

# TOOLKIT

## ON MONITORING HATE SPEECH AND GENDER-BASED DISCRIMINATION IN ALBANIA



Organization for Security and  
Co-operation in Europe  
Presence in Albania

# **TOOLKIT**

## **ON MONITORING HATE SPEECH AND GENDER-BASED DISCRIMINATION IN ALBANIA**

Produced by the Organization for Security and Co-operation in Europe

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# TOOLKIT PURPOSE AND OBJECTIVES

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**T**he development and publication of this toolkit was funded by the OSCE Presence in Albania (hereinafter the “Presence”) in the framework of the project “Promoting and enhancing Human Rights Protection in Albania”- phase IV. The development of the toolkit is the result of the well-established collaboration of the Presence with the Albanian National Human Rights Institutions (NHRIs), and it aims at enhancing monitoring capacities and strengthening the institutional framework for the promotion and protection of human rights in Albania.

In this context, the Presence has compiled a need assessment on National Human Rights Institutions (NHRIs) in Albania, respectively the People’s Advocate (PA) and the Commissioner for Protection from Discrimination (CPD) in order to identify concrete needs and challenges as well as best practices employed by NHRIs in monitoring, collecting data, and reporting of human rights and discrimination issues. The report produced served as a foundation in developing this toolkit in the field of anti-discrimination for the staff of NHRIs

The toolkit has benefited from the expertise of consultants specialized in Hate Speech and Discrimination against women, hired by the Presence for this scope, as well as by the work of the Rule of Law and Human Rights Department. The purpose of the toolkit is to provide practical tools, resources and targeted methodology to the National Human Rights Institutions in Albania to enhance their monitoring capacities in the field of anti-discrimination. The specific focus is on hate speech and Gender-based discrimination, issues that emerged as particularly important for the work of NHRIs by the results of the needs-assessment.

In particular, the toolkit will:

- Introduce a general understanding of hate speech and gender based discrimination phenomena;
- Describe methodological approaches of monitoring and documentation;
- Provide an overview of international standards on hate speech and gender based discrimination;
- Provide practical tools with specific examples of data collection for the Albanian NHRIs’ staff which would facilitate their work on monitoring and reporting of gender- based discrimination and hate speech.



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# TERMS OF REFERENCE

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**S**ome of the terms below describe various aspects of domestic and gender-based violence. These definitions provide some of the most common terms that may arise when monitoring. This is not an exclusive list. Note that often the definitions refer to specific language found in international laws or in common discourse among professionals who work in this field.

**Abuse** - is any act or omission of one person against another, resulting in violation of the physical, moral, psychological, sexual, social and economic integrity<sup>1</sup>.

**Defendant** - the person accused and/or perpetrator in either a civil or criminal case.

**Discrimination against Women:** Any distinction, exclusion or restriction made on the basis of sex and gender that has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, and on a basis of equality between women and men, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

**Discriminatory laws against women:** Laws that fail to take necessary legislative measures to ensure the full realization of women's rights and institutionalize second-class status for women and girls with regard to nationality and citizenship, health, education, marital rights, employment rights, parental rights, inheritance and property rights.

**Structural discrimination:** is a form of discrimination that refers to rules, norms, practices, patterns of attitudes and behaviours in institutions and other social structures that, intentionally or unintentionally, represent obstacles to groups or individuals in achieving the same rights and opportunities as others, which contribute to less favourable results to them, compared to others.

**Indirect discrimination:** is a form of discrimination that occurs when a provision, criterion or practice, apparently neutral, would put a person or group of persons in less favourable conditions, in relation to a person or another group of persons, when that provision, criterion or practice is not objectively justified by a legitimate aim, or the means of achieving that aim are either not appropriate or not essential or proportionate to the condition that has caused it.

**Multiple discrimination:** Any combination of forms of discrimination against persons on the grounds of sex, racial or ethnic origin, religion or belief, disability, age, sexual orientation, gender identity or other characteristics, and to discrimination suffered by those who have, or who are perceived to have, those characteristics.

**Domestic violence** - any act of violence that results in, or is likely to result in, physical,

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<sup>1</sup> Law No. 9669, "On measures against violence in family relations", 18.12.2006 Available at <http://www.sherbimisocial.gov.al/wp-content/uploads/2016/12/30437.pdf>

sexual, or psychological harm, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

**Gender** - shall mean the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men.<sup>2</sup>

**Gender** - based violence against women - shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately.<sup>3</sup>

**Hate speech** - is any form of public expression, through any means, of the promotion, incitement of denigration, hatred or vilification, any harassment, insult, negative stereotyping, stigmatization or threat against a person or group of persons, as well as any justification of all forms of expression on the basis of a non-exhaustive list of grounds.

**Hotline/Helpline** - a free 24 hours/7 day a week phone number answered by counsellors and advocates to assist victims of domestic violence. Assistance may include psychological and emotional support, shelter, legal services and/or safety planning.

**Protection order** - is an order issued by a court providing protective measures for victims.

**Emergency protection order** – a temporary court order valid for a specified period.

**Recidivism** - a return to offending behaviour after a period of abstinence or being offence-free. The tendency to relapse into a certain mode of behaviour.

**Sexual assault** - sexual acts, which may or may not include penetration that are conducted against someone's will (without consent) by force or threat of force or in situations in which an individual is unable to give consent.

**Sexual harassment** - unwanted and unwelcome sexual behaviour that interferes with an individual's life, work or education. This behaviour can include verbal or physical acts as well as acts that create a hostile environment.

**Sexual violence** - includes forcing, coercing, or attempting to coerce any sexual contact or behaviour without consent. Sexual violence includes, but is not limited to marital rape, attacks on sexual parts of the body, forcing sex after physical violence has occurred, or treating one in a sexually demeaning manner. Sexual violence can be committed by intimate partners and family members within the context of marriage, dating relationships and family.

**Stalking** - when one person pursues, follows or harasses another person against her/his wishes. Examples include, but are not limited to: repeated, unwanted phone

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2 Council of Europe Convention on preventing and combating violence against women and domestic violence. Istanbul, 11.V.2011. Available at <https://rm.coe.int/1680>

3 Ibid.

calls, following a victim, sending unwanted gifts, destroying or vandalizing a victim's property, repeated threats and/or tracking a victim's on-line activity.

**Survivor** - for purposes of this manual, the term is used to describe the individual who was assaulted. This term is largely used by advocacy groups to acknowledge the strength of an individual who endures trauma such as a sexual assault. Not every individual refers to herself or himself as a survivor and when interviewing survivors, reporters are encouraged to use the term preferred by the individual.

**Victim** - the person who has been subject to violence, resulting in violation of the physical, moral, psychological, sexual, social and economic integrity. This word is most commonly used in the criminal justice system and by the public.

**Violence against women** - is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender based-violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life<sup>4</sup>.

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4 Ibid.



# **PART 1:**

## **MONITORING HATE SPEECH IN ALBANIA**

# INTRODUCTION

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**H**ate speech is a dangerous phenomenon that has a negative impact on an individual, community, and societal level. Grounded in prejudice, bias and hostility against a certain group of people, hate speech is an attack on one's core identity. Its aim is to spread and incite hatred or violence against individuals or community members based on certain characteristics, such as ethnic origin, nationality, language, religion, sex, gender identity, sexual orientation, disability or age. Against this background, hate speech is incompatible with the fundamental values of a democratic society because it promotes intolerance, hatred or violence.

"Hate speech is in itself an attack on tolerance, inclusion, diversity and the very essence of our human rights norms and principles. More broadly, hate speech undermines social cohesion, erodes shared values and can lay the foundation for violence, undermining peace, stability, sustainable development and the fulfilment of human rights for all." - United Nations (UN) Secretary General António Guterres.<sup>5</sup>

While hate speech is not protected by freedom of expression and can therefore be prevented and the perpetrators punished, the difference between what can and cannot be considered hate speech is thin. The consequences of widespread hate speech, however, are often underestimated and overlooked.

