; he must meet at any time his defender, his legal custodian, or the representative of Ombudsman whenever the latter requires it”.

Reasonable time limits for the trial of arrested or detained persons

182. The Constitution of the Republic of Albania, in its Article 28, paragraph 2, stipulates that the person who is deprived of his liberty according to Article 27, paragraph 2, point c, must be brought before the judge within 48 hours, and the judge decides for his pre-trial detention or his release not later than 48 hour from the time he receives relevant documentation for review; the pre-trial detainee is entitled to appeal the decision of the judge. He has the right to be tried within reasonable time limits or is entitled to pending trial on condition that a sum of money is lodged in as guarantee according to law. In all other cases, the person, who is deprived of liberty in extrajudicial way, can call on a judge at any time, who decides within 48 hours for the legitimacy of such measure.

183. The Code of the Penal Procedure prescribes the time limits within which a person is detained, investigated and is entitled to appeal or recourse his punishment. Practically, Chapter III of the Code of Penal Procedures specifies procedural penal terms.

184. Actually, persons flagrantly detained or arrested, who are waiting for the security decision to be undertaken, are confined and treated in the premises of police commissariats. The arrested/detained persons against whom the law court has given the security measure of “arrest in prison” are transferred to pre-trial premises of Prison General Directorate, which are under the authority of the Ministry of Justice.

185. During the years 2008–2009, there has been completed reconstruction of premises for detained/arrested persons in police commissariats of Lezha, Fier, Kavaja, and in the Police Commissariat No. 5 in Tirana. Rehabilitation of these premises have been accomplished in compliance with required norms, conditions and standards, which fully guarantee the assurance of human rights and fundamental freedoms for humane and respectful treatment of arrested/detained persons.

186. Based on the Council of Ministers Decision (CMD) no. 494, dated 01.08.2007, “For the approval of the norms of food treatment of the officers of the State Police, of the students and cadets in police schools and of the detainees pending trial”, and also based on the common Order released by both, the Minister of Interior and the Minister of Health Service, no. 76/1, dated 24.01.2008 and no. 293/1, dated 31.01.2008, “For the approval of food treatment of the officers of the State Police, of the students and cadets in police schools and of the detainees pending trial”, these persons are supplied food for three daily meals. The arrested/detained infants and females are confined and kept in special premises, separately from adult persons.

187. For the inspection of these premises and the fulfillment of the rights of arrested/detained persons, the Internal Control Service Staff in the Ministry of Interior, Prosecutors and commissioners of Ombudsman are entitled to conduct controls at any time without the need of obtaining any permission or authorization from the police organs. The central structures of the State Police monitor continuously the work and measures undertaken by the local police structures for the enforcement of legal acts related to full guarantee of the rights and fundamental freedoms of detained/arrested persons.

188. Article 101, “Accompany to the police station”, of the law no. 9749, dated 04.06.2007, “For the State Police”, specifies that: 1. The police officer accompany the person to police premises or to order-giving organs for the following cases: (a) for supervision of children for educational purposes or for accompanying them to the competent organs; (b) when the person might spread infection disease, or has unsound mind and is dangerous for the society. 2. Accompanied persons are entitled to humane treatment and respect for their dignity. They are promptly informed by the police officer for the reasons for being taken to police station. 3. Accompanied persons are kept in separate rooms from other arrested or detained persons. In these cases, persons are kept in the police station until the verification of the case for which the person is accompanied to the police

station; however, it will not exceed 10 hours. Accompanying the person in case of illegally crossing the state border, or for deportation or extradition, procedures and terms of confinement are determined according to legislation in force. 5. For accompanying and keeping the person in police station, the police officer writes down official records and informs promptly his commander or relevant organ for clarifying the case. 6. For all cases of accompanying and keeping the person in police station, personal and family conditions of the accompanied person are taken into account”.

189. Article 107, “Treatment of the accompanied person”, in this law, specifies that: “The accompanied person is promptly allowed to inform one of his relatives of any other person he trusts. If the accompanied person is not able to exercise his rights according to above and if it is not against the will of the person, the police officer himself informs the above mentioned persons. When the accompanied person is an infant, then the responsible person is informed for his supervision. The same thing is valid for adults, for whom there are caretakers. Males and females are kept in separate premises. Children are kept separately from the adults”.

190. More detailed information related to the aspect of protecting and ensuring human rights and freedoms by police officers of the State Police are given in the Second Report against the Torture CAT/C/ALB/2, practically paragraphs 23–25; and 116–118.

Ensuring and respecting human rights and freedoms, infrastructure of pre-trial premises and of prisons

191. Protection, treatment and security of pre-trial detainees is carried out in the Institutions of the Ministry of Justice for the Execution of Penal Decisions. For better, humane and equal treatment of all categories of persons kept in arrest state, a decision is made by the Council of Ministers no. 327, dated 15.05.2003, “For transferring the pre-trial system under the authority of the Ministry of Justice”. The process of transferring the pre-trial system from the Ministry of Interior and the State Police to the authority and administration of the Ministry of Justice started immediately following the approval of the Council of Ministers Decision mentioned above and completed in 01.02.2007.

192. Concerning the infrastructure, under the support of CARDS Program of EU, three new prisons have been constructed according to contemporary standards in Vlora, Fushe-Kruje and in Korca, which were put in operation by the Ministry of Justice in 2008. The establishment of new prisons has facilitated a lot the overpopulation of prisons and has improved the level for respecting the rights of arrested persons.

Right to conditional release on payment of bail

193. The Constitution of the Republic of Albania, in its Article 28/3, specifies that: “The pre-trial detainee is entitled to appeal the decision of the judge. He has the right to be tried within reasonable time terms and to be released pending trial which may be conditioned on payment of bail according to law.

Right to compensation for illegal arrest or detention

194. With regard to legal acts and by-laws which guarantee the right to compensation in cases of unjust detention, arrest or punishment, the Code of Penal Procedures (passed under law no. 7905, dated 21.03.1995, revised), in its Article 268, specifies explicitly the following: If a person has been declared innocent under a final law court decision, it is entitled to compensation for his pre-trial detention, except for the cases when it has been proved that the wrong decision or untimely reveal of an unknown fact has been totally or partially caused by that person himself. The same right is also entitled to the pre-trial detainee when, under a final law court decision it is proved that the act under which the

decision is made doesn't have the conditions specified in Articles 228 and 229 of the Code of Penal Procedures. The above mentioned stipulations are also applied in favor of the person for whom the court or the prosecutor has decided to cease the case. Also, if the final court decision has proved that, according to law, the fact is not classified as a penal offence because of abrogation of relevant provisions, the right to compensation is not recognized for that portion of pre-trial detention served before abrogation. Article 269 of the Code of Penal Procedures specify also that application for compensation should be submitted within three years from the date when decision on innocence or cease of the case has taken the final form, or otherwise it is not accepted. Law no. 9381, dated 28.4.2005 "Compensation for unjust imprisonment" specifies the cases of benefits or compensation for unjust imprisonment, including home arrest and determines the amount and the way how to calculate it, as well as it defines the procedures of application, payment and compensation for unjust imprisonment.

Article 10

Rights of persons deprived of liberty

195. The rights of persons deprived of liberty are prescribed in these legal acts:

Law no. 8321, dated 02.04.1998, "For the Prison Police"

Law no. 8328, dated 16.04.1998, "For the rights and treatment of convicts serving imprisonment and of pre-trial detainees", revised

Law no. 8331, dated 21.04.1998 "For the execution of penal decision"

Right to be treated properly, custody and imprisonment

196. The Constitution of the Republic of Albania, in its Article 28, prescribes that: Everyone, deprived of liberty, has the right to be informed promptly in the language he understands that he has no obligation to make any declaration and that is entitled to communicate promptly with his advocate and be allowed execute his rights. The person, who is deprived of liberty according to Article 27, paragraph 2, point c, must be brought before a judge within 48 hours, who decides for his/her detention or his/her release not later than 48 hours from the moment that relevant documentations are received for review. The pre-trial detainee has the right to appeal the decision of the judge. He has the right to trial within reasonable time terms and to release pending trial that may be conditioned on payment of bail according to law. In all other cases, the person, who is deprived of liberty in extrajudicial way, can call on a judge at any time, who decides within 48 hours for the legitimacy of such measure.

197. Pre-trial detainees are not awarded beneficial leaves. On the preliminary consent of the prosecutor or of the director of the institution, the pre-trial detainee may be rewarded special leave in these cases: (a) for the birth of the child of the pre-trial detainee; (b) for the marriage of his/her children, brother, sister and parents of the detainee; (c) for the death of the child, of the spouse, brother, sister or parents of the detainee; (d) for other exclusive cases.

198. Detailed regulation of the rights and obligations of pre-trial detainees, complying with stipulations made under this law, are specified in the Rules and Regulations of Prisons and in other by-law acts.

Right of children to be separated from adults

199. Regarding the treatment of infants that are kept in pre-trial detention premises or imprisoned, it must be pointed out that Law no. 9888, dated 10.03.2008, "For some

amendments and modification to Law no. 8328, dated 16.04.1998, "For the rights and treatment of convicts serving imprisonment", revised, it is specified that in the pre-trial institutions the stay of infants in the same rooms with adults is prohibited and infant girls are not kept in the same rooms with infant boys. In addition, amendments to this law specify that infants are kept in separate rooms and sections allowing them special treatment. Infant girls are under the supervision and care of female staff only.

200. In the Penal Code it is prescribed that punishment with imprisonment of infants under the age of 18 cannot be longer than half of the sentence that law prescribes for committed penal offence (Article 51). In cases when the penal offence is of lower importance and the previous behavior of the child is good, the trial court may exclude it from punishment and may decide sending it to a correctional institution. During the trial phase, dependent on the age of the infant, the trial court takes into account the requirement of actual uninterrupted educational processes. Regarding the judicial assistance which should be provided for the infants, the Code of Penal Procedures stipulates that infant defendants are provided judicial and psychological assistance at any state or stage of proceedings, in the presence of parents or other persons required by the infant and accepted by proceeding authority.

Rehabilitation, education, work and discipline

201. Regarding the general rules for the treatment of prisoners, they are specified also in the Rules and Regulations of Institutions for Penal Decision Execution (IPDE). Among other things, the Rules and Regulations prescribe the transfer and the move of prisoners, the cleaning of premises, the clothing of prisoners and pre-trial detainees, the furnishing of rooms with necessary materials, etc.

202. Rules and Regulations of Institutions for Penal Decision Execution (IPDE) guarantee also the rehabilitation of convicted persons. There are also foreseen the organization of relaxation activities, as well as provision of different social and psychological services. Law no. 8328, dated 16.04.1998, "For the rights and treatment of convicts with imprisonment and pre-trial detainees", ensures rehabilitation of convicted persons based on its Articles 10, 11, 32, 38. Treatment of convicts is carried out according to the individualization criteria in compliance with individual conditions and characteristics of each convicted person. Individualization is made by verification of individual needs taking into account the conditions and environment where the convicted person has lived, social and educational reasons that have taken him away from the normal life. Observation is made at the beginning of the treatment and the results are verified continuously during implementation period by making required modifications (Article 10).

203. Supervision, programming and implementation of treatment are carried out by the prison administration by means of its staff in cooperation with relevant public organs and institutions. The administration of prisons support and encourage the contributions from nongovernmental organizations and of certain individuals for the implementation of the training program (Article 11).

204. With regard to the way of prisoners' treatment, Article 32 states actually that convicts are treated according to the features of their personality. The objectives of training include education, professional formation, development of other individual skills, cultural activities, entertaining and sport activities, work, spiritual assistance and other activities in group which aim at the recreation of skills to integrate them into the society. The basic provision specifies also the social-educational treatment of convicted persons which is accomplished through individual activities and formation activities as well. Treatment is realized by the staff of police officers of prisons, who are also trained for the teaching area.

205. Education is carried out in compliance with Article 37 of this law. This provision specifies that education and professional formation are achieved by organization of schools, compulsory for infants, and also conduct of professional courses based on actual education system in effect.

206. Article 40 specifies relations with the family. Special attention is paid to maintenance, improvement and reestablishment of relations between the convicted persons and their families. The convict may inform promptly his family about his confinement in an institution or when they are transferred to other places. In case of death or severe physical or mental disease of a convicted person, his/her family should be informed immediately. On the other side, the institution informs promptly convicted persons when it is advised of the death of their relatives. For the convicts who are seriously ill or suffering from mental disorders, information is made only with the consent of the doctor. For convicted adults and women that have babies, a special and advantageous program is worked out with regard to relations with the family.

207. The convicts may have meetings at special places under the control, watch, but not hearing, of supervising staff. Meetings with family members are specifically favored. The management of the institution may authorize convicted persons to stay with their family members beyond the determined time limits. Telephone communications may be allowed with family members and in special cases with third parties. Convicted persons are allowed to keep newspapers, magazines and books which are freely sold outside and to make use of other allowed informative means.

Prison officers

208. Law no. 8321, dated 02.04.1998, lays down concretely some provisions with reference to prison officers. Respectively, Article 13 deals with appointments and ranks, Article 14 with appointments of officers, Article 15 with the appointment of the director of prison police. Article 13 specifies that employment of basic role employees to the effectives of Prisons Police is made by the General Director of Prisons on a competitive base according to some requirements approved by the Minister of Justice. There can apply and compete Albanian nationals who meet the following criteria: (1) to be of the age from 20 to 35 years; (2) to have the necessary physical and mental conditions for accomplishing required services; (3) to have secondary education; (4) not to have been punished for any penal offence and to have good moral character. Winners of the competition are appointed police of the basic role. They are titled and ranked after they finish the relevant training course at the Prison Police School.

209. Article 14 of this law prescribes the appointment of officers. Appointment of other employees, except the Director of prison Police, is made only after the test for professional skills. Appointments and dismissal from the job, according to letters c”, “ç”, “d”, “dh” “e” of Article 5 in this law, is made by the General Director of Prisons on the proposal of the Director of Prison Police, while according to letters “b” and “c” of Article 5 in this law, is made by the Minister of Justice on the proposal of the General Director of Prisons. Article 15 of this law specifies the appointment of the Director of Prison Police. The Director of Prison Police, at the General Directorate of Prisons, is selected among the officers of Prison Police effectives, or Public Order Police, or from Armed Forces having the grade not lower than high rank officers or equivalent to it. The Director of Prison Police is appointed by the Minister of on the proposal of the General Director of Prisons.

Rights of children, women and young prisoners

210. Article 17 in Law no. 8328, dated 16.04.1998, revised, “On the rights and treatment of convicts with imprisonment and of pre-trial detainees”, specifies that women and infants regularly serve the sentence in special institutions and if impossible, in special sections of

other institutions based on the requirements laid down in this law. Mothers are allowed to keep their babies with themselves until they are 3 years old. For taking care of and assisting these children special nurseries are in operation. Article 75 specifies that pre-trial detained women are kept in sections or rooms separately from men and are under the supervision and care only of female staff. Article 13 of this law states that women and infants may be kept in these prisons and in the sections of higher security prisons for especially higher crimes and deeds.

211. Human conditions for the treatment of infants are also specified in the General Rules and Regulations of Prisons. Human conditions include dwelling space, hygiene services, food, and health services. Regularly, infants attend school education within the institution, which has been made possible according to a bilateral agreement between the Ministry of Justice and the Ministry of Education and Science. They also attend computer and foreign language courses and also religious lessons. Convicted infants are assisted by a legal educator who informs them about their rights, their right to claims and to have judicial assistance. The social worker holds with them continuous conversations, something which helps with their integration in society and preventing them become recidivists.

212. Since October 2009, a Junior Institute is fully operating in Kavaja city. This institute accepts children from 14 to 18 years of age, who have taken final decisions. The objective for the treatment of these children in the Institute of Kavaja is based on the philosophy of human treatment of this category and bringing it closer to international standards. The treatment of children in this institute is an effective combination of the best foreign experiences and practices, of modern infrastructure and appropriate for carrying out by a trained staff a specific and complete educational program for this category of young people.

213. A program for convicted children has been worked out which is based on the needs, abilities and skills, capacities and health and psychological state of children in order to facilitate the process of their social rehabilitation through their participation in education activities, professional formation, sportive and cultural activities, etc. A rigorous daily program is applied for the children which aims at providing them with habits of the life in community, increasing their self valuation and taking on responsibilities, respecting rules, getting familiar with their rights and responsibilities, encouraging their abilities and skills in different fields, etc.

214. House of Special Care is stipulated in Article 16 of Law 8328/1998. Special medical institutions or special sections at prisons or hospitals outside prison system are serving for the remedy of sick convicts or for those who suffer from mental illness or psychical disorders. The holding of these persons in these institutions and sections may be specified since the beginning when the decision for the punishment is made or during the time when the convict is serving the sentence, with the consent of the prosecutor and in case of emergencies, with the consent of the director of the prison where the convict is serving the sentence, who will inform immediately the prosecution office. The leave of these institutions is made upon the proposal of the institution manager and with the approval of the prosecutor. Entering this institution or its refusal, leaving this institution or refusing the leave, the convict and his defender or caretaker have the right to claim to the court within five days from the date getting information. Institutions and sections for health remedy respect all the rights of convicted persons according to law to the extent that they are applicable in hospitalization conditions. The Minister of Justice and the Minister of Health, under their common orders, determine the way how this law is executed there. Upon the order of the prosecutor, these institutions may receive convicted persons whose occupations are related to medicine or to other necessary fields, while there is no legal obstacle according to this law. The law court decides for holding these convicts in such institutions for the cases specified in the Code of Penal Procedures. In these institutions, with the recommendation of prison medical service or of other medical institutions, imprisoned

persons are transferred on the order of the prosecutor. The leave or holding the convicted persons in such institutions is approved by the organ that has decided the execution of the decision in the institute.

Article 11

Prohibition of imprisonment on ground of inability to fulfil a contractual obligation

215. In Chapter II of the Constitution, Individual Rights and Freedoms, point 3 of Article 27 it is prescribed that: "No one is deprived of his liberty because of being unable to fulfill a contractual obligation". Inability to meet a contractual obligation is ruled under the provisions of the Civil Code and the Code of the Civil Procedures, which explicitly stipulate that disputes derived from civil contracts are solved by the competent law court.

Article 12

Right to freedom of movement and choice of residence

Freedom to choose residence and movement within State territory

216. In Article 38 of the Constitution it is sanctioned that: everyone has the right to choose his dwelling place and move freely in each part of the state territory.

217. According to the Civil Code, Article 12: "Every adult person has the right to determine freely for the dwelling place". Although the Family Code, Article 55, specifies that: in marriage, both spouse agree mutually for their dwelling place; however, in this view, Law no. 10129, dated 11.05.2009, "For the Civil Status", in articles 14–16, lays down the right of Albanian nationals to declare, register and change their dwelling place at the civil registration office where their residence is.

218. Also, the Council of Ministers Decision no. 1243, dated 11.12.2009, "For specification of documents that nationals should submit and procedures that should be followed by civil registration offices in municipalities/municipality units/communes and in other certain public institutions for the change of dwelling places/addresses of nationals", lays down the operational way and the required documentations that nationals should present at civil status registration offices for changing their residence locations. Point 1 of this Decision specifies that nationals should present to the civil status registration offices, in whose jurisdiction the building is, ownership certificate of the building or the leasing contracts, loan contracts, contract for use or residence, and any other legal documents specified under the law in force, which entitles the national to use the dwelling house. The data are recorded by the officer of the civil status office in the National Registry of Civil Status.

Status of aliens

219. The rights and fundamental freedoms and also obligations of the Albanian nationals are equally valid even to foreigners and other aliens in the territory of the Republic of Albania, except the cases when the Constitution correlates specifically the exercise of certain rights and freedoms with Albanian citizenship (Article 16 of the Constitution).

220. New Law no. 9959, dated 17.7.2008, “On foreigners”,⁶ was drafted in the framework of the efforts of bringing Albanian legislation closer to *acquis communautaire* of EU and pursuant to human rights and fundamental freedoms, international agreements ratified by Republic of Albania, based on the principles of reciprocity, non-discrimination, and treatment not less favorable than Albanian nationals. This law specifies that a “foreigner” is any person, with or without citizenship, who, according to Albanian legislation, is not an Albanian national. This law rules the regime of entry, stay, employment, treatment and exit of foreigners in/from the Republic of Albania and specifies the functions and competences of state authorities and of other subjects, public or private, Albanian or foreign ones, which have to do with foreigners (Article 1). Subject to this law are foreigners who enter or intend to enter the territory of the Republic of Albania for the purpose of residence, transit, employment, study or readmission and this law also guarantees the rights and obligations of foreigners living and working in Albania.

221. Law enforcement authorities include: (a) *Department for the state Border and Migration* as the responsible authority within the structure of the State Police, which has competences and duties in the field for treatment of foreigners. (b) *Directorate of Migration Policies* is the responsible authority within the structure of the Ministry of Labor, Social Issues and Equal Opportunities, which has competences and duties in the field of employment and self-employment of foreigners.

222. In the second report of Albania for the Convention against Torture (CAT/C/ALB/2) detailed information is given related to essential differences of the new law as compared with law no. 8492, dated 27.05.2009, “On Foreigners”, concretely in the comments for Article 3, paragraph 71.

223. In section II, “Stay permissions”, Article 22 specifies long term stay permissions, Article 23 temporary stay permission, while Article 24 specifies applications for provision of stay permission and its renovation. Law also prescribes the cases for the refusal of provision of stay permission or its renovation (Article 25). Article 26 specifies the cases of provision with permanent stay permission. Refusal for provision of permanent stay permission to foreigners is specified in Article 28, while Article 29 prescribes the cases for the termination of stay permission.

224. With regard to family reunion (Article 32), a foreigner, supplied with stay permission, who lives and works in the Republic of Albania, may apply to local Police of State Border and Migration, to bring his family in for the purpose of family reunion, if the following requirements are fulfilled: (a) entering the territory of the Republic of Albania in compliance with the provisions of this law; (b) staying in the Republic of Albania for a period not less than a year; (c) earning normally his/her living in the Republic of Albania from the incomes or assets of the spouse, who is staying in the Republic of Albania, and in the case of children, from the revenues and assets of parents; (d) paying contributions to health insurance to cover health care services; (e) assuring suitable premises and conditions for the stay of the family; (f) submitting documentations according to definitions specifies in the decisions of the Council of Ministers.

The stay permission for family reunion is given for a time period not longer than the stay permission of the person, who presents the application for family reunion.

If the permission for reunion of the family is denied, the foreigner has the right to claim to the minister within 15 days from the date of receiving written notification.

⁶ This law has abrogated law no. 8492, dated 27.05.1999, “On foreigners” and entered into force on the 1st of December 2008.

225. Law lays down even the case when stay permission is issued for study purposes (Article 37):

1. The foreigner, who has entered and stay in Albania for study purposes at an education institution licensed by the Albanian government, is entitled to apply for stay permission according to procedures specified in Article 22 of this law.
2. The foreigner, who is attending university studies or participate in training courses or professional practice, is supplied with stay permission, with validity not longer than a year, when it is issued for the first time, and can be prolonged each time for a year until the end of the studies or the practice.
3. The foreigner must prove that is accepted by the education institution and that has sufficient financial means for the life in the Republic of Albania during the study period. Article 38 specifies the stay permission for diplomatic corps. The Ministry of Foreign Affairs provides with stay permission family members of the diplomatic and consular representatives in the Republic of Albania according to definition specified in point 1, Article 21 of this law, and also extends the validity of their temporary stay permissions.

226. Also, the entry, the stay and the treatment of foreigners in the Republic of Albania is ruled also based on the following by-laws and normative acts:

- The decision of the Council of Ministers no. 362, dated 01.04.2009, “For determining the criteria, procedures and documentations for entry, stay and treatment of foreigners in the Republic of Albania”
- The Directives of the Minister of Public Order no. 1460, dated 21.05.2001, and of the Minister of Foreign Affairs no. 2430, dated 14.05.2001, “On procedures for entering, staying and treating foreigners in the Republic of Albania”

227. Law no. 8432, dated 14.12.1998, “For asylum in the RoA”,⁷ recognizes the right to asylum or temporary protection all the foreigners in need of international protection, refugees or other persons apply for asylum in compliance with provisions of this law and with international conventions where Albania is a party. In the framework of improving the above mentioned law, another law is approved, law no. 10060, dated, 26.01.2009, “For some amendments and changes to law no. 8432, dated 14.12.1998, “For asylum in the Republic of Albania”.

228. Detailed information related to conditions and procedures for granting or terminating asylum in the Republic of Albania, as well as the rights and obligations of refugees, is given in the second Report on the Convention against the Torture (CAT/C/ALB/2), concretely in the comments for Article 3, paragraphs 74–75–76.

Article 13

Expulsion of foreigners

229. Entry, stay, treatment of foreigners and the guarantee of all their rights is prescribed in Albanian legislation related to the principle not to expel a person to another country where he will be subjected to torture. The Constitution of the Republic of Albania sanctions

⁷ Law no. 8432, dated 14.12.1998 “On asylum in the RoA” hasn’t been discussed in the first report.

the prohibition of collective expulsion of foreigners and specifies that expulsion of foreign individuals is allowed according to stipulations determined by law (Article 39, para. 3).

230. Expulsion of foreign nationals is based on Law no. 9959, dated 17.07.2008, “On foreigners”, exactly Chapter VI, “General conditions for denial, expulsion and deportation of foreigners”. Based on this law, Albanian institutions are entitled to expel (deport) a foreigner when his stay in the country threatens public order and security, and also in cases when the foreigner is declared undesirable person. The foreigner has the right to file a claim in a law court, and when the law court makes its decision and the foreigner doesn’t leave the country based on such decision, then relevant organs are entitled to deport him/her.

231. Article 8, related to “Undesirable persons”, specifies that the Minister of Interior, for important interests of the state, of the constitutional and judicial order, of national security and public peace, under an official justified decree declares undesirable person a foreigner if he/she: (a) acts or disseminates propaganda against the sovereignty of the Republic of Albania, national security, constitutional order and public security peace; (b) is sentenced to imprisonment for a penal offence committed intentionally in the Republic of Albania for which Albanian legislation prescribes a minimum sentence of not less than three years imprisonment; (c) is a member of terrorist organizations, or supports and carries out anarchist activities against the legal state; (d) is sought by international institutions as suspected criminal for crimes against humanity, war crimes or for other high crimes; (e) constitutes a threat for the country or attacks the relationship of the RoA with other countries; (f) there are reliable suspicions that will enter or stay in the territory of the RoA for committing crimes or other actions which threaten the RoA; (g) is involved in organized crime, in trafficking human beings, drugs, illegal crossing in or through the RoA and also any other kind of trafficking or other illegal acts based on information received from relevant responsible organizations of national security.

232. This law specifies that a foreigner is declared “undesirable person” for a time period of not less than ten years from the date of the announcement and is denied the entry or stay in the RoA during this period. The Minister of Interior, on the request of the foreigner, reconsiders the application for entry, visa or for the stay permission if the adult foreigner has committed one of the acts mentioned above when he was a minor. Against the decree of the Minister of Interior for declaring a foreigner “undesirable person”, the foreigner, or members of the family staying in Albania, are entitled to file a claim at the law court of first instance within 10 days from the date of receiving information for this decree.

233. Section I of Chapter VI of this law specifies the general conditions for denial, expulsion and deportation of a foreigner. Article 68 lays down the measures for execution of the refusal of entry and the right of the foreigner to complain against the act of the Police for Border and Migration for this refusal to higher level authorities of the State Police within 5 days from the date of receiving information. Section II in this chapter prescribes the provisions about the actions for expulsion based on cases stipulated by law, procedures to be pursued (execution order and execution time) and also procedures of filing a claim and its execution.

234. Section III of Chapter VI lays down the provisions about administrative actions of forceful removal that are to be taken because execution of expulsion is not made possible and because the stay of the foreigner in the RoA has become unacceptable for reasons specified by law, procedures of execution and complaint at the law court. If the foreigner becomes subject to forceful removal, according to this article, the foreigner is detained and kept in official custody according to Article 83 of this law, until the execution of the order of forceful removal.

235. Detailed information on following up procedures for informing consular or diplomatic representative of the country of the foreigner about the detention of the foreigner

and extension of detention time period, is given in the second report against torture CAT/C/ALB/2, concretely, in the comments for article 6/3, paragraphs 94–97.

236. Section IV prescribes expulsion as an extreme measure which is taken because forceful removal has not been made possible due to the foreigner's fault or when foreigner's stay in the country threatens public order and security or in the case when the foreigner is declared undesirable person. Article 76 specifies procedures and execution of expulsion order, while Article 77 specifies the category of persons that cannot be expelled: Exclusively, although conditions specified in point one of this article are met, a foreigner can be expelled, if his stay threatens public order and security and is a threat for national security.

237. Section V of this chapter adopts the measures of detention of the foreigner who is kept in official custody in a certain center which is established and operates based on the rules determined by the decision of the Council of Ministers for the purpose of restraining foreigners of improper behavior in the RoA or those who have become subject to expulsion or forceful removal until the fulfillment of real conditions for transferring them to the country of destination. Institution of detention in a close center is a new concept specified under this law. This section specifies the rights and obligations of detained foreigners and their rights to appeal to a law court according to legal procedures in effect. According to Article 79, detention in a close center is an administrative measure, which is taken and executed by responsible state authorities in local or regional level for the treatment of foreigners, against a foreigner against whom an order of forceful removal or expulsion is served or for a foreigner readmitted based on international agreements.

238. Based on Article 83/1, when a decision is made for detaining a foreigner, he/she is kept in official custody in a center established purposely for foreigners in order to make all necessary preparations for sending them back to their countries of origin or to the country they had come from. Establishment and function of the detention center is made under a special decision of the Council of Ministers. Detention is carried out in relevant institution if the foreigner is released after committing an intentional crime. A foreigner, who is imprisoned, is confined separately from other persons and other prisoners, or in pre-trial premises and enjoys all rights and obligations that other detainees have, based on Albanian law in force. Police for Borders and Local Migration undertakes immediate measures to take care of the family members of the detained foreigner, who have remained without supervision and keep them in the closed center. Foreign nationals, who are waiting to go back to their country of origin, are generally accommodated in temporary reception centers, which are managed by the Ministry of Interior and the Ministry of Labor, Social Issues and Equal Opportunities and in their dwelling places.

239. In 2008, 95 expulsion orders were served, 58 foreign nationals were expelled, while for 37 foreign nationals were delivered orders of forceful deportation. During the period 2003–2008, the Directorate for Citizenship and Refugees in the Ministry of Interior has made 112 decisions, of which, 77 for asylum and 35 refusals. There were 8 applications for asylum in 2008. Asylum-seekers are accommodated in the National Reception Center for Asylum-seekers in Babru near Tirana. This center assures very good reception standards and has the capacity of 150–200 people.

Article 14

Equality of all persons before the courts

240. Paragraph 1. The Constitution of the Republic of Albania guarantees equality before judicial organs to all individuals. All persons living in the territory of the Republic of Albania are provided with legal assistance for both, civil and penal processes serving thus

as a guarantee for securing their rights in a process. In this context, Article 6, paragraph 1, of the Code of Penal Procedures (CPP) specifies that if the defendant has not sufficient means for assuring defense himself/herself or by a legal defender, he/she is given free legal assistance by an advocate.

241. Article 49 of the CPP prescribes provision of the defense on the initiate of proceeding organs themselves. According to the first paragraph of this article, the defendant who has not obtained the defense or has remained without it is assisted by an advocate appointed by the proceeding organ, if required by him/her. For special cases, Article 49, paragraph 2, of the Code of Penal Procedures (CPP) specifies that the defense is provided to the defendant in spite of his/her will when he/she is under the age of 18 years, or has mental illness or psychological disorders and has not obtained the defense or has remained without it. While the defendant is not able to protect himself/herself because of old age or health condition, the provision of defense by proceeding organs is obligatory. Advocates who provide legal defense for the defendant in compliance with requirements specified under Articles 6 and 49 of the Code of Penal Procedures are selected from the list made available to proceeding organs by the Steering Committee of Advocate Chamber according to criteria specified for each of them in this list (Articles 49, paragraph 3). Concerning the costs for the defense of the defendant, paragraph 7 in Article 49 states that if the defendant has not sufficient financial means, the costs incurred for his defense are covered by the state.