In recent years, global and regional international organizations, such as UN and the Council of Europe<sup>6</sup> for example, detected "alarming trends of growing xenophobia, racism and intolerance, violent misogyny, anti-Semitism and anti-Muslim hatred around the world."<sup>7</sup> Understanding the scope of the problem, current trends and channels of its distribution is necessary to develop an effective response strategy.

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- 5 Detailed Guidance on Implementation of the UN Strategy and Plan of Action for United Nations Field Presences. p.3 Available at [https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20PoA%20on%20Hate%20Speech\\_Guidance%20on%20Addressing%20in%20field.pdf](https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20PoA%20on%20Hate%20Speech_Guidance%20on%20Addressing%20in%20field.pdf)
  - 6 Annual report on ECRI's activities covering the period from 1 January to 31 December 2020. Europe Commission against Racism and Intolerance, Council of Europe. Strasbourg, March 2021. p.16 Available at <https://rm.coe.int/annual-report-on-ecri-s-activities-for-2020/1680a1cd59>
  - 7 United Nations Strategy and Plan of Action on Hate Speech: Background. Available at <https://www.un.org/en/genocideprevention/hate-speech-strategy.shtml>

# UNDERSTANDING HATE SPEECH: THEORETICAL BACKGROUND

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**H**ate speech is a form of verbal aggression rooted in fear, anxiety and/or frustration of the unknown, and unfamiliar.<sup>8</sup> Despite the direct target often being an individual, hate speech is a verbal attack on a group in its essence, caused by a sense of imaginary threat to own group identity.<sup>9</sup> A certain level of understanding of the nature of hate speech, including signs and manifestations, as well as of legal and policy framework to counter it is necessary for adequate recognition and effective monitoring.

## Defining hate speech

**O**SCCE has no universally agreed definition of hate speech. However, there is a general description of what constitutes hate speech in the Organization's working documents. According to the resource guide for NGOs in the OSCE region, "forms of expression that are motivated by, demonstrate or encourage hostility towards a group — or a person because of their membership of that group — are commonly referred to as "hate speech"."<sup>10</sup>

More comprehensively, United Nations defines hate speech as the following: "Any kind of communication in speech, writing or behavior that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor. This is often rooted in, and generates, intolerance and hatred, and in certain contexts can be demeaning and divisive."<sup>11</sup>

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8 Jan Zhan, Jun Ren, Jin Fan, and Jing Luo. Distinctive effects of fear and sadness induction on anger and aggressive behavior. Distinctive effects of fear and sadness induction on anger and aggressive behavior. *Frontiers in Psychology*. 6:725. <https://www.frontiersin.org/articles/10.3389/fpsyg.2015.00725/pdf>. See also: Inga D. Neumann, Alexa H. Veenema and Daniela I. Beiderbeck. Aggression and Anxiety: Social Context and Neurobiological Links. *Frontiers in Behavioral Neuroscience*. Vol.4. 2010. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2854527/pdf/fnbeh-04-00012.pdf>. See also: Arnold Buss. Physical aggression in relation to different frustrations. *The Journal of Abnormal and Social Psychology*. 67 (1). 1963. p. 1–7; Leonard Berkowitz. Frustration-aggression hypothesis: Examination and reformulation. *Psychological Bulletin*. 106 (1). 1989. pp. 59–73. See also: Crystal Raypole. Unpacking Xenophobia, or the Fear of Outsiders. *Healthline*. July 26, 2021. <https://www.healthline.com/health/xenophobia>

9 Francis Fukuyama. *Identity: The Demand for Dignity and the Politics of Resentment*. New York: Farrar, Straus and Giroux, 2018. pp.7–28.

10 Preventing and responding to hate crimes: A resource guide for NGOs in the OSCE region.p.17 <https://www.osce.org/files/f/documents/8/a/39821.pdf>

11 Detailed Guidance... p.10

The Council of Europe is the first and only international intergovernmental organization to have adopted an official definition of hate speech. According to its recommendations, “the term “hate speech” shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin”.<sup>12</sup> Notably, this definition includes only ethnic and religious aspects: for example, the gender aspect completely falls outside its scope.

According to the General Policy Recommendation #15 on Combating Hate Speech (2015) of the European Commission against Racism and Intolerance, “Hate speech [...] entails the use of one or more particular forms of expression – namely, the advocacy, promotion or incitement of the denigration, hatred or vilification of a person or group of persons, as well any harassment, insult, negative stereotyping, stigmatization or threat of such person or persons and any justification of all these forms of expression – that is based on a non-exhaustive list of personal characteristics or status that includes “race”, color, language, religion or belief, nationality or national or ethnic origin, as well as descent, age, disability, sex, gender, gender identity and sexual orientation”.<sup>13</sup>

For the purpose of this toolkit, the definition contained in the Albanian legislation is most relevant. According to **Article 3.8 of the Albanian Law on Protection from Discrimination**<sup>14</sup>, hate speech is:

“Any form of public expression, through any means, of the promotion, incitement of denigration, hatred or vilification, any harassment, insult, negative stereotyping, stigmatization or threat against a person or group of persons, as well as any justification of all forms of expression on the basis of a non-exhaustive list of grounds set forth in Article 1 of this law.”

The grounds listed in the Law are the following:

“race, ethnicity, colour, language, citizenship, political, religious or philosophical beliefs, economic, education or social situation, gender, gender identity, sexual orientation, sex characteristics, living with HIV/AIDS, pregnancy, parentage belonging, parental responsibility, age, family or marital condition, civil status, residence, health status, genetic predispositions, appearance, disability, affiliation with a particular group or any other ground.”<sup>15</sup>

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12 Recommendation No. R (97) 20 of the Committee of Ministers to member states on “hate speech”. Appendix. p.107. Available at <https://rm.coe.int/1680505d5b>

13 European Commission against Racism and Intolerance General Policy Recommendation N°15 on Combating Hate Speech, p.16. Available at <https://rm.coe.int/ecri-general-policy-recommendation-no-15-on-combating-hate-speech/16808b5b01>

14 Republic of Albania. The Assembly. Law on Protection from Discrimination No 10 221 dated 4.2.2010. Amended by law No 124/2020. p. 3. Available at <https://rm.coe.int/lmd-updated-version-english-translation/1680a0c1fc>

15 Ibid. p.1.

Noteworthy, the question of whether a public statement can only be regarded as hate speech, or personal too, is debatable. According to some definitions, the term is referring to the public sphere ("hate speech" is any form of public expression") and thus would exclude the private sphere.<sup>16</sup> Supporters of this position proceed from the understanding of hate speech as a socially dangerous phenomenon; private communication, within the framework of this logic, does not lead to socially significant consequences. Their opponents argue that the essence for understanding hate speech is not the channel of dissemination, not intentions or consequences, but the nature of the utterance. If negative or offensive characteristics, used in the statement, are caused not by personal qualities, but by group characteristics or simply by the fact of belonging to a group – this makes hate speech a hate speech, even if we are talking about a private message transmitted in a messenger. Furthermore, private oral or written xenophobic utterances are important in some issues, for example, as an indicator of direct intention in cases of hate crimes or discriminatory attitude.

Against this background, this toolkit considers that **hate speech can be any form of expression which incites hate, regardless of the level of publicity.**

## Danger and consequences of hate speech

**H**ateful language and hostility towards often already vulnerable and marginalized groups or community poses a particular threat to the society and challenges the fundamental foundations of a modern democratic state governed by the rule of law.

"Hate speech poses a clear, present and imminent danger to society." - OSCE conference on Guaranteeing Media Freedom on the Internet.<sup>17</sup>

Although the direct target of hate speech can be both an individual and a group as a whole, it is necessary to understand that hate speech is caused precisely by the victim's belonging to a group, real or imaginary (in the imagination of the perpetrator). Personal insult caused by individual hostility or in response to a person's behaviour is not hate speech. Hate speech is always conditioned by the perception of the victim as a representative of the group, and is closely related with unequal attitude, discriminatory practices, institutional inequality, injustice, segregation and violence of that particular group. Consequently, the denial of individuality is, at the root of things, the denial of human traits which leads to dehumanization of its victims and creates the basic frames for hate speech and incitement to violence. From Holocaust in Europe to the genocide in Rwanda, history provides us numerous examples when

16 Gabriella B. Klein, Applied Linguistics to Identify and Contrast Racist 'Hate Speech': Cases from the English and Italian Language. Applied Linguistics Research Journal, 2 (3). pp 4-5. Available at [https://jag.journalagent.com/alrj/pdfs/ALRJ\\_2\\_3\\_1\\_16.pdf](https://jag.journalagent.com/alrj/pdfs/ALRJ_2_3_1_16.pdf)

17 Sandy Starr, Hate speech: What is there to be worried about? Available at <https://www.osce.org/files/f/documents/b/b/36098.pdf>

media and hate propaganda directly were responsible for the horrible massacres. OSCE notes that “hate-motivated violence frequently occurs in the context of hateful speech”.<sup>18</sup>

In addition, hate speech is to a large extent a manifestation of another characteristic feature of human consciousness – the inclination towards stereotyping.<sup>19</sup> Stereotyping is a feature of human perception that helps us to process an information coming from the outside world. In social relations, stereotyping is “inherently part of the communication process.”<sup>20</sup> However, it is because of this peculiarity of the perception of information from the outside world that prejudices are formed in a person’s mind. Negative stereotypes, for more, appear together with negative emotions (e.g. fear, anger) towards the out-group that are strongly linked to prejudice and lead to aggression, intolerance and violence, hate speech and hate crimes.<sup>21</sup>

The formation and reproduction of stereotypes in speech occurs at a subconscious level. In media, journalists could use hate speech (if we deal with a “soft” version of it) without direct intention to harm the dignity of other people or to incite violence. Often hate speech based on stereotypes is used without understanding that such statements are harmful in everyday communication between people. For example, gender stereotypes can be widespread in the common linguistic culture of a patriarchal society in a form of incorrect jokes (including the relatively “innocent” ones – for example, about the “female” features of driving a car), offensive statements objectifying women, or ideas about the gender roles distribution in a family and a society, based on the traditional religious picture of the world. Repeatedly reproduced, such attitudes lead to the consolidation of systemic gender inequality and discrimination against girls and women, a decrease in opportunities for their self-realization, and their suppression in a society and in families. In the worst case of so-called rape culture, the verbal objectification of women leads to the normalization practices of sexual and domestic violence.<sup>22</sup> “Patriarchal and sexist views legitimize violence to ensure the dominance and superiority of men,”<sup>23</sup> and it is misogynistic hate

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18 Preventing and responding to hate crimes: A resource guide for NGOs in the OSCE region. p. 53. Available at <https://www.osce.org/files/f/documents/8/a/39821.pdf>

19 Jonathan Matusitz. Relationship between Knowledge, Stereotyping, and Prejudice in Interethnic Communication// Pasos: Revista de Turismo y Patrimonio Cultural. Vol. 10, No 1, 2012. pp. 89–98.

20 Sheng-Yu Peng. Impact of Stereotypes on Intercultural Communication: a Chinese Perspective// Asia Pacific Educational Review. 2010.No. 11.p. 244.

21 Walter Stephan and Cookie Stephan. An Integrated Threat Theory of Prejudice. Psychology Press, 2000

22 See, for example: Saskia van Veen, Bethan Cansfield, and Sandrine Muir-Bouchard. ‘Let’s stop thinking it’s normal. Identifying patterns in social norms contributing to violence against women and girls across Africa, Latin America and the Caribbean and the Pacific. Oxfam research report. November 2018. Available at [https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/file\\_attachments/rr-lets-stop-thinking-normal-evaw-social-norms-251118-en.pdf](https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/file_attachments/rr-lets-stop-thinking-normal-evaw-social-norms-251118-en.pdf)

23 Anca-Ruxandra Pandea, Dariusz Gremny, Ellie Keen. Gender Matters. Manual on addressing gender-based violence affecting young people. Second edition – fully revised and updated. Council of Europe, 2015. p.21. <https://rm.coe.int/gender-matters-a-manual-on-addressing-gender-based-violence-affecting->

speech that allows these views to spread.<sup>24</sup>

It is extremely difficult to eradicate hate speech completely. Extensive public media campaigns and systemic educational work, especially aimed at young people and adolescents (since stereotypes are formed at an early age), including in educational institutions, can help eradicate prejudice in the society and change common speech practices. Educational seminars and trainings for journalists are of particular importance in order to better understand the nature of hate speech and learn how to avoid it. Cultivating high standards of linguistic sensitivity shows that a decrease in the prevalence of hate speech directly contributes to non-discrimination, the establishment of equal treatment and social cohesion, security for all, and an increase in the level of stability.

## The role of the media

**H**ate speech in a “moderate” (or “soft”, see below) form is widespread not only in oral communication, social networks or media, but even in academia and education. For example, as the research shows, some elements of hate speech and negative stereotyping against certain ethnic groups could appear even in history textbooks.<sup>25</sup> Some negative characteristics, like “chauvinistic” or “aggressive”, had been used in the Albanian textbooks about certain nations as a whole.<sup>26</sup> However, the main platform for hate speech is the media and the Internet, and in recent years primarily social networks.

The rapid spread of online technologies has given hate speech a second wind. Due to a number of features such as the wide outreach, impact and appeal, social networks are the most favourable platform for widespread dissemination of hate speech today. High levels of emotional involvement, circulation of a large number of unverified and fake information, seduction of anonymity, the viral dynamics of distribution of messages – all this makes social networks a very convenient, cost ineffective and highly impactful space for hate speech not only by individuals, but also by governments. As reported by the UN fact-finding mission, social media networks, and Facebook in particular, played a “determining role” in fuelling hate speech and violence against the Rohingya minority as part of a possible genocide attempt in Myanmar resulting

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- 24 Important Guidelines could help to avoid the sexist approach on a verbal level: Anita Ramšak. Guidelines for Gender Sensitive Reporting. Republic of Slovenia Ministry of Foreign Affairs. Available at [http://www.ekvilib.org/wp-content/uploads/2017/06/en\\_GUIDELINES\\_FOR\\_GENDER\\_SENSITIVE\\_REPORTING.pdf](http://www.ekvilib.org/wp-content/uploads/2017/06/en_GUIDELINES_FOR_GENDER_SENSITIVE_REPORTING.pdf)
- 25 Vujo Ilić. Etnički stereotipi u albanskim i srpskim udžbenicima istorije. In: Goran Tepšić, Radmila Nakarada, Mirjana Vasović (Eds.) Etnički stereotipi i nacionalni mitovi kao prepreke pomirenju u srpsko-albanskim odnosima. Beograd: Fakultet političkih nauka. 2015. pp. 177–212. Available at [https://www.academia.edu/6258496/Ethnic\\_Stereotypes\\_and\\_National\\_Myths\\_as\\_an\\_Obstacle\\_to\\_Reconciliation\\_Albanian\\_Serbian\\_Relations](https://www.academia.edu/6258496/Ethnic_Stereotypes_and_National_Myths_as_an_Obstacle_to_Reconciliation_Albanian_Serbian_Relations) Negative ethnostereotypes against Serbians and Turks could be found in the Albanian textbooks. See: Ibid. p. 187, 199–203.
- 26 Available at <https://balkaninsight.com/2012/06/01/historia-e-kundert-serbe-dhe-shqiptare/?lang=sq>

in a horrific humanitarian crisis.<sup>27</sup> Social media has proven to be an instrumental tool to spread and incite not only ethnic and religious violence but also xenophobic<sup>28</sup>, homophobic and misogynistic views as well.<sup>29</sup> The absence of effective legal and other responses by public authorities and owners of social media platforms may lead to massive atrocities and violations of human rights.<sup>30</sup>

## “Us vs. Them”: General Xenophobia Theory

Gjuha e urrejtjes është shpesh manifestim verbal i sjelljes së shoqëruar ksenofobe ndaj grupit dhe individit.

Hate speech is often a verbal manifestation of a xenophobic attitude towards the group and the individual person associated with it.