242. In order to guarantee the right to defence and to facilitate the access to free legal assistance, law no. 10039/2008 "On judicial assistance" has been adopted, which is a part of the legal framework for the free judicial assistance in general, and, apart from judicial assistance in a penal process, it also predicts provision of such assistance in civil process and that of administrative one. This law determines also the types of legal assistance provided to nationals, categories of people that benefit from this assistance and the establishment of a public structure named State Commission for Judicial Assistance, which is the responsible organ for provision of such assistance.

243. Judicial assistance of the state is provided by advocates who are included in the list worked out by the National Chamber of Advocacy and the State Commission for Judicial Assistance. Along with provision of judicial assistance in the form of legal education, or provision of information on legislation, free judicial assistance is also provided in the form of defense and representation of interests of persons for civil and administrative issues (Article 12). Criteria for benefiting judicial assistance are specified in Article 13 of the law, on which base, in judicial processes, the right to benefit from judicial assistance is entitled to persons who need judicial assistance for civil, administrative or penal cases, but have no sufficient means to pay for such judicial assistance or there are very complicated cases with regard to content and procedures. In this case, the person who will benefit from judicial assistance should prove that is included in programs of social protection or meets the requirements to be included in these programs.

Independence of the judiciary

244. The Constitution of the Republic of Albania recognizes and guarantees the independence of judiciary power under a wide framework of provisions, which guarantee organizational, administrative and financial independence of this power from other powers. The principle of separation and balancing of judiciary powers constitutes one of fundamental constitutional principle. According to Constitution, judges are independent and are subjected only to Constitution and law. Law courts have the exclusive right to the function of giving justice. This function of law courts determines the position of judiciary in the system of state power institutions and the status of the judge. According to this provision, judiciary power is exercised gradually based on the principle of controlling

judicial decisions of lower courts by the higher courts. This standard assures the independence of judiciary according to which judicial decisions are controlled only by higher courts and no other organ can review legitimacy and reliability of judicial decisions as long as they are not altered or reversed by a higher court.

245. Self-government is another important component of the independence of the judiciary which is recognized and guaranteed by Constitution. Article 147 of Constitution governs the composition and competences of Higher Council of Justice, which materializes liaisons with judiciary corps and makes courts independent from interferences of any other powers. According to Constitution, the Higher Court of Justice is the sole organ that decides for the transfer of judges and also for their disciplinary responsibility.

246. Judiciary power in the Republic of Albania enjoys also financial independence. Article 144 of Constitution states that law courts have separate budgets, which are proposed and administered by courts themselves as determined by law.

247. Apart from above, the independence of judiciary is also ensured by a number of constitutional and legal norms which sanction the status of the judge. This status generally includes immovability, incompatibility and immunity from the penal process and also a series of other rights. Judges enjoy immunity from the penal process. Also, in order to guarantee the independence of judiciary in exercising their duties, law has limited civil responsibility of the judge, according to which, judges are not responsible for a civil lawsuit, which is connected with the accomplishment of their professional duties, except the cases stipulated by law.

248. Pursuant to constitutional provisions, after the year 2004, a series of legislative and administrative actions have been undertaken for ensuring the independence of judiciary, which are included in the objectives of reformation and restructuring of judiciary powers headed by the Ministry of Justice. Reformation of judiciary system aims at improving the judge status and regulating legal procedures of trial process. Concerning the improvement of the judge status, there was adopted law no. 9877, dated 18.02.2008, “For arrangement of judiciary power in the Republic of Albania”. This law determines the establishment, organizational structure and competences of law courts, requirements and procedures for appointment of judges in the first instance law courts and appellate courts, the rights and responsibilities of judges, disciplinary measures and their dismissal, and other issues related to operation of law courts. According to this law, the first instance courts are the courts of judicial districts and the courts for high crimes, while the second instance courts are the appellate courts and appellate courts for high crimes. This law stipulates that arrangement and function of administrative courts is ruled by a special law.

249. Pursuant to law, “For the arrangement of the judiciary power in the Republic of Albania”, several important by-laws have been passed that aim at improving the status of judicial system components for law enforcement such as:

- Decision of the Council of Ministers (DCM) no. 480, dated 6.5.2009, “For the special personal protection of the judge, of his/her family and his/her property, the security of their lives and properties”, which specifies the procedures and measures of organizational and professional character for the security and special physical protection, for protection of the families and properties of judges. Also, this decision assures judicial protection (under security contracts) for the judges of high crimes.
- Decision of the Council of Ministers (DCM) no. 49, dated 14.01.2009, “For an amendment to the DCM no. 335, dated 2.9.1997, “For the issue of diplomatic and service passports”, revised. This act assures the provision of judges with service passports.

- Decision of the Council of Ministers no. 20, dated 14.1.2009, “For approving the salary structure and rates of judicial administration employees of the first instance courts and appellate courts”. This act anticipates duplication of the salaries of judicial administration.
- Decree of the President no. 6201, dated 8.6.2009, “For determining territorial jurisdiction of judicial district courts and the centers for exercising their activities”.
- Decree of the President no. 6218, dated 7.7.2009, “For creating penal sections for the trial of children at the judicial district courts”.
- Decree no. 6217, dated 7.7.2009, “For determining territorial competences of appellate courts and the centers for exercising their activities”.
- Decree no. 6265, dated 16.9.2009, “For defining the number of judges for each of the first instance courts and of appellate courts”.

250. An important measure undertaken in relation to improvement of conditions for the function of the judiciary is the development of the draft law “For the trial of administrative disputes and the arrangement of administrative justice”, which aims at establishing specialized administrative courts for judicial examination of disputes, defining additional special criteria for recruiting judges, determining special principles like that of hasten trial and the weight of proof for the public organ, defining quick and efficient procedures for this kind of trial, and also for the execution of judicial decisions taken by these courts.

251. The Council of Ministers has drawn the decision no. 20, dated 14.1.2009, “For approving salary structure and rates for the judicial administration employees of the first instance courts and of appellate courts”, which determines the salary structure and rates for the judicial administration employees of the first instance courts and of appellate courts. This initiative achieved the increase of salaries for judicial administration enabling thus improvement of their status in contrast with their increasing responsibilities, which result from the adoption of a series of legal acts which improve Albanian judiciary within the framework of the reform in the justice system.

252. One of the guarantees sanctioned by Constitution for enabling the function of an independence judicial power, is the grant of immunity for judges including here both, judges of the Supreme Court and those of the first instance and appellate courts. Thus, in Article 137 it is explicitly stated that prosecution of judges of courts mentioned above can be conducted only after the prior consent of the competent organ. Immunity of judges this constitutional provision deals with refers to two aspects: (a) impossibility to initiate a criminal suit against a judge without prior consent of the competent organ; (b) a judge is detained and arrested only in cases when he/she is caught while committing a crime or immediately after crime commitment. Even in such cases the proceeding organ informs promptly the competent organ for removing the immunity.

Strengthening impartiality, efficiency and the fight against corruption

253. The Constitution guarantees impartiality of prosecutors. Article 148 specifies that prosecutors are subjected only to Constitution and law. For ensuring effectively a complete, independent and partial investigation Article 26 of the Code of Penal Procedures prescribes that the prosecutor is obliged to withdraw if there exist such cases: if there is conflict of interest in proceedings or if one of the private parties or the defender is his/her creditor or debtor, or is the debtor or creditor of spouse and children; if he/she is the custodian, representative or employer of the defendant or one of private parties, or if the defender or the representative of one of these parties is kith and kin of the prosecutor or his/her spouse; if the prosecutor has offered advice or has made comments on proceedings of lawsuit; if there are disputes between the prosecutor, his/her spouse or any relatives with the defendant

or one of the private parties; if one of prosecutor's relatives or of the spouse is affected or harmed from the penal offence; if one of the relatives of the prosecutor or his/her spouse has conducted prosecution for the same proceedings; if the prosecutor is found under one of the conditions of incompatibility specified in the Code of Penal Procedures; there are other important causes of impartiality. Also, according to Article 27 of the CPP, the prosecutor cannot conduct penal proceedings for an offence while in such lawsuit are involved his/her spouse, kith and kin (prenatal, postnatal, brothers, sisters, uncles, aunts, nephews, nieces, children of brothers and sisters), or relative by marriage (mother-in-law, father-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter).

254. In the same spirit with the Constitution and the Code of Penal Procedures, Article 3/ç of Law no. 8737, dated 12.2.2001, "For organizing and functioning of the Prosecution of the Republic of Albania", revised under law no. 9102, dated 10.7.2003, and law no. 10051, dated 29.12.2008, prescribes that the director of the prosecution office of judicial district by the appellate court, prosecutor of appellate court, prosecutor of the General Prosecution Office, if are found in one of the conflicts of interest specified in the Code of Penal Procedures are forbidden to deliver written orders or directives to the prosecutor of the lawsuit or to influence in any other way. In such case, the director in the conflict of interest informs in writing the Prosecutor General, who decides himself or upon a request to exclude the director in the conflict of interests from procedures of giving orders and directives. In cases when the Prosecutor General is himself in a conflict of interest, orders or directive are issued by a senior prosecutor, a director in the organizational structure of General Prosecution Office.

255. The Code of Professional Ethic of prosecutors was passed in 2005. This code specifies the rules for prosecutors such as: be objective, independent, and impartial and avoid any incompatibilities with their profession. The Code of Professional Ethic of prosecutors specifies that prosecutors are not allowed to: make use of their position to benefit for themselves unjust advantages and privileges; influence unfairly on decisions for their promotion, appointment and transfer and must not allow similar frauds occur; ask for or accept for himself/herself or their families presents or other advantages from individuals who are under investigation or prosecution or from persons under suspicion that might affect their professional independence or impartiality; allow other persons use their names and reputation for the purpose of acquiring unjust benefits; carry out economic activities and participate in social organizations which may create doubts and compromise the figure of the prosecutor or are incompatible with the function of the prosecutor; take actions or be engaged in activities related to the profession of advocate, except the cases when he has to protect his/her own rights or the rights of the family members, of judicial and civil character.

256. Another legal act which guarantees avoidance of conflict of interest for prosecutors is law no. 9367, dated 7.4.2005, "For prevention of conflict of interest in performing public functions", revised. Judges and prosecutors, due to the exercise of their duties, are subjects to law for the prior and periodic self-declaration of their private interests, which may become causes for occurrence of a conflict of interest. This law specifies the obligations of judges and prosecutors to declare their private interests before, during and after the exercise of their duties. Denial of declaration, or false declaration constitutes a penal offence according to Article 257, paragraph a, of the Penal Code. Actually, this law is fully executed because all judges and prosecutors of all levels have fulfilled the obligation for declaring their properties and assets as required by law.

257. For maintaining impartiality of judges and pursuant to the guarantees that the Constitution subscribes in this aspect, the lawmaker, in Law no. 9877, dated 18.02.2008, "For organizing the judicial power in the Republic of Albania", has set some limits to

judges because of their duties. According to Article 23, among other things, judges are forbidden to make public declarations for any other thing that affects impartiality in the lawsuit.

258. Civil and penal procedural legislation has determined detailed rules for assuring impartiality of judges during the trial of penal or civil cases by imposing the institute of resignation from adjudication (Article 72).

259. The strengthening of the capacity and efficiency of judiciary power is achieved through legislative actions undertaken in this field. The actual legal framework, based on which, the judiciary power is currently operating, sanctions the independence from arbitrary effects over the activities of law courts that might come from other powers or from different individuals. Judicial decisions can be reversed only by a higher judicial authority and cannot be distorted by any other pressure from outside.

260. If a law court is not able for the trial of one or some cases within reasonable time limits, the High Council of Justice, on justified request of the chairman of relevant court, can delegate judges from other law courts. The delegating of judges is made only for certain cases based on the rules defined under the Council of Ministers Decision no. 234/4, dated 08.09.2008, "For delegating judges for the trial of lawsuits".

261. Law no. 9877, dated 18.02.2008, "For organizing and functioning the judiciary power in the Republic of Albania", in its Article 20, lays down the principle of removal of the judge from the post save the cases defined in this provision, which includes resignation, pension age, final sentence for committing a criminal offence and dismissal from the post. On the other hand, Article 23 of this law stipulates another guarantee which protects judges from transference. This provision specifies an exclusive case of such guarantee the need for transference due to restructuring of judiciary power.

262. In addition, our legislation specifies as penal offences against judiciary system those illegal and guilty acts or inactions, which affect normal the activity of courts in achieving justice and also other organs which assist in reaching this and the rights and freedoms of nationals protected by law. In more detailed way law no. 9275, dated 16.9.2004, "For some amendments and changes to law no. 7895, dated 27.1.1995, "The Penal Code of the Republic of Albania", revised, states the inclusion of some penal offences related to active and passive corruption in public and private sector.

263. Concretely, these additional provisions require sentence to imprisonment from one to four years or to payment of a fine from four hundred thousands ALL to two million ALL for persons who: make active corruption (bribery) with a judge, prosecutor or other official of justice and more concretely: promise, proposal or grant, directly or indirectly, of any abnormal benefits, for himself or other persons, judges, prosecutors, or any other employee of the organs of justice, for taking an action or inaction, related to his job or function, is punished to imprisonment from one to four years and to payment of a fine from four hundred thousands ALL to two million ALL. Also, article 319 of the Penal Code specifies the penal offence of bribery, passive corruption of judges, prosecutors and other officials of the organs of justice, more concretely.

Immunity of judges and penal responsibilities

264. Article 137 (points 3 and 4) and Article 147 of the Constitution specifies the procedure for dismissal of a judge and his/her penal responsibility. Judges can be prosecuted even for penal offences committed outside their jobs only with the approval of High Council of Justice. In case of flagrancy, the judge can be detained or arrested immediately; the competent organ informs promptly the High Council of Justice. If the High Council of Justice does not give his content within 24 hours for sending to the court the arrested judge, the competent organ is obliged to release him/her. In addition, the judge

can be dismissed by the High Council of Justice for committing a crime, for physical or mental inability, for acts and behaviour that highly discredit the reputation and the figure of the judge or for professional insufficiency.

265. Another act which sanctions the judge penal responsibility is law no. 9877, dated 18.02.2008, ‘For organizing judiciary power in the Republic of Albania’, revised, which prescribes penal responsibility of the judge, concretely: the judge of the first instance court or the judge of the appellate court can be persecuted according to procedures stipulated in the Code of Penal Procedures. Authorization for initiating penal proceedings even for penal offences committed outside the job scope of the judge is approved by the High Council of Justice. A guarantee is also included here for protection of judges from any kind of arbitrary action, who, before going to a trial court must previously be considered by the High Council of Justice for approval, and actually Article 29, point 2, of this law, revised, specifies that: A judge can be detained or arrested only when he/she is caught committing a crime or immediately following crime commitment.

266. Pursuant to the Constitution, judges enjoy immunity, which constitutes a guarantee that aims to protect judges from any potential pressure or abuse from other powers, or from third parties, however, it doesn’t restrain or exclude penal responsibility of judges in cases when they commit penal offences, on the contrary, he/she is criminally responsible like any other national of the Republic of Albania, but it must firstly be proceeded with the removal of immunity according to constitutional stipulations, the Code of Penal Procedures and the law “For organizing judiciary power in the Republic of Albania”.

267. In law no. 10051, dated 29.12.2008, ‘For some amendments and changes to law no. 8737, dated 2.2.2001 ‘For organizing and functioning of the Prosecution of the Republic of Albania’, revised, there have been detailed and improved the requirements for recruiting and promoting the prosecutors, the mandate commissioned to the post of the Prosecutor General, his obligation to appear and report before the Parliament, and also discussing the issue of prosecutors’ immunity.

268. Paragraph 2. Presumption of innocence is sanctioned in the Constitution of the Republic of Albania and in the Code of Penal Procedures of the Republic of Albania. Article 30 of the Constitution prescribes that everyone is innocent until he is proved guilty under a final judicial decision. In the spirit of the Constitution and of this Pact, Article 4 of the Code of Penal Procedures specifies that the defendant is presumed innocent until he is proven guilty under a judicial final decision.

269. The correct application of the principle of the presumption of innocence constitutes a guarantee for the defendant overall the phases of penal proceedings. The principle of the presumption of innocence releases the defendant from the burden of proving his innocence, gives him the right not to answer the charge and to bear no responsibility for his declarations, to request from the proceeding organ receipt of proofs and evidences which declare him innocent and to be defended in any appropriate way allowed by law. The principle of the presumption of innocence is obligatorily applicable during all proceeding stages. The proceeding organ should consider innocent the person under investigation, although he is a defendant and a security measure is taken for him. Taking a person in the capacity of a defendant and declaring him a defendant is established based on sufficient proofs and on a reasonable doubt for the guilt of the defendant, but it always remains a doubt and as such it should be subject to judicial investigation and verification in all levels. The defendant is declared guilty only then when the final decision of guilt is taken.

270. A penal decision takes the final form and becomes executable at the time when the Appellate Court determines for it. The Supreme Court reviews final decisions and only for reasons of executing laws prescribed under Article 432 of the Code of Penal Procedures (CPP). When the Supreme Court reverses a final decision, the judged person is turned back

to the capacity of the defendant and his guilt remains doubtful until the process of retrial comes to a final decision. Second paragraph of Article 4 of the CPP states that any doubt for the charge is assessed in favour of the defendant.

271. The presumption of innocence of the defendant includes also the rules of determining for setting aside the charge or the suit by the prosecutor, and also for taking the final decision by the court. Article 328, point 1, letter "dh", of the CPP states that the prosecutor can decide for setting aside the charge in any stage of proceedings if it is revealed that the defendant has not committed the crime or if it is proved that the crime is not committed by the defendant. Also, Article 331 of the CPP prescribes that the prosecutor presents the application for the trial of the suit when he has complete proofs for defendant's guilt.

272. Guarantees for the presumption of innocence are also provided during the phase of judicial review. Thus, Article 387 of the CPP stipulates that the court can set aside a lawsuit if prosecution shouldn't have been initiated or it must not continue, and also when the existence of a proceeding condition, or of a cause that extinguishes the penal offence, is doubtful. Article 388, point 1, letters "a" and "d", specifies that the court takes a decision of innocence when the fact doesn't exist and when it is proved that the defendant has not committed the crime he is charged with. The Code of Penal Procedures, in its provisions for review of penal decision prescribes that a decision of innocence for a crime may be reviewed on the request of the prosecutor provided that the deadline of 5 years from taking that decision is not elapsed.

273. The rights of a person are assured even after a judicial decision is taken, which has unjustly declared him guilty. For this case, the CPP, Article 268, states that after giving a judicial final decision, which declares the defendant innocent, the person is entitled to compensation for his pre-trial detention because of an unjust judicial decision, except the cases when it is proved that the erroneous decision or an unknown fact is not disclosed in the proper time have been caused totally or partially by the person itself.

274. Law no. 10192, dated 3.12.2009, "For prevention and attack on the organized crime and trafficking through preventive measures against the property" specifies that burden of proof, for proving that properties obtained illegally belong to the person for whose properties confiscation is required.

275. Paragraph 3. The rights that guarantee the defense are considered as a part of a proper legal process, which may be a cause for an individual to appeal to the Constitutional Court. Under Article 131, letter "f" of the Constitution, the Constitutional Court settles "the final judgment of claims of individuals for violation of their constitutional rights for a proper legal process, when all other judicial means for protection of these rights are exhausted".

276. Paragraph 3/a. The Constitution of the Republic of Albania, under Article 28, point 1, guarantees the right of the defendant to be informed promptly in a language which he understands for the nature and causes of accusation against him. Also, Article 31, letter "a", of the Constitution specifies that it is one of the penal procedural guarantees for the defendant his right to be informed promptly and in detail for the accusation against him and for all his rights and also to enable the information of his family or his relatives.

277. Article 255, point 2, of the Code of Penal Procedures prescribes the obligation of judicial police to make the arrested person or the detainee available to the prosecutor, as soon as possible, in pre-trial premises, and to forward relevant records. Also, the family should be informed without delay with prior consent of the arrested person or the detainee. Following this, the prosecutor, before sending the arrested person or the detainee to the law court, proceeds with his questions in the presence of the defence who is chosen or appointed. During this procedure, the prosecutor informs the arrested person or the detainee

the fact he is charged with and the reasons for being queried and makes known his charges and evidences and respective recourse if they are not harmful for the investigation (Article 256).

278. In cases when a person is free, he is informed by the act for informing accusation, which is served by the prosecutor, where sufficient evidences are laid down for the penal offence. Once this act has been notified, the person, who this penal offence is attributed to, bears the capacity of a defendant. When, after taking a person as a defendant, there have been revealed other evidences which change or complement raised accusation, the prosecutor makes his decision and informs the defendant (Article 34).

279. Article 39 of the Code of Penal Procedures specifies in details the rules for asking defendant queries. The proceeding organ explains the defendant clearly and accurately the fact attributed to him, and when investigations are not harmed, tells him the sources.

280. In addition, Article 8 of the CPP lays down the principle of using Albanian language during all proceeding stages. This principle does not exclude the right of persons to speak their mother tongues when they do not speak Albanian language. On the contrary, in the second paragraph of this provision is stated that persons who do not know Albanian can use their native languages and, through the assistance of an interpreter, they have the right to speak and to be informed about proofs and acts and also for the proceedings. Also, under Article 98, point 2, of the CPP, the person who does not speak Albanian is queried in his native language and the records are kept also in this language. In the same language are translated procedural acts which are presented on defendant's request. Violation of these rules makes procedural act invalid. Regarding this right, the Constitution, under Article 28, point 1, prescribes that: "the person who is deprived of liberty must be informed that has no obligation to make any declarations and has the right to communicate immediately with his advocate and be allowed execute his rights.

281. *Paragraph 3/b.* The Constitution sanctions that: Everyone has the right to have sufficient time and facilities to prepare one's own defense.

282. There are several provisions in the Code of Penal Procedures dealing with required time and facilities that the defendant needs for realizing his defense during penal proceedings. Article 6 specifies that the fundamental principle of the penal proceedings is the right of the defendant to self-defense or by the assistance of a defender and provision of free defense by an advocate when he has not sufficient means to afford required costs.

283. Regarding the necessary time for realizing the defence, the prosecutor, during preliminary investigations, may invite the person to appear when he will ask questions or when he has to carry out acts that need his presence. The invitation contains also a brief statement of the fact resulted from investigation carried out until that moment. That is informed to the person under investigation at least 3 days before the settled day for appearance, except the cases that for possible reasons, the prosecutor thinks to shorten the time term (Article 308).

284. Article 110 of the CPP guarantees the defendant and his defense the right to hand over memoranda or briefs related to facts and proofs which defend them over all stages of preliminary investigation. The prosecutor is obliged to express himself in writing within 15 days. During preliminary investigations, the defendant and the defense have the right to be advised and get a copy of the acts for which they are interested in, or for which completion the presence of the defense is obligatory (Articles 105 and 309, paragraph 3). In support of assuring this right, the prosecutor has the obligation to file such acts with the secretary not later than three days from the time of their completion.

285. At the end of preliminary investigations, the prosecutor, after reviewing the acts and is assured that the defendant or his defense have become familiar with them, determines, as

case may be, to set aside the penal issue or bring it to the law court (Article 327, paragraph 2). The request brought to the law court for judgment contains also a brief on the penal fact, pointing out relevant articles of the Penal Code and also sources of proofs and the facts referring to. This request is made known to the defendant (Article 331). Once the lawsuit is brought to the trial court, the court has the obligation to inform the defendant and his defense the date of the trial session at least 10 days before the date settled for trial (Article 333).

286. If there are new charges during the trial (change of accusation, accusation for another crime, accusation for a new penal fact), the chairman of the jury informs the defendant that he may ask for more time for the defense. If the defendant asks for some other time, the chairman interrupts the proceedings for an appropriate time, but not more than ten days. When the defendant is not present in the trial, the prosecutor asks the court to record the new accusation in the minutes of the proceedings and the extract of the minutes is made known to the defendant. In such case, the chairman suspends the proceedings, determines another time respecting the terms set forth in the first paragraph (Article 376).

287. Then the defendant is entitled to present before the court his final pleadings (Article 378). The Code does not prescribe explicitly any deadline for such case, however, practically, the defendant and his defense are given the reasonable time to prepare the pleadings.

288. While the defense assists the defendant in assuring him procedural rights and maintaining his legal interests (Article 6, para. 2), he is entitled to ask for some time to get acquainted with the acts of the suit if he is newly involved in the penal proceedings (because of resign, revocation, or replacement of the existing defense).

289. The Code contains also rules and guarantees for the defense of the defendant in order to create the required facilities for exercising his duty, ‘assisting the defendant during the penal proceedings’. Articles 48 and 49 of the Code specify and treat the cases when the defendant himself can choose the defense and the cases when the defense is determined by the proceeding organ. Further, Article 54 states that a defense may defend several defendants, provided that they do not have incompatible interests.

290. Article 50 and 52 of the Code prescribe some rights and guarantees to the defense of the defendant, either for the free and face-to-face communication with the detainee/arrested/punished person or the right to prior information; to ask questions to the defendant, to witnesses and experts, and also to get familiar with all materials related to the subject matter at the end of investigations, etc.

291. Results occurred from actions carried out violating these rules cannot be used as proofs. Articles 51 and 55 of the Code are dealing with the cases of replacement, denial, resignation and revocation of the defense prescribing also the effects of such cases.

292. Paragraph 3/ç. In the Constitution of the Republic of Albania the right to self-defence or through legal assistance is specified under letter “ç” of Article 31, which guarantees that, during penal proceedings everyone has the right to himself in person or through legal assistance chosen by him, to communicate freely and privately with him and if he has not sufficient means to pay for legal assistance to be given it free. Article 6 of this Code specifies that the defendant has the right to defend in person or through the assistance of a defense and when he has not sufficient financial means the defense is provided free though a lawyer. Also, Article 48 of the Code of Penal Procedures specifies that the defendant has the right to chose not more than two advocates. The choice is made by declaration before the proceeding organ or by an instrument handed over to the defense or sent by registered post. The choice of defense for the detained, arrested or imprisoned person, while such person has not made his choice, it can be done by one of his relatives according to the ways specified in paragraph 2.

293. Paragraph 3/d. Article 31, letter “d”, of the Constitution guarantees that “during penal proceedings everyone is allowed to ask questions to witnesses present and ask for the attendance of witnesses, experts and other persons that might clarify the facts”. Article 50 of the Code of Penal Procedures prescribes that the defense has those rights which are entitled to the defendant by law, besides those which are retained personally for the latter.

294. Since the stage of preliminary investigations, Article 110 of the CPP guarantees the right of the defendant and of his defense to submit requests to the prosecutor, subsequently ask for the attendance of witnesses and be queried by the accusing body. This right, in support of the principle of ‘equality of arms’ is better materialized in the phase of judicial review. Articles 356 and 357 of the Code of Penal Procedure specify the right of the defense of the defendant to ask for examination of proofs during the trial process (also witnesses). The questioning of a witness begins by the person that has initially requested to ask witness queries (if the witness is called by the defendant, the latter has the right to ask questions first). Then, questions are asked by the parties alternately. Article 361 carries no differences between the witnesses of the prosecutor and the witnesses of the defendant, which means that the witnesses of the defendant are asked questions under the same conditions and procedures like the witnesses of the prosecutor.

295. Paragraph 3/dh. The right to have the free assistance of an interpreter in the cases when someone doesn’t understand or speak Albanian language, which is used at law courts or investigating organs, Article 31, letter “c”, of the Constitution requires that, during penal proceedings, everyone has the right to have the free assistance of an interpreter, when he cannot speak or understand Albanian language. This right is also materialized in the Code of Penal Procedures, actually Article 123 which reads: “The defendant who doesn’t know Albanian has the right to have the free assistance of an interpreter in order to understand the accusation and to follow up and attend the proceedings ...” The right to the free assistance of an interpreter is applied and expanded over all stages of penal proceedings, including also preliminary investigations.

296. Paragraph 3/e. Article 32, para. 2, of the Constitution sanctions that no one is compelled to witness against oneself or one’s family or to affirm his guilt.

297. Paragraph 4. Following the approval of law no. 10023, dated 27.11.2008, “For some amendments and changes to law no. 7895/1995, “The Penal Code of the Republic of Albania”, revised, and also law no. 10024, dated 27.11.2008, “For some amendments and changes to law no. 8331, dated 21.4.1998, “For execution of penal decisions”, the types of alternative sentences were improved and for the first time it was decided for the supervision of the decisions on alternative sentences. According to amendments to legislation in 2008, it has been determined that alternative sentences foresee 5 alternatives: (i) half-freedom; (ii) suspension of the execution of the sentence by imprisonment and put on probation, or otherwise known as “suspended sentence”; (iii) house confinement; (iv) suspension of the execution of the sentence by imprisonment and obligation of accomplishing a work of public interest; (v) conditional discharge. Young people, under the age of 21 years are among the category of convicted persons that benefit more from alternative sentences. However, they should prove by documents concerning health, study or job reasons or family responsibility.

298. The legal framework on execution of alternative sentences was complimented also with other necessary by-laws, such as:

- The Decision of the Council of Ministers no. 302, dated 25.3.2009, “For approval of the Rules and Regulations “On organizing and functioning the Service of Proof and for determining the standards and procedures for supervising execution of alternative sentences”

- The Order of the Minister of Justice no. 6325, dated 31.7.2009 “For the approval of the Rules and Regulations “On cooperation of the Service of Proof with NPO and the Service of Intercession”

299. Since May 2009, the institute of the Service of Proof is under operation, which realizes the functions determined by law. Actually, the Service of Proof has only 4 Local Offices established in the cities of Shkodra, Tirana, Durrës and Fier, which stretch out their site competences to determined judicial districts covering the territory all over the country.

300. In the Albanian system of penitentiary the treatment of minors is based on the respecting of fundamental principles of the right of children included in the Convention of Juvenile Rights following ratification by the Parliament of the Republic of Albania in February 1992 and entering into force in March of the same year, assuring that the child is protected from any kind of discrimination or punishment on the ground of status, activity, or expressed thoughts, religion of child's parents, legal tutorship or of members of the family.

301. Article 9, of law no. 9888, dated 10.03.2008, “For the rights and treatment of convicts by imprisonment and pre-trial detainees”, revised, the treatment of imprisoned minors is focused on their social rehabilitation. The Law states that for imprisoned juveniles there have been worked out and implemented individualized treating programs.

302. Places, where juveniles serve their sentences, are special institutions only for them or separate sections of other institutions according to requirements determined by law. Imprisoned minors are not allowed to stay in the same room with adults, also minor girls are kept in separate rooms from juvenile boys. Imprisoned minors are kept in separate rooms and sections from adults creating thus the required conditions for special treatment. Pursuant to Article 24 of the General Rules and Regulations of Prisons, approved under the Decision of the Council of Ministers no. 302/2009, imprisoned minors go out for fresh air separately from other prisoners.

303. Since October 2009, under the funding of the EU, a new institution for minors is operating in the city of Kavaja with full administrative and infrastructural capacity. The Institute for Execution of Juvenile Penal Decisions in Kavaja is treating minors sentenced by imprisonment under special educational programs complying with their age and their psycho-social level. This institution serves as rehabilitation, advisory and schooling center for the minors deprived of liberty and are treated by a specialized and trained complete staff, where about 80% are civilians and the remainder are police. The capacity of the institute is for 40 minors from the age of 14 to 18 years.