For a long time, sociology explained racism, xenophobia and similar intergroup intolerance and hostility phenomena through the prism of rational collective interests – for example, competition for resources. Resources could be not only material, but symbolic also, such as authority or social status. It works even in cases of groups formed in a random way.<sup>31</sup> This idea formed the basis of the realistic group conflict theory.<sup>32</sup>

However, other researches have proven that similar phenomena could be observed in the absence of any rational reasons as well, not only in the situation of intergroup competition. Today it has been acknowledged that group identity and the intragroup solidarity and externally group intolerance are fundamental features of social behavior.

The feeling of belonging to a group is essential for human being; it is one of the basic needs of human psyche. Some scholars suggest that this sociability is

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- 27 UN Human Rights Council. Forty-sixth session. Report of the Special Rapporteur on minority issues. A/HRC/46/57 Available at <https://undocs.org/A/HRC/46/57>. See also: Miles, T. U.N. investigators cite Facebook role in Myanmar crisis. Reuters. March 12, 2018. Retrieved from: [U.N. investigators cite Facebook role in Myanmar crisis | Reuters](https://www.reuters.com/article/uk-un-investigators/facebook-role-in-myanmar-crisis-idUKKBN160181)
- 28 Sergio Andres Castano-Pulgarin, Natalia Suarez-Betancur, Luz Magnolia Tilano Vega, Harvey Mauricio Herrera Lopez. Internet, social media and online hate speech. Systematic review. Aggression and Violent Behavior. No 58. 2021. Available at <https://prohic.nl/wp-content/uploads/2021/05/213-17mei2021-InternetOnlineHateSpeechtSystematicReview.pdf>.
- 29 Emma Alice Jane. “Back to the kitchen, cunt”: speaking the unspeakable about online misogyny”. Continuum: Journal of Media & Cultural Studies. 28 (4). 2014. pp. 558–570.
- 30 A/HRC/46/57. para 45.
- 31 Saul McLeod. Robbers Cave Experiment. SimplyPsychology. 2008. Available at <https://www.simplypsychology.org/robbers-cave.html>
- 32 See, for example: Muzafer Sherif. In Common Predicament: Social Psychology of Intergroup Conflict and Cooperation. 1966.

a result of the biological nature of homo sapiens as a herd animal.<sup>33</sup> In social life, this feature of humanity makes possible altruistic cooperation, productive relations, gives rise to solidarity and community.

According to the social identity theory, which was first proposed by Henri Tajfel,<sup>34</sup> “the groups to which we belong are an important source of pride and self-esteem. We can feel good about ourselves by boosting the status of any group we belong to. Age-groups, sporting teams, hobbies, gender, religions, ethnic groups and nations are all examples of groups that can give us our sense of social identity and belonging. For example, we may believe that our country, our team, our school is better than any other, and therefore other groups and their members are inferior. Unfortunately, identifying with a specific “ingroup” to improve our self-esteem can lead to competition and intolerance against an “outgroup”.”<sup>35</sup> This idea is very productive in explaining stereotyping, xenophobia and prejudice.

A sense of group identity inevitably leads to a distinction between those who belong to your group and those who do not. The last ones become “others”, who are strange at least, or even dangerous (scholars call this phenomena “othering”).<sup>36</sup> Van Dijk describes how “out-group derogation” and “in-group celebration” work in a society on a language level and provide a framework for hate speech.<sup>37</sup> Van Dijk underlines a “positive self-presentation” (or “in-group favoritism”) and an “other-negative presentation” as “semantic macro strategies”. This frame leads logically to in-group/out-group divisions with respect to good vs. bad, superior vs. inferior, “us vs. them”.<sup>38</sup> As such, “Hate speech often emerges from an “us vs. them” conceptual framework, in which individuals differentiate the group they believe they belong to, or the “in-group,” from the “out-group.”<sup>39</sup>

- 33 See, for example: Raymond F. Bellamy. The question of innate gregariousness or sociability. Quarterly Journal of the Florida Academy of Sciences. Vol. 16, No. 4. December, 1953. pp. 223–232.
- 34 See, for example: Henri Tajfel. Social identity and intergroup behaviour. Social Science Information. No 13. 1974. P. 65–93; Henri Tajfel, Claud Flament, Michael Billig, and R. Bundy. Social categorization and intergroup behaviour. European Journal of Social Psychology. No 1, April/June 1971. pp. 149–178.
- 35 Social Identity Theory and Discrimination. Pamoja. Available at <https://pamojaeducation.com/blog/social-identity-theory-and-discrimination>.
- 36 John A. Powell and Stephen Menendian. The Problem of Othering: Towards Inclusiveness and Belonging. Othering and Belonging. Issue 1. <https://otheringandbelonging.org/the-problem-of-othering/>
- 37 Teun Van Dijk. Politics, Ideology and Discourse. Elsevier Encyclopedia of Language and Linguistics, Volume on Politics and Language. Elsevier, 2006. pp. 728-740. See also: Teun Van Dijk. Prejudice in Discourse: An Analysis of Ethnic Prejudice in Cognition and Conversation. John Benjamins Publishing, 1984;
- 38 Neslihan Kansu Yetkiner. A Critical Discourse Analysis Approach to Othering: Depiction of the Syrian Refugee Experience in Turkish Children’s Literature. Sic. No 2 (11). 6/2021. Available at <https://www.sic-journal.org/Article/Index/661>.
- 39 Babak Bahador. Classifying and Identifying the Intensity of Hate Speech// Insights from the Social

In other words, xenophobia is essentially a natural attribute of a collective psyche. In light of the social identity theory, experiencing within-group feelings of solidarity, common history, pride in belonging to a group, people often simply cannot treat other people who do not belong to their group with the same benevolence as they do to group members.<sup>40</sup> Hate speech then becomes a verbal manifestation of this fundamental feature of social psychology. As a result of this logic, for example, national identity is empirically related to negative sentiments of individuals towards foreigners.<sup>41</sup> Research has shown that this attitude is fully manifested in the Albanian media as well.<sup>42</sup>

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Sciences. November 17, 2020. Available at <https://items.ssrc.org/disinformation-democracy-and-conflict-prevention/classifying-and-identifying-the-intensity-of-hate-speech/>

- 40 See also: Margarita Sanchez-Mazas, Laurent Licata. Xenophobia: Social Psychological Aspects. International Encyclopedia of the Social & Behavioral Sciences (Second Edition). 2015. pp. 802–807.
- 41 Noah Lewin-Epstein and Asaf Levanon. National Identity and Xenophobia in an Ethnically Divided Society// International Journal on Multicultural Societies. Vol. 7, No2, 2005. p. 90 Available at [https://www.researchgate.net/publication/26593865\\_National\\_Identity\\_and\\_Xenophobia\\_in\\_an\\_Ethnically\\_Divided\\_Society](https://www.researchgate.net/publication/26593865_National_Identity_and_Xenophobia_in_an_Ethnically_Divided_Society)
- 42 Rapo Zguri. Albania: between shadows of the past and interest of the present. In: Remzi Lani (ed.) Reporting Neighbours in Balkan Media. : Albanian Media Institute, 2015. pp.7-28. Available at <http://www.institutemedia.org/wp-content/uploads/2020/02/Raporting-neighbours-30-06-2015.pdf>

# LEGAL FRAMEWORK

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## International standards

**A**s noted previously, there is no uniform international definition of hate speech. But the regulation of what we call hate speech can be found in various international documents, both advisory and binding. Some international documents and legislation of different countries include a description of hate speech (sometimes – as a criminal offense) without using this wording. For example, terms like “incitement to hostility” or “advocacy of hatred” could be used instead.

Article III(c) of the UN Convention on the Prevention and Punishment of the Crime of Genocide (1948) proclaims “**direct and public incitement to commit genocide**” as a crime.<sup>43</sup>

While Article 19 of the **UN International Covenant on Civil and Political Rights (ICCPR)** states that “Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression...”, Article 20(2) of the ICCPR constitutes that: “**Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.**”<sup>44</sup>

In order to determine if the utterance was hate speech and meets the definition of the ICCPR’s Article 20(2), the UN Office of the High Commissioner on Human Rights provides a six-point Rabat threshold test.<sup>45</sup> To do so, it is necessary to take into account: 1) the social and political **context**; 2) **status** of the speaker; 3) **intent** to incite the audience against a target group; 4) **content and form** of the speech; 5) **extent** of its dissemination and; 6) likelihood of harm, including **imminence**.