304. In other institutions for executing penal decisions like in Vlora, Durrës, Korça, Lezha, pre-trial detained minors are kept in separate sections. Pursuant to legal provisions, “for pre-trial detained minors are created similar treating conditions and facilities like convicted minors.

305. Paragraph 5. The Constitution, in its Article 43, specifies that everyone has the right to appeal a judicial decision to a higher court save the cases when the Constitution specifies it differently. Judicial power in the Republic of Albania is exercised by the Supreme Court and also by the Appellate courts and the first instance courts, which are established by law (Article 135, point 1).

306. The trial of penal and civil judicial issues is achieved under the provisions prescribed in the Code of Civil and Penal Procedures. Procedural legislation determines the rules for the way of trial proceedings, which important component is also the institute of complaint against judicial decisions.

307. The complaint against the orders of the first instance court, when law doesn't specify it differently, can be achieved only by the appeal of the decision. The means for the

complaint against court decisions are: complaint to appellate court, recourse in the Supreme Court and application for review of the decision.

308. While the complaint is a right of the party which has made it, it can be used and employed only by those who have raised the complaint. By his complaint he determines the limits and reasons of the judicial review in the appellate court. For the appeals raised against the decisions of judicial district courts, it is the court of appeal that decides, while for complaints made against the decisions of high crime courts, the appellate court for high crimes decides.

309. The Appellate Court, after reviewing the penal case and the claims against it, may decide to leave the decision in force, or to change the decision, terminate the decision or suspension of the case when there are cases which do not allow to continue or initiate the proceedings, terminate the decision and return the act to the first instance court.

310. Against a decision of the Appellate Court recourse is made to the Supreme Court only for reasons explicitly prescribed by law. Recourse is made in writing within thirty days from the date that decision has taken its final form. It must contain the accurate story of decision illegal reasons.

311. Apart from Appellate Court and the recourse, procedural legislation prescribes also the right to application for reviewing a decision, an act which seeks to review the court final decision. This application is allowed at any time and is made against final decisions and when punishment has been executed or extinguished.

312. In addition, the review of the decision may be asked for by the convicted person or his custodian even when the convict is dead; it may be sought by convict's inheritor or one of his relatives and also by the prosecutor of the court which has made the decision. The application for review is handed over personally or through a representative. It should contain the proofs that legitimate the application and must be associated with other eventual documents, which are filed with the secretary of the Supreme Court. The decision made by the Supreme Court for adjudication of review is appealed according to general rules of complaint.

313. Statistical figures on the right to complain are contained in the table below which shows figures and percentages of successful appeals, as compared with overall number of complaints. According to these data, it is evidenced a decrease in the percentage of successful appeals and an increase of the number of decisions left in force.

Percentage of penal decisions left in force by Appellate Courts

Years	Decision total number	Reviewed	Left in force	% of decisions left in force	% of successful appeals
2004	2 979	2 438	1 612	66%	34%
2005	3 127	2 404	1 663	69%	31%
2006	3 794	2 629	1 836	70%	30%
2007	3 157	2 334	1 682	72%	28%
2008	3 957	2 057	1 462	71%	29%

314. Paragraph 6. When the court decision has proved that, under law, the fact is not prescribed as a penal offence, due to abrogation of respective provision, the right to compensation is not recognized for that portion of pre-trial detention served before abrogation. Compensation for unjust imprisonment, derived from Article 44 of the Constitution, which states that everyone has the right to rehabilitation and/or compensation in accordance with law, when one is convicted because of an illegal fact, action or inaction

of public organs, constitutes a guarantee for the person even if the principle of the presumption of innocence will be violated.

315. Regarding legal acts and by-laws that govern the right to compensation for unjust detention, arrest or conviction, the Code of Penal Procedures, in Article 268, explicitly states as follows: The person, who has been declared innocent under a final court decision has the right to compensation for the pre-trial detention that has suffered, except the cases when it has been proved that erroneous decision or non-disclosure in due time of the unknown fact is caused totally or partially by him. The same right enjoys also a convicted person who has been detained, if, under a final court decision, it has been proved that such security measure (detention) was performed without the existence of conditions prescribed under Articles 228 and 229 of the Code of Penal Procedures.

316. Article 269 of the Code of Penal Procedures states that application for compensation should be submitted, otherwise it is not accepted, within three years from the date when the decision of innocence or set aside of the suit has taken the final form. Law no. 9381, dated 28.04.2005, “For the compensation of unjust imprisonment”, has the subject-matter of regulating the cases of benefit and compensation for unjust imprisonment, including house confinement, amounts and the way of calculation, and also procedures of application, payments and compensation for unjust imprisonment. The right to compensation for served imprisonment enjoys the person who has been declared innocent or whose case is set aside under a final court decision or by the prosecutor, or who is kept in prison beyond the time settled under the convict decision.

317. The Code of Penal Procedures (CPP) of the RoA specifies that “the person damaged by a penal offence or his inheritor, has the right to ask for the prosecution of the offender and compensation for the damage. The damaged person, who lacks legal capacity to act, exercises his rights recognized under law through his legal representative. The damaged person has the right to submit his application to proceeding organ and ask for receipt of proofs. If his application is not accepted by the prosecutor, he has the right to complaint in the law court within 5 days from the date of being advised (Article 58). Article 59 of the CPP lays down that “the person who is damaged by a penal offence prescribed under the Penal Code has the right to apply in the law court and participate in the trial as a party to prove the charge and ask for the compensation of the damage. The prosecutors attend the adjudication of these issues and, as case may be, claim the punishment of the defendant or his innocence. If the damaged charging person or the defense chosen by him does not attend the trial session for reasonable causes, the court decides the suspension of the trial. The CPP specifies the procedures of compensation for unjust imprisonment, and the Civil Code also prescribes indemnity for the damage caused illegally and guiltily.

318. The Parliament of Albania passed the law no. 9831, dated 12.11.2007, “For indemnity of former political convicts under the communist regime”, which governing matter is to determine the beneficiaries, amounts, criteria and procedures of granting financial indemnity to former political convicts, who has suffered direct persecution of the communist regime by serving unjust penal sentences such as imprisonment, or compulsory medical measures resulted from one or several final decisions made under common trials, special trials or under orders of investigating organs over the period from 30.11.1944 until 1.10.1991.

319. Paragraph 7 The provision of prohibition of double jeopardy, “ne bis in idem”, for the same offence is sanctioned in the Constitution of the Republic of Albania. Article 34 specifies that no one shall be sentenced more than once for the same offence and nor be retried, save the cases when it has been decided retrial of the case by a higher court based on the way determined by law.

320. The principle of double trial, “ne bis in idem”, is also defined in the Code of Penal Procedures, which, in Article 7, specifies that no one can be twice tried for the same offence, for which he has been tried under a final court decision, except the cases when retrial of the lawsuit has been decided by a competent law court.

321. Referring to this legal framework, punishment more than once for the same offence is prohibited, save the cases when a higher court decides for the retrial of the case based on procedures determined by law. If during penal proceedings the processing organ (prosecution/court) verifies the fact of double punishment for the same penal offence, this fact constitutes a cause for suspension of proceedings, in whatever stage (preliminary investigation or trial) or in any levels (first instance court, appellate court or Supreme Court).

Article 15

Non retroactive effect of criminal law

322. Prohibition of prosecution of a person for an act that law doesn't specify it as a penal offence is sanctioned Article 29, point 1, of the Constitution of the Republic of Albania. The principle of punishment without law, “nullum crimen nulla poena sine lege”, guarantees that no one can be charged or declared guilty for a penal offence, which, at the time of commission, was not considered an offence by law, save the acts, which at the time of their commission were considered war crimes or crimes against humanity under the international law.

323. The principle of punishment without law “nullum crimen nulla poena sine lege”, is also prescribed under Article 3, para. 1, of the Penal Code of the Republic of Albania. Article 2 and 3, para. 1 specifies explicitly that: “No one shall be punished penally for an act which has not been previously specified by law as a crime or penal misdemeanor. No one is punished by any type or range of sentence which is not prescribed by law”. (Article 2), and no one is punished for an act, which according to the time of commission didn't constitute a penal offence” (Article 3, para. 1). The right of national not to be punished without law, sanctioned under Article 29 of the Constitution, is a substantial component of a legal state. This principle is interpreted and implemented in order to provide effective guarantees against prosecution, declaration of guilt and arbitrary punishment.

324. Prohibition of imposing a sentence severer than that prescribed at the time of offence commission is sanctioned under Article 29, point 2, of the Constitution. This provision specifies explicitly that: “No severer sentence is imposed than that prescribed under law at the time of offence commission”. This constitutional provision is also prescribed under Article 3, paragraphs 2 and 3, of the Penal Code, where it is stated that: “The new law which doesn't punish the penal offence has retroactive effect. If a person is punished the sentence cannot be executed, and if execution is started, it is withheld. If the law at the time of offence commission is different from the law adopted later, it is executed that law which provisions are more advantageous for the person that has committed the penal offence.

325. Article 47 of the Penal Code specifies that the law court imposes the sentence in respect of provisions of the general part of this code and the range of sentences prescribed under law for a certain penal offence. For imposing the sentence on the person charged for a penal offence the court takes into account the dangerousness of the penal offence, of the offender, the range of guilt as well as mitigating and aggravating circumstances. For the dangerousness of the penal offence the court evaluates the circumstances of penal offence commission and the consequences caused thereof. For the dangerousness of the offender the court evaluates all his personal features related to actual actions carried out by him. For the range of guilt, the court evaluates the type of guilt, is it intentional or done carelessly

(escalated according to the weight of guilt: international, direct intention, indirect intention, negligence, excessive self-confidence). Taking as a whole, all these criteria for imposition of the sentence show the principle of proportionality of violation to the penal sentence imposed by the court.

Article 16

Right to recognition as a person before the law

326. With regard to judicial personality of the physical person, the Civil Code prescribes in its introductory articles that every physical person enjoys complete and equal capacity to have civil obligations within the limits determined by law. Article 2 of the Civil Code prescribes that judicial capacity starts with live birth of a person and ends with his death. From the time of birth until the age of 14, the child has only judicial capacity, while from the age of 14 to 18 years the minor has partial juridical capacity to act. Over the period from the year 2004 to 2009, Albanian legislation has not had any changes related to recognition of juridical personality.

Article 17

Right to respect of privacy and family

327. Article 35 of the Constitution prescribes that no one is compelled to make public information related to his person, save when law requires it. Also this article prescribes the collection and publication of information about a person only to his consent and the right of the person to get to know information collected about him, except cases specified by law.

328. The concept of the right to private life is mentioned in Articles 36 and 37 of the Constitution, which protect the freedom of confidential correspondence and of any other means of communication, as well as inviolability of the dwelling house.

329. Complying with constitutional provisions and European Convention on Human Rights, Albanian legislation prescribes the cases of limitations to private and family life, residence, correspondence and communication. The Code of Penal Procedures, Decisions no. 15/2003 and 5/2009 of the Constitutional Court allows restrictions to inviolability of the person and residence only under a law court decision, as a means for acquiring proofs and disclosing and preventing the penal offence.

330. Private life is also protected by Albanian penal law. Article 121 of the Penal Code of the Republic of Albania specifies that: installation of wiretapping and eavesdropping devices for listening or recording words or images, transmitting words and images and preserving them for the public or the publicity of these information which expose aspects of person private life without person's consent constitute penal offence and is punished by fines or imprisonment up to two years.

331. Publicity of a secret which belongs to the private life of a person by another person which acquires it thanks to his duty or profession, while he is obliged to conceal it and not make public without authorization, constitutes a penal offence and is sentenced by fines or by imprisonment up to one year. Such offence, committed for benefit purposes or for damaging another person, is a considered a penal offence and is punished by fines or by up to two years imprisonment (Article 122).

332. Prevention or violation of confidentiality of correspondence. Carrying out intentionally such actions like: annihilation, non-delivery, opening and reading of letters or any other correspondence, and also the break or wiretap of telephone or telegraph or any

other communicating means constitute a penal offence and is punished by fines or up to two years by imprisonment.

333. In this aspect, the Penal Code lays down a number of provisions specifying penal offences: – Computer frauds (Article 143/b); Computer counterfeiting (Article 186/a); Unwarranted computer intervention (Article 192/b); Establishing anonymous accounts (Article 287/a); Illegal surveillance of computer data (Article 293/a); Invasion of computer data (Article 293/b); Invasion of computer systems (Article 293/c); Misuse of equipment (Article 293/d). Po në të njëtin kuadër, Kodi Penal parashikon edhe një sërë dispozitash, të cilat klasifikojnë si vepra penale: – Mashtrimi kompjuterik (article 143/b); – Falsifikimi kompjuterik (article 186/a); – Hyrja e paautorizuar kompjuterike (article 192/b); – Çelja e llogarive anonyme (article 287/a); – Përgjimi i paligjshëm i të dhënave kompjuterike (article 293/a); – Ndërhyrja në të dhënrat kompjuterike (article 293/b); – Ndërhyrja në sistemet kompjuterike (article 293/c); – Keqpërdorimi i pajisjeve (article 293/ç).

334. In the General Rules and Regulations of Prisons, approved under the Decision of the Council of Ministers no. 3003, dated 25.03.2009, “For Approval of General Rules and Regulations of Prisons”, is prescribed that every prisoner has the right to enter into any correspondence. For the prisoners who have no possibility, the staff of the IEPD makes available necessary supplies for correspondence.

Protection of personal records

335. Constitutional guarantees for protection of personal records are also laid down in law no. 7895, dated 27.01.1995, “The Penal Code of the Republic of Albania”, (approved under law no.7895, dated 27.01.1995, “The Penal Code of the Republic of Albania”, revised under laws no. 8733, dated 24.01.2001, law no. 9086, dated 19.06.2003, law no. 9275, dated 16.09.2004, law no. 9686, dated 26.02.2007, and law no.10023, dated 27.11.2008). This Code prescribes penal offences in the area of administrating, preserving, protecting, disseminating and processing personal records through electronic systems and specifies respective sanctions for committing such offences. Under the last amendments, some new penal offences are included which protect the rights related to the respect for privacy and protection of personal records in order to bring domestic penal legislation closer to the European Convention on Cybernetic Crimes, ratified under law no. 8888, dated 25.04.2002, “For ratifying the Convention on Crimes in Cybernetics Area”. A chronological reference to some of them:

Computer dissemination of materials for genocide and crimes against humanity (Article 74/a); Threats of racist and xenophobic motives through computer systems (Article 84/a); Dissemination of racist and xenophobic materials through computer systems (Article 119/a); insults of racist and xenophobic motives through computer systems (Article 119/b); Computer frauds (Article 143/b).

336. Complying with constitutional guarantees of the Republic of Albania, law no. 9887, dated 10.3.2008, “For protection of personal records”⁸ was passed, which is in harmony with the principles of the Directives of European Parliament and European Council 95/46/EC of 1995 “For protection of individuals related to the processing of personal records and the free circulation of such records”, with the Convention of the Council of Europe no. 108, dated 28.01.1981, “For protection of individuals from automatic processing of personal records”, and also with the Protocol added to this Convention. The

⁸ Law no. 9887, dated 10.3.2008 has abrogated Law no. 8517, dated 22.07.1999 “For protection of personal records”.

law for protection of personal records determines the rules for legal processing of these records.

337. Chapter II of this law, “Processing of personal records”, prescribes also the principles for protection of personal records. These records should be processed fairly, justly and legally; they should be collected for specific and legitimate purposes clearly stated and be processed complying with these purposes. Records should be sufficient and related to processing aim, they should be accurate facts and, if necessary, updated. Records are kept in a format which allows the identification of the subject of these records for some time but not longer than it is necessary for the purpose they have been collected or processed further (Article 5). Inspectors of the records are responsible for applying these principles to all automatic processing devices or to other means of record processing.

338. Article 6 specifies legal criteria for achieving legal processing of records. Acquiring the consent of the subject of the records is one of fundamental principles to make the processing legal. In addition, law determines the measures undertaken for the security of personal records. The inspector or processor undertakes appropriate technical and organizational measures to protect personal records from illegal or accidental destruction, or accidental loss for the protection of their access or dissemination by unwarranted persons, especially when the processing of information is made through the network and protection from any other illegal processing form. This chapter prescribes also the maintenance of confidentiality and credibility even after the completion of the job by inspectors, processors and persons who become familiar with processed records while they are exercising their duties.

339. “The rights of the subject of the records” are stipulated under Chapter IV, which subscribes his rights to have access for seeking correction or deletion while it has been noticed that records are not correct, true and complete or have been processed contrary to provisions of this law; his right for disapproving of the processing, the right to complaint and the right to compensation if it is proved that the subject of the records is actually damaged.

340. Law prescribes relevant administrative sanctions for the cases of processing information contrary to its provisions and considers them as administrative misdemeanors.

341. The prescription for establishing the institution of “The Commissioner for Protection of Personal Records” is an innovation of the new law as compared to the previous one in 1999. This institution is an independent supervising authority, which oversees and monitors, in compliance with law, protection of personal records by respecting and assuring human rights and fundamental freedoms. Also, it prescribes the rights and responsibilities of the Commissioner, his election and position mandate, obligations of public and private organizations to cooperate with the Commissioner and provide him all information that the latter requires for fulfilling his duties and also office budget.

342. Apart from the law “On protection of personal records”, the protection of personal information is also governed by a number of other laws.

343. Law no. 8792, dated 10.05.2001, “For establishing Information Processing Center”, under the authority of the General Directorate of the State Police, prescribes the establishment of Information Processing Center and specifies the rules for computerized arrangement and treatment of information related to operative activity of local and central offices of the State Police in the Republic of Albania.

344. Law no. 8669, dated 26.10.2000, “For general registration of population and dwelling houses”. This law governs the organization and realization of general registration of population and dwelling houses in the territory of the Republic of Albania.

345. Law no. 9154, dated 06.11.2003, “On archives”,⁹ specifies basic rules for establishment and operation of archival service in the Republic of Albania, relevant organizations which accomplish such service and also their legal responsibilities for establishing, preserving and making use of archival property, as a portion of national heritage. According to this law, archives protect the privacy of persons. Familiarization, utilization and publication of documents which contain information of personal character and which intrude on the private life of a person are prohibited. Documents which contain information of personal character and attack the privacy of the person are served only after elapsing 50 to 150 years from the date of their establishment (Article 63).

346. Law no. 9205, dated 15.03.2004, “For protection of witnesses and collaborators of justice”, governs special measures, ways and procedures for protecting witnesses and collaborators of justice and also specifies arrangement, operation, competences and relations between responsible organs authorized to deal with proposal, evaluation, approval and implementation of special protective measures.

347. Also, Article 313/b of the penal Code prescribes that: publicity contrary to law, also in media, of information of classified and confidential nature, which endanger the life, physical integrity or freedom of persons protected under law no. 9205, dated 15.03.2004, “For protection of witnesses and collaborators of justice”, constitutes a penal offence and is sentenced by fines or up to two years imprisonment, and if the commitment of such offence has inflicted severe consequences for a person’s health, it is punished by imprisonment from 6 months up to 3 years (Article 313/b).

348. Law no. 9180, dated 05.02.2004, “On official statistics”, governs the protection of individual records of physical and judicial persons collected and processed for statistical purposes. Its Article 4 prescribes the principle of “Statistical confidentiality”, which is the protection of records related to a certain statistical unit that have been received directly for statistical aims or indirectly from administrative sources or others against any violation of the right to confidentiality. It means prevention of non-statistical usage of received data and their illegal disclosure.

349. Law no. 9614, dated 21.09.2006, “For electronic certificates and judicial status”, has the objective to determine the rules for administration of the register of judicial status through electronic devices. According to this law, the automatic processing of information in the electronic fundamental register and in the electronic register is made by the person authorized by the head of Judicial Status Office (Article 4/1). Entering the records, their preservation, carrying out logical actions on these data, maintenance against alterations, their receipt and dissemination, are accomplished through security levels determined by a subject licensed in such field and through entering codes, which are administered by the head of the Office (Article 4/2). Adding notes and deletion of data in/from the registers of judicial status are made according to definitions of the Penal Code and the Code of Penal Procedures (Article 4/3).

350. Law no. 9880, dated 25.02.2008, “For electronic signature”, aims at establishing the required legal framework for acknowledgement and usage of electronic signature in the Republic of Albania. According to this law, the national Authority for Electronic Certification gives the order to nullify classified certificates that have not required security for protection of records (Article 14). Also, the certification service provider identifies accurately the persons, who apply for qualified certificates and, upon the consent of the applicant, has the right to make use of personal records collected by him for assuring the accurate identification of the applicant (Article 24). This law guarantees the security of

⁹ Law no. 9154, dated 6.11.2003, “On archives”, is not referred to in the Initial Report.

information underlining that identification service provider secures that all signature codes are kept totally secret.

351. Law no. 9918, dated 19.05.2008, “For electronic communication in the Republic of Albania” specifies the rules for protection of information in the area of electronic communication. This law has been drafted in accordance with requirements of the Directive 2002/58/EC, which has to do with the processing of personal data and protecting privacy in the field of electronic communications. Articles 121–131 of this law prescribe provisions related to maintenance of confidentiality, protective measures, confidentiality in communications, information on communication trafficking, records on subscribers, etc.

352. Law no. 10019, dated 29.12.2008, “The Election Code of the Republic of Albania” determines the rules for preparation, development, administration, supervision and declaration of election results for the Parliament of Albania, for election of local government organs and for referendums. In this code, there are specified personal data included in the electoral rolls. A list contains the data related to name, father’s name, surname, date of birth and the code of the house (Article 47). Every national, within the time determined by law (Article 52/1), may ask for alteration of data shown in the list if he has noticed that there are inaccuracies there (Article 51/d).

353. Law no. 10129, dated 11.5.2009, “On civil status”, determines, among other things, the rules for entering, preserving and changing the records, and also arrangement and operation of civil status service in the Republic of Albania. The law specifies that individual or family records comprising the civil status are of personal nature. Acts, records, and other written documents of the civil status are issued only to the person that these records belong, to members of his family, his custodian, legal representative, or inheritors by will (Article 3). Also, it specifies that identification number is unique and unrepeatable, which is given to each Albanian national, to foreign nationals or aliens, with permanent or temporary residence, with certain economic relations, from the civil status service.

354. Also, law no. 9749, dated 04.06.2007, “For the state police”, in Article 114, stipulates that the state police officers are responsible for collecting information needed for protection of public order and security and/or for preventing and revealing crimes, making use of any source that might give information. For this purpose, he can use private cooperation with individuals, secret observation of persons and premises, and also tracking site devices. Article 116 of this law states that: when, based on acquired information, a person has committed a penal offence or is planning or organizing to commit a crime and this activity cannot be revealed or prevented in other ways, the police office, with the rank of a “Director” or higher, according to the subject jurisdiction, requests the prosecutor to undertake the following actions:

- Listening secretly to private conversations in public places
- Eavesdropping of telephone calls or telecommunications of a person in compliance with relevant law
- Using filmic devices for taking photos, audio and video recordings in accordance with relevant law

355. Law no. 9695, dated 19.3.2007, “On adoption procedures and the Albanian Adoption Committee”, specifies the procedures of adoption, and also arrangement, operation and responsibilities of the Albanian Adoption Committee. The law prescribes that the Albanian Adoption Committee and intermediate agencies undertake technical and organizational necessary actions for protection of private information of adopting documentation in compliance with law requirements “On protection of personal records”.

356. Law no. 9662, dated 18.12.2006, “On banks in the Republic of Albania”, determines the rules for establishing, licensing, arranging, managing, protecting and liquidating banks, exercise of banking and financial activities, and also supervision of these activities in the Republic of Albania. The law identifies the persons who are obliged to preserve professional secrets. The law prescribes that administrators, employees and current and previous agents of banks, or the branch of a foreign bank, judicial authorities, as well as other inspectors and employees of the Bank of Albania or foreign respective authorities dealing with supervision of banks, for each information received during their activities in the bank, are obliged to conceal the secret and do not use it for personal benefits, or for third parties outside the bank, or for a branch of a foreign bank, to which they are serving or have served in the past (Article 91).

357. Law no. 9959, dated 17.7.2008, “On foreigners” governs the regime of entry, stay, employment, treatment and exit of foreigners in/from the Republic of Albania. This law has a separate chapter for collection and preservation of private information about foreign nationals. Competent state authorities collect and administer information on foreigners, which are recorded in the national register of foreigners for their identification.

358. Apart from legislative actions for protection of information during processing by public or private organizations mentioned above, below we are laying out administrative legal measures undertaken following the establishment of the institution of the Commissioner for Personal Record Protection.

Administrating, maintaining, protecting, disseminating and processing information

359. By-law acts drafted by the Commissioner Office and approved by the Council of Ministers pursuant to law “For protection of personal records”:

- The Decision of the Council of Ministers no. 934, dated 2.09.2009, “For identifying the states with sufficient level for protection of personal records”, (pursuant to obligations prescribed under Article 8 of the law no. 9887, dated 10.03.2008, “For protection of personal records”)
- The Council of Ministers Decision no.1232, dated 11.12.2009, “For specifying the cases of exclusion from obligation for advising personal data being processed”, (pursuant to obligation derived from Article 21/I of the law)
- A considerable number of administrative acts approved by the Commissioner for Personal Records Protection

Eavesdropping

360. In the Code of Penal Procedures, revised under law no. 9187, dated 12.02.2004, in section IV, “Eavesdropping”, from Article 221 to Article 226, there have been defined allowed limits for eavesdropping, authorities which allow it, complaints to decision that accepts eavesdropping, eavesdropping actions, maintaining eavesdropping documentations, making use of eavesdropping output, and the cases when the usage of such output is prohibited. Thus, Article 221 of the Code of Penal Procedures, “allowance limits”, prescribes that: eavesdropping of a person communication or wiretapping of a phone number by telephone, fax, computer or other devices of any kind, eavesdropping by devices of conversations in private places, eavesdropping with video or audio devices in private places and the record of phone numbers are allowed only in case of investigating and proceedings: a) for crimes committed intentionally, for which punishment by imprisonment is prescribed, maximum not less than seven years; b) for penal offences of threatening or insulting committed by telecommunication devices.

361. Article 222 of the Code of Penal Procedures, "Decision for allowing eavesdropping", prescribes that: 1) upon the request of the prosecutor or of the injured accusing person, the court authorizes eavesdropping under motivated decision for cases allowed by law, if it is necessary for continuing initiated and when there are sufficient proofs for the accusation. The court decision which denies the request can be appealed separately. Eavesdropping in public places, recording of phone numbers, and the use of tracking devices of localization are authorized by the prosecutor. If one from two persons that are going to be eavesdropped agrees to record a certain action, in agreement with the officer of judicial police, the action is allowed under the authorization of the prosecutor; 2) If there are supported reasons which lead to think that the delay may destroy heavily investigations, the prosecutor decides for eavesdropping under a motivated act and informs immediately the court, but not later than twenty four hours. Forty-eight hours from the prosecutor's decision, the court makes evaluations under a motivated decision. If evaluation is not made in due time, eavesdropping is interrupted and the output cannot be used; 3) Decision for eavesdropping specifies the method of conduct and duration of actions, which cannot exceed fifteen days. This deadline, on the request of the prosecutor, can be prolonged by the court whenever it is necessary for a period of 20 days in case of proceedings for offences and 40 days in case of proceedings for high crimes. In the court decision for eavesdropping or wiretapping, for taking photos, or video recordings, or eavesdropping of conversations in private places, in order to enter secretly in these places in compliance with the court decision, a judicial police officer or a qualified expert is authorized. This authorization should be executed within 15 days; 4) For carrying out eavesdropping, the prosecutor acts himself or with the assistance of an officer of judicial police. 5) In the register kept in the prosecution office, there are registered the acts that order, authorize, evaluate or extend eavesdropping, as well as the initial and final actions for every eavesdropping.

362. Article 222/a of the Code of Penal Procedures, "Complaint against the decision that accepts eavesdropping", stipulates: 1) against the decision that accepts eavesdropping, complaint is submitted within 10 days by the person who is aware of being eavesdropped for violation of requirements prescribed under Article 221 (mentioned above). 2) The complaint is reviewed by the appellate court or by the Prosecutor General after the warrant is served by the prosecutor. If the complaint is found proper, the Appellate Court or the Prosecutor General shall abrogate the act that authorized eavesdropping and give orders for deleting any materials obtained through eavesdropping.

363. Article 225 of the Code of Penal Procedures, "Utilization of eavesdropping output and other proceedings", stipulates: 1) Eavesdropping output may be utilized in other proceedings only then when they are necessary for investigating other crimes. In these cases, minutes and records of eavesdropping are deposited with the other agency under proceedings.

364. Article 226 of the CPP, "Prohibition of usage", prescribes: 1) Eavesdropping outputs cannot be used when they are obtained against requirements allowed by law or if provisions of this section are violated; 2) Eavesdropping of conversations or other communications of those who are obliged to conceal the secret because of profession or of their duties are not used, except the cases when these persons have declared the same facts or have disseminated them through other means and forms; 3) The court gives orders for elimination of eavesdropping documentations that are not allowed to be used, except the cases when they constitute material proofs.

365. With regard to preventive eavesdropping, they are governed under special law, and concretely, under law no. 9157, dated 04.12.2003, "For wiretapping telecommunications". This law specifies procedures that are to be followed for wiretapping telecommunications by informative public organizations established by law for accomplishing their duties, and

it also specifies procedures to be pursued by the persons responsible for eavesdropping. Article 5 of this law prescribes that eavesdropping outputs, obtained in compliance with this law, have not the value of proofs in a penal lawsuit, except those received according to the Code of Penal Procedures.

By-law acts which govern eavesdropping methods

366. As to above, pursuant to Article 8, point 2 and onwards, of the law no. 8737, dated 12.02.2001, “For organizing and operation of the Prosecution in the Republic of Albania”, revised, and also pursuant to the Order of the Prosecutor General no. 166/2005, the Sector for Eavesdropping Telecommunications and Relationship with Intelligence Service Agencies is established at the General Prosecutor Office.

367. In order to unify the way for conducting eavesdropping, as a means for seeking proofs, and for assuring human rights and freedoms, rules for transferring, recording and concealment of secret and documentation produced during eavesdropping process, the way of communications with operators of telecommunication, the way of deleting eavesdropping materials, the Prosecutor General has passed the *Guidance no.* – dated 21.04.2006. This manual provides in detail the format of the court decision which authorizes eavesdropping process, and also the format of the decision of the prosecutor who authorizes eavesdropping in case of emergencies, which immediately is forwarded to the Sector for Eavesdropping Telecommunications and Relationship with Intelligence Service Agencies (SETRISA) in Prosecutor’s General Office, which, also by an official act, sends it promptly to the specialist of eavesdropping for execution (Eavesdropping System Administrator) and to the judicial police officers of this sector for execution and eavesdropping records. At the first instance Prosecution Office and at the SETRISA office a unified register is kept, “The Register of Eavesdropping”. The prosecutor and/or the judicial police officer, responsible for administering this register, records chronologically all acts and decisions or orders under which it is authorized, evaluated or extended eavesdropping process and time, or when it is interrupted, and also the time of starting and ending eavesdropping process, Article 222/5 of the CPP.

368. As afar as the way of wiretap of telecommunication is concerned, a “Common Guidance” no. 159, dated 26.09.2008, “For conducting telecommunication eavesdropping”, was approved and signed between the Prosecutor General, the Director of the State Intelligence Service and the Minister of Interior. This Guidance specifies the ways of realizing eavesdropping process, rules for concealing the secret and maintaining documentations produced during the eavesdropping process, and also the way of preserving and annihilating eavesdropping materials.