It is generally understood<sup>46</sup> that the Article 20(2) requires States Parties to introduce

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43 General Assembly Resolution 260 A (III), 9 December 1948. Available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CrimeOfGenocide.aspx>

44 International Covenant on Civil and Political Rights. Available at <https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

45 UN OHCHR. One-pager on “incitement to hatred”. Available at [https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat\\_threshold\\_test.pdf](https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_threshold_test.pdf)

46 See, for example, the first recommendation relating to Legislation in the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Available at [http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat\\_draft\\_outcome.pdf](http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf). See also: Human Rights Committee. General comment No. 34 on Article 19, ICPPR. Available at <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

criminal provisions on what we call “hate speech” now. The question of the legal limitations of hate speech inevitably comes up against the problem of compliance with the principles of freedom of speech and expression.<sup>47</sup> However, one of the most respected human rights organizations in the field of freedom of expression and press, Article 19, stressed, that “the right to freedom of expression is not an absolute right.”<sup>48</sup> Experts of the organization proposed to divide ‘hate speech’ into “hate speech that must be prohibited” and “lawful hate speech”.<sup>49</sup>

According, to the analysis by the OSCE Representative on Freedom of the Media on the ICCPR,<sup>50</sup> “only expressive acts undertaken with the specific intention of promoting hatred may be prohibited”. Also, only expressive content which leads to violence, discrimination or hatred (hostility), and only speech which actually incites to those results is covered by the legislation prompted by the ICCPR. Finally, protected features provided by the Article 20(2) of the Covenant are limited to nationality, race and religion. Many national laws, including Albanian legislation, further include language, gender, sexual orientation, social status, etc.

With regards to racial and ethnic discrimination and incitement to violence, Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (1969) states:

“States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

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- 47 Abundant literature on this subject exists. See, for example: Michel Rosenfeld. Hate Speech in Constitutional Jurisprudence: A Comparative Analysis. 24 *Cardozo Law Review* (2003). pp.1525-1529; Sandra Coliver (ed.) *Striking the Balance: Hate Speech, Freedom of Expression and Non-Discrimination*. Article 19, International Center Against Censorship. Human Rights Center, University of Essex. 1992. (<https://www.article19.org/data/files/pdfs/publications/striking-a-balance.pdf>); Greene, A. R., & Simpson, R. M. Tolerating hate in the name of democracy. *The Modern Law Review*, 80(4), 2017. pp. 746–765; etc.
- 48 Article 19. ‘Hate speech’ explained: A Toolkit. 2015. Available at <https://www.article19.org/data/files/medialibrary/38231/Hate-Speech-Explained--A-Toolkit-%282015-Edition%29.pdf> p. 7.
- 49 Ibid. p.18. See also: ‘Hate speech’ explained: A summary. Available at <https://www.article19.org/resources/hate-speech-explained-a-summary/>
- 50 Harlem Désir. Comparative Legal Analysis of Ukrainian Regulation of Hate Speech in the Media. Organization for Security and Co-operation in Europe, The Representative on Freedom of the Media. 2018. Available at <https://www.osce.org/files/f/documents/7/e/384567.pdf>

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law".<sup>51</sup>

In Europe, according to the **Recommendation No. R (97)** 20 of the Committee of Ministers of the Council of Europe, member states pertain a responsibility to maintain a sound legal framework on hate speech. According to the Recommendation:

"The governments of the member states, public authorities and public institutions at the national, regional and local levels, as well as officials, have a special responsibility to refrain from statements, in particular to the media, which may reasonably be understood as hate speech, or as speech likely to produce the effect of legitimising, spreading or promoting racial hatred, xenophobia, anti-Semitism or other forms of discrimination or hatred based on intolerance. Such statements should be prohibited and publicly disavowed whenever they occur. [...]

The governments of the **member states should establish or maintain a sound legal framework consisting of civil, criminal and administrative law provisions on hate speech** which enable administrative and judicial authorities to reconcile in each case respect for freedom of expression with respect for human dignity and the protection of the reputation or the rights of others."<sup>52</sup>

The Parliamentary Assembly of the Council of Europe in the special Recommendation also stressed also that "With regard to blasphemy, religious insults and hate speech against persons on the grounds of their religion, the state is responsible for determining what should count as criminal offences".<sup>53</sup>

In that respect, the **European Court of Human Rights (ECHR)** has become the main platform where the questions of the correlation between the freedom of speech, enshrined in Article 10 of the European Convention on Human Rights, on the one hand, and the limitations of hate speech on the other hand are dealt with. According to the Court's case law, there can be no doubt that concrete expressions constituting hate speech, which may be insulting to particular individuals or groups, are not protected by Article 10 of the Convention, and therefore can be restricted by governments in their national law.<sup>54</sup> According to the Guide on Article 10 of the European Convention on Human Rights, "the Court has pointed out that expressions that seek to incite or justify hatred based on intolerance, including religious intolerance,

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51 International Convention on the Elimination of All Forms of Racial Discrimination. Available at <https://www.ohchr.org/Documents/ProfessionalInterest/cerd.pdf>

52 Recommendation No. R (97) 20 of the Committee of Ministers to member states on "hate speech". Appendix. p.107. Available at <https://rm.coe.int/1680505d5b>

53 The Parliamentary Assembly of the Council of Europe. Recommendation 1805 (2007). Blasphemy, religious insults and hate speech against persons on grounds of their religion. Available at <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=17569&lang=en>

54 Council of Europe. Manual on Hate Speech. Available at <https://rm.coe.int/168071e53e>

do not enjoy the protection afforded by Article 10 of the Convention. [...] Statements which incite to racial discrimination and hatred do not enjoy the protection offered by Article 10".<sup>55</sup>

The Court has repeatedly examined various cases concerning freedom of speech in the context of the use of hate speech, and has accumulated a significant case law database.<sup>56</sup> According to the decision made on the case "Erbakan v. Turkey" (2006), "as a matter of principle it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance ..., provided that any 'formalities', 'conditions', 'restrictions' or 'penalties' imposed are proportionate to the legitimate aim pursued."<sup>57</sup>

It is important to note that some countries show a greater acceptance than others for prohibiting certain forms of speech and even the expression of certain opinions.<sup>58</sup> For instance, some European countries have passed laws in accordance with a Council of the European Union<sup>59</sup> decision to make it a punishable offence not only to incite hatred, but also to publicly deny crimes of genocide (e.g., the Holocaust) or war crimes.<sup>60</sup> While the aforementioned decision covers only racist and xenophobic speech, the majority of Member States have extended their national laws to other grounds such as sexual orientation, gender identity and disability.

## Albanian legislation

In Albania, hate speech provisions are enshrined in the law **"On Protection from Discrimination"**.<sup>61</sup> While Article 33.17 prescribes an obligation of state media operators to publish a summary of final decisions of the Commissioner for

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55 The European Court of Human Rights. Guide on Article 10 of the European Convention on Human Rights. Freedom of expression. Updated – 30 April 2021. pp. 25, 101. Available at [https://www.echr.coe.int/documents/guide\\_art\\_10\\_eng.pdf](https://www.echr.coe.int/documents/guide_art_10_eng.pdf)

56 See: Available at <https://futurefreespeech.com/hate-speech-case-database/>

57 Erbakan v. Turkey judgment of 6 July 2006, § 56. Available at <http://hudoc.echr.coe.int/eng?i=001-76232>

58 Julian Walker. Hate Speech and Freedom of Expression: Legal Boundaries in Canada. Hate Speech and Freedom of Expression: Legal Boundaries in Canada. Library of Parliament. Background Paper. Publication No 2018-25-E. Available at <https://lop.parl.ca/staticfiles/PublicWebsite/Home/ResearchPublications/BackgroundPapers/PDF/2018-25-E.pdf>

59 European Union, Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law, Available at <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:328:0055:0058:EN:PDF>

60 Alexander Verkhovsky. Criminal Law on Hate Crime, Incitement to Hatred and Hate Speech in OSCE Participating States. SOVA Center, 2016. <https://www.sova-center.ru/files/books/osce-laws-eng-16.pdf>

61 The Law "On Protection from Discrimination" has been amended by the Law no. 124/2020 "For some additions and amendments to law no. 10221, dated 4.2.2010 "On protection from discrimination", which was approved on October 15, 2020

Protection from Discrimination on hate speech, other actions that the Commissioner or other government agents might take in the event of hate speech is not specified.

Some of the rules on the most egregious manifestations of hate speech are contained in the **Albanian Criminal Code**:

**Article 265 (“Incitement of hatred or disputes”)** of the CC states that, “Inciting hate or disputes on the grounds of race, ethnicity, religion or sexual orientation, as well as intentional preparation, dissemination or preservation for purposes of distributing writings with such content, by any means or forms, shall be punishable by imprisonment of from two to ten years of imprisonment.”<sup>62</sup>

**Article 266 (“Calls for national hatred”)** is devoted to what we call “hard” grade of hate speech: “Endangering public peace by calling for national hatred against other parts of the population, by insulting or defaming them, or by requesting the use of force or arbitrary actions against them, is punishable by imprisonment of from two to eight years.”

**Article 119a** separately criminalizes dissemination of “racist and xenophobic material,”

**Article 119b** – insults to persons on grounds of race, ethnicity, nationality or religion, and

**Article 84a** – threats towards a person on the same grounds. All this refers only to actions taken through computer systems.

**Article 74a** criminalizes the distribution of materials that deny, significantly understate, justify or approve of acts of genocide and crimes against humanity, only through computer systems as well.

According to **Article 32 of the Law “On audio and audio-visual media services in the Republic of Albania”**, media services “do not broadcast programmes with content that incite hate on grounds of race, gender, religion, ethnic, national, and any other form of discrimination.”<sup>63</sup>

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62 Criminal Code of the Republic of Albania (English translation): Available at [https://www.warnathgroup.com/wp-content/uploads/2017/11/Albania\\_CC\\_1995\\_am2015\\_en.pdf](https://www.warnathgroup.com/wp-content/uploads/2017/11/Albania_CC_1995_am2015_en.pdf)

63 Law no. 97/2013 date 4.3.2013 “On audio and audio-visual media services in the Republic of Albania” Available at <https://wipolex.wipo.int/en/text/582685>

# HUMAN RIGHTS MONITORING

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## Documentation and monitoring

**H**uman rights violations **documentation** is understood as a process of collecting information about human rights violations against one person (or a group of people) and processing it. By information processing, we mean filling out a documentation form, which should help us answer basic questions:

- what happened?
- to whom it happened (who is the victim)?
- who is guilty (who is perpetrator)?
- what evidence do we have?

Documentation is a process of **collecting evidence** first of all. The thoroughness of documentation will affect the quality of evidence for the various agencies and instances in which this evidence could apply – both for the protection of individual rights and for advocacy purposes.

**Bulk documentation of similar cases according to a given methodology (and according to a common pre-agreed form) with subsequent analysis of the causes of what is happening and possible measures to improve the situation is called monitoring.**

Documenting is necessary in order to build a strategy for dealing with one separate case or several similar cases. Documenting usually precedes the work with individual statements and the search for means of restoring the individual violated right.

Monitoring is needed in order to assess the scale of the problem, find its sources and then draw up a strategy for eliminating the problem itself. Monitoring may be needed for later planning of advocacy work. Monitoring and advocacy are tools for dealing with massive violations of human rights in relation to a particular social group.

## Basic principles of human rights monitoring

**A**s opposed to documentation, monitoring always **pursues the task of not only collecting information, but also its systematization and subsequent analysis for further use.** Although monitoring externally resembles an academic study, in our context it is a method of improving the protection of human rights and reinforcing the state's responsibility to respect, protect and fulfil human rights.<sup>64</sup>

Most often, monitoring data is used for advocacy purposes. It is a proactive method which includes the collection, verification, analysis and use of information to address human rights problems with the ultimate goal of improving protection.

According to OSCE ODIHR, **“human rights monitoring is a set of planned actions to investigate a certain human rights issue or situation.”**<sup>65</sup> The process of monitoring human rights violations requires diligence in ensuring confidentiality, impartiality, and gender-sensitivity. It is necessary to keep in mind that the data collected corresponds to individual realities and experiences of victims and survivors that need to be protected from further stigmatization and possible retaliation.

Human rights monitoring is an important tool for advocating for the public interest. **[It] seeks to gather information about the human rights situation in a country or region over time through readily available methods, with the goal of engaging in advocacy to address human rights violations.**<sup>66</sup> As such, it has proven its value as a key tool to respond to human rights concerns and crises, identify violations, patterns, causes and possible solutions.<sup>67</sup>

The importance of human rights monitoring as a foundation for improving protection and prevention mechanisms is often underestimated; a single publication of the monitoring may well inform advocacy tools aimed at changing the situation. For example, an anti-rating of media using hate speech can be made public. When monitoring becomes constant, and presentations of its interim results become periodic, editors and owners of media begin to realize that being in the «top» of this anti-rating has an impact on their reputation. Experience shows that if we are talking about a popular publication that uses hate speech due to poor professionalism and low journalistic standards, and not with intention, then the mere mention of the name of the publication in the presentation of monitoring results can significantly change their editorial approaches. .

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64 Ibid. Chapter 2. p.4. Available at <https://www.ohchr.org/Documents/Publications/Chapter02-MHRM.pdf>

65 OSCE ODIHR, Human rights monitoring: Steps for Success.. Available at <https://www.osce.org/files/f/documents/7/6/312676.pdf>

66 UN Woman, What is human rights monitoring?, December 21, 2011 Available at <https://www.endvawnow.org/en/articles/994-what-is-human-rights-monitoring.html>

67 Office of the High Commissioner for Human Rights (2001), Training Manual on Human Rights Monitoring. Professional Series No. 7. Foreword. P.III. Available at <https://www.ohchr.org/Documents/Publications/OHCHRIntro-12pp.pdf>

## Monitoring goals

**M**onitoring is necessary for a clear understanding of the scale and impact of hate speech and further help to prevent its spread.

To this end, **human rights monitoring examines possible causes of violations, proposes solutions and encourages accountability.** Ultimately, **the main goal of monitoring is not the accumulation of abstract knowledge, but prevention of human rights violations.** Even by itself the awareness of the government and of other social actors about the fact that the situation is under observation often helps to reduce the number of human rights violations.

**Systematic collection of information** is essential for understanding the importance of the problem and for the advocacy tasks. The success of a project largely depends on its long-term nature and the sustainability of its methodology. Without a prior collection of reliable information, it is impossible to argue that violations of human rights occur. The collected data allows researchers to establish details that are important for improving the situation.

To effectively document and assess reports of victims and witnesses, as well as to strategically analyse trends, the following questions shall be addressed:

- **who is the vulnerable group** in the focus of the monitoring: in other words, the rights of representatives of which groups are violated most often and / or in the most brutal way;
- **what kind** of violations are most common;
- **which actors** violate rights most often;
- **where** rights violations occur most often.

## Types of hate speech

**C**ontrary to hate crimes, there is no one-size-fits-all approach to categorizing hate speech and monitoring methodology due to the lack of consensus across the OSCE region.

Based on our experience of monitoring in other countries<sup>68</sup>, we propose to distinguish the following types of hate speech in relation to national, ethnic and religious groups:

1. Calls to violence;
2. Calls for discrimination, including in the form of general slogans;

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68 The typology based on the SOVA Center criteria. The author had participated in development of the monitoring methodology used by SOVA Center.