369. The category of persons who cannot be eavesdropped and wiretapped. Articles 61 (People’s Ombudsman), 73/2 (Deputies of the Parliament), 103/3 (Members of the Government), 126 (Members of the Constitutional Court), 137/1/2 (Members of the High Court) e 137 (Judges of the First Instance Courts, of Appellate Courts, of Constitutional Court) sanction the category of high governmental and public officials against whom no prosecution can be initiated without receipt of a prior warrant and consequently no means is used against them for seeking proofs including wiretap and eavesdropping. In Chapter III of the Code of Penal Procedure, Article 288, there are specified the requirements, which limit the initiation of prosecution and the use of devices for seeking proofs against a category of state officials, for whom a prior warrant is required for proceeding.

Article 18

Freedom of thought, conscience and religion

370. In Albania, freedom of belief and all religious rights and freedoms are guaranteed by the Constitution. Albania is today a country of religious freedoms and harmonic religious coexistence, which is found rarely in the world. Apart from four traditional religious communities, the Albanian Moslem Community, the Albanian Orthodox Autocephalous Church, the Albanian Catholic Church and the World Bektashian Center, there is, in Albania, a great number of other small religious groups and communities, most of which came to our country after the year 1990, and also many other religious associations, foundations and organizations.

371. In the framework of protecting human rights and freedoms, and in order to avoid any kind of differentiation, among others, religious also, the Republic of Albania has undertaken a series of obligations in the framework of being a state party, with full rights and obligations, in several international acts (referring to conventions and protocols that Albania has ratified or adhere to and which are mentioned in Article 2 of this report). The Constitution, in its Article 18, point 2, protects each individual against any discrimination because of political, philosophical and religious believes, securing thus freedom of thought.

372. Freedom of conscience and of religion is secured under Article 24 of the Constitution, which explicitly assures the protection of several important aspects of these rights, which include, also, freedom to choice or change religion according to personal belief, free participation in religious communities, the right to manifest them freely either alone or in community with others, either in public or private premises through different ways and means in worship or teaching. This constitutional provision secures, too, the right of each individual to keep within his own privacy his belief and religion without being obliged to make them public.

373. The right of each person to no obligatory participation in any religious community, or compulsorily worship religious practices of such communities, is guaranteed under Article 24, point 2, of the Constitution. This provision protects also the right of each individual to participation without restrictions in any religious community.

374. Complying with provisions of the Constitution, the Council of Ministers has concluded agreements with four traditional religious communities in Albania, which are as follows:

(a) Agreement with the Holy Seat (with the Catholic Church in Albania) approved under law no. 8902/2002, “For ratifying the “Agreement between the Republic of Albania and the Holy Seat for regulation of mutual relations”, law no. 9365/2005, “On procedures for recognizing judicial capacity of ecclesiastical judicial persons of the Catholic Church”, and law no. 9865/2008, “For ratifying the “Agreement between the Republic of Albania and the Holy Seat for some economic and fiscal issues”;

(b) Agreement with the Moslem Community in Albania, approved under law no. 10056/2009, “For ratifying of Agreement between the Council of Ministers of the Republic of Albania and the Muslim Community of Albania for regulating mutual relations”;

(c) Agreement with the Orthodox Autocephalous Church of Albania, approved under law no. 10057/2009 “For ratifying of the Agreement between the Council of Ministers of the Republic of Albania and the Orthodox Autocephalous Church of Albania for regulating mutual relations”;

(d) Agreement with the World Bektashian Center, approved under law no. 10058/2009, “For rectifying the Agreement between the Council of Ministers of the Republic of Albania and the World Bektashian Center for regulating mutual relations”,

which specify in detail the issues for regulating relationship and cooperation between the Albanian state and these communities.

375. In support of religious activities in Albania, under the Decision no. 459, dated 23.09.1999, of the Council of Ministers , “For creation of the State Committee of Cults”, a central institution is established which is responsible for the relations of the state with religion.

376. Another guarantee for protection of freedom of conscience and religious belief and also freedom of their expression is secured under the constitutional provision of impartial state related to the issues of conscience and belief (Article 10, point 2, of the Constitution). Pursuant to this provision, law no. 7952, dated 21.06.1995, “For pre-university education system”, revised, in Article 5 and 7, specifies: The Ministry of Education and Science is responsible for realization of secular education policy of the state approved by the Council of Ministers. Pre-university public education is of laic character. In public education institutions ideological and religious indoctrination is prohibited.

377. Also national minorities, which are in the Republic of Albania, are secured the right of free expression, without any restrictions or compulsion, for their ethnic, cultural, religious and lingual belonging (Article 20/2 of the Constitution).

378. The principle of respecting and exercising equality with regard to religious belief is also guaranteed under law no. 10.221/2010, “On protection against discrimination”. As it has been stated in other parts of this report, this law aims at securing the right of every person to equality before law and equal protection by law, and also equality of opportunities and abilities for exercising their rights, for enjoying their freedoms, participating in the public life and also effective protection against discrimination and against any form of conduct and behavior which gives rise to discrimination.

Liberty of parents and/or legal guardians to ensure moral and religious education

379. The cooperation of school institution with parents is a priority of Albanian education. Parents enjoy a series of rights, and, based on Normative Provisions of Pre-university Education, they actually include:

- Requiring education organs and authorities to secure normal and healthy conditions for education and learning
- Contributing to accomplishment of school objectives, to the progress of education and teaching processes and to normal integration of children in life, work and society
- Selecting freely school institutions for their children, included in compulsory school education, within settled rules and opportunities
- Requiring information about education programs, on school objectives, rules and school activities
- Seeking regularly to get clear and total information for their children development, for their results and behavior at school and ask for advice and assistance for child family education
- Electing and be elected in school boards or in its determined consulting organs and representing the interests of a group of parents when they are authorized by them
- Participating in educational and outside school activities settled under the internal Rules and Regulations of schools

- Complaining and submitting written proposal to the school director, education staff or to school board and seeking to get reply not later than 30 days before their submission

380. Based on the Guidance no. 40, dated 17.10.2007, of the Minister of Education and Science, “For establishment and operation of school boards”, pupils and parents have the right to be members of school boards. This right enjoyed by them increases obviously the level of transparency and decision-taking, also in the framework of securing the rights and freedoms of children and parents.

Article 19

Freedom of expression

381. Freedom of expression is guaranteed under Article 22 of the Constitution. Based on this article, freedom of press, radio, television is assured too. Also, preliminary censure on media is prohibited. The requirement, specified under Article 22/4, for licensing the operation of radio and TV stations, does not restrict at all the freedom of expression; on the contrary, it's a device that disciplines the freedom of expression. The European Convention on Human Rights (Article 10), ratified by Albania under Law no. 8137, dated 31.07.1996, is an integral part of internal legal framework, which protects freedom of expression.

382. The guarantee of freedom of expression cannot be comprehended separately from the guarantee of a series of other rights and freedoms prescribed under the Constitution, such as: freedom of press, radio and television (Article 22, point 2); the right to information(Article 23), which is an important criteria for measuring the stage and level of democracy in a country; freedom of conscience and religion (Article 24); the right to be informed, in compliance with law, about the activity of state organs and of persons that exercise public functions (Article 23, point 2).The constitutional and legal provisions constitute a guarantee for preventing intervention in exercise and protection of freedom of expression. While the Constitution prescribes in its Article 22, point 3, prohibition of preliminary censure for media, which understands freedom of press, it means that everyone is free to express his opinions through different publications without prior approval of the text contents. Freedom of expression is a fundamental freedom which cannot be restricted, save the cases prescribed explicitly by law or when its exercise inflicts the commitment of a penal offence specified as such.

383. Complying with the Constitution and pursuant to it, a number of laws have been worked out, which assure freedom of expression and the right to information, such as: Law no. 8410, dated 30.09.1998, “For Public and Private Radios and Televisions in the Republic of Albania”, revised; Law no. 9742, dated 28.05.2007, “For Numerical Transmissions in the Republic of Albania”; law no. 9918, dated 19.05.2008, “For Electronic Communications in the Republic of Albania”.

384. Written and electronic media, as two of the most important means of communication, which realize freedom of expression, enjoy special status. The great number of newspapers and magazines circulating in the market indicates the wide area that freedom of expression finds in written media. Also, radio-television activities are governed by a special law securing impartiality, the right to information, the respect for political beliefs, religion, personality, dignity, the private life of man. In these activities, special attention is paid to protection of minors' rights.

385. The Penal Code of the Republic of Albania charges with penal responsibility the subjects which prevent the nationals to exercise freedom of expression, freedom of assembly or manifestation, and punish them by fines or up to six months imprisonment.

386. Law no. 8410, dated 30.09.1998, "For Public and Private Radios and Televisions in the Republic of Albania", revised, paved the way for emerge of competition between public and private associations in the area of radio and television, eliminating in this way the state opportunity to control solely activities in such field. This prescription is in accordance with the principle of media pluralism which is closely connected not only to realization of freedom of expression, but also to the guarantee of the right to information. Freedom of expression by audio-visual means includes the freedom of audio-visual enterprise, free selection of programs based on the principle of editorial independence, and also freedom of individuals to select the programs they wish.

387. Article 1 of this law assures the pluralism of media and prescribes the exercise of public and private activities in the area of radio and television in the Republic of Albania. Article 4 specifies that radio-television activities are free and respect impartially the right to information; Article 4, point 3, specifies that radio-television activities are not allowed to attack constitutional order, the national integrity and sovereignty. Article 5 in Chapter I stipulates that editorial independence is secured by law. In addition, Article 36, in Chapter V of the law, prescribes that radio-television programs, either public or private, respect impartiality, completion and pluralism of information. With reference to Article 41, news and information, which are transmitted by operators in informative editions, show impartially and fairly facts and events and encourage the free formation of thoughts and do not serve partially the interests of any party, political organization, economic grouping or religious community and associations. Article 44 prescribes that secrecy of information sources (including materials investigated by journalists) is secured. They are disclosed only for certain cases prescribed by law. Also, Article 45 states that journalists and editors, responsible for the materials transmitted in radio or television, bear civil or penal responsibility, if a false information or program has given rise to material or moral damages and injuries of judicial persons or individuals.

388. Law no. 9742, dated 28.05.2007, "For numerical transmissions in the Republic of Albania", is drafted to help with improvement of legislation in the area of media and prescribes also the way how it is secured the respecting of the principles of political pluralism, impartiality and equality (Article 13, point 1). Also, Article 13, point 4 of the law, guarantees equality and fair competition for avoiding monopoly in the field of media.

389. National Council of Radios and Televisions (NCRT) is the regulating authority in the area of audio-visual media, and supervises the enforcement of existing legal framework by radio-television subjects influencing thus on the promotion and development of freedom and pluralism in the field of media.

390. Execution in practice of the concept of pluralism with regard to freedom of expression and information in the audio-visual sector, has an external dimension, which consists of the considerable number of licensed radio-television subjects, and an internal dimension, which is connected with a variety of programs and information transmitted to the public.

391. Concerning the external dimension, the NCRT, as the principle actor for enforcement of law no. 8410, dated 30.09.1998, "For Public and Private Radios and Televisions in the Republic of Albania", revised, believes that audiovisual environment in Albania is abundant enough (there are numbered about 56 radios, 90 analogue TV, 64 cable televisions, 4 satellite television. This has been made possible due to legal procedures and criteria of licensing which are relatively unrestricted, and also liberalizing policy pursued by the NCRT, which, in any case, has followed strict conduct for assuring equal treatment of demands and applications.

392. On the other side, limitations of ownership in radio and television prescribed by legislation in force are other factors which secure such kind of pluralism. Based on Article

20 of the law above, it is not allowed to hold more than one license of radio or local TV, or there are restrictions for the number of shares in national radios and televisions, etc. and according to Article 13 it is not allowed to hold more than one license for numerical ground network, etc.

393. In addition, the NCRT, by licensing this great number of radio-television broadcasters of different programs, there has been created a variety of opportunities for dissemination of information, and also the expression of ideas and opinions, assuring thus freedom of pluralism in view of internal dimension. The functions of the NCRT for controlling, monitoring, and imposing penalties on radio-television subjects play an important role for execution of these legal guarantees.

394. The NCRT monitors regularly news editions broadcasted by national radio-television operators. In event of election campaigns, also by opinion poll, the NCRT monitors even informative programs of other operators. The objective of monitoring is the respect for impartiality and truthfulness in displaying facts and events, balanced demonstration of activities of political subjects and respecting pluralism in information. Monthly monitoring reports are made available to political subjects, organizations and interested parties. Monitoring results have served as impetus for radio-television subjects to respect and enforce law.

Protection of the rights of children

395. On the foundations of social policies for protection of children rights in the Republic of Albania lie fundamental principles of the Constitution of Albania, international conventions and other instruments ratified by the Albanian state, which point out that, due to age features and the lack of intellectual and physical maturity, children need special attention and protection, not only from the family, but also from state institutions. In radio-television broadcasts, the protection system of children is based on the Constitution of the Republic of Albania. Article 54 of the Constitution, among other things, states that: "... every child has the right to be protected from violence, maltreatment and exploitation, which might injure his health, moral or endanger life or his normal development".

396. Law "For public and private radios and televisions in the Republic of Albania", revised, specifies obligations of operators regarding protection and respecting the rights of children, such as: Article 4 underlines that radio-television activities "respect especially the rights, interests, moral and legal requirements for protection of minors"; Article 36 stipulates that radio-television programs should respect ..."personal dignity, human rights and fundamental freedoms of children and teenagers..."; Article 38 specifies that "radio and television is not allowed to broadcast programs which instigate national hatred, religious and racial hate, programs that instigate violation, and also "production and transmittal of pornographic programs". This article points out also that transmittal of programs which stir up discrimination because of political beliefs and religious ethnicity. Article 43 states that films, prohibited for children under the age of 14 years, are not allowed to be broadcasted in televisions, even partially, from 06.00 o'clock until 02.00 o'clock next day. Articles 56 and 57 sanction prohibition of advertisements which incite behavior which endanger health and normal physical development of children, advertisements of alcoholic drinks which address particularly children and also special care for advertisements intended for children, or when they are realized with the children for protecting their interests and special features of the age.

397. Rules and regulations worked out and approved by the NCRT under decision no. 795, dated 27. 03. 2009, "On warning signs for respecting ethic-moral norms in radio-television programs", is an important by-law which aims at "increasing the responsibility of radio-television operators, who operate in the territory of the Republic of Albania, towards the execution of law requirements for respecting moral and ethic standards, especially

protection of the rights of children in radio-television programs. The Rules for warning signs have normative effect.

398. Regarding the protection of children in internet, an amendment is added to the Penal Code under law no. 9859, dated 21.1.2008. “For some amendments and changes to law no. 7895, dated 27.1.1995, “The Penal Code of the Republic of Albania”, revised. In Article 117, after the first paragraph, another paragraph is added which reads: “The use of minors for production of pornographic materials, as well as their dissemination and publication, is sentenced by imprisonment from one to five years or by fines...”.

Protection against defamation and insult

399. Prescriptions for protection of the person against defamations and insults, or as they are usually termed, “cases of going beyond the right of expression”, are found in Albanian legislation, either in civil law or in penal law. There is no legal cause of action called ‘verbal crime’ in the Penal Code of the Republic of Albania, but there are prescribed as penal offence insult and defamation, which damage the honour and dignity of the person. The main provisions that deal with these cases, defamation and insult, are prescribed under the penal Code of the Republic of Albania, actually Articles 119, 120, 141 and 240.

400. Regarding “insult”, there are also provisions in the Civil Code even related to compensation for inflicted damage. There two articles in the Civil Code dealing with defamation and insult: Article 617, “Misleading and inaccurate publications”, and Article 625, “Responsibility for non-property damages”. These prescriptions, in fact, do not deal directly with the concepts of defamation and insult, but they entitle the person who has been morally damaged to ask for compensation for the attack of his honour and his dignity. Practically, law courts employ widely these legal provisions in taking their decisions.

401. Although there are no statistical figures related to charges made against the representatives of media, however, during the period from 2007 to 2009, there have been identified about 11 civil actions brought before the court against the representatives of media by private subjects under the accuse of insult or defamation and they have asked for compensation and in some case confutation of information, while in 2009 only one civil action was evidenced.

402. Referring to the statistical data of the last five years, 2004–2008, of the Ministry of Justice, and also the first half of 2009, the trend of adjudicated lawsuits in the field of freedom of expression is shown in the following table:

Article	2005					2006					2007					2008				
	Carried cases	Received	Reviewed	Punished	Ceshtje te mbartura	Te ardhurat e reja	Ceshtje te shqyrtuara	Te denuar	Ceshtje te mbartura	Te ardhurat e reja	Ceshtje te shqyrtuara	Te denuar	Ceshtje te mbartura	Te ardhurat e reja	Ceshtje te shqyrtuara	Te denuar				
119	10	73	71	16	13	78	76	21	14	57	50	4	19	87	73	11				
120	3	30	23	3	9	30	27	5	13	13	22	0	4	24	21	1				
227	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	3				
229	0	0	0	0	0	0	0	0	0	1	1	1	0	0	0	0				
235	5	10	9	9	6	16	15	19	7	25	18	18	14	16	27	27				
239	12	41	37	31	16	46	45	39	17	51	49	27	20	56	57	36				
240	3	11	7	4	7	5	8	5	4	3	3	0	5	10	13	8				
241	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0				

Article	2005					2006					2007					2008		
	Carried cases	Received	Reviewed	Punished	Cestije te mbaritura	Te ardhura te reja	Cestije te shprruara	Te denuar	Cestije te mbaritura	Te ardhura te reja	Cestije te shprruara	Te denuar	Cestije te mbaritura	Te ardhura te reja	Cestije te shprruara	Te denuar		
268	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
318	6	5	4	3	2	9	8	6	1	1	2	1	0	5	5	2		

403. For the penal offence of defamation because of the person function, the table below shows the figures for penal cases, which were registered, untried and brought before the court over the years 2006, 2007, 2008 and 9-months period in 2009.

404. Thus, comparing the years 2006–2007, almost the same figures have been evidenced for the number of registered cases, there is an increase of 40% for untried cases and decrease 50% for the cases brought before the court; while in 2007–2008, there is a decrease of 20% for registered cases, 10% for untried cases and an increase of 10% for cases brought before the court.

Years	Registered lawsuits	Untried lawsuits	Tried lawsuits
9 months 2009 (1)	13	5	3
2008 (2)	23	19	7
2007 (3)	27	21	6
2006 (4)	26	13	9
Compare 2006–2007	1.0	1.4	0.5
Compare 2007–2008	0.8	0.9	1.1

Source: General Prosecution Office, 2009.

Article 20

Prohibition of war propaganda and instigation of national, racial and religious hatred

405. The Constitution of the Republic of Albania, in its Article 3, prescribes explicitly that “independence of the state and the entirety of its territory, human dignity, human rights and freedoms, social justice, constitutional order, pluralism, national identity and national inheritance, religious coexistence, and also cohabitation and well-understanding of Albanians with minorities are the foundations of this state, which has the responsibility to respect and protect them.

406. “Additional Protocol to the Convention on cybernetic crime, related to penalization of acts of racist and xenophobic nature through computer system”, (signed by Albania on 26.05.2003, ratified on 26.11.2004 and became effective on 01.03.2006), prescribes penalization of the acts of racist and xenophobic nature through computer systems.

407. In this view, a number of laws have been passed for improvement of penal legislation in this field, such as:

- Law no. 10 023, dated 27.11.2008, “For some amendments and changes to law no. 7895, dated 27.1.1995, “The Penal Code of the Republic of Albania”, revised, which prescribes some new penal cases related to racism and discrimination through

computer systems. Actually, Articles 11, 12, and 13 of the above-mentioned law consider penal offences those conducts (defined as such under the Protocol) like: dissemination of racist and xenophobic materials through computer systems (Article 4 of the Protocol); b) insulting for racist and xenophobic motives (Article 5 of the Protocol), which refers to dissemination through computers of materials dealing with genocide, crimes against humanity and xenophobia.

- Law no. 9686, dated 26.2.2007, “For some amendments and changes to law no. 7895, dated 27.1.1995, “The Penal Code of the Republic of Albania”, letter “j” is added to Article 50 of the Penal Code, which prescribe as aggravating circumstances the commission of the penal offence on the ground of gender, race, religion, nationality, language, political, religious and social beliefs.
- Also, amendment made to law no. 9686, dated 26.02.2007, in Article 86, paragraph d, Torture – specifies that intentional commitment of acts, which inflict the person severe physical or mental pains, caused by another person who exercise public functions, or under his/her instigation or approval, openly or implicitly, for any other purpose based on any form of discrimination, constitute penal offence and carries a sentence of imprisonment from four to ten years”.

408. Law no. 9831, dated 12.11.2007, “For indemnity of former political convicts by the community regime”, aims at provision of financial compensation by the Albanian state to former political convicts by the communist regime, who are alive and for the families of executed victims, persons interned or banished to concentration camps, as an obligation of the democratic state for condemning the crime of the totalitarian communist regime and assuring them a better life. Instigation of hatred or feuds among nationalities, races or religions is also included in the list of penal offence (Article 74).

409. Article 38 of the law no. 8410, dated 30.09.1998, “For public and private radios and televisions in the Republic of Albania”, revised, states that: “programs which instigate national, religious or racial hatred or stir up violence are not allowed to be broadcasted in television, also production and transmittal of pornographic materials”. Also this article specifies that programs which instigate discrimination on the ground of political or religious beliefs are not allowed to be broadcasted by TV.

Article 21

Right to peaceful rallies

410. The legal framework related to this issue remains the same with that mentioned in the first report. In the Constitution of the Republic of Albania, Article 46, point 1, it has been specified that everyone has the right to freedom of peaceful rally for any legal aims and Article 47, points 1 and 2, subscribes that the right to freedom of peaceful rally, with no firearms and freedom of association is guaranteed. Peaceful rallies in squares and public traffic are conducted according to procedures envisaged by law.

411. Law no. 8773, dated 23.4.2001, “On rallies”, (which abrogated law no. 8145, dated 11.9.1996), prescribes that in the Republic of Albania, everyone has the right to organize and attend peaceful rallies and without firearms (Article 1).

412. *Cases prescribed under the Albanian law for restriction of this right for necessary reasons.* Article 1, point 2, in the law “On rallies”, specifies that: “This right is restricted only then when national security, public safety, protection of public order and prevention of crimes and protection of health and moral or protection of rights and freedoms of others are endangered”.

Article 22

Right to freedom of assembly

413. Apart from the legal framework cited in the first report, during the following years, the Albanian legislation has been amended and modified for the purpose of: a) ensuring the right to association; b) guaranteeing the right of employees for organizing and participating in trade unions for the protection of their rights; c) assuring the right to freedom of creating and participating political parties.

414. As with regard to the latter, law no. 8580, dated 17.2.2000, “On political parties”, revised, specifies that political parties are voluntary unions of nationals based on political ideas and beliefs, and on political views and common political interests, which aim to affect life of the country through participation in elections and representing the people in elected organs of state power.

415. Legislative acts which ensure the right to assembly and association:

- Law no. 9887, dated 10.3.2008, “For protection of personal information”, which determines the rules for legal protection and processing personal information, prescribes specific rules for private records of the physical person (or as specified otherwise in this law “sensitive information”), and has to do with ethnic and racial origin, political opinions, association to trade unions, religious or philosophical beliefs, penal punishment, as well information about health and sexual life.
- Law no. 9970, dated 24.07.2008, “On genitive equality in society”, specifies, among other things, that genitive integration is the way for achieving genitive equality in a society. Employed males and females have the right to attend and participate in trade union organizations and in any other professional associations without any discrimination on the ground of gender (Article 24, paragraph gj).
- Law 10221, dated 4.02.2010, “On protection against discrimination”, which governs the application and enforcement of the principle of equality related to gender, race, colour, ethnicity, language, genetic identity, sexual orientation, political beliefs... affiliation to a special group, etc. Also, Article 3 of this law specifies the establishment of legitimate interests, which objective is the protection of human rights. Article 9, “Participation in politics”, specifies that it is prohibited discrimination from the exercise of the right to election, to be elected and be appointed in a public posts on the ground of the reasons mentioned in Article 1”.

416. Exercise of this right by members of armed forces and the police:

- Law no. 9210, dated 23.3.2004, “For the status of soldiers in the Armed Forces of the Republic of Albania”, Article 16, letter “ë”, stipulates that: soldiers enjoy the right of freedom to associations, which have no political or unionistic character. Also, active soldiers, due to the duty and service, are not allowed, among other things, to strike (Article 19, point b). In addition, Article 42 of this law determines the rights of reservist, released and retired soldiers of armed forces, actually: a) to participation in associations or political parties and to take part in their activities; b) to create associations of reservist, released or retired soldiers and become members non-political associations; c) to participate in military ceremonies, anniversaries of arms and services, military training, representing the associations of reservist and released soldiers in activities within the country and abroad.

417. Law no. 9749, dated 4.6.2007, “On the State Police”, Article 68 specifies the restrictions of police officers in political life; 1) No police officer can be a member of a political party or organization; 2) No police officer can support the campaign of a political party and organization, neither be a member of a political party or support an independent

candidate by taking part and contributing physically or financially; 3) The police officer has the duty to exercise impartially his functions despite his political beliefs.

418. Chapter IV, “Issues related to employment”, Article 82, deals with the Syndicate of the State Police: – The Police Syndicate is only one and has the objective to represent police officers and its members in all issues that affects the progress of their duty and the efficiency of their work; – The Police Syndicate can represent police officers, members of the syndicate, for defending him at all appellate cases and for any lawsuit brought before the court, based also on by-law acts worked out and passed pursuant to this law; – All police officers, except the Director General and Vice General Director of the State Police should apply in writing in the steering committee of the Syndicate; – The Police Syndicate is established and operates complying with legislation in force, while in Article 83, it is prescribed that police officers have no right to strike. Also, police officers are not allowed to hold police uniform or arms or use any vehicles of the police during syndicate activities (Article 84).

419. Article 85 specifies obligations of the police to the Police Syndicate:

1. The Minister allows the steering committee, elected according the syndicate Statute, to convene four times a year during the working hours.
2. The Minister allows the Assembly, settled under the Statute of the Syndicate, to convene once a year during the working hours.
3. Relationships between the Syndicate and the General Director of the Police are governed under a bilateral agreement.

Article 23

Marriage and family

Legal framework on marriage and family life

420. The Constitution, under Article 53, secures to everyone the right to get married and have children. The new Family Code, approved under law no. 9062, dated 08.05.2003,¹⁰ prescribes the moral and judicial equality between spouses. This Code embodies all international acts related to this area and where Albania is a party. Article 1 prescribes also that “marriage, as a legal cohabitation is based on the moral and judicial equality of spouses, on love feelings, on mutual respect and understanding, which are bases of the family unity. Marriage and the family enjoy the special care and support of the state. The free consent of both spouses expressed before the official of civil status office constitutes an important condition for the marriage validity”.

421. Adoption of this Code eliminated discrimination from marriage minimum age, a principle specified in the previous Code of the year 1982, which prescribed different ages for marriage, respectively, for the boy 18 years and for the girl 16 years. The new Family Code stipulates that a man and a woman can marry when they reach the age of 18 years. The local law court where a married is solemnized, due to important reasons, may allow marriage even before this age. The Civil Code of the Republic of Albania (passed under law 7850, dated 297/1994, revised, in Article 6, lays down that a woman can enjoy, by marriage, the full capacity to act even if she is under the age of 18. She cannot lose this capacity even when marriage is declared invalid or is dissolved before the age of 18. However, the cases of marriage prohibition are prescribed under Articles 10, 11, 12, 13 and 14 of the Family Code.

¹⁰ The new Family Code in 1982.

<i>Marriage average age based on gender 1998–2008</i>		
<i>Years</i>	<i>Male</i>	<i>Female</i>
1998	29.1	23.6
1999	26.2	23.5
2000	28.1	23.0
2001	29.3	24.1
2002	28.8	23.3
2003	28.9	23.3
2004	29.2	23.3
2005	28.5	23.0
2006	28.5	23.1
2007	29.0	23.2
2008	28.9	23.3

Source: INSTAT 2010.

422. The Family Code, in its definition on marriage, prescribes the moral and judicial equality between spouses as a significant and basic principle. In marriage, the wife and the husband have the same rights and obligations with regard to fidelity, love and mutual respect, moral and material support, cooperation, the growth and education of children. If one of the spouses doesn't fulfill required obligations derived under marriage, the other spouse may require from the law courts to undertake immediate actions. Their aim is to force the spouse fulfill the obligations towards the family.

423. The Family Code requires mutual understanding and the consent of both spouses for the issues related to administering of property, signature of marital agreements, selection of property regime, and furthermore, it requires the consent of the parties for the cases of marriage dissolution. Other cases of marriage dissolution are asserted by laying claims to courts by one of the spouses. Referring to registration of marriage, Article 30/2 of the Family Code specifies: "Marriage act is made promptly, is signed by spouses, witnesses and the official of Civil Status Office and is recorded in the Registry of Marriages". Meanwhile, the law on the Civil Status determines also the obligation for recording marriage in the Registry of Marriages and, in addition, it specifies the procedures for carrying out such action.

424. Residence of spouses: spouses have the obligation of cohabitation. Residence of the family is the place chosen by spouses on mutual agreement. In case of disagreements, each of spouses can bring the case to the law court, which, after hearing the thought of spouses and, if it is the case, the opinions of the children who have reached the age of fourteen, tries to solve the issue in understanding. If this is not possible, the court decides for dissolution of marriage, which is considered as more appropriate for family requirements. The right to moral and material assistance prescribed under this Code is suspended to the spouse, who has left family residence without any reasons and refuses to come back. If obligations derived from marriage are not met, the court, based on certain circumstances, may order the seizure, to required extent, of personal belongings of the spouse who has left.

425. It is worth mentioning the fact that Albanian legislation deals with violence based on gender, including also violence in the family. For the first time, Article 62 of the Family Code prescribes the opportunity of one of spouses to require from the court the leaving of the violent spouse from the family residence for a period of time until 3 years. This provision uses a neutral language from the gender point of view, however, the studies and

researches in Albania show that women are mostly endangered by this form of violence, which leads to the conclusion that this provision aims primarily at protection of women. However, this single provision is difficult to be applied by law courts because it is necessary to be associated with other procedural provisions. The Penal Code of Albania penalizes violence against women, either specifically, or under more general provisions. Also, law no. 9669, dated, 18.12.2006, “For some measures against violence and family relations”, prescribes, among other things, preventive actions against violence in the family, the subjects that enjoy the right to ask for the protective order, circumstances for changes, suspension or continuance of protective order and other relevant provisions.

426. Also, Albanian law pays special attention to the consent and protection of the family life. Thus, the Penal Code dedicates a special section related to protection of children, marriage and the family. The Penal Code considers penal offences and levies sanctions (fines or imprisonment) for the following actions: (a) abandonment of minors; (b) livelihood not provided for children and the family; (c) failure to inform the change of residence; (d) unjust custody of children and (e) pressure or prevention of cohabitation, or marriage dissolution. Further protection is assured also under provisions dealing with sexual abuses with minors.

427. Spousal equality is a principle of Albanian law and takes effect even after marriage dissolution when it has to do with the division of property and solution of other issues. Article 147 prescribes that the court can order one of spouses to pay contributions to the other, which aims to compensate inequality in living standards caused by the division of property. Article 153, on the other side, entitles non-proprietary spouse to continue utilization of marital dwelling house even after marriage dissolution when she/he is allocated parental responsibility or if the proprietary spouse has abandoned the family.

428. Article 215 of the Family Code provides for the definition of parental responsibility like “an entirety of rights and responsibilities which they have for securing emotional, social and material welfare of the child, taking care of him by maintaining individual proportion with him, assuring his well upbringing, education, schooling, legal representation and administration of his properties”. The Albanian family law prescribes the same rights and obligations of both parents towards their children, despite of their marriage status. The Constitution and the Family Code determines the equality of children born by marriage or outside marriage.

<i>Marriages and divorces 1998–2008</i>					
<i>Years</i>	<i>Total</i>	<i>For 1,000 residents 1,000</i>	<i>Total</i>	<i>For 100 marriages 100</i>	
1998	27 871	8.3	2 005	7.2	
1999	27 254	8.1	2 114	7.8	
2000	25 820	7.6	2 168	8.4	
2001	25 717	8.4	2 462	9.6	
2002	26 202	8.4	3 494	13.3	
2004	20 949	6.7	2 968	14.2	
2005	21 795	6.9	3 929	18.0	
2006	21 332	6.8	4 075	19.1	
2007	22 371	7.0	3 305	14.8	
2008	21 290	6.7	3 610	17.0	

Source: INSTAT 2010.5.

429. In addition, dissolution of marriage doesn't alter these rights and obligations towards children, except the cases prescribed under this Code. The parent, who hasn't got the custody for the growth and education of the child, enjoys the right to supervision of the growth and education of the child and also to be informed about important choices for the life of the child. Also, this parent maintains the right to his visits. Adoption requires the consent of both biological parents. The child bears the common surname of the parents or the surname which parents decide in agreement with each other, if they use different surnames. In case of disagreement, the child takes the surname of his father. Wives enjoy the same rights concerning their surnames. They are free to use their maiden names or take the surnames of their husbands.

430. The right to ownership. Article 63 of the Family Code prescribes the right of each spouse (wife and husband) to exercise an occupation and possess the revenues gained in return for labour or other sources based on the selected ownership regime after they have contributed to obligations derived from marriage. Spouses have the same rights to ownership, including profits, administration, enjoyment and disposal. While each of spouses has the right to administer and dispose freely individual property, it is necessary the consent of the other spouse in the case of the disposal of the marital house and its furnishings. Also, spouses are free to conclude a prenuptial agreement or a postnuptial agreement by which they can choose the marital ownership regime that is more appropriate to their way of living.

431. The rights and responsibilities of parents for the growth, development, welfare, education and schooling of children born by marriage or outside marriage are the same. Complying with Convention on the rights of children, the Code prescribes that the children born outside the marriage enjoy the same rights and have the same obligations like the children born by marriage. According to Article 220, "Common exercise of parental responsibilities", parental responsibility belongs and is exercised jointly by both parents related to children born by their marriage or outside their marriage, if the child is recognized by both parents.

Family planning policies and campaigns

432. Currently, the services of family planning in Albania are provided by the public and private health system dispersed in three levels of health care: a) health centers and ambulances of the Primary Health Care within the public health system; b) PF centers included in district maternity hospitals of the public health system; c) services offered by NPO which operate in the area of woman health.

433. The public sector offers PF services in about 435 health centers located in maternity hospitals, polyclinics, health centers and in several rural ambulances. The level of the primary health care (which means the first level of contacting population) includes Family Planning Centers which are integrated into health centers in cities and villages and are supplied with several types of modern contraceptives free of charge, where they have trained staff for provision of modern contraceptive methods and advisory information on family planning. In the second level of health care, all maternity hospitals all over the country have included also the services of family planning and provide all types of modern contraceptive methods as well as information and advice on family planning. The third level of health care is provided in woman centers within the university obstetric-gynecologic hospitals no.1 and no.2 in Tirana.

Logistical management and information system (LMIS) on contraceptives

434. The Ministry of Health and Public Health Directorates in districts receive the required information for monitoring and improving family planning services through the national logistical management and information system for supply and use of

contraceptives. This system assures the management, registration and distribution of contraceptive devices and coordinates the activities in the level of family planning centers, public health directorates in districts and with the Ministry of Health.

435. By-law acts and administrative measures on family planning:

- The National Strategy for provision of contraceptives over 2003–2010, approved by the Ministry of Health, has two main objectives: a) provision of contraceptives through assured long-term supplies of qualitative contraceptives, and b) achievement of contraceptive independence, which means demands for contraceptive will be afforded by domestic financial resources without the need of foreign donations for purchasing contraceptives, logistics or technical assistance related to these purchases. Since the year 2005, the Ministry of Health has contributed with the state budget funds for the purchase of contraceptives and it reached full financial independence in 2010, when all required quantities of contraceptives for public health services were bought by the state budget funds and will be provided free of charge.
- Decision of the Council of Ministers no. 857, dated 20.12.2006, “For financing services of the Primary Health Care”. Pursuant to this decision, in December of the year 2006, the Ministry of Health launched the reform on Primary Health Care. The core of the reform was the improvement of the performance of the Primary Health Care in conditions of being funded under a single source.
- Order no. 95, dated 16.02.2009, of the Minister of Health, where the attention to reproduction health, family planning, is an important part of the package of services provided by the health center. The family planning service, advisory service and modern contraceptive methods are provided free, without any payment, by the Primary Health Care.
- Order no. 522, October 2009, of the Minister of Health, “For approval of the Protocol on Family Planning”. This Protocol constitutes the national standards for providing PF services in all levels of health care and is based on the latest practices and recommendations supported by evidences and accepted in international level, and also modified by a group of local experts according to the situation in Albania in the area of family planning.
- Order no. 620, dated 17.11.2009, of the Minister of Health, for approval of “The strategic document and the action plan over the years 2010–2015”.

436. The Albanian Demographic and Health Study,(ADHS 2008–09), which was worked out by the National Institute of Statistics (INSTAT) and the Public Health Institute (PHI) in 2008–2009 under the technical assistance of ICF Macro and MEASURE DHS, funded by USAID, UNICEF, UNFPA, Swiss Office of Cooperation with Albania (SCO-A), the World Health Organization(WHO) and the Spanish Agency for Development and Cooperation (AECID), showed that: there are complete knowledge about contraceptive methods and family planning in Albania. During the period from 2004 to 2009, several promotional and educational activities have been carried out related to family planning by the Ministry of Health in cooperation with international agencies, local and foreign NPO. Thus, every year awareness campaigns have been conducted at national level, related to benefits obtained from family planning for the health of mothers and children, the use of contraceptive methods in television, in local and national radios and also visual advertisement all over Albania. In 2009 and onwards, promotional activities were conducted related to family planning, the use of modern methods, especially during summer season in all beaches and recreation centers in Albania.

Article 24

Rights of children

437. Every child, without discrimination on any ground such as race, colour, gender, language, religion, national or social origin, property or birth, has the right to get such protective measures as his minor age requires by his family, by society and the state, which should take actions for such purposes.

438. The Convention on the Rights of the Child, which, following ratification based on the Constitution of the Republic of Albania, has become part of domestic legislation, constitutes the base for taking required actions for respecting the rights prescribed under the Convention on the Child Rights for creating a protective environment for children, which means family settings, institutions, systems, and the society which surround the child. Also, in 2007, Albania adhered to the two Optional Protocols to the Convention on the Rights of the Child, namely the Optional Protocol on the sale of children, child prostitution and child pornography and the Optional Protocol on the involvement of children in armed conflicts".

Protection of the rights of children

439. The Constitution of the Republic of Albania prescribes separate provisions for protection of the rights of children and young people. As a part of human rights and freedoms, the Constitution recognizes children individual rights and freedoms (protection of life), and their political, economical, social and cultural rights. In this framework and within constitutional competences and means possessed of, through its legal initiatives, the state secures the fulfillment of the needs of children for their welfare, well-growth, education, employment, and their intellectual development as well. In the framework of protecting economic, social and cultural rights and freedoms, the state has the obligation to guarantee facilitating procedures during the trial of children at law courts, and also protect children against violence, maltreatment, exploitation and forced labour, and especially under the minimum work age of children, which can damage health, moral or endanger their life and normal development.

440. The Family Code, approved under law no. 9062, dated 8.5.2003, deals widely and in details with the protection of the rights of children. The Code incorporates general provisions of international conventions, acts and instruments in the area of child right protection and especially provisions of the Convention on the Child Rights. This Code pay special attention to the treatment and care of minors and also responsibilities of parents, exercise of parental responsibilities for administration of properties gained from child labour, permission of child work and the care while they work. The Code specifies also institutional responsibilities of the state towards children, aside from parental care, and the way of their application.

441. With regard to "child definition", Albanian law specifies that a child is considered a human being born alive until the age of 18 years, the age when the child gets the full juridical capacity to act. The Family Code prescribes as priority the respecting of the principle of the highest interest by parents and by competent organs and law courts, which, in their decisions and activities, the highest interest of children is their primary consideration.

442. Detailed information related to provisions of the Family Code which guarantees the rights of children (parental responsibilities, abuses, negligence, abandonment, children deprived of family environment, coverage of expenditures, adoption, etc.) are specified in paragraphs 133–136; 166, 167; 178–188–196; 230–240; 253–278; 293–305; 306–309; 320–327; 334 of the Second, Third and Fourth Periodical Reports of Albania related to implementation of the Convention on the Child Rights (CRC/C/ALB/2-4).

443. Provisions of Albanian law specify (according to respective fields) the age of children under 18 years, in order to ensure the protection of the rights of children.

444. The Penal Code of the Republic of Albania prescribes as penal offences those acts committed against children/minors, and also specifies the severity of punishment against persons, who, under a final court decision, are declared guilty for penal offences committed against children.

445. The Penal Code of the Republic of Albania specifies commitment of penal offences against children as aggravating circumstances. There are several provisions in the Penal Code which aims at prescribing penal offences and respective penalties in order to protect the life of man and of children. Actually, there are prescribed these penal offences: Murder (Articles 76–83, 85 of the Penal Code); Threat (Article 84); Torture (Articles 86 and 87); Injury (Article 88/b); Intentional irreparable injury (Articles 88, 88/a); Mild intentional injury (Article 89); Other intentional damages (Article 90); Careless irreparable injury (Article 91); Mild careless injury; (Article 92) Unprovided assistance (Article 97); Suicide (Article 99); Sexual intercourses (Articles 100–107); Indecent exposure (Article 108); Abduction (Articles 109, 109/a); Trafficking (Article 110/1 and Article 114/b, for minors 128/b); Violation of the house (Article 112); Prostitution (Article 114); Insult (Article 119); Defamation (Article 120) Abandonment (Article 124); Maltreatment of minors (Article 124/b); Failure to provide livelihood (Article 125); Unjust custody of the child (Article 127).

446. The Code of Penal Procedures prescribes that adjudication of minors is conducted by relevant sections created within judicial district courts and settled under the Decree of the President. The Decree of the President of the Republic no. 5351, dated 11.06.2007, “For establishment of special penal sections for the trial of minors at judicial district courts”, which was passed pursuant to Article 13/4 of the Code of Penal Procedures, specifies that adjudication of minors is conducted by special sections established at judicial district courts.

447. The Civil Code of the Republic of Albania prescribes judicial protection of children and recognition of their rights.

448. The Labour Code of Albania dedicates a special chapter to protection of minors, where it is discussed the minimum work age, working hours, light work and hard work, medical examination, etc. The Code prohibits employment of children under the age of 16 and specifies exceptional cases when minors from 14 to 16 years are allowed to be employed during summer holidays only for light work that do not damage their health and development.

449. Legislation, policies and strategies in the field of education intend to assure access to all levels of education, establish a qualitative and comprehended education system, and undertake curricular and restructuring reforms for pre-university education. It has been considered of special significance the provision of optimum education to children belonging to strata in need, to Roma children, to disabled children, giving priority to comprehensive education. In the framework of increasing attendance of basic schools, it has been underlined that, in national level, school abandonment is becoming lower. Registration figures in schools of compulsory education (primary schools) is 89%, while in the higher cycle of compulsory schools is 94%. The attendance level at finishing school and the percentage of children that start the first class and finish the fifth class is 98%.

450. The Ministry of Education and Science has worked out the long-term fundamental political development of the educational system based on European education standards. The specific objectives of the education sector continue to remain the following: increasing registrations and attendance at the secondary compulsory schools, primarily professional schools and in poor remote rural areas of the country; improvement of the quality of

teaching processes; expansion of professional schools and modifications according to market demands; increasing effectiveness of education process and financial efficiency of the education system, assuring thus the right of children to qualitative education.

Principles of equality, justice in health sector

451. The strategy of the Ministry of Health is focused on redistribution, rehabilitation of the existing health centers and ambulances and extending them all over the country according to required standards. Health service structures provide assistance to mothers and children after birth, which includes advices about breastfeeding, nutrition and family planning. In order to improve the quality of the care for pregnant women all protocols for pregnant women have been completed by the staff of Primary Health Care and they are currently preparing the protocols of the care for mothers and children during birth and after birth. The protocols aim to promote health care at critical perinatal period, which extends from 22 weeks of pregnancy until 7 days after birth in order to secure children a healthy start of life, reducing morbidity, and also maternal and perinatal mortality rate through promotion of secure maternity.

452. According to the last study of MICS 2005, infant mortality is estimated to be 18 per 1000 live births and infant mortality under the age of 5 is estimated to be 19 per 1000 live births. Based on administrative data of the Ministry of Health, it has been noticed a significant trend towards reduction of infant mortality from 17.5% that was in 2002 to 12% in 2007. Law no. 8876, dated 4.4.2002, “For reproduction health”, specifies that activities of the service for reproduction health care comprise: a) the care before, during and after birth; b) the care for the growth and development of the child from 0 to 6 years; c) the care for the health of teenagers.

453. Law no. 9047, dated 10.7.2003, “For the military service in the Republic of Albania”, revised under law no. 9999, dated 25.9.2008, specifies explicitly ‘non-recruitment of children under the age of 18’, fulfilling thus the obligations derived from the Convention for guaranteeing the protection of children under the age of 18 and their exclusion from the Armed Forces.

454. Law no. 9205, dated 15.3.2004, “For protection of witnesses and collaborators of justice”, which governs particular measures, ways and procedures for protection of witnesses and collaborators of justice, prescribes also the cases when protected persons are minors.

455. Law no. 9355, dated 10.03.2005, “For social services and social assistance”, prescribes measures of providing social assistance and services also for children.

456. Law no. 9381, dated 28.4.2005, “On compensation for unjust imprisonment”, prescribes, among other things, the right to submission of application for benefiting compensations for unjust imprisonment, including house confinement, for minor persons, is exercised by the legal custodian.

457. Law “For Ombudsman”, revised, specifies explicitly that if the Ombudsman himself initiates the procedures for reviewing the case, and if the custodian or the legal representative of the minor doesn’t act, no consent of the damaged is required when he/she is a minor.

458. Law no. 9518, dated 18.4.2006, “For protection of minors against the use of alcohol” intends to prevent health consequences from the consumption of alcohol, due to the use of alcoholic drinks by minors and to take necessary and required actions.

459. Law no. 9634, dated 30.10.2006, “For labour inspection and the state labour Inspectorate”, specifies, in the scope of its performance, inspection of labour relations with children.

460. Law no. 9669, dated 18.12.2006, “For measures against violence in family relations”, prescribes legal actions against violence and the establishment of a device or coordinated network of responsible institutions for protection, support and rehabilitation of victims, mitigating consequences and preventing violence in the family and especially to prevent violence and maltreatment of children. This law foresees protective measures that are taken under law court decisions, such as: immediate protective orders and protective orders. In the case of violence exercised against children, the protective measures which comprise a law court order are: a) the child is immediately housed in a temporary shelter taking into account, in any case, the highest interest of the minor; b) violated parent is entitled to temporary custody over the child, while the defendant (violator) is taken away temporarily the parental responsibility and, as case may be, it is decided and ordered intervention of local social, public or private services or intervention of organizations that are purposely established for supporting and receiving the persons violated in the family:

- Information reported by the State Police shows that, in 2008, there were identified about 822 cases of violence in the family, of which, 76 cases were under the age of 18. In 2008, Albanian law courts served totally 157 protective orders, while in 2009, law courts served 427 protective orders. More detailed information about the measures undertaken against violence in the family is given in paragraphs 306–308 and 312–319 of the second, third and fourth periodic Reports of Albania related to implementation of the Convention on the Child Rights (CRC/C/ALB/2-4).
- See also <http://www2.ohchr.org/english/bodies/crc/future.htm>.

461. Law no. 9695, dated 19.3.2007, “For procedures of adoption and the Albanian Adoption Committee”, provides appropriate conditions for respecting the right of the child to be grown up in the family surroundings in order to secure the child an alternative family with the same rights and obligations like biological parents.

462. Law no. 9749, dated 4.6.2007, “For the State Police”, among other things, prescribes that if public order and security is attacked due to actions of a minor under the age of 14, apart from measures taken against him, the police officer informs the parents or the custodian of the minor under 14 years in order to stop the illegal actions of the minor. Also, in searches carried out by the police officer, the presence of parents or of the custodian is required for searching a minor.

463. Law no. 9888, dated 10.3.2008, “For some amendments and changes to law no. 8328, dated 16.4.1998, “For the rights and treatment of convicts by imprisonment”, revised, prescribes that in pre-trial institutions placement of minors in the same room with adults or placement of minor girls in the same room with minor boys is prohibited. In addition, the amendments made to this law specify that minors are kept in separate rooms and sections enabling them receive special treatment. Minor girls are kept under the supervision and care of a female staff only.

464. Law no. 9952, dated 14.7.2008, “For prevention and examination of HIV/AIDS”, provides definitions on abandonments by parents of minors infected with HIV, and abandonments by legal custodians of minors under custody infected with HIV.

465. Law no. 10039, dated 22.12.2008, “On judicial assistance”, prescribes, among other things, provision of judicial assistance to minors in conflict with law.

466. In the law for the function of the Service of Proof, with regard to alternative measures supervised by this service, there have been taken into consideration mainly the protection of the rights of children in conflict with law and their social and public reintegration.

467. Law no. 10060, dated 26.1.2009, “For some amendments and changes to law no. 8432, dated 14.12.1998, “On asylum in the Republic of Albania”, in the provision of definitions, there is a term “unaccompanied minors”.

468. Law no. 10139, dated 11.05.2009, “On Public Health”, aims at protecting health and promotion of healthy life of the population, where several provisions on protection of the child health are prescribed.

469. Law no. 10129, dated 11.05.2009, “On Civil Status”, regulates completely and in details the right to be registered at the moment of birth, a right from which other rights are derived, such as the right to education, to health care, etc.

470. More detailed information related to the right of the child to registration is given in paragraphs 206–208; 225–229 of the second to fourth periodic report of Albania regarding implementation of the Convention on the Rights of the Child (CRC/C/ALB/2-4).

471. Law no. 10221, dated 4.02.2010, “For protection against discrimination”, governs, among others, enforcement and application of the principle of equality with regard to age.

By-law acts

472. Decision of the Council of Ministers (DCM) no. 205, dated 9.05.2002, “For some changes to the DCM no. 384, dated 20.05.1996, “For protection of minors at work”, prescribes the working conditions of employees under the age of 18 and also determines requirements of light work, maximum duration of working hours and the conditions for carrying out the work and also the time for holidays.

473. Decision of the Council of Ministers no. 327, dated 15.05.2003, “For transfer of the pre-trial system under the authority of the Ministry of Justice”, includes also sections on minor pre-trial custody.

474. The Decision of the Council of Ministers no. 633, dated 18.9.2003, “On adoption of the strategy for improvement of living conditions of the Roma community”, specifies the main political directions for improvement of living conditions of the Roma community, mitigation of poverty, their integration in public life, maintaining and developing their ethnic identity, etc. including also children.

475. Decision of the Council of Ministers no. 368, dated 31.5.2005, “For approval of the National Strategy on Children”, specifies the strategic objectives in the field of protection of child rights against any form of violence, abuse and discrimination by encouraging and strengthening cooperation and coordination of work with all responsible actors from central and local levels, actors of civil society, with active participation of the community and individual in this process.

476. The National Strategy on Children is a document which determines the main directions for development of protective policies on the rights of children for a 5-years period, 2005–2010; it includes programs which will lead to achievement of certain objectives and also required financial and human sources. The Strategy and the detailed Action Plan lay down integrated objectives for protection of the rights of children. Objectives of the Strategy are focused on four main areas and directions, which have to do primarily with: i) Survival of children; ii) Protection of children; iii) Development of children; iv) Participation of children. The Objectives of the National Strategy on Children comprise the following: 1) Establishing required structures and provision of financial and human resources for realizing the obligations of the Convention and those specified in the National Strategy for Children; 2) Securing equal opportunities for all children in spite of age, gender, ethnicity, limited abilities, birth status, etc.; 3) Continuity of the process which assures the respect for the right to information, freedom of expression and participation of children in affairs related to them in the family, schools and other institutions; 4)

Establishing the system of institutions for protection of children against any form of violence, exploitation or maltreatment; 5) Security of the life of children in family environments; 6) Improvement of the legal framework in the field of adoptions; 7) Improvement of health care for mothers and children; 8) Establishment of modern education system which guarantees education of all children; 9) Reduction of the number of children who work, children in the street and the guarantee of their protection system.

477. Decision of the Council of Ministers (DCM) no. 564, dated 12.08.2005, “For licensing social service providers”, which enables the licensing of NFO to provide social services to groups in need.

478. The DCM no. 659, dated 17.10.2005, lays down the standards of services for children in Residential Institutions”.

479. The DCM no. 913, dated 19.12.2007, “For approval of the national strategy on gender equality and violation in the family, 2007–2010, and the action plan for its implementation”, prescribes objectives and concrete measures of governmental structures that are responsible for enforcement of law on gender equality and violation in the family.

480. The DCM no. 786, dated 4.6.2008, “For approval of Disciplinary Rules and Regulations for the State Police”, specifies responsibilities and codes of behavior during the duty/service of the police officer for special treatment of minors.

481. The DCM no. 80, dated 28.1.2008, “For approval of the sectoral strategy on social protection and the action plan for its implementation”, prescribes the undertaking of concrete measures for protection of the rights of children, primarily of orphans.

482. The DCM no. 1104, dated 30. 7. 2008, “For some amendments to the DCM no. 80, dated 28.1.2008, “For approval of the sectoral strategy of social protection and the action plan for its implementation”, prescribes the protection of the rights of orphans by specifying the requirements of the custodial family.

483. The DCM no. 1083, dated 23.7.2008, “For approval of the national strategy on the fight against the trafficking of human beings, 2008–2010, and also the complementary document “The national strategy on the fight against the trafficking of children and protection of children, victims of trafficking”, lays down the measures for cooperation and collaboration between all actors, their relevant roles and responsibilities, for achieving an effective and harmonized approach against this phenomenon.

484. The DCM no. 302, dated 25.03.2009, “For approval of Rules and Regulations “On arrangement and operation of probation service and for determining the standards and procedures, supervision of execution of alternative punishments”, which settles the rules for organizing and functioning of the institution of probation service and the roles of this institution in every stage of penal proceedings.

485. The DCM no. 303, dated 25.03.2009, “For approval of the General Rules and Regulations of Prisons”, lays down the way of realizing the rights and obligations of prisoners, of convicts by imprisonment or pre-trial detainees, organization of their life, methods and conditions for executing penal decisions carrying the sentence by imprisonment, performing work activities and remuneration for accomplished work, etc.

486. Order by the Prime Minister no. 203, dated 19.12.2005, “For Establishing the Anti-trafficking Unit by the National Coordinator of Anti-trafficking”, determines that the Anti-trafficking Unit works out the measures and concrete guidelines for organizing and functioning effectively the combat against trafficking.

487. The Order by the Prime Minister no. 139, dated 19.06.2006, “For establishing Regional Committees against the Trafficking of Human Beings”, specifies that these

committees will contribute for identifying the cases, preventing and reducing the number of trafficking.

488. The Order no. 4763, dated 08.06.2009, by the Minister of Justice, "For approval of Internal Rules and Regulations of the Albanian Committee for Adoptions, which prescribes the rules for internal arrangement and operation of the Committee with regard to the progress for the development of adoption procedures.

Exploitation of children and trafficking

489. Concerning the protection of children, in the framework of preventive and protective measures against their exploitation, the Penal Code prescribes as a penal offence "Maltreatment of minors", which, among other things, condemns the events of children exploitation by forced labour, begging or other forced services. It also specifies as penal offence "Trafficking of minors", where law penalizes not only recruiting, hiding, receiving, etc., but also sale of minors.

490. The national Strategy on the Fight against Trafficking of Human Beings (passed in 2001 and amended continuously) is focused on these main directions: 1) Investigation and penal prosecution of trafficking crimes; 2) Supporting and protecting victims and witnesses; 3) Undertaking concrete measures for prevention of trafficking and re-trafficking. The national Strategy on the Fight against the Trafficking of Human Beings is also associated with a strategy and an action plan against the trafficking of children, which specifically addresses issues related to trafficking of children. The Strategy on the Fight against the Trafficking of Human Beings, the Strategy on the Fight against Trafficking and Protection of Children, Victims of Trafficking and the respective Action Plans (2008–2010) have been worked out under a long process of comprehensive consultancies, which involved not only state agencies, international donators but also civil society which has played an important role.

491. Pursuant to this strategy, relevant organizations have been established for identifying and persecuting the offenders of such penal acts and also special organizations for protection and rehabilitation of victims and social categories in danger.

492. In addition, a number of activities have been conducted for preventing and fighting against trafficking. Increasing awareness campaigns have been launched, primarily for vulnerable groups (young people, women and girls, families with social problems, families with lower education level, Roma children, etc.). For prevention of trafficking of endangered categories, several actions have been taken for their involvement and integration in society by applying the law on compulsory education and registration in the civil status offices, by providing professional education/training for those who have abandoned school. The Ministry of Education has included in curricula of secondary schools programs for increasing awareness of the risk of trafficking. Since 2007, the Ministry of Interior has made available a free phone number, which is operating 24 hours, for denouncing trafficking cases, and also measures have been taken for the training of the staff of law enforcement structures.

493. Among the most important measures for protection of trafficking victims is the Agreement of Cooperation for Creation of the National Mechanism of Reference for Identification and Improved Assistance to Victims of Human Being Trafficking (in 2005). This agreement aimed at establishing a national operative network between several public and non-public agencies for enabling identification, security, reference, protection and rehabilitation of the victims of trafficking in the country. Reception and rehabilitation centers of the victims of trafficking are the major contributors to support the victims of trafficking and play an important role in identifying the types of services needed by victims of trafficking. A special contribution to the fight against trafficking of human beings and

prevention of the phenomenon has given also domestic and foreign NPOs, which provide preventive and rehabilitative services to the victims of trafficking and endangered groups and especially children.

494. More detailed information related to measures undertaken for applying provisions of the Convention on the Child Rights is given in the second to fourth periodic report of Albania regarding implementation of the Convention on the Rights of the Child (CRC/C/ALB/2-4).

Adoption of the law on the child rights

495. A major objective of the National Strategy on Children was the approval of the frame law no. 10347, dated 4.11.2010 “On the Child Rights”. This law is based on the requirements of the Convention of the UNO “On the Child Rights” and on its optional protocols, and also on all international acts ratified by the Republic of Albania, which are a portion of domestic legal system.

496. The aim of this law is to develop devices/means to allow the government and social society, in central and local levels, monitor and report with regard to implementation of policies taking into account the respect for the rights of children.

497. The approval of this law is related to different aspects of child rights and as such, it intends to achieve some objectives: 1) Adoption of policies and standards in support of realizing the rights of children. 2) Establishing an effective monitoring system with regard to welfare and realization of the rights of children in national and local level. Law makes a general transposition of the rights included in the Convention “For the Child Rights”, and also deals with general provisions on protection of children rights forecasting that their protection is achieved through the careful exercise of parental responsibilities and, in lack of such responsibility, through the provision of an alternative care, which may be the placement of the child in an adoptive or custodial family or in a center or institution of social care.

498. A new thing in this law is the definition on public institutional devices, which will be responsible for the execution of this law and protection of the rights of children. Public institutional devices, in central level, are prescribed to have coordinative functions of state policies for the rights of children and executive functions related to monitoring the implementation of this law and the policies of the government. The law prescribes the establishment and operation of the State Agency for protection of the rights of children. This agency will operate under the authority of the Ministry of Labour, Social Affairs and Equal Opportunities.

Article 25

Right to participate in public life

Right to free election, to elect and be elected

499. The right to elect and be elected constitutes one of fundamental rights of personal and political rights and freedoms. The legal framework which secures the right to free election, the right to elect and be elected is widely enshrined in the Constitution and the Election Code of the Republic of Albania, passed under law no.10019, dated 29.12.2008.

500. Article 1 of the Constitution sanctions that Albania is a parliamentary republic. Government is based on an election system which is free, equal, general and periodical. According to Article 7 of the Constitution, governmental system is based on separation and balance of legislative, executive and judicial powers. Legislative power is exercised by the Parliament (Article 64), which comprises 140 deputies, elected on a proportional system

with multi-nominal election zones. The Parliament is elected every 4 years (Article 65). The rules for arrangement and development of parliamentary elections are specified under the election law. The people exercise its sovereignty through its representatives or directly (Article 2). The eleventh part of the Constitution guarantees the right of people to referendum. Referendum is one of the forms of exercising people's power through general, equal, direct and secret elections. Based on constitutional provisions, direct elections in the Republic of Albania are held for the Parliament of Albania, for the local government organs and also for referendums.

501. The right to elect and be elected, as one of fundamental rights of political rights and freedoms, is secured firstly by Constitution, Article 45. This provision specifies that all Albanian nationals, who have reached the age of 18, even on the election date, are entitled to vote. The Constitution sanctions that from this right are excluded only those nationals who, under a final court decision, are declared mentally disabled. The convicts, who are serving their sentences in prisons, have only the right to elect. The vote is personal, equal, free and secret.

502. Based on the Constitution and pursuant to it, this political right of nationals is also ensured by the Election Code, Articles 3 and 44. Article 3 of the Election Code specifies that each Albanian national, who has reached the age of 18, even on the election day, without any discrimination on the ground of race, ethnicity, gender, language, political convictions, beliefs, physical ability or economical conditions, is entitled to elect and be elected in compliance with rules specified in this Code. As a general rule, the right to vote is guaranteed to Albanian nationals within the territory of the Republic of Albania, in the area of the polling station of their residence.

503. The election code, in its Articles 52 and 55, entitles electors to file claims at law courts if they have not been registered in electoral rolls in the area of the polling station of their residence, or if their requests for changing the preliminary electoral roll are refused by administrative organs tasked with the duty of working out electoral rolls.

504. The Parliament of the Republic of Albania comprises 140 deputies, elected on proportional system under multi-nominal election zones. Elections for the new Parliament are held at the earliest election period preceding the expiry of Parliament mandate. Referring to Article 75 of the Election Code, the number of mandates for each election zone is determined in proportion with the number of nationals of each election zone.

Administration of electoral polls

505. Registration of electors in electoral polls is governed under Section III of Election Code, "Electors and preparation of electoral polls". Based on these provisions, the electoral poll is worked out by the civil status office of the unit of local government according to the order delivered by the chairman of such unit. The electoral roll includes all nationals who have reached the age of 18, even on the election day, and have their residence in the area of the polling station of the local government unit, based on electronic data of the National Register of Civil Status (NRCS).

506. Processes with the National Register of Civil Status (NRCS) and other acts of civil status are made electronically. The NRCS comprises also election components for each national that is entitled to vote. According to Article 47, point 3, of the Election Code, election components include name, father's name, surname, date of birth, the code of residence, citizenship, national personal number. Electronic system of the NRCS updates automatically election components whenever these elements are changed by the civil status office complying with provisions of law no. 10129, dated 11.5.2009, "On Civil Status". Administration and updating of election components, according to Article 48, point 5, of the Election Code, is made according to by-law acts delivered by the Minister who covers

the local government. Based on this, the Guidance of the Minister of Interior no. 67, dated 06.02.2009, “On procedures for working out electoral polls for electing the Albanian Parliament” has been issued.

507. Based on Article 49 of the Election Code, not later than 15 days from the date of decreeing elections, the civil status offices, under the authority of the chairman of the local government unit and pursuant to the guidance of the minister who covers local government, work out preliminary electoral rolls for each polling station zone, emanated from the data base of the NRCS.