3. Veiled calls for violence and discrimination (propaganda of “positive”, historical or contemporary, examples of violence or discrimination; expressions like “it’s time to put an end to the dominance of strangers on our land”, etc.);
4. Creating a negative image of an ethnic or religious group (often recognized by the tone rather than specific direct accusations);
5. Justification of historical cases of violence and discrimination;
6. Publications and statements challenging generally accepted historical facts of violence and discrimination (for example, the denial of the Holocaust);
7. Statements about inferiority (lack of culture, intellectual abilities, incapacity for creative work) of one or another ethnic or religious group as such;
8. Allegations of historical crimes of one or another ethnic or religious group as such;
9. Allegations of the criminality of a particular ethnic or religious group (for example, “Roma are thieves”<sup>69</sup>);
10. Allegations of moral flaws in a particular ethnic or religious group to distinguish them from statements of cultural or intellectual inferiority;
11. Arguments about the disproportionate superiority of a particular ethnic or religious group in material wealth, representation in power structures, the press, etc.;
12. Accusations of the negative influence of one or another ethnic or religious group on society and the state;
13. Mentioning an ethnic or religious group or its representatives as such in a derogatory or offensive context (including in a criminal record or simply when an ethnonym is mentioned);
14. Appeals to prevent the establishment of migrants belonging to one or another ethnic or religious group in the region (district, city, etc.);
15. Citing clearly xenophobic statements and texts without commentary defining the demarcation between the position of the interviewee and the position of the journalist; similarly, providing space in the newspaper for explicit chauvinistic propaganda without editorial commentary or other polemics;
16. Accusing the group of attempting to seize power or territorial expansion (in the literal sense, as opposed to calls to prevent consolidation in the region);
17. Denial of citizenship (that is, mentioning Albanian citizens belonging to

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69 According to the report “Roma in Albania” published by the Center for Documentation and Information on Minorities in Europe Available at ([https://cadmus.eui.eu/bitstream/handle/1814/46231/Koinova\\_RomaofAlbania.pdf](https://cadmus.eui.eu/bitstream/handle/1814/46231/Koinova_RomaofAlbania.pdf)), “the Albanian press has an ambiguous attitude towards the Roma. On the one hand, many articles portray them as a social group which has only become civilized recently and is not yet well integrated into the society. [...] Most articles point to crimes among the Roma inspired by motives that are presented as ridiculous” (p. 19).

communities of ethnic and/or religious minorities as foreigners).

It is also important to mention that the same statement may contain different types of hate speech, and to target different groups as well. Similar typologies can therefore be developed in monitoring homo/transphobic, sexist and other forms of hate speech targeting different groups.

An important marker of hate speech is using the offensive language, incorrect/pejorative designation (naming) of the group as a whole and/or group representative, using “fighting words”. For example, pejorative designation of Roma people or LGBTI persons are widespread.

Therefore, drafting of the “offensive vocabulary” could be an important part of the preliminary preparation for the monitoring. It also helps in case of internet search of hate speech texts. The distribution of recorded manifestations of hate speech by type makes it possible to understand which narratives and in relation to which particular groups are most common in the information space.

Hate speech can be encountered in various information areas. Of course, in recent years, social networks are leading in the number of offensive statements. In relation to certain groups, hate speech can be deeply rooted in marginal sectors – for example, in political publications with a nationalist orientation, or in the religious preaching of certain conservative communities. Nevertheless, it is a mistake to believe that hate speech lurks only in marginal areas. In moderate expressions, in the form of jokes or stereotypical discourse, hate speech can (and usually is) part of the mainstream of information. In certain crisis situations, for example, during a fateful election or a protest campaign, hate speech can become a noticeable element of political discourse. Hate speech effectively fulfills an important function of mobilizing supporters of a particular position.

## Gradations of hate speech

It is also important to note that negative statements can have varying degrees of intensity (aggressiveness). It may therefore be helpful to systematize the collected material according to this criterion as well. “To combat hate speech and its negative consequences, it is necessary to identify and monitor early signs of its development before more extreme forms manifest. [...] Understanding the dynamics of hate speech and its intensification and escalation, therefore, can serve as a signal for the political changes that drive it.”<sup>70</sup>

According to the degree of rigidity, statements containing hate speech can be conditionally divided into three generalized categories:

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70 Babak Bahador. Classifying and Identifying the Intensity of Hate Speech/Insights from the Social Sciences. November 17, 2020. Available at <https://items.ssrc.org/disinformation-democracy-and-conflict->

### Hard:

- direct calls for violence;
- direct incitement to discrimination;
- veiled calls for violence and discrimination;
- calls to prevent consolidation in the region;

### Moderate:

- justifying historical incidents of violence and discrimination;
- publications and statements that cast doubt on the generally recognized historical facts of violence and discrimination;
- allegations of historical crimes of a particular ethnic or religious group as such;
- allegations of the criminality of a particular ethnic or religious group;
- reasoning about the disproportionate superiority of a particular ethnic or religious group;
- accusation of negative influence of one or another ethnic or religious group on society, state;
- accusing the group of attempting to seize power or territorial expansion,
- denial of citizenship;

### Soft:

- creating a negative image of an ethnic or religious group;
- statements about the inferiority of a particular ethnic or religious group as such;
- allegations of moral flaws in a particular ethnic or religious group;
- mentioning an ethnic or religious group or its representatives as such in a derogatory or offensive context;
- quoting of clearly xenophobic statements and texts without comment.<sup>71</sup> citimi i deklaratave dhe tekstit qartësisht ksenofob pa komente.<sup>72</sup>

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[prevention/classifying-and-identifying-the-intensity-of-hate-speech/](#)

71 Different ratings of intensity of hate speech could be used as well. See, for example, typology proposed by Babak Bahador (See: Classifying and Identifying... Table 1). According to his "Hate-Speech Intensity Scale", the hate statements could be classified by one group from six possible types (in order from "softer" to "harder"): disagreement; negative actions; negative character; demonizing and dehumanizing; violence; death.

72 Mund të përdoren shkallë të ndryshme intensiteti për gjuhën e urrejtjes. Shih, për shembull, tipologjinë propozuar nga Babak Bahador (Shih: Klasifikimi dhe Identifikimi... Tabela 1). Sipas "Shkallës së Intensitetit të Gjuhës së Urrejtjes" përgatitur prej tij, deklaratat e urrejtjes mund të klasifikohen në 6 lloje të ndryshme (nga më e buta deri te më e forta): mosmarrëveshje; veprime negative; karakter negative; demonizim dhe dehumanizim; dhunë; vdekje.

## Objects of hate speech

**A**s note previously, **hate speech can target any group or any person from a particular group.**

For example, groups could be targeted by (according to their protected characteristics):

- ethnicity/nationality/race;
- religion/confession/belief (or, in some societies, lack thereof);
- country of origin of the person or his/her ancestors (in the case of migrants), region of origin within one state;
- gender identity and expression;
- sexual orientation;
- political orientation/ideological position;
- age;
- disabilities;
- profession, social status;
- economic position;
- physical appearance (including sexist/misogynistic, and homo/transphobic stereotypes), etc.

Ideally, a comprehensive monitoring of hate speech should cover all groups that could theoretically become the target of inappropriate statements. In practice, however, this is difficult to accomplish. Based on a preliminary analysis of the situation, it is proposed to focus efforts on monitoring hate speech in relation to two groups of objects: **ethnic/national/religious communities** in a pilot version of the research, and, further expand the capacities to include **gender groups, including girls, women and LGBTI persons**.

# HATE SPEECH MONITORING METHODOLOGY

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## Data collection system

**T**o collect and analyze primary material in a systematic way often requires the development of special software. However, with limited capacities a database with a simple web interface can make the work of monitors easier. The required technical options should include:

- the ability to save the original publication (or screen version in case of internet publications);
- the ability to upload images and videos;
- the ability to mark, according to the monitor, the types and objects of hate speech, as well as the degree of its rigidity;
- the ability for the lead analyst to verify and, if necessary, change the initial assessment of the publication;
- the ability to note reactions to hate speech (if any);
- the ability to select cases by categories, as well as to summarize statistics.

To do so, a simple table in Excel or similar software may be considered particularly useful. When working with a minimal interface, it is necessary to record:

- **the source** (including the name of the author, the title of the publication and the date in the case of print media; the date and time of the broadcast in the case of television and radio broadcasts; URL in the case of Internet publication);
- **a quote** or quotes containing a statement with elements of hate speech;
- whether this statement was contained in the author's text, or in a quote (for example, in the case of an interview or reportage);
- **type, grade and object** of hate speech according to the methodology;
- whether a complaint about the publication was recorded, and whether there was a reaction.