508. The civil status office, not later than 30 days before the election date, under the authority of the chairman of local government unit, drafts the final electoral roll for each polling station zone, by reflecting any changes of election components, based on administrative and law court decisions for changing preliminary electoral rolls. Final electoral roll is posted on public places near each polling station not later than 25 days before election date. Any changes to the electoral roll after the announcement of the final electoral roll can be made only under law court decision by respective judicial district, based on the request submitted by electors until 24 hours before election date.

509. Since January 2009, an online electronic system is set up and is fully operating for the National Register of Civil Status (NRCS). The established system embodies a complete online system, functional and operational of the Register of Civil Status.

Complaints regarding decisions of election commissions

510. Referring to Article 124 of the Election Code, each political party, a partner or not a partner in a coalition and the candidate proposed by electors, has the right to complaint to the ECC against the decision of the Election Administration Zone Commission (EAZC), which attacks their legal interests within three days from the date of decision announcement.

511. Based on Article 145 of the Election Code, every election subject has the right to complaint to the Election College of the Appellate Court in Tirana, against the decisions of the CEC when they attack their legal interests, within the terms specified under Article 152 of this Code. The Election Code is established and operates for review of election complaints. The Election College comprises 8 judges selected at random by Higher Judicial Council (HJC) from the ranks of all judges of Appellate Courts in the Republic of Albania (Articles 146, 147 of the Election Code).

512. At the end of election process, the Election Central Commission (ECC) is the organ which announces by its decision election results for each election zone, winner candidates elected for the Parliament, winner candidates elected for members of the councils of local government organs and also final election results in national level. The persons commissioned with the administration of elections, either members of election commissions or public administration employees in service of these commissions, bear administrative and penal responsibility according to provisions of Election Code and the Penal Code of the Republic of Albania.

Function of the election commissions, election results, referendums

513. In the Republic of Albania, for administration of all types of elections, there are established and operate: the Election Central Commission (CEC); Election Administration Zone Commission (EAZC) and Polling Station Commission (PSC).

514. The Election Central Commission (ECC) is the highest state permanent organ responsible for election administration. It is a permanent organ which prepares, oversees, directs and verifies all aspects dealing with elections and referendums and proclaims the

results. This commission is established and operates based on the Election Code. The members of the Election Central Commission are elected by the Parliament by secret voting, in a single day according to this procedure (Article 14): 2 members are proposed by the party which has the greatest number of seats from the parliamentary majority parties, and 2 members by the party of parliamentary opposition that has the greatest number of seats in the Parliament of Albania. The fifth member of the ECC is elected from candidates proposed by groups of deputies of the parliamentary majority parties, except the biggest party from the group of majority. The sixth member is elected from candidates proposed by groups of deputies of the parliamentary opposition parties, except the biggest opposition party. Proposing group presents a list of not less than two candidates for the respective vacancy. The Parliament, based on procedures specified under Article 15 of the Code, selects the seventh member and the Chairman of the ECC at the same time, no later than 7 days following the completion of procedures for election of the members of the ECC.

515. Meetings of the ECC are convened by the Chairman or at least by two members of the ECC and they are valid when attended by no less than 4 of its members, besides the cases when the qualified majority is required for taking a decision. The ECC, based on law and pursuant to it, can make decisions and issue guidelines. The acts of the ECC of normative character are effective all over the territory of the country and are obligatory to all. Decisions of the ECC are approved by majority of votes of all the members of the ECC, except some decisions, which are considered as approved when 'pro' voting comprises no less than 5 members of the ECC.

516. The Election Administration Zone Commission (EAZC) is established in compliance with Article 29 of the Election Code and is functioning for elections for the Parliament of Albania and local elections. The EAZC is responsible for administration and holding of elections in the Election Administration Zone based on provisions of the Election Code and by-law acts delivered by the ECC. It comprises 7 members and the secretary who are appointed by the ECC according to the following procedure: two members are proposed by the major party of parliamentary majority, two members are proposed by the major party of parliamentary opposition, one member is proposed by the second party of parliamentary majority and one member is proposed by the second party of parliamentary opposition. The seventh member is proposed at the half of the EAZC by the first party of the parliamentary majority and at the second half by the first party of parliamentary opposition according to objective requirements based on random selection and equal distribution to election territory. The Secretary of the EAZC is proposed by the party which proposes the vice/chairman of the EAZC. 30% of members proposed by the biggest party of majority and by the biggest party of opposition, respectfully, in national level, should be from each gender. The meetings of the EAZC are public and they are valid when attended by the majority of the members of the EAZC. The decisions of the EAZC are valid with voting 'pro' of the majority of all members of the EAZC. If the EAZC fails to draw decision within respective deadline, the issue is sent to the ECC for review, within 24 hours, by the Chairman of the EAZC, or at least by two members, or it may be claimed to the ECC by the election subject interested in.

517. The Polling Station Commission (PSC) is the commission of the third level and is responsible for conducting election in the polling station for all types of elections. The PSC comprises 7 members and the secretary. It is elected by the same way as the EAZC. The decisions of the PSC are drawn by the majority of votes of all members of the PSC. If the PSC fails to draw decision within respective deadline, the issue is sent immediately to the EAZC for review by the Chairman of the PSC, or at least by two members of the PSC, or it may be claimed to the EAZC by the interested subject. Decisions of the EAZC are obligatory for the PSC.

518. There are below some statistical data related to the results of parliamentary and local elections over the period 2004–2009.

<i>Elections for the Parliament, 2005</i>		
	<i>Total</i>	<i>%</i>
Electors in the electoral rolls	2 850 821	
Participants in election	1 403 473	49.23
Invalid votes	31 013	2.22
	Subjects	Candidates in total
A. Direct Candidates	28	1 235
Winners	4	100
B. Candidates from multi-nominal lists	27	1 616
Winners	10	40

Source: ECC 2010.

Deputies elected according to supporting political subjects

<i>Subjects</i>	<i>Elected</i>		<i>Amount</i>
	<i>Directly</i>	<i>From additional mandates</i>	
PD	56		56
PSSH	42		42
PR		11	11
PSD		7	7
LSI	1	4	5
PDR		4	4
PAA		4	4
AD		3	3
PBDNJ		2	2
PDK		2	2
PDSSH		2	2
BLD		1	1
Independent	1		1
Total	100	40	140

350. Notes: In 2005, based on the Constitution, election system was a mixture of the majority and proportional representation systems: 100 mandates were obtained from elections in 100 zones with majority system and 40 mandates were gained from the results, in national level, of subjects which submitted multi-nominal lists of candidates based on proportional system. In 2005, the results estimated according to proportional system, an election zone was declared invalid and this is the reason why the amount of votes obtained for the proportional system is smaller than the number of participants in elections. The table below shows the votes obtained at national level by parties and coalitions which submitted multi-nominal lists for elections for the Parliament in 2005.

No	Parties and coalitions	Abbrev.	Votes	%
1	Democratic Alliance	AD	65 093	4.76
2	Liberal Democratic Union – Alliance for Freedom, Justice and Welfare	BLD	14 418	1.06
3	Movement for Human Rights and Freedoms – Lëvizja për të Drejtat dhe Liritë e Njeriut – Alliance for Freedom, Justice and Welfare	LDLNJ	9 027	0.66
4	Party of Democratic National Ball – Alliance for Freedom, Justice and Welfare	PBDK	7 632	0.56
5	Party of Albanian Democratic Union – Alliance for Freedom, Justice and Welfare	BDSH	7 371	0.54
6	New Democratic Party – Alliance for Freedom, Justice and Welfare	PDR	101 373	7.42
7	Democratic Christian Party of Albania – Alliance for Freedom, Justice and Welfare	PDK	44 576	3.26
8	Republican Party – Alliance for Freedom, Justice and Welfare	PR	272 746	19.96
9	Alliance for Welfare and Solidarity	AMS	5 029	0.37
10	Movement for National Development – Leka I Zogu	LZHK	47 967	3.51
11	Socialist Movement for Integration	LSI	114 798	8.40
12	Agrarian Environmental Party	PAA	89 635	6.56
13	Albanian Socialist Alliance Party	PASSH	6 604	0.48
14	Party of National Ball	PBK	22 896	1.68
15	Party for Human Rights Union	PBDNJ	56 403	4.13
16	Albanian Social Democracy Party	PDSSH	57 998	4.25
17	Democratic Party	PD	104 796	7.67
18	Democratic Party – New Right Albanian Democracy	PDDRDSH	1 794	0.13
19	Party of Labour of Albania	PPSH	9 292	0.68
20	Party of Albanian National Security	PSHSK	570	0.04
21	Communist Party of Albania	PKSH	8 937	0.65
22	Albanian Party of Democratic Monarchist Movement	PLMDSH	774	0.06
23	Albanian Green Union Party	LBSH	1 710	0.13
24	Party for Justice and Integration	PDI	16 012	1.17
25	Social-democratic Party of Albania	PSD	174 103	12.74
26	Social Party of Albania	PSSH	121 412	8.89
27	Albanian Social Parties and Party of National Union	PSHS + PUK	3 260	0.24
Total		1 366 226	100	

Source: ECC 2010.

Elections for the Parliament, 2009

	Total	%
Electors in the electoral rolls	3 084 946	
Participants in election	1 566 079	50.77

	<i>Total</i>	%
Invalid votes	42 216	2.70

Elections for the Parliament in 2009: final results at national level

No.	<i>Election subjects</i>		<i>Votes</i>	%
Reversal Alliance Coalition				
1	Democratic Alliance	AD	4 682	0.31
2	Liberal Democratic Union	BLD	5 008	0.33
3	Albanian Demo-Christian League	LDK	6 095	0.40
4	Agrarian Environmental Party of Albania	PAA	13 296	0.88
5	Party of Macedonian Alliance for European Integration	AMIE	1 043	0.07
6	Party of Alliance for Democracy and Solidarity	ADS	1 067	0.07
7	National Forefront Party	PBK	5 112	0.34
8	National Democratic Forefront Party	PBKD	4 177	0.27
9	New Demo-Christian European Party	PDRESH	2 111	0.14
10	Democratic Party	PD	610 463	40.18
11	New Party of Refused Rights	PDM e Re	1 408	0.09
12	Party of Albanian Force	PFA	319	0.02
13	Legality Movement Party	PLL	10 711	0.71
14	Party of Albanian Hour	POSH	786	0.05
15	Party for Justice and Integration	PDI	14 477	0.95
16	Republican Party of Albania	PR	31 990	2.11
	Amount		712 745	46.92
Coalition of Liberty Pole Alliance				
17	Movement for national Development	LZHK	10 753	0.71
18	Party of Albanian Democratic Union	PBD	1 030	0.07
19	Demo-Christian Party of Albania	PDK	13 308	0.88
20	Party of Democratic Reforms of Albania	PRDSH	495	0.03
21	Albanian Conservative Party	PKONS	1 067	0.07
22	Party Way of Liberty	PRRL	1 002	0.07
	Amount		27 655	1.82
Coalition of Socialist Alliance for Integration				
23	Movement of Human Rights and Freedoms	LDLNJ	2 931	0.19
24	Socialist Movement for Integration	LSI	73 678	4.85
25	Green Party	PGJ	437	0.03
26	Party for Protection of Emigrants' Rights	PMDE	376	0.02
27	True Socialist Party 91	PSV 91	6 548	0.43
28	New Tolerance Party of Albania	PTR	437	0.03
	Amount		84 407	5.56
Coalition of Union for Alterations				

No.	Election subjects		Votes	%
29	Union of Human Rights Party	PBDNJ	18 078	1.19
30	Party of Social Democracy	PDS	10 395	0.68
31	Party G 99	G 99	12 989	0.86
32	Social Democratic Party	PSD	26 700	1.76
33	Social Party of Albania Amount	PS	620 586 688 748	40.85 45.34
34	Abdullah Adil Omuri – Independent		756	0.05
35	Party for Law and Justice	PLIDR	4 865	0.32
Total			1 519 176	100.00

Note: In 2009, due to amendments made to the Constitution, election system was regional proportional, with 12 election zones on county level.

Data for candidates of parties in multi-nominal lists and mandates won in elections for the Parliament in 2009

Parties	Candidates in multi-nominal lists			Mandates won		
	Total	Females	Percentage	Total	Females	Percentage
All the parties	3 713	1 185	31.91	140	23	16.43
PD	144	40	27.78	68	10	14.71
PS	143	38	26.57	65	13	20.00
LSI	140	43	30.71	4	0	0.00
PBDNJ	101	37	36.63	1	0	0.00
PR	141	41	29.08	1	0	0.00
PDI	85	29	34.12	1	0	0.00

Elections for local government organs in 2007

	Total	%
Electors in rolls	2 929 283	
Participants in election	1 358 186	46.37
Invalid votes	43 621	3.21

Direct candidates	Females			Independent		
	Supporting subjects	Candidates	Total	%	Total	%
	42	1 076	33	3.07	157	14.59
Winner for Mayor		384	6	1.56	12	3.13

Local Elections in 2007

Number of won seats for chairpersons of units, by parties that have supported the candidates

No.	Supporting subjects	Units won			
		Municipalities	Municipal units	Communes	Amount
1	PAA, PD	0	0	3	3
2	PBDNJ	3	0	11	14
3	PBDNJ, PD	0	0	1	1
4	PBKD	0	0	1	1
5	PD	23	2	104	129
6	PD, BLD	1	0	0	1
7	PD, LZHK	0	0	3	3
8	PD, PAA	1	0	4	5
9	PD, PBDNJ	0	0	1	1
10	PD, PBDSH	0	0	4	4
11	PD, PBK	0	0	6	6
12	PD, PBKD	0	0	1	1
13	PD, PDK	4	0	13	17
14	PD, PDR	1	0	7	8
15	PD, PLL	1	0	18	19
16	PD, PR	5	1	23	29
17	PLL	0	0	1	1
18	LSI	0	0	3	3
19	PS, LSI, PSD, PDS, AD	26	8	87	121
20	PS, LSI, PSD, AD	0	0	1	1
21	PS, LSI, PDS, AD	0	0	4	4
22	Independent	0	0	12	12
Total		65	11	308	384

Right of equal access to public services

Military service

520. Requirements for recruitment in the Armed Forces are prescribed under law no. 9210, dated 23.03.2004, "For the status of soldiers in the Armed Forces of the Republic of Albania", and law no. 9171, dated 22.01.2004, "For military grades and career in the Armed Forces of the Republic of Albania". Law no. 9047, dated 10.07.2003, "For military service in the Republic of Albania" specifies the rules for accomplishing military service in the Republic of Albania, the rights, obligations and responsibilities of nationals, of state organs and public subjects for military mobilization and military services. According to Article 4 of the law no. 9210, dated 23.03.2004, the Armed Forces accept as active soldiers those nationals who meet these general requirements: – to be an Albanian national; – to have full capacity to act; – to meet legal requirements for the education level and to have the necessary health and physical abilities for the service post; – not to have been sentenced by imprisonment under a final law court decision for commission of penal offences; – not to have been dismissed from work because of breaking rules and discipline at work; – to be

from 19 to 30 years of age. Other criteria, apart from those stipulated under this article, are specified by the law “On military grades and military career in the Armed Forces of the Republic of Albania”, and also in other legal acts and by-laws.

521. The Personnel Recruitment Center (PRC) is created in the Armed Forces. The mission of this structure is to recruit Albanian nationals to serve in the Armed Forces. Admissions are made according to determined criteria publicized by this center, based on legislation in force and in compliance with the duty that is to be accomplished. In addition, there is the Military University “Skenderbej” and the Troop School of the Armed Forces. Enrolments in the University and in the Troop School are done on a competitive base. Every national, who meets determined requirements, can compete there.

Police service

522. Referring to law no. 7749, dated 4.6.2007, “For the State Police”, it has been specified that every person has the right to compete for recruitment in police services, on equal general terms, without any kind of discrimination. Persons who wish to compete for police officers should meet the criteria prescribed under this law (Articles 49, 50 and 52, point 1). The candidate, who is selected to become a police officer, after fulfillment of determined criteria, has to: (a) graduate the basic schooling for Police, complying with the Rules of Personnel drawn pursuant to this law; (b) serve a probationary period of two years following the completion of basic training. The candidate, who is selected as a police officer in a certain function, but doesn’t want to exercise police duties, based on penal legislation and on the fourth section of this law, should: (a) get relevant training at the institution of police school; (b) serve a probation period of one year. A person is accepted to police by the Order of the Minister just after he is enrolled in the Police Basic School.

Civil service

523. Law no. 8549, dated 11.11.1999, “The status of the civil employee”, sanctions the definition of the same rules for conditions and procedures of recruitment in the civil service, for the way of beginning and finishing work relations, for the development of the career, for guaranteeing the rights and defining the responsibilities of civil employees, for the purpose of creating sustainable, professional and efficient civil service. Referring to Article 3 of the law, admission to the civil service should be done based on open competition and according to the merits of everyone. In this view, the system of civil status is established and operates based on the principles of professionalism, independence and integrity, political impartiality, transparency, service towards the public, continuity of the career, responsibility and correctness for implementation of legislation in force.

External service

524. The principles of admission of an employee to the external service of the Republic of Albania are sanctioned under the provisions of law no. 9095, dated 3.7.2003, “For external service of the Republic of Albania”. Actually, Article 28 of this law prescribes that admission to the external service is conducted based on open competition according to the principles of acceptance specified under provisions of law no. 8549, dated 11.11.1999, “The status of civil employee”. Also, the law on the external service lays down the requirements that are to be fulfilled by employees, who wish to be recruited in the external service.

Judicial service

525. Regarding judicial system, the principles and conditions of admission are sanctioned under law no. 9877, dated 18.2.2008, “For organizing judicial power”. This law determines the establishment, arrangement, court competences, conditions and procedures for

appointment of judges of the first instance courts and appellate courts, the rights and responsibilities of judges, disciplinary measures and their dismissal and also other things related to operation of courts. Article 11 prescribes the conditions for appointment of judges in the first instance courts and appellate courts, who are appointed by the President of the Republic upon the proposal of the Higher Council of Justice. Judges of the court of high crimes are appointed by the President of the Republic upon the proposal of the Higher Council of Justice, on competitive base according to CV that have to meet these requirements: (a) to have worked in the first instance courts no less than 5 years; (b) to have been distinguished of professional capacity and of high ethic-moral qualities; (c) to have been evaluated “Very good” for professional capacity two last times; (d) not to have effective disciplinary measures. Judges of appellate courts are appointed by the President of the Republic upon the proposal of the Higher Council of Justice, on competitive base according to CV which have to meet these requirements: (a) to have worked in the first instance courts no less than 7 years; (b) to have been distinguished of professional capacity and of high ethic-moral qualities; (c) to have been evaluated “Very good” for professional capacity two last times; (d) not to have effective disciplinary measures.

Article 26

Equal and non-discriminative protection before the law

526. As it has been identified also in the comments on Article 2 of the Pact, for the purpose of respecting and protecting equally the rights of Albanian nationals or denouncing discriminatory acts against them, there are a series of legal provisions in Albanian legislation, concretely: “The Penal Code of the Republic of Albania”, approved under law no. 7895, dated 27.1.1995, with relevant modifications, prescribes a number of penal offences that specify commission of crimes of discriminatory nature:

- Article 73 of the Penal Code, “Genocide”, states that “application of a deliberate plan, which intends to destroy entirely or partially a national, ethnic, racial or religious group, directed towards members of the group and associated with the following acts: intentional murder of members of the group, heavy physical and mental injuries, placement in severe living conditions which inflict physical destruction, application of methods which intend prevention of births, and also forceful transfer of children from one group to the other, are punished by imprisonment no less than ten years or by life imprisonment”.
- Article 74, “Crimes against humanity”, prescribes that: Murders, exterminations, enslavements, internments, expulsions and also any type of torture or other human violence committed based on a concrete deliberate plan against a group of civil population for political, ideological, racial, ethnic or religious motives, are sentenced by imprisonment no less than fifteen years or by life imprisonment”.
- Article 253 of this Code, “Violation of nationals’ equality”, states that violation of equality of nationals is prescribed as penal offence, and, concretely, “its commission due to one’s function and while performing the duty by an official in state functions or public services on the ground of origin, gender, health conditions, religious and political beliefs, syndicate activities, or because of ethnicity, nationality, race or certain religion, which consist in creating unfair privileges, or denial of a right or benefit derived from law is punished by fine or imprisonment up to 5 years.
- Article 256 of the Penal Code “Instigating hatred or conflicts between nationalities, races and religions”, prescribes explicitly that “instigation of hatred and conflicts between nationalities, races and religions, as well as preparation, dissemination or intentional preservation for disseminating such materials is punished by fines or

imprisonment up to 10 years”. Article 226, “Appeals for national hatred”, prescribes that “putting at risk public peace and calling for hatred against other parts of population, by insulting or defaming them, by asking for the use of violation or other arbitrary actions against them, is punished by fines or imprisonment up to five years”. Articles 131, 132 of the Penal Code consider as penal offences the destruction of cultish objects, creation of barriers to religious organizations for exercising freely their activities.

527. With amendments made to law no. 9686, dated 26.02.2007, “For some changes to law no. 7895, dated 27.01.1995, “The Penal Code of the Republic of Albania”, revised, commission of a penal offence induced by motives that are related to gender, race, religion, nationality, language, political, religious or social convictions (Article 6) are prescribed as aggravating circumstances.

528. Law no. 10023, dated 27.11.2008, “For some amendments and changes to law no. 7895, dated 27.01.1999, “The Penal Code of the Republic of Albania”, revised, and law no.10054, dated 29.12.2008, “For some amendments and changes to law no. 7905, dated 21.03.1995, “The Code of Penal Procedures”, revised, prescribes material and procedural provisions related to commission, prosecution and punishment of penal offences with regard to racism and discrimination by computer systems, in order to penalize the dissemination of racist or xenophobic materials through computer system and defamation on the ground of racist and xenophobic motives.

529. Concretely, new penal offences added to the Penal Code include:

(a) Article 74/a – “Dissemination through computers of materials pro genocide or pro crimes against humanity”, prescribes that public provision or intentional dissemination to the public through computer systems of materials which deny, minimize highly, approve or justify acts that constitute genocide or crimes against humanity are sentenced by imprisonment from three up to six years;

(b) Article 84/a – “Threats made for racist or xenophobic motives through computer systems”, prescribes that serious threats for murder or severe injury made on a person through computer systems due to ethnicity, nationality, race or religion, are punished by fines or imprisonment up to three years;

(c) Article 119/a prescribes as penal offence dissemination of racist or xenophobic materials through computer systems, actually: (i) “Provision to the public or intentional dissemination to the public, through computer systems, of materials of racist or xenophobic content constitutes penal offence and is punished by fines or imprisonment up to two years; (ii) “Intentional public defamation, through computer systems, made to a person because of ethnicity, nationality, race or religion, constitutes a penal offence and is punished by fines or imprisonment up to two years”;

(d) Article 119/b specifies that “Intentional public defamation of racist or xenophobic motives made to a person through computer systems due to his ethnicity, nationality, race or religion, constitutes a penal offence and is punished by fines or imprisonment up to two years.

Labour legislation

530. The Labour Code, which deals with relations in the area of labour, either public or private one, prohibits any kind of discrimination in employment or in professional life (Article 9). At the same time, legislation on social insurance like health insurance or insurances to all kinds of pensions (invalidity or old age), provide equal rights for all individuals in spite of nationality or race. Article 115 of the Labour Code prescribes the equality in remuneration, even between genders, and the measures for compensation in case

of possible discrimination. In the list of syndicate freedoms, Article 181 of the Code prohibits discrimination of syndicate representatives. Discrimination may consequently carry penalties amounting to about 50% of the monthly minimum salary (Article 202 of the Labour Code). This Code incorporates the provisions of the International Labour Organization (ILO) No. 111. For elimination of discrimination in private sector, the Labour Inspectorate at the Ministry of Labour, Social Affairs and Equal Opportunities (MLSAEO) inspects and ensures that legislation on work conditions and health insurances be applied even in private sector. Some of the main provisions are: Article 10, "Participation in syndicates"; Article 32/1, "Obligation of the employer for respecting and protecting the personality of the employee"; Article 32/2 "Prohibition of sexual harassment"; Chapter 8, Articles 39–75, "Health and security at work"; Chapter 9, Articles 76–97, "Working hours and paid leave"; Chapter 10, Articles 98–108: "Special protective measures for women and children"; Chapter 11, Articles 109–134 "Remuneration".

Education

531. The legal framework on education protects and promotes human rights and prevents all forms of discrimination. Article 3 of the law no. 7952, dated 21.06.1995, "On Pre-university Education System", (approved under law no. 7952, dated 21.06.1995, revised by law no. 8387, dated 30.07.1998, ensures, among other things, equal rights to all nationals to be educated at all education levels specified under this law. Law on Higher Education in the Republic of Albania (approved under law no. 9741, dated 21.5.2007, revised by law no. 9832, dated 12.11.2007), has the mission of providing opportunities to benefit from higher education through all the life without any discrimination. Article 1 of this law prescribes that, in the Republic of Albania, higher education is public and non-public. The public higher education is ensured and funded by the state and also by other legal sources. The public higher education is secular.

Health

532. Legislation on health is based explicitly also on the principle of non-discrimination assuring thus protection of health to all individuals without difference. The Code of Ethics and Medical Deontology, in 2002, prescribes, among others, that the doctor should provide the same medical assistance to all without any discrimination, respecting the right and dignity of each individual.

533. Law no. 8328, dated 16.04.1998, "On the rights and treatment of convicts by imprisonment", revised under law no. 9888, dated 10.03.2008, among others, prescribes non-discrimination on the ground of nationality, gender, religious and political convictions, etc. as a major principle for the treatment of pre-trial detainees and convicts.

Media

534. Regarding the media, law no. 8410, dated 30.09.1998, "On Public and Private Radios and Televisions in the Republic of Albania", Article 39 specifies that "transmission of programs which stir up violence, aggressive wars, national and racial hatred" are prohibited. Also, law "On press" no. 7756, dated 11.10.1993, revised under law no. 8239, dated 3.09.1997, has actually only one article which specifies that "... press is free. Freedom of press is protected by law". Based on this law, all Albanian nationals, including people belonging to minorities, have the right to establish, without any payment, their own written media, which is not subject to preliminary censure.

535. Law no. 8454, dated 4.02.1999, "On the Ombudsman", amended under law no. 8600, dated 10.04.2000, revised under law no. 9398, dated 12.05.2005, in its Article 2, lays down that the Ombudsman protects the rights, freedoms and legal interests of individuals, which may be attacked by illegal or unfair actions or inactions of public administration

organs, and also of third parties which act on their behalf. The Ombudsman, guided by the principles of impartiality, confidentiality, professionalism and independence, exercises his activity for protection of human rights and freedoms prescribed under constitutional provisions and laws. This law specifies that the institution of the Ombudsman, based on authorities determined by law, can initiate the review of an issue (including discrimination issues) through: (1) direct submission of complaints and applications to the Ombudsman. Article 12 of the law prescribes that “Each individual, group of individuals or non-governmental organizations, which pretend that their rights, freedoms and legal interests are violated by illegal and incorrect actions or inactions of public administration organs, have the right to complaint or inform the Ombudsman and ask for his intervention for the remedy of violated rights and freedoms”. (2) On cases made public, the Ombudsman has the right to start the procedures for reviewing the issue on his own initiative, but with the consent of the interested or damaged person” (Article 13 of the law). Also, the Ombudsman has the right to initiate an administrative prosecution in protection of the interests of a wide community that may be affected by the administrative prosecution” (Article 13, para. 3).

536. Law no. 9355, dated 10.03.2005, “For economic aid and social services”, and revised under law no. 9602, dated 28.07.2006, points out that the scheme of the function of economic aid and provision of social services is based on the principle of non-discrimination. This law prescribes measures for securing assistance and social services for individuals and groups in need because of their limited economic, physical, psychological and social abilities and opportunities.

537. Law no. 9669, dated, 18.12.2006, “On measures against violence in family relations”, intends to prevent and reduce violence in the family in all its forms, by appropriate legal actions, and also ensuring protection by legal means of family members who are victims of violation in the family, paying special attention to violence against women, children, old age and disabled people. Law no. 10.329, dated 30.09.2010, “For some amendments and changes to law no. 9669, dated 18.12.2006, “On measures against violence in family relations”, revised, was initiated by the Minister of Labour, Social Affairs and Equal Opportunities in the capacity of the responsible authority for execution of this law. The main intention is to solve some problems emerged during law practical implementation, and also to establish and maintain the required responsible structures for protection, support and rehabilitation of victims, mitigating the effects and preventing violence in the family. The approval of revised law paves the way for establishing the first national shelter for the victims of violence in the family, creating the reference system in local level and providing free legal assistance to the victims of family violence.

538. Protection against discrimination acts is also prescribed in the Code of Police Ethics (approved under law no. 8291, dated 25.02.1998), and also law no. 9749, dated 04.06.2007, “On the State Police”. These acts prescribe the responsibility of police forces for undertaking illegal actions, and also procedures of complaint for the cases of discrimination in police. Law “On the State Police” specifies that the police officer should treat people equally and must carry out his duty without discrimination on the ground of gender, race, colour, language, belief, ethnicity, political and religious or philosophic convictions, sexual orientation, economic, education and social conditions, or parentage, complying with Article 18 of the Constitution (Article 61). It is also prescribed that the police officer is not allowed to collect information based only on reasons such as gender, race, colour, language, belief, ethnicity, political and religious or philosophic convictions, sexual orientation, economic, education and social conditions, or parentage.

539. Law no. 9695, dated 19.03.2007, “On adoption procedures and Albanian Adoption Committee”, which intends to protect the child by placing it in a permanent family and taking measures that this protection be conducted in the highest interest of the child, among others, paragraph 2 of Article 33, prescribes that intermediating agencies in the area of

adoption must not prejudice and discriminate adoptive applicants in spite of race, origin or their religious belief.

540. Law no. 9887, dated 10.03.2008, “On protection of personal records” determines the rules for protecting and legal processing of personal information. It prescribes special rules for personal records of a physical person (or as otherwise called in this law “sensitive information”) that have to do with a person’s origin, race or ethnicity, political thoughts, syndicate membership, religious or philosophic convictions, penal punishment and also information on health and sexual life.

541. Also, foreigners in the Republic of Albania enjoy equal protection and without discrimination before law. Law no. 9959 dated 17.7.2008, “On foreigners” is based on the principles of reciprocity, non-discrimination and treatment not less favourable than Albanian nationals. Article 2 of this law prescribes that foreigners, who are subject to this law, are treated in compliance with human rights and freedoms and international agreements ratified by the RA by respecting the principles of reciprocity, non-discrimination and treatment not less favourable than Albanian nationals.

542. Law no. 9970, dated 24.07.2008, “On gender equality in society”, is based on the principles of equality and non-discrimination and on other principles sanctioned by the Constitution of the Republic of Albania, by the Convention “On elimination of all forms of discrimination against women”, and also by all other international acts ratified by the Republic of Albania. Approval of this law abrogated law no. 9198, dated 1.7.2004, “On gender equality in society” and other amendments made to it under law no. 9534, in 2006. Compliance with directives of EU has been taken into account for working out this law. The law gives the definition on gender discrimination, a definition which is in accordance with the definition specified under Article 1 of the Convention “On elimination of all forms of discrimination against women”. According to the law, the definition reads: “Discrimination on the ground of gender comprises any differentiation, exclusion or limitation on gender base, which inflicts and intends to damage, not to recognize, not to enjoy and not to exercise equally, by each gender, human rights and freedoms prescribed under the Constitution and other laws in political, economic, social, cultural and civil areas”. The law aims at: (a) ensuring efficient protection against discrimination on the ground of gender or any other way of conduct, which induces discrimination because of gender; (b) determining the measures for guaranteeing equal opportunities between men and women for eliminating discrimination based on gender, in any form it might appear; (c) specifying the responsibilities of state authorities, central and local authorities, for developing and implementing normative acts and also policies to support promotion and encourage of gender equality in society. Article 5 states that this law protects against discrimination due to gender all persons who live and stay in the territory of the Republic of Albania.

543. Concerning appropriate measures for ensuring gender equality, Article 7 of this law specifies that, in order to assure gender equality and eliminate discrimination on the ground of gender, state organs, based on their competences: (1) secure, through legislative actions or by other appropriate means, practical application of gender equality; (2) secure, through legislative actions or other appropriate means, associated also with sanctions, as the case may be, prohibition of any discrimination because of gender; (3) secure, through legal regulations and by-laws or by other appropriate means, amendment or abrogation of any legal act, custom or practice which constitute discrimination on the ground of gender; (4) take all appropriate measures to create necessary and objectively legitimated facilities for equal opportunities and equal access to both genders; (5) secure, through public organizations and national law courts effective protection of both genders against any discriminating actions.

544. Article 8 of this law, Special temporary measures, prescribes: 1. Special temporary measures include the quota for achieving equal gender representation, increasing participation of the gender which is less represented in decision-making and in public life, economic strength and positions of persons of each gender in the area of labour, improving equally educational level as well as other actions in every field, where the persons of one gender do not enjoy equal positions with the persons of the other gender. 2. It doesn't constitute discrimination on the ground of gender the cases when state organs take special temporary measures, including legal amendments, which intend to accelerate the establishment of factual equality between females and males. Article 15 prescribes temporary measures such as application of the quota amounting to more than 30% in the organs of legislative, executive and judicial powers and other public institutions. There are also prescribed penalties for violation of provisions of this law that have to do with gender discrimination.

545. Law no. 9952, dated 14.07.2008, "On prevention and control of HIV/AIDS", prescribes rules for preventing and controlling measures taken against HIV/AIDS, the care, treatment and support for the persons suffering from HIV/AIDS, without any kind of discrimination. This law considers prohibited act the stigmatization and discrimination of a person infected with HIV/AIDS.

546. Law no. 10002, dated 06.10.2008, "On internal inspection service in the Ministry of Interior", prescribes explicitly that "The employee of the Internal Inspection Service has the duty to treat equally the persons and carry out the job without discrimination, complying with law and required standards and also respect the dignity and physical integrity of any other employee of the service". In such a way, any act of the employees of this area that might inflict violation of dignity and integrity of individuals is prevented.

547. Law no. 9874, dated 14.02.2008, "On public auction", a separate provision prescribes that contracting authorities should avoid any criteria, request or procedure which constitutes discrimination against or through purchasing candidates or against their categories in order to protect the rights and interests of participants in auction process.

548. Law no. 10039, dated 22.12.2008, "On judicial assistance", intends to regulate legally the provision of judicial assistance which the state provides to persons with insufficient economic opportunities in order to protect their fundamental rights and their legal interests at law courts or at other public organs. Provision of judicial assistance to individuals by the state is based on the principle of equality of rights to all individuals who benefit from judicial assistance. The law prescribes a positive differentiation in providing judicial assistance based on economic conditions of the individual, who, because of economic reasons, are not able to secure judicial assistance or legal defense before the organs of justice by realizing, in such a way, efficient protection of their rights.

549. Law no. 10129, dated 11.05.2009, "On civil status", which defines the meaning and components of the civil status of Albanian nationals, foreigners and aliens, governs more completely and in details the civil status and also specifies the components and peculiarities of the civil status, which includes also nationality.

550. Law no. 10221, dated 4.2.2010, "On protection against discrimination", Article 1, lays down that this law regulates execution and respecting of the principle of equality with regard to gender, race, colour, ethnicity, language, gender identity, political, religious or philosophic convictions, economic, education or social status, pregnancy, parentage, parental responsibility, age, family or marital status, civil status, place of residence, health status, genetic predisposition, limited abilities, affiliation to a certain group, or to any other reason. Article 3 provides the definition of discrimination as follows: "Discrimination is any differentiation, exclusion, restriction or preference based on any reason mentioned in Article 1 of this law, which has the aim or consequence of hindering or making impossible

the exercise, in the same way with others, of the rights and fundamental freedoms recognized by the Constitution of the Republic of Albania, international acts ratified by the Republic of Albania and also laws in force".

551. Discrimination includes all forms of discrimination such as direct or indirect discrimination; discrimination because of association; discrimination because of more than one reasons; harassment; instructions for discrimination or denial of a reasonable adaptation based on any reasons mentioned in Article 1 of this law; expression through words or display relevancy to a distinguished group, or assumption that a person may participate in a distinguished group. Different treatment doesn't constitute discrimination whenever is justified based on reasonable and objective criteria, without attacking the core of the right and while it intends to reach a legal goal for a public interest or for protecting the rights of others, always in right proportion with the situation inflicted by that.

552. Article 7, "Protection against discrimination", specifies that: (1) Any action or inaction of public authorities or of physical and judicial persons, who take part in public and private life and sectors, who create the base for denial of equality to a person or groups of persons, or their exposure to an unjust treatment and unequal when they are in the same or similar circumstances as compared with other persons or other groups of persons, constitute discrimination. (2) Elimination of all privileges and unjust discrimination is ensured for everyone based on individual, political, economic, social and cultural rights assured under the Constitution of the Republic of Albania and by ratified international acts and also by laws in force.

553. This law prescribes provisions which prohibit discrimination while exercising the right to select or to be selected, or to be appointed in a public duty; prohibition of discrimination related to the exercise of the right and freedom of consciousness and religion; protection against discrimination in employment; protection against discrimination in the area of education; prohibition of discrimination in the field of goods and services, etc.

554. For the purpose of achieving effective protection against discrimination and against any form of behavior that induces discrimination, the establishment of Commissioner for Protection against Discrimination is prescribed as a central public and independent institution which is supported by the Commissioner Office for Protection against Discrimination. There are provisions in this law related to competences for reviewing the claims of persons or groups of persons who pretend to have been discriminated, and also the review of complaints made by organizations that have legal interest to act on behalf and on the consent of individuals or groups of individuals who pretend to have been discriminated, imposition of administrative sanctions, encouraging the principle of equality and non-discrimination especially through increasing awareness and information level related to these issues, etc.

By-laws and concrete measures to ensure protection against discrimination

555. In the area of education, the Ministry of Education and Science has delivered a series of by-law acts, which ensure protection against any forms of discrimination, such as:

- Guidance no. 34, dated 08.12.2004, "For the implementation of the project, Second Opportunity, for education of pupils that have abandoned school and those self-confined due to blood-feud." This project is primarily addressed to Rom children and those from families in need.
- Guidance no. 09, dated 11.04.2007, "For education of self-confined pupils due to blood feud".
- Guidance no. 18, dated 21.04.2008, "For the function of school psychological service in pre-university education system".

- Circular dated 26.11.2006 “For taking measures for improving educational work at school and prevention of violence”.

556. Also, the Action Plan of Reducing to Zero School Abandonments is worked out in cooperation with nongovernmental and non-profit organizations interested in this field. In its considerable part, this plan affects directly the Roma community and also social strata in need which have social problems.

557. The National Strategy on Children (approved under the Decision of the Council of Ministers no. 368, dated 31.5.2005), determines the strategic objectives in the field of protection of children rights against any form of violence, abuse and discrimination. One, among other objectives of the Strategy, is provision of equal opportunity to all children in spite of gender, race, ethnicity, age, health conditions, birth status, physical and mental limited abilities, in order to realize the right to social protection.

558. The National Strategy “On improvement of living conditions of Rom community”, (approved under the Decision of the Council of Ministers no. 633, dated 18.09.2003), specifies as a major objective elimination of any form of discrimination against this community, intending improvement of living conditions of this community.

559. The National Strategy for Disabled People (approved under the Decision of the Council of Ministers no. 8, dated 07.01.2005) and its Action Plan which has the objective of establishing the foundations for improvement of the life of disabled people in the field of social, medical and cultural care, in sport, employment, information, transport and also representation and participation in public life. One of the basic principles of the National Strategy “For disabled people” is the principle of equality and non-discrimination, which ensures, among others, non-discrimination in any area of life.

560. The National Strategy for Development of Pre-university Education 2004–2015 (approved under the Decision of the Council of Ministers (DCM) no. 538, dated 12.08.2004, and the National Strategy for Higher Education (2008–2013), have the objective of guaranteeing access to all levels of education without any form of discrimination and qualitative improvement of education.

561. The Sectoral Strategy of Social Protection (approved under the DCM no. 80, dated 28.1.2008), is based on the principle of non-discrimination and has the objective of protecting rights and equality, prevention and non-discrimination for providing services. This strategy prescribes that social protection is provided to any person in need, in spite of gender, origin, religion, age, limited abilities or other reasons. At the same time, the Decision of the Council of Ministers no. 1104, dated 30.07.2008, “For some amendments to the DCM no. 80, dated 28.01.2008, “For approval of the Sectoral Strategy on Social Protection and the Action Plan for its implementation”, prescribes the prevention of discrimination through establishment of criteria of custodial family. Concretely, this strategy states that the applicant, in order to be custodial parents, mustn’t have discriminating conducts against disabled people or ethnic minorities and should respect the exercise of religious belief of children.

562. The National Strategy for the Fight against Trafficking of Human Beings, 2008–2010, and also the National Strategy for the Fight against Trafficking of Children and Protection of Children Victims of Trafficking, 2008–2010 (approved under the DCM no. 1083, dated 23.07.2008), intend to take concrete measures for investigation, prevention and the fight against trafficking of human beings, including children, without any kind of discrimination.

563. Inter-sectoral Developing Document of Ageing (approved under the DCM no. 763, dated 11.06.09), constitutes a specific document, which addresses concrete measures for protection and guarantee of the rights of old aged people.

564. Rules and Regulations of Pre-trial Detention (approved under Order no. 3705/1, dated 11.05.2006, of the Minister of Justice) has the objective of human treatment, without any kind of discrimination, based on international standards and respecting human rights and dignity, while a person is under the process of pre-trial detention institution.

565. Rules and Regulations of Mental Health Services, (approved under the Order of the Minister of Health no. 118, dated 15.05.2007) specifies that mental health services should be provided to all persons of mental diseases without any distinction on the ground of gender, race, religion, ethnicity, age, language and it should be secured in any circumstances and at every moment of exercising and respecting human rights.

566. Rules and Regulations of the Police State Discipline (approved under the DCM no.786, dated 4.6.2008), prescribes that the police officer should apply the obligations and standards of behavior, and also “treat equally the persons and carry out his duties without discrimination on the ground of gender, race, colour, language, belief, ethnicity, political, religious and philosophical convictions, sexual orientation, economic, educational and social status or parental relevancy”.

567. General Rules and Regulations of Prisons (approved under the DCM no. 303, dated 25.03.2009) lays down the responsibility of prison administration for realizing human and educational treatment of convicts through effective and modern methods of management and administering without discrimination because of race, colour, gender, language, religion, political thought, national or social origin, economic status, etc.

568. Rules and Regulations “For organizing and functioning of Probation Service and determining procedural standards for supervising execution of alternative sentences” (approved under the DCM no. 302, dated 25.03.2009), specifies that Probation Service ensures that no discrimination can be on the ground of race, colour, gender, language, religion, political thought, national or social origin, economic status, or any other status, etc.

569. Rules and Regulations “For cooperation of Probation Service with non-profit organizations and intermediating services” (approved under the Order of the Minister of Justice no. 6325, dated 31.07.2009), states explicitly that Probation Service and the NPO or intermediating services ensure that no discrimination can be in their activities based on race, colour, gender, language, religion, political thought, national or social origin, economic status, etc. During their activities, they respect human rights and fundamental freedoms and also the dignity of the convicts.

570. Rules and Regulations “For determining rules and procedures for employment relations, training, progress in career and imposition of disciplinary measures for prison police officers” (approved under the Order of the Minister of Justice no. 3125/1, dated 04.09.2009), specifies explicitly that during their activities, prison police officers are guided by the principle of respecting human rights and fundamental freedoms, the principles of non-discrimination and of legislation.

Institutions and mechanisms for the protection of human rights

571. The institution of the Ombudsman is a guarantee for equal defense before law and without any differentiation of the nationals of the Republic of Albania. It's a constitutional institution, which exercises its activity for protection of rights, freedoms and legal interests of individuals, which may be attacked by illegal and irregular actions or inactions of public administration organs, and also by third parties acting on their behalf. The institution of the Ombudsman, guided by the principles of impartiality, confidentiality, professionalism and independence, exercises its activity on protection of human rights and freedoms prescribed under the Constitution of Albania and other laws, and also it is entitled to make

recommendations and propose measures when it observes that public administration is violating human rights and freedoms.

572. State Committee for Minorities, as a central institution under the authority of the Prime Minister, approved under the DCM no. 127, dated 11.3.2004, "For establishing State Committee for Minorities", intends to encourage participation of persons belonging to national minorities in the public life of the country, cooperation with local and central governmental organs, with organizations and associations dealing with the issues of minorities for improving the standards in respecting minority rights in Albania. It proposes concrete measures for economic, social and educational development of minorities, contributing thus to improvement of situation of persons belonging to these minorities.

573. The structures of the Ministry of Interior and of the State Police are intensively engaged in respecting human rights by taking relevant measures for this purpose. The General Directorate of the State Police and its subordinate structures estimate and select attentively every request, denouncement or complaint, which is related to practical execution of human rights and freedoms all over the country. In this context, it has been ascertained that there are not evident cases of discrimination on the ground of ethnic, cultural, lingual, religious or racial identity, etc. A positive indicator of the lack of attitudes, opinions and conducts of racial, discriminating or xenophobic nature is also the fact that there have been a very limited number of penal prosecutions for penal offences of racial character (Articles 253, 265 and 266 of the Penal Code).

574. Also, attention is paid to the training of police structures to get familiar with human rights and their protection, including also the rights of minorities. These programs have been achieved in cooperation with civil society and under the support of international organizations providing assistance, such as ICITAP, PAMECA, INTERFORCE and the School of Magistrature. There is a special program in the Police Academy for getting aware of legal and by-law acts and also of all conventions related to recognition, guarantee and respecting of human rights and fundamental freedoms, which is taught every school year. In the framework of getting aware of prison system personnel, especially prison police, with human rights, the School of Prison Police has included in its training curricular the subject of "Human Rights", which provides knowledge about international acts and of Albanian legislation that guarantee human rights, especially for convicts by imprisonment.

575. Technical Secretariat for Children (established in 2006) in the MLSAEO follows up with the implementation of Children National Strategy and its Action Plan, and also coordinates the cooperation with the ministries, other central agencies, regions, municipalities, communes, children organizations and service providers, coordinates the activities and projects of foreign and domestic donors in support of such process, etc. Central institutions and the Units for Protection of Children Rights, in region and municipal levels, has the duty to execute the legal framework and policies for protection of children rights in regional and national level.

576. Labour State Inspectorate assures the enforcement of labour law by public and private subjects, including also inspection of minors' work.

577. Inter-ministerial Committee for Roms is headed by the Minister of Labour in the capacity of the Chairperson. Members of this committee are representatives of line ministries, such as: representatives from the MLSAEO, the Ministry of Education and Science, the Ministry of Health, the Ministry of Tourism, Culture, Youth and Sports, the Ministry of Public Works, Transport and Telecommunications, the Ministry of Interior and several NPOs.

578. State Committee for the Fight against the Trafficking of Human Beings, headed by the Minister of Interior, comprises high representatives of political level of central

institutions. The Committee is responsible for prevention and the fight against trafficking. In 2009, the National Task Force against Trafficking was established.

579. The Office of the National Coordinator of the Fight against Human Being Trafficking (established in 2005) coordinates the work between different ministries in the fight against human beings trafficking and also all other state and non-state structures, either in national or international level. An Anti-trafficking Unit is operating within it. The Regional Committees of the Fight against Human Beings Trafficking, established in 12 regions of the country in 2006, have the task to monitor and coordinate governmental and non-governmental activities, in local or country level, for prevention of trafficking phenomenon and protection of potential victims of trafficking. At administrative level, special structures are operating in the Police for the fight against organized crimes and illegal trafficking.

580. Inter-institutional Working Team (IWT) is established pursuant to law no. 9970, dated 24.07.2008, "On gender equality in society", and under the Order of the Minister of Labour no. 2498, dated 16.12.2008, as a consulting team for provision of gender statistics and indicators in support of monitoring policies of gender equality in Albania.

581. The National Committee for Disability Issues, established in 2005, secures the protection of the rights of disabled persons and their integration in all fields.

582. The Technical Secretariat for Disabled Persons, (established under the Order of the Prime Minister no. 40, dated 23.03.2006), at the MLSAEO where the Chief of the Sector of this Secretariat is a disabled person. This Secretariat monitors implementation of the national Strategy of Disabled Persons (approved under the DCM no. 8, dated 07.01.2005) and the Action Plan.

583. The Directorate of Social Service Policies has the mission of drafting and implementing the policies and legal framework related to protection of the rights of disabled persons, young people, and old age people and of poor families. The Public Social Service is an executive institution of policies and legislation in the field of social protection.

584. Since 2007, the Sector for Protection of Minors and Family Violence is functioning in central level (at the General Directorate of the State Police). In regional level, in Regional Police Directorates, there have been established special Sections for Protection of Minors and Violence in the family. These structures, established since 2007, have the responsibility to prevent and fight against violence in family environments, violence towards minors, and also protection of minors against criminal activities and of children involved in criminal activities.

585. The Unit for Prevention of Torture, at the Ombudsman office, was established in 2008 and intends to protect the rights of pre-trial detainees and those convicted by imprisonment. This unit is operating by the Ombudsman office and exercises the duties of the National Mechanism for Torture Prevention.

Guarantee for the protection of rights and freedoms from discrimination

586. Dependent on the range of violation of rights and freedoms, the ways for protecting justice include administrative complaints and/or judicial complaints. In the case of administrative complaints, all administrative organs are competent for solving them, and they act based on the Code of Administrative Procedures and relevant laws in force. Specifically for the cases of gender discrimination, law no. 9970, dated 24.07.2008, "On gender equality in society", Article 30 specifies that any complaint for violation of gender equality, according to this law, is reviewed and tried by administrative organs, in compliance with provisions of the Code of Administrative Procedures.

587. For solution of disagreements, the parties may freely follow the procedures of conciliation or mediation solution. Also, law recognizes the right of bringing the issue before administrative organs and competent law courts.

588. Everyone, for protection of his rights, freedoms and his constitutional and legal interests, or in the case of accusations charged against him, is entitled to public and fair trial, within a reasonable time limit and by an independent and impartial court determined by law. Article 135 of the Constitution prescribes that judicial power is exercised by the Supreme Court, by appellate courts and also by the first instance courts which are set up by law. Article 145 states that judges are independent and are subjected only to the Constitution and laws. Independence of judicial power is also guaranteed by an independent structure: the Higher Council of Justice, which has the authority for appointment, transfer or dismissal of judges.

Article 27

Rights of ethnic, religious or linguistic minorities

589. The Covenant states that in countries where there are ethnic, religious or linguistic minorities, persons belonging to these minorities shall not be deprived of the right to have, along with other members of the group, their own separate cultural life, to predict and practice their own religion or to use their own language. Protection and respecting the rights of national minorities has taken an important place in the policy of the Government of Albania. Albania has had and continues to have a permanent commitment regarding continuous improvement of standards related to protection and respecting human rights and fundamental freedoms, which include also the rights of minorities.

590. The Frame Convention of the European Council “On Protection of National Minorities”, ratified under law no. 8496, dated 28.09.1999, has become a part of Albanian domestic legislation. It actually comprises the foundations for development and implementation of policies on minorities in Albania. The policy of the Albanian government, based on international instruments for protection of national minorities, is focused on these directions:

- Legal guarantee and practical execution of the right for non-discriminatory treatment of persons belonging to minorities by enjoying completely all human rights and also civil rights and political freedoms recognized to all Albanian nationals by Constitution and other laws
- Legal guarantee and taking concrete measures for protecting and respecting the rights of persons belonging to minorities, such as: the right to express freely their affiliation, for maintaining and developing their identity, exercising it freely and in those special components which characterize their community as a minority, learning their native language, cultural activities, exercise of religious cult, etc.

591. Albanian legislation, along with the Constitution of Albania and other legal acts and by-laws ensure practical application of the rights of minorities reflecting the spirit of the Frame Convention. The Constitution of Albania specifies that minorities comprise an inseparable part of Albanian society, recognizing them all rights like other Albanian nationals and assuring them all conditions for maintaining and developing their national, cultural and religious identity. The Constitution, as the highest law in Republic of Albania, and the legal framework guarantee practical implementation of the rights of minorities and enshrines the spirit of international conventions in the area of human rights.

592. As it is indicated above, law no. 10221, dated 4.02.2010, “On protection against discrimination” intends to carry out and respect the equality related also to ethnicity.

Considering the assertion of national, religious and cultural identity of minorities as a enhancing element of Albanian society, which should be maintained and developed further, the Albanian Government, through the policies undertaken in the field of respecting the rights of minorities, intends to create such environment where each individual be felt not only recognized and equal but also welcomed. The Albanian government is involved in taking measures for maintaining and developing further the national, cultural and religious identity and heritage of persons belonging to minorities. This diversity constitutes a significant part of cultural and common heritage and serves the development of tolerance in Albanian society.

593. In Albania, historical tradition has followed the way of recognition of national minorities of those groups of individuals that have a native country with which they have common characteristics such as language, culture, customs and tradition, religious conviction, etc. Greek, Macedonian and Serbo-Montenegrin minorities are recognized as national minorities, while Roma and Rumanians are recognized as ethno-linguistic minorities. In the situation where there is no legal definition for the national minority, the process of recognition of national minorities in Albania is based on criteria specified under international conventions like those objective criteria that have to do with the existence of ethnic, cultural, religious, linguistic characteristics, which are special and sustainable from the other part of population, and also demonstrate the will for maintaining the culture, traditions, religion, their own language and also the criteria of personal choice to be part of the minority. The status of national or ethno-linguistic minority has not any negative or discriminating effect related to execution of provisions of the Frame Convention “On protection of national minorities”, and also for respecting and protecting the rights of these minorities.

Maintenance and development of culture

594. Albanian legislation, in no case, prescribes prohibition of the right of individuals to maintain and develop their culture and participation in cultural life for all Albanian national, including people belonging to minorities. The Albanian government remains occupied in taking actions for upholding and developing further national and cultural identity of people, traditions and heritage of persons belonging to minorities. Such diversity constitutes a very significant part of cultural and common heritage and development of tolerance of Albanian society, as an example of coexistence in our region. In addition, in the framework of UNESCO, Albania has ratified the Convention “On protection and encouragement of diversity of cultural expression” in September 2006.

595. In the field of culture, the Ministry of Tourism, Culture, Youth and Sports (MTCYS) has organized a series of national folkloric activities, where individuals, groups or assemblies from minorities have been invited and participated there and have interpreted their repertoires. Among activities funded by the MTCYS, since 2004, we may mention the following:

- The International Folkloric Festival, “Multicultural Permit”, a cultural and artistic activity which involved the folklore of minorities as well
- The Festival of Minorities, “Promotion and Integration”, which intended to identify and promote cultural and artisanal values of minorities, including also Roma minority
- Festivals of different folkloric groups of Albania and of countries in the region for promotion of cultural values from several territories enabling and facilitating thus the promotion of cultural tourism
- Days of Roma Traditional Music were activities for encouraging and developing traditional values of this minority

- Festival of Roms where it has been underlined the importance of increasing awareness and consciousness of the Albanian society against prejudices that may have towards this minority
- Training courses related to human rights through age-mate education, where the rights of minorities have been treated as comprising part of human rights
- Also, the magazine “Equal” was funded, which is a social-cultural-multiethnic magazine, a publication of the cultural-multiethnic association “Equal”

596. Several groups from minorities have been invited to participate in all national annual activities of spiritual heritage which are organized by the National Center of Folkloric Activities. In the framework of projects in cultural fields, we can mention the inclusion of national minority traditions in national activities of spiritual heritage, in the project package of cultural tourism, and also the inclusion of traditional minority music in the musical collage “Spiritual Heritage in CD”.

Access to media

597. Access of minorities to electronic media is closely connected with the respecting for human rights and fundamental freedoms. In order to maintain and strengthen cultural identity of national minorities and to allow them be in continuous contact with political, social, economic and cultural developments, within the country and abroad, the Albanian law prescribes their complete access in their native language, either in written or electronic media. The Constitution of the Republic of Albania dedicates special attention to the protection of the means of mass communication such as press, radio and television. Regarding written media, law “On press” comprises only one article which reads: “Press is free. Freedom of press is protected by law”. Law no. 8410, dated 30.09.1998, “For public and private radio-television in the Republic of Albania” specifies that “radio-television activities respect impartially the right to information, political and religious convictions, personality, and dignity, private life of man, and also human rights and fundamental freedoms”. Television and radio-phonic programs for minorities are provided mainly by local branches of the Albanian Public Radio-Television, which are located in Gjirokastër, Korçë dhe Shkodër. Radio or television transmit daily programs, at certain times, in the language of respective minorities. Also, written media has realized development and wide expansion.

Right to religion

598. According to Article 18 of the Constitution, discrimination because of religious convictions is prohibited. Based on the Constitution of the Republic of Albania, Article 20, paragraph 2, persons belonging to national minorities “have the rights to express freely, with no prevention or compulsion, their ethnic, cultural, religious and lingual relevancy”. Based on Article 10 of the Constitution, there is no official religion. The state is neutral related to the issues of beliefs and convictions and guarantees their free expression in public life. Also, the state recognizes the equality of religious communities. Freedom of consciousness and religion in Albania, as to all Albanian nationals, is also secured to minorities by Article 24 of the Constitution. According to this article, “everyone is free to choose or to change religion or his convictions, or to express them individually or collectively, in public or private life, through the cult, education, practices or performance of rites. All are free to participate in religious communities or attend their practices and also make public their convictions and beliefs”.

599. In the Penal Code, instigation of hatred and religious convictions is prescribed as penal offence (Article 265), also the prevention of activities of religious organizations,

destruction or damage of cultish objects and impediment of religious ceremonies (Special Part, Chapter II, Section X, Articles 131, 132, 133).

600. Law no. 10021, dated 4.02.2010, “On protection against discrimination”, among others, specifies that this law governs the implementation and adherence to the principle of equality with regard to religious affiliation also. Three religious communities are recognized in Albania: Muslim, Orthodox and Catholic communities, which live in full harmony and coexistence with each other, which constitutes an excellent inheritance of the Albanian state. In all minority churches, religious rituals and rites are held in their native languages.

Education and the use of minority languages

601. The Albanian government considers the right of minorities to use their own languages as a very important aspect of protection and promotion of their ethno-cultural values. The principle of equality in education in view of gender, ethnicity, race and religion occupies an important place in the Constitution of the Republic of Albania and in all domestic legislation which governs education and training in all levels. Also, the legal framework in education area ensures the possibility of lifetime learning and provides equal means and opportunities to all, the opportunity of free movement and recognition of studies carried out all over the European zone.

602. Equal access to education and training is on the focus of working out policies for educational enhancement, which are carried out in compliance with international educational trends and developments and with national, regional, social-economic and demographic features of Albania. The Constitution of the Republic of Albania, Article 20, specifies explicitly that minorities have the right to teach and to be taught in their native languages. The Albanian legal framework, which protects and promotes human rights and prevents all forms of racial discrimination of people in educational area, is based on the following legal acts: The Constitution of the Republic of Albania, law on Pre-university Education System, law on Higher Education in the Republic of Albania, law on Professional Education and Formation, Normative Provisions on Pre-university Education System. Law no.7952, dated 21.06.1995, “On Pre-university Education System”, revised under law no.8387, dated 30.07.1998, secures the right to education of minorities, in spite of nationality, language, religion, race, etc. The Decision of the Council of Ministers (DCM) no. 396, dated 22.08.1994, “For 8-years Education in Native Language of People of Minorities”, stipulates that persons belonging to minorities have the right to teach and/or be taught in their native languages in school units and appropriate public educational institutions.

603. Education of minorities in their native languages is carried out multiform complying with fundamental principles of general education in the Republic of Albania and on the basis of educational plans and programs of public schools of the country approved by the Ministry of Education and Science. The school units in minority native languages, like all other schools, are operating under the supervision and control of the Ministry of Education. In the school units, where the native languages of minorities are taught, pupils belonging to these minorities have the right to study and be taught in their native languages. Educational plans and programs, and also proportion of the use of native language and official one in teaching process of these units is determined under special acts of the Ministry of Education. The subjects of literature and native language of minorities are separate school subjects.

604. In residential centers, in cities and villages, where persons belonging to minorities are living, in the case when there is a sufficient number of minority pupils and when general criteria for the function of schooling units are met, they have the right, in the framework of compulsory education system, to learn optionally their native languages.

Opening or closing optional lessons at schools, where native language is taught optionally by pupils from minorities, is decided by the Prefect of the district after the receipt of the approval from the Minister of Education. An application, signed by the parents or custodians of children, is submitted to the director of the District Education Directorate for opening these classes. Following verifications and evaluations made related to fulfillment of general requirements for the function of schooling units, the Director of the Education Directorate presents the application with his comments to the Prefect of the district. For drawing the decision the Prefect is guided by requirements specified under legal acts taking into account the composition and concrete situation of the population in the respective residing settlements and especially the need to assure the continuous attendance of required number of pupils. This decision should be made public to parents and pupils at least one month before the beginning of the school year and must be approved by the Minister of Education.

605. Guidance no.12, dated 13.08.1996, “For the teaching in native language of persons belonging to minorities at 8-years schools in the cities of Saranda, Delvina and Gjirokastra” delivered pursuant to the Decision of the Council of Ministers no. 502, dated 5.08.1996, determines the criteria related to the operation of these units. Also, the Ministry of Education and Science has passed a number of by-law acts:

- The Decision of the Council of Ministers (DCM) no.78, dated 08.02.2006, “For establishing State Maturity and admissions to public higher schools”, prescribes the procedures of examinations for State Maturity also in areas of ethnic minorities.
- Education plan, which is a legal obligation to be applied by all public schools, has in its structure an optional subject, where teachers and directors of these schools, in cooperation (through parents' boards, etc.) with communities from where pupils are coming, decide for the subjects to be taught at school. This allows different minorities to include in the education plan the optional subject of their native language.
- It serves to this purpose the establishment of 10% free weekly classes or subjects, where teachers may give lessons in compliance with the interests of minorities.
- Pursuant to the law on Pre-university Education, pupils of national minorities, along with education in official language, study and are taught in their native languages, they learn their history and culture within the framework of plans and programs approved by the Ministry of Education and Science (MES).
- In the framework of the reform of “ALTERTEKST” (alternative textbooks), which has in its foundations the liberalization of working out textbooks, all textbooks of compulsory education are new. In the process of working out school textbooks and their approval, apart from pedagogical and technical requirements, social criteria have taken an important place. Also, in this framework, a Common Committee of Albanian and Greek experts is set up and operates for the review of the textbooks of history.

606. The national minority education includes: pre-school, 9-years level and general secondary education. Schools for pupils belonging to minorities operate in those areas where traditionally national minorities are living. Meanwhile, based on legislation for minority education, classes for minority children are opened at 9-years schools of Albanian pupils and in cities where Greek minorities live, they have the right to be educated in their own language.

607. School subjects which are taught in native languages in 9-years schools for national minorities are Literature and Native Language, apart from Albanian language, and History. Proportions of school subjects taught at 9-years schools for national minorities are: 40% in

Albanian language and 60% in minority native languages, while in primary schools this proportion is 90% in native languages and 10% in Albanian language. These proportions are not different for different minorities, they are unified. Thus, in I–IV classes 82% of subjects are taught in minority native languages and 18% of subjects in Albanian language. In classes from V to VIII, 63% of subjects are taught in minority native languages and 37% of subjects in Albanian language. Also, establishment of 9-years compulsory education has lead the programs of IX class be taught 60% in minority native languages and 40% in Albanian language.

608. At the same time, continuous attention is paid to the improvement of the quality of programs and textbooks in Greek and Macedonian languages, and also other textbooks in minority and Albanian languages published specifically for minority schools. In the new education plan of 9-years compulsory schools of minorities, in contrast to the existing education plan, lessons on native geography is introduced as a new subject, and also other optional subjects including native languages as well.

609. Teaching programs are worked out by the Curricular and Training Institute (CTI) in cooperation with teachers from schools of national minorities and are then approved by the Ministry of Education and Science (MES). The education program forecasts the teaching of native history in IX class and native geography in VIII class, in their respective languages. In the framework of preparing and improving the curricula, the MES has been in continuous dialogue with representatives of minorities with regard to reformation of curricula. Also, new education plans have been drafted in cooperation with specialist from schools of minorities. In addition, teaching programs have been worked out by working teams, where the presence of representatives from minorities has been obligatory.

Training of teachers

610. The Ministry of Education and Science (MES) and District Education Directorates, where schools of minorities are operating, give special attention to complement minority education institutions with teaching staff, to select carefully this personnel and to care for their methodological and scientific qualification and training. Regarding qualification of the teachers of native language, in the city of Gjirokastra, at the Middle Pedagogical School, there is a branch “Teachers for Minorities”, where teachers for Greek minority are prepared. Also, in the University of Gjirokastra there is a branch of Greek language. Since the year 1995, in the University of Tirana, at the Faculty of Foreign Languages, there is a branch of Greek language. Regarding the expansion of the education system to all its links and components, including also higher education, there will be reviewed and considered the possibility of motivating the children of other minorities, apart from the Greek minority, in order to raise their education level until the university level, especially for the branch of teachers. The training of the teaching staff, who teaches in national minority schools, has been completed.

Translation of textbooks into minority native languages

611. As far as textbooks in minority native languages is concerned, three categories of textbooks are used in minority schools: (a) textbooks worked out in minority languages and lessons are held in that language; (b) textbooks made in Albanian language and lessons are held in Albanian also; (c) textbooks worked out in Albanian and later they are translated into minority languages and lesson are taught in minority language, as well. In the framework for liberalization of textbooks, selection of textbooks in minority native languages is made on competitive base for prepared textbooks by relevant authors and selection is made by the Textbook Approval Commission in the MES. In cases when textbooks are not approved by relevant authors, textbooks in Albanian language are rendered into native minority languages.

Education of Roma children

612. In the National Strategy “On improvement of living conditions of Rom community”, passed in 2003, education of the children of this community has been specified as an important objective. Also, the National Action Plan for the Decade of Rom Inclusion 2010, approved under the DCM no. 1087, dated 28.10.2009, intends to improve provided educational conditions and inclusion of Rom community in the education system. In addition, the MES has established a working team, which has worked out the Action Plan of Reducing to Zero School Abandonments, in cooperation with civil societies. In its considerable portion, this plan affects directly the Roma minority due to the fact that abandonments from compulsory education amounting to 0.81% includes mostly this community and also other marginalized strata of the society.

613. The problematic which creates difficulties in undertaking initiatives related to Rom minority is the difficulty to define their number. Statistics obtained so far are approximate, notwithstanding various resources. For this purpose, both documents mentioned above intend to establish an electronic system for share of information between subordinate institutions of the MES, and also between the ministries in line.

614. The Decision of the Council of Ministers (DCM) no.997, dated 13.05.2009, for pupils of 9-years education coming from families or social strata in need and receive economic assistance, prices for purchasing textbooks of 9-years education are compensated as “a transfer to individuals” to the amount of 100%. This decision facilitates the pupils of the Roma community and those from social strata in need.

615. In the guidelines and directives of the MES, of Regional Education Directorates and Regional Offices, educational institutions are instructed to make use of all their devices for supporting and increasing awareness of Rom children and parents, and also parents in general, with regard to significance of schooling. The MES has facilitated the registration of Roma children at schools by avoiding the condition of necessary submission of certificates of birth prior to registration by means of Guidance no. 6, dated 29.03.2006, “For registration at schools of Roma pupils who haven’t got birth certificates”. Also, the Project of the Second Opportunity, for the pupils who have abandoned school, is under implementation, where the most part of these numbers comprise persons belonging to the Roma community.

Use of minority languages, toponyms and signs

616. The Albanian state considers the right to use the language of minorities in areas of their residences as a very important aspect of protection and promotion of their ethno-cultural values. Based on the Constitution (Article 14), Albanian is the official language in the Republic of Albania. Recognition of the right to use native language publicly or privately, in writing or in speaking, is guaranteed in practice. In areas where national minorities are living, documentations by central government organs and by administrative unit of local government are made and issued in Albanian language as a recognized official language, while verbal communication with local government authorities, according to their free choice, can be made freely in the native language of minorities, also for the fact that in most cases they are members belonging to these minorities. In addition, members of the minority use freely their own language in everyday life, with each other, in activities of their associations, in electoral campaigns, in different publications, and also in religious ceremonies.

617. Placement and use for the public of local traditional names, names of streets and other topographic signals are not governed by any separate law. However, for their placement and use there is no barrier de facto even when they are in the language of minorities. Local authorities of minority zones, when necessary, or when such thing is

required, are free to decide, surely taking in account restrictions derived due to the rules for managing planning development. All toponyms and names of villages, in areas resided by national minorities in Albania, maintain merely the names that minorities have traditionally used in their native languages.

IV. Implementation of conclusions and recommendations of the Committee (CCPR/CO/82/ALB)

Recommendation no. 9

618. The Albanian legal framework guarantees the protection of invulnerable rights (the right to initiate judicial proceedings, in order to allow the law court decide, without delay, for the legitimacy of a pre-trial detention) in all circumstances, including also the cases of emergencies, actually: The Constitution, in its Article 28, points 2,3,4, prescribes that: the person, whose liberty is deprived according to Article 27, paragraph 2, point ‘c’, should be brought, within 48 hours, before a judge, who decides for his detention or his release not later than 48 hours from the time of receipt of documentation for review; the detainee has the right to complain against the decision of the judge. He has the right to be tried within a reasonable time or be released and appear at proceedings on condition of payment a certain sum of money as determined by law; in all other cases, the person who is deprived of liberty injudiciously, he may, at any time, direct to the judge, who will decide within 48 hours for the legitimacy of such measure. The Code of Penal Procedures prescribes the deadlines within which a person can be detained, investigated and can exercise the right to appeal or recourse his sentence. Similarly, Chapter III of the Code of Penal Procedures envisages penal procedural deadlines.

619. Full information is given in the report related to comments on Article 9 of the Covenant. These rights cannot be restricted even at the time of emergencies, because in such cases the prosecutor, the defendant, private parties and the defense can reinstate the deadline by proving that they have had no possibility to respect the determined deadline because of chances or force majeure. If decision is drawn in absence, the defendant may require the reinstatement of deadline by filing a claim pretending that he has not been informed about the decision.

620. The request for reinstatement of deadline is submitted within ten days from the disappearance of the fact that constituted a change or force majeure, and from the date when the defendant has been actually informed of the act. The reinstatement of deadline is not allowed more than once, for each party and for each stage of proceedings. The organ, which is proceeding at the time of submission of the request, reviews and decides for the request. The decision which allows the reinstatement of deadline can be appealed only along with the final decision. The decision which refuses the reinstatement of deadline can be claimed at the appellate court. Regarding the effects of reinstatement of the deadline, the court which has decided for such reinstatement, on the request of the party and if it is possible, orders the repeat of actions in which the party had the right to participate. When the reinstatement of deadline is made by the Supreme Court, the repeat of actions is decided by the court which is competent for basic review (Article 147 of the Code of Penal Procedures).

621. Regarding the training with dignity of persons deprived of liberty; this aspect has been addressed in the comments to the Report, Articles 9 and 10 of the Pact. The legal framework related to above guarantees the rights of all persons deprived of liberty including their training with dignity and respect in compliance with standards specified in international acts where Albanian is a party.

Recommendation no. 10

622. Results of measures adopted by responsible structures for gender issues and by other governmental structures for elimination of gender stereotypes have had apparent impacts on the raise of consciousness of central and local power organs and of the public in general. For the problems of gender equality is discussed more and more everyday and media has treated it in the view of gender perspectives. As regards measurable indicators, related to elimination of gender stereotypes, the DPEO has not worked out any special strategy, however, concerning measurable indicators, it is in the final stage of formalization the list of gender harmonized indicators for monitoring the commitments of the Albanian Government on gender equality and human rights of women. Compilation of this list of indicators is based with reference to 8 main directions of National Strategy on Gender Equality and Family Violence, obligations emanated from implementation of CEDAW, of the law “On Gender Equality”, the law “On measures against violence in the family”, Millennium development Goals, standards of Council of Europe for gender equality, norms and standards of European Union and also sectoral policies/strategies like Social Protection Strategy (2007–2013) and National Strategy of Social Inclusion (2007–2013). This list includes indicators related to: inclusion of the concepts of gender equality in textbooks of the first and second education levels; number of teachers that undertake elementary and continuous courses of raising consciousness of gender and sexual education; proportion of males and females attending specialized professional education, in the second education level and higher according to specialization profile, proportion males and females in selected positions in local and central levels, in judiciary, in administrative and managerial public sectors, etc.

623. The Strategy on Gender Equality and Family Violence, approved under the DCM no. 913, dated 19.12.2007, intends, through programs, to undertaken concrete actions for elimination of gender differentiations in all fields. In the most sensitive areas of the country like Tirana, Shkodra, Malësi e Madhe, Korça, Elbasan, Berat, Fier etc., the Ministry of Education and Science, in cooperation with the UNICEF, has conducted training courses with teachers. Likewise, teachers on the other side, have organized meetings with parents for changing the schemes and models of social and cultural behavior of man and woman, of stereotypes, canons and traditional codes (primarily against blood feud), prejudices and customary practices.

624. There are a series of provisions in Albanian legislation dealing with violence in the family. The Penal Code addresses actually in its sections such issues like: Penal offences against freedom of the person; Penal offences against freedom and dignity; Penal offences against children, marriage and family; Sexual crimes. The Penal Code prescribes aggravating circumstances when the victim is a juvenile or a pregnant woman and also consequences inflicted by the penal offence.

625. Continuous amendments to the Penal Code have enshrined not only specific provisions for protection of children and females against maltreatment, sexual abuses, trafficking, prostitution, pornography, indecent acts, but also continuous legal development have highly increased the severity of punishments imposed against offenders of penal acts. Article 15 of the Penal Code prescribe the obligation of the court to call a psychologist or a social worker who will give his/her opinions after examining the state of the child, his living conditions and the place which is more suitable for the child to live in. The court takes into consideration also the opinions and feelings of the child.

626. For the cases of violence in the family, the Family Code prescribes the taking of urgent measures by the court, according to the claims of one of the spouses when the other spouse does not fulfill properly his/her duties and endangers family interests. Article 62, “Measures against violence”, specifies that “the spouse against whom violence is used has

the right to address the law court with the request of imposing expulsion from the house of the spouse who is using violence”.

627. Law no. 9669, dated, 18.12.2006, “On measures against violence in family relations”, revised under law no. 9914, dated 12.5.2008, intends to prevent and reduce violence in the family, in all its forms, by appropriate legal measures as well as to guarantee the protection, by undertaking appropriate legal actions, of the members of the family, who are victims of such violence, paying special attention to children, old age people and disabled persons”. Complying with this law, “violence is considered any action or inaction of a person against another person, which attacks physical, moral, psychological, sexual, social, economic integrity”. Several by-law acts have been passed which have to do with establishment of responsible structures dealing with the issues of family violence.

628. Among by-law acts adopted so far we can mention: (a) The Order by the Prime Minister no. 202, dated 05.12.2007, “For setting up in the MLSAEO the structure for measures against violence in the family”. In this ministry the Sector of measures against violence in the family is established already, and plays coordinating and monitoring role as determined by law. (b) The Order no.379, dated 3.3.2008, “On measures adopted by the State Police for preventing and reducing violence in the family”. (c) The Order by the Minister of Health no. 13, dated 23.01.2008, “For provision of persons violated in family relations with respective medical report”. (d) The Order by the Minister of Health no. 14, dated 23.01.2008, “For recording the cases of violence in the family in the register and individual card for the victims of violence in the family”. (e) The Order by the Minister of Health no.15, dated 24.01.2008, “For medical treatment in public health institutions of persons violated in family relations”, which intends to provide medical and psychological service to persons violated in the family. (f) The Order no. 981, dated 31.10.2008, “On measures adopted by the State Police for preventing and reducing violence in the family, treatment of victims from violence in family relations”. (g) In November 2008, the Agreement of Cooperation between responsible ministries for enforcement of law no. 9669, dated 18.12.2006, “On measures against violence in family relations”, revised, was adopted.

629. For integration of victims of violence in daily life, pursuant to Law no. 7995, dated 20.09.1995, “For encouraging employment”, and the DCM no. 632, dated 18.09.2003, “On the program for encouraging employment of unemployed female job-seekers”, employers, who employ females, are financially supported, especially for such categories like Roma females, females over 35 years of age, divorced women and women with social problems, violated and disabled females. Likewise, Order no. 782, dated 04.04.2006, by the Minister of Labour and Social Affairs “On tariffs of Occupational Formation System”, specifies that registration fees for the categories of “Roma community, violated and trafficked women and girls” are free for professions of occupational formation courses provided by the Occupational Formation Public Center. These courses intend to qualify and increase professional abilities of above-mentioned groups creating thus more opportunities in labour market.

630. The Ministry of Education and Science, under its Circular no. 8373, dated, 26.11.2006, “For taking measures for improving educational work at schools and preventing violence”, has settled appropriate measures against violence at schools and in the family, especially where women and girls are its victims. Pursuant to this Circular and to recommendations of the study on “Violence against children in Albania”, conducted by UNICEF, an action plan was worked out in national level, as it was, for instance, the launch of national action in education system for saying “Stop violence against children at schools!”.

Structures in support of victims of family violence

631. Establishment of the national public shelter for women and their families, victims of family violence: Under the support of PNUD, in the framework of the Program ONE UN “On gender equality in Albania”, the establishment of the first national Shelter for victims of violence in the family is funded.

632. A structure, in local level, for referring the cases of violence in the family. Under the support of PNUD, in compliance with law no. 9669, dated 18.12.2006, “On measures against violence in the family”, efforts are being made for establishment of an inter-institutional structure, in local level, in order to respond to a specific problem for treatment of different needs of the victims of family violence.

Campaigns against violence in the family

633. In the framework of implementation of law “On measures against violence in the family” all over the country, and complying with the Campaign of the Council of Europe against violence in the family, the following activities were carried out in 2008:

(a) Round-tables for getting aware of and applying the law “On measures against violence in family relations”, (January–July 2008), with participation of representatives of local government authorities, Directorates of Education, Employment, Social Service, local media, NPO, Police of regions, etc. who are also responsible actors for enforcement of law no. 9669 “On measures against violence in family relations” and the NSGE&FV;

(b) The National Conference “For an equal family and society and without violence”, organized by MLSAEO and supported by PNUD on 9 December, 2008. The conference aimed to convene a round table of the highest level of governmental agencies intending the strengthening of cooperation between them in prevention and combat against violence based on gender;

(c) 16 days against violence in the family, included activities with students and pedagogues from the Faculty of Social Sciences and the MLSAEO. A handball championship was organized between middle schools in Tirana on 3 December 2008 for the purpose of giving the message that sportive activities are one of the effective means for education of the young generation with convictions and rules of good behavior and also for bringing to an end violence in the family;

(d) Activities of NPO-s in corporation with MLSAEO in the framework of the project “Violence in the family – Not only a family issue!”. A number of activities for increasing awareness of pupils from different schools in the country, who, in the scope of their activities they have the protection of the rights of women and children intending to increase the level of consciousness of school pupils against violence in the family and consequences in their life;

(e) Television Spot, December 2008, on the Albanian Public Television. During all the days of the campaign, from 25 November to 10 December, 2008, the spot, prepared by UNDP and the MLSAEO, associated with messages against violence in the family was broadcasted several times. In November 2009, Directorate of Equal Opportunity Policies produced and distributed leaflets prepared under the support of the OSCE, “Protect yourself against violence in the family”, to all Regional Directorates for Employment and Social Services.

634. Likewise, in 2009, there were organized: (a) Meetings with the students of the Faculty of Sociology in order to increase awareness of this group of society to issues emerged from violence in family relations, which seriously preoccupy the society and the Albanian state, being convinced that the increase of awareness and consciousness of people is one of effective forms of work and common efforts for fighting against violence; (b)

Organizing 16 days of activities against violence towards women and especially violence in the family: The Directorate of Equal Opportunity Policies, in the framework of the international campaign of 16 days activities against violence on women and especially violence in the family, 25 November–10 December, 2009, organized a series of activities.

635. Among the measures undertaken in the framework of institutional strengthening of specific capacities in respond to the needs of victims of family violence, there can be mentioned also the training courses with police officers, judges, prosecutors and other specialists in the framework of the fight against violence in the family.

636. Additional information on legal and administrative measures adopted by the state for compilation and implementation of relevant policies against violence in the family is given in the comments to this report, Articles 7, 24, 26 of the Covenant.

Recommendation no. 11

637. Statistical data show that political and public decision-making leading posts in Albania are dominated mainly by men, despite the fact that educational level of women is the same, and often even higher than educational level of men. Application of the quota of 30%, sanctioned in the Election Code, in the parliamentary election in 2009 resulted in duplication of the number of deputy women. From 10 that were in the legislature in 2005–2009, currently women keep 23 seats from the total of 140 seats in the Parliament, or 16.4%. The Speaker of the Parliament is a woman too. The Government comprises 14 ministers of which 1 is a woman, or 17.14%, while there are 35 Vice-Ministers, 9 are women or 25.7%. In prefectoral level, from 12 prefects only 1 is a woman. Referring to local election in 2007(without the application of the quota of 35%), from 65 elected mayors, only 1 was a woman, or 1.5%. Municipal Councils comprise 9 chairwomen or 16%, while members of the Municipal Councils are 157 women from the total of 1,178, or 13.3%. From 11 mini-municipalities of Tirana, 3 are women or 27.3%. There are 6 chairwomen in communes from the total of 309 or 1.9%. In county level, there is no woman from 12 leading posts. The Head of the Supreme Court and the position of the Prosecutor General are women. There are also other central institutions led by women.

638. In public administration, the presence of women is more encouraging taking into account the fact that they comprise 43% of the total number of employees, while in managerial posts (the groups of law-makers, higher officials and directors) females comprise 27%. In universities, the academic staff comprises 43.6% females against 56.4% males. Meanwhile, women with scientific degrees comprised 38% in 2008. There is no woman from 10 university rectors, while from 10 vice-rectors, 3 are women or 23%. There are 29 deans in faculties, of which 11 are women, or respectively 27% women and 72% men.

Increasing the role of women in political and public decision-making processes

639. The Albanian legislation guarantees the participation of women in all levels of making policies, strategies and programs. Actually, it might be said that the models of “a female politician” or “a female leader” are created in all levels of central and local powers. Creation of equal opportunities for participation in politics has been always considered as a portion of human rights and expression of the level of democracy. Also, increasing participation of women in political and public life in the country and in the process of making decisions has enabled better reflection of the interests of women in initiatives adopted for protection of their rights and freedoms. The government is always making all efforts to strengthen the position of women and increase their participation in political and public areas of decision-making. In the Strategy of Gender Equality, 2007–2010, (approved under the DCM no. 913, dated 19.12.2007) one of the direction is the increase of gender balance in decision-making process. Action plans specify concrete activities for increasing

the participation of women and girls in political and public decision-making, by encouraging their values and increasing the awareness and consciousness of the public opinion and of media.

640. The Election Code and law no. 9970, dated 24.07.2008, “On gender equality in society”, for the first time, prescribes the adoption of special temporary measures like that of the quota of not less than 30%, for both genders, in political and public decision-making areas. The Election Code, Article 47, point 5, specifies that “for each election zone at least 30% of multi-nominal list and/or one from three first names of multi-nominal list should belong to each gender. For the election of local government organs, one from each three names in the list should belong to each gender”. In its Article 175 the Election Code lays down sanctions imposed in case of violation of gender equality.

641. Generally, in certain sectors of decision-making process, participation of women in political and public life of the country is increasingly becoming greater. The governmental device for gender equality (MLSAEO) in cooperation with international organizations like PNUD, OSCE and lastly in the framework of the three-years Program ONE UN, is trying hard to increase consciousness related to participation of women in political and public life of the country.

Awareness raising campaigns

642. Many efforts are made by the civil society, political woman forums, and governmental mechanism for gender equality, under the support of international organization operating in Albania, for increasing the capacities of potential and selected women. In this aspect, a great number of training sessions have been carried out related to gender issues, communication, arrangement of campaigns, management of situations, etc.

643. In order to increase the consciousness of the public opinion of the positive values that brings forth in democratization and development of the society equal participation of women in politics and in making decisions, several emission and spots in electronic media, writings, analysis in written media, posters, leaflets, etc. have been produced with different themes, where the woman with her concerns has been the core of issues.

644. One of the main directions of the Program “ONE UN” of the United Nations (2008–2010) is participation of woman in decision-making process. For this purpose, the MLSAEO, in collaboration with UNIFEM, have organized advocacy campaigns at the local level in 2009, national awareness campaigns associated with slogans and various activities, training courses with women and young girls about gender stereotypes and gender issues, debates, competitions, spots in local media and dissemination of leaflets to local authorities on the importance of women participation in public life. During 2009, 9 debates/talks were held in televisions and four television spots were produced by NPOs.

645. Additional information on legal and administrative measures adopted by the State for compilation and implementation of positive policies for ensuring the efficient participation of women in political and public life and also in other sectors of the state, is given in the Report for Articles 2, 3 and 26 of the Covenant.

Recommendation no. 12

646. With regard to the concerns put forth by the Committee for the phenomenon of Blood Feud and the crimes under custom and canon laws we would like to clarify that for elimination of these crimes emerging in the form of Blood avenge or Vengeance, associated with the act of self-confinement in houses of family members, the state has undertaken concrete actions for the fight against this phenomenon. For this purpose, several amendments are made to the Penal Code. Actually, in law no. 8733, dated 24.01.2001, after Article 83 of the Penal Code, “serious threat for blood avenge or vengeance”, Article 83/a

is added, which prescribes that : “Serious threats for blood avenge or vengeance made to a person or to a minor to be self-confined is punished by fines or up to three years imprisonment. Following Article 83/a, another article 83/b is added which reads: “Instigation for blood avenge: Instigating others for blood avenge or vengeance, when it doesn’t constitute any other penal offence, is sentenced to three years imprisonment or by fines from one hundred thousands ALL up to one million ALL”.

647. As a result of severe measures taken for elimination of crimes committed according to custom and cannon laws, murders for blood avenge or vengeances have been reduced. Based on statistical data, crimes of blood avenge or of vengeance motives appear to be as follows:

- In 2005, 32 crimes were committed, of which 15 murders, 14 criminal attempts and 3 injuries
- In 2006, 30 crimes were committed, of which 10 murders, 16 criminal attempts and 4 injuries
- In 2007, 23 crimes were committed, of which 9 murders, 11 criminal attempts and 3 injuries
- In 2008, 6 crimes were committed, of which 1 murder and 5 criminal attempts

648. The activity of the police for prevention and investigation of murders of blood feuds has consisted in: (a) establishing special structures for the fight against blood feud, especially in areas when this phenomenon is widely spread like in the districts of Shkodra, Lezha, Kukes, Diber, etc.; (b) selecting the staff and their continuous training on specific issues related to prevention and reveal of murders in general and those of blood avenge or vengeance in particular; (c) strengthening the cooperation with prosecution office for investigating quickly these penal offences and bring the offenders before law court; (d) undertaking all-round actions for the seizure of criminal offenders in general and those for blood avenge in particular as a very important means for prevention of blood feud; (e) arrangement of activities for the seizure of wanted persons convicted of commitment of murders for the motive of blood avenge, and these have led to reduce evidently blood feud murders; (f) strengthening and institutionalizing cooperation between local government organs and NGOs for settling conflicts by reconciliation; (g) strengthening cooperation between educational directorates and schools for education of the young generation with the spirit of tolerance and prevention of crimes; (h) supporting and cooperating with commission of blood feud reconciliation, always in compliance with law, for the purpose of intermediating the solution by conciliation of conflicts of blood feuds.

649. Concerning the actions of the police for securing the children involved in blood feud conflicts go to school, under the project of the MLSAEO, “Dissemination of Social Services”, funded by the World Bank, a Social Center called “Childhood without Blood-feud” was established in the town of Polican on 14 October 2006. The services under this project are provided by the Municipality of Polican in collaboration with the association “For schooling and social education of self-confined children and children in need”. These children are sheltered in the former hospital building of the town and are served by a staff contracted by NPOs.

650. Law no. 9389, dated 4.05.2005, “For establishing and functioning of the Coordinative Council in the fight against Blood feud”, intends to organize and coordinate better the actions and the combat of state organs and of other social, scientific, religious, etc. organizations and also to determine a long-term strategy for prevention and elimination of the phenomenon of blood feud in Albania. Based on this law, a Coordinative Council is established headed by the President of the Republic, with the participation of Vice-Premier,

the Minister of Interior, the Minister of Justice, the Minister of Education and Science, the Prosecutor General, Vice-Chairman of the Higher Council of Justice and the Ombudsman.

Recommendation no. 13

651. Concerning Recommendation no. 13 of the Human Rights Committee related to adoption of measures for elimination of all cases of maltreatment by police officers, securing a full and impartial investigation for all cases of tortures and maltreatments, and also for the compensation of victims, are widely discussed under the comments of this report, mainly for Articles 7, 9, and 10 of the Covenant.

Recommendation no. 14

652. Currently, deliberate termination of pregnancy is governed by law. During the last decade, the number of abortions reported to the Ministry of Health by public organizations is becoming increasingly lower. In 2006, the proportion of abortions and births was 1:4, 1. It should be pointed out that initially figures on the number of reported abortions were received from public health institutions and there was no figure of abortions carried out in private clinics until 2006. The Ministry of Health, in collaboration with INSTAT and the Public Health Institute, in July 2006, began the work for collection of information on abortions even from private clinics that offer such service. Presently, each private clinic, in its requirements for getting the license has the obligation to record and report information on abortions carried out in the private clinic. In addition, the personal abortion card is revised and is actually used by all public and private institutions in Albania. Since 2008, the total number of abortions carried out in Albania will also include abortions carried out by private health organizations.

653. For improving the quality of services of health care and for providing secure abortion, the Ministry of health worked out a special strategy, which has these objectives:

- Taking care of a secure abortion for each woman in compliance with her social and individual needs
- Improving the advisory work and provision of accurate information which help women make their choice
- Using recommended and modern medical technologies, especially manual aspiration with vacuum and medical abortion
- Applying contemporary standards by putting into practice new protocols for prevention of infections, for management of pains, complications and other clinic elements of the care
- Extending the services of the family planning after abortion, including contraception of emergency to help women prevent undesired pregnancy, to practice the space between births and avoid repeated abortions
- Integration with other reproductive health services such as depilation and diagnosis of sexually transmitted diseases, consultancy on violence, special services for teenagers, etc.

654. Concerning the adoption of measures for working out and following up with the policies of family planning, detailed information is provided with the comments to the report respectively Article 23 of the Covenant.

Recommendation no. 15

655. The Republic of Albania, in the framework of implementation of provisions of the Convention of the Council of Europe, "On the measures against the trafficking of human

beings”, ratified under law no. 9642, dated 20.11.2006, should provide all means to protect and encourage the rights of victims, without any form of discrimination on the ground of gender, race, colour, language, religion, political convictions and others, national or social origin, affiliation to a national minority, property, birth or any other status.

656. The concerns raised by the Committee on Human Rights with regard to lack of effective mechanisms for protection of witnesses, it has been pointed out that pursuant to Article 4 of the law no. 9205, dated 15.03.2004, “On protection of witnesses and collaborators of justice”, since October 2004, the Directorate for Protection of Witnesses and Special Persons is established and is operating, within the Crime Investigation Department at the General Directorate of the State Police. Pursuant to provisions of law no. 9205, dated 15.03.2004, “On Protection of Witnesses and Collaborators of Justice”, all by-law acts, recommended under this law, have been prepared and approved, based on which this directorate is operating and carrying out its activities. Pursuant to Articles 13 and 15 of above-mentioned law, only the Prosecutor General is entitled to propose the adoption of special measures for protection of witnesses, collaborators of justice, their relatives and other persons linked with them.

Protection of witnesses

657. The Directorate for Protection of Witnesses, based on proposals made by the Prosecutor General, has initiated the application of special protective measures since April 2005. Over the period from 03.04.2005 to 24.12.2008 the Directorate has applied special protective measures for a considerable number of programs and for a considerable number of persons such as: witnesses of justice, collaborators of justice, their relatives and other persons linked with them.

658. Special protective measures are applied to persons that, in the capacity of witnesses, collaborators of justice, inform or give facts and evidences which constitute final proofs in a penal process, for penal offences that are classified as “high crimes” and due to this information or evidences these persons are in actual, concrete and serious danger for their lives.

659. Measures which have been applied or are being adopted to persons under protection include: (a) change of identity; (b) change of residence; (c) special protective measures, physical and technical ones, in the place where the protective person is located, and also during his movements, including those for fulfilling obligations towards the organs of justice; (d) special protection and treatment in cases when, due to commitment of a penal offence, the collaborator of justice must be detained or imprisoned; (e) provision of financial support for the period between two employments; (e) professional requalification; (f) provision of advices and special legal assistance.

660. The Directorate for Protection of Witnesses provide the persons under protection with these conditions: (a) attending school, relevant cycle, at the residence where they are accommodated; (b) securing medical examination; (c) legal protection for civil issues which has not to do with the fact for which the person is under protection (the case of allocation of custodianship to witnesses of justice); (d) provision of psychological assistance because of the mental stress they have experienced.

661. In the framework of international cooperation for protection of witnesses, pursuant to Article 22 of the law (the change of residence outside the territory of the Republic of Albania), the Directorate for Protection of Witnesses, during the period from 2005 to 2008, has concluded three bilateral international agreements under which reallocation of protected persons outside the territory of the Republic of Albania has been made possible because of the high danger threatening the life of these persons.

662. Concerning the measures undertaken for the fight against the trafficking of human beings and protection of the victims of trafficking, detailed information is given in the comments to this report for Article 7 of the CCPR. Actually, paragraphs 166–17, and also in the third periodic Report related to the Convention against all forms of discriminations against women (CEDAW/C/ALB/3).

Recommendation no. 16

663. Regarding the measures adopted for implementation of recommendation no. 16 of the Human Rights Committee related to improvement of conditions of persons kept in pre-trial detention, compensation for detention/imprisonment, pre-trial detention or unjust punishment, are treated in details in the relevant comments to this Report for Articles 7, 9 and 10 of the Covenant.

Recommendation no. 17

664. With reference to the measures undertaken for the registration process of migrated nationals within the country, for the purpose of facilitating their full access to social services, are addressed in the comments to the Report, actually Article 12 of the Covenant.

Recommendation no. 18

665. Referring to this recommendation of the Committee, related to measures adopted by Albania for strengthening independence, capacity and efficiency of judiciary, for combating the problems of corruption and the lack of access to legal assistance, interference in its independence, detailed information is provided in the comments to this Report for Article 14 of the International Covenant on Civil and Political Rights.

Recommendation no. 22

666. Regarding institutional measures for improving the rights of national, ethnic and linguistic minorities, for ensuring effective protective means against discrimination and for participation of minorities in public life, etc. are widely treated in the comments to the second report on Articles 2, 3 and 27 of the Covenant.