## Printed media monitoring

**P**rint media are the simplest and clearest object of monitoring. The texts of the editions are clearly limited by the printed area. Everything that is published in a newspaper or a magazine is under the responsibility of the editorial board. Publications can be read at any time convenient for the monitoring (unlike, for example, television or radio news in case they are not recorded). The main difficulty in

monitoring printed media is its labour intensity. It takes a lot of time and considerable attention.

If the subject of monitoring is not initially limited by the thematic framework, literally the entire content of a newspaper or magazine should be examined for hate speech. Of course, most likely it will be possible to find it on social and political pages. Crime stories are also the standard space for hate speech. The very mention of ethnicity or religion of the alleged perpetrators when reporting an offense forms a negative image of the group as a whole and should be regarded as hate speech. Sometimes, however, such a mention may be appropriate if the ethnicity or religion of the participants in the incident can help the reader understand the reasons and nature of the incident. Nevertheless, more often it is completely redundant from the point of view of information standards. Furthermore, hate speech can also be found on the sections of sports, culture, even gossip. Notably, hate speech is also often found in the genre of humour – in anecdotes and caricatures, which are often published in the popular press.

Accurate quotes from materials containing hate speech should be entered into the database, along with the date line. It is advisable to save the original publication, perhaps as a clipping of the article, or at least as a photocopy or a scan.

An attempt to cover by equal attention the entire press is not productive. **It is necessary to determine specific editions, which within the framework of the monitoring project will be studied systemically, scrupulously and throughout a significant period of time.**

When selecting specific editions different criteria can be used. You can be guided by the degree of popularity of the publication by its socio-political position, its regional coverage and subject matter as well.

Experience shows that open hate speech is more often found in small-circulation publications. In Eastern Europe, as a rule, one can talk about a periodical influenced by nationalist ideas or with conservative religious orientation. In contrast, hate speech is less common in established mainstream social and political publications. Although directly xenophobic statements, or even more calls for violence, most likely will not be found in popular periodical with large circulation. However, hate speech in a soft form can be tolerated by popular entertainment tabloids. Most often incorrect terminology, mentioning the ethnicity of alleged criminals in a criminal chronicle or offensive jokes could be found in this press. Thus, in a moderate form, hate speech reaches a large audience, contributing to the formation of negative stereotypes about some ethnic or religious communities or other social groups among the population.

The choice of periodical for monitoring largely depends on the objectives of the research. It is necessary to determine the primary task of monitoring: to understand the situation in the information space of the country as a whole or to record the most obvious and egregious manifestations of hate speech (for example, to draw attention to the problem, or to advocate the need for changes in legislation and/or

law enforcement practices). If the first option will be chosen, then it is necessary to form a representative sample of the most popular and influential publications. If the second option is chosen, one should deliberately select specific publications in which hate speech is supposedly most prevalent.

The same logic should be employed to define the regional dimension of the research. According to the first model (testing a media-situation in the country in general), national-level publications should be included in the monitoring first. When selecting regional publications, one should consider their popularity, choosing regions that, in aggregate, would represent the country as a whole (the picture should be representative – for example, publications from rural and urban areas should be included in the monitoring, which roughly reflect the structure of the population in general). In the second model, one should identify the regions in which hate speech is most likely to be found, and study local publications from there. These can be, for example, areas of compact residence of religious or national minorities, border areas, or regions with traditionally more conservative political and religious views of the population.

## Online media and web-sites

**A**ccording to the monitoring report by the Albanian Media Council, online media is most prone to hate speech.<sup>73</sup>

In frames of monitoring, online media should choose the same criteria as a traditional one – thematic focus, popularity (attendance), regional aspect. When choosing the specific resources, on which, with a large probability, the language of hostility can be found more often, in addition to the media on the sites and pages of political groups of the nationalist orientation, conservative religious groups and some youth subcultures (football hooligans, for example).

Methodologically, **online media could be monitored more easily because of the possibility of using search engines by keywords.** In the case of hate speech monitoring against ethnic and religious groups, keywords for searching may be the names of the groups of interest in all used forms (including incorrect and offensive). Using this methodology implies pre-work to create a list of keywords. This list must be adjusted based on intermediate results.

However, it should also be borne in mind that not always in the texts containing the language of hostility the names of the groups are mentioned. Xenophobic propaganda has developed a whole code of language, which allows to transfer the hateful message by avoiding direct racist/xenophobic/homophobic statement. In other words, not all manifestations of hate speech can be found with mechanical

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73 Dorentina Hysa. The challenge of hate speech in the Albanian media environment. Reporting Diversity Network 2.0. Available at <https://www.reportingdiversity.org/the-challenge-of-hate-speech-in-the-albanian-media-environment/>

search by keywords.

It is also necessary to decide, whether the subject of monitoring are the comments under articles, in cases where online media permit such an option. Practice shows that it is in the comment section where hatred and incitement to violence occurs in most rigid form.. In such cases, online media practically provides their platform (sometimes very popular) for propaganda of xenophobic and racist views. Although it is not about editorial texts, the editorial office of online publication carries indirect responsibility for comments that are placed by users under articles, even in cases where they are anonymous. The collection of this information will help advocacy of editorial policy changes, in spite of whether the perpetrator may be punished and brought to justice. The presentation of the results of monitoring or direct appeal to the editor may lead to the fact that online media can enter the pre-moderation of comments, disable anonymous commentary, or the reference to the moderator to hide or delete the posted comments containing hate speech.

When fixing the language of hostility in publication online, it is necessary to maintain not only the exact quotation and URL, but also the screenshot of the page (due to the fact that the editorial office of the media or the site administration can change the publication post-factum).

## Social networks

“Hate speech and disinformation is readily available on social networks, due to their ease of access, lack of filtering or regulation, and the immense possibility for fast dissemination of the content”.<sup>74</sup>

Hate speech in social networks has its own characteristics. These include the ease of anonymous publication of the content, the high speed of its distribution, and the difficulty of bringing offenders to justice in accordance with the law. All this makes social networks the most dangerous channel for the spread of hate speech.

Social networks are much less susceptible to indexing by search algorithms, which are customary for working with Internet news resources. To search for relevant content, you should use the internal capabilities of the social network itself – and even then, this does not always provides for an adequate result, especially with regard to comments on posts that represent an important part of the information array. Often, passions rage in discussions between users in the comments. Moreover, it is this part of social networks that search engines index the worst. To this must be added a significant portion of non-verbal content (videos and images), in which standard search engines are simply helpless. In other words, systematic monitoring of hate speech in social networks using the online media monitoring model is practically impossible.

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74 Ibid.

To analyze big data of hate speech dissemination in social networks, special automatic algorithms are increasingly used that recognize and categorize the offensive vocabulary and emotions of the offender(s).

It is important to note that the first attempts to use artificial intelligence to monitor hate speech on web were not entirely successful. For example, the monitoring of antisemitism on social networks carried out by the Israeli Ministry of Diaspora Affairs demonstrated completely inadequate results.<sup>75</sup> Unfortunately, it is not possible to name a ready-made sample of software that completely copes with this difficult task yet. However, with the development of technology in recent years, monitoring using automatic algorithms is becoming more and more adequate. The PHARM project is an example of a promising approach.<sup>76</sup> The detailed Finnish experience is also exploring.<sup>77</sup>

The creation of a special search algorithm for searching and recognizing hate speech in the national language on social networks is a complex, expensive and long process. The result should not be expected in the short term. After the development of the draft version of the algorithm it will be necessary to collect the primary mass of texts, to process them, to verify the adequacy of the recognition of negative emotional messages, and to make a "calibration", that is the necessary changes to the algorithm. This cycle may need to be repeated 2-3 times.

With sufficient resources this process is worthwhile. But if this format seems unrealistic, limited monitoring is justified also. Undoubtedly, complaints about social media hate speech should be verified and documented.

## Radio & TV monitoring

**T**elevision and radio monitoring requires the most time and effort. During the monitoring it is necessary to watch and to listen with high level of attention and concentration a lot of airtime. However, television still remains an important source of information in general and the formation of ideas about various ethnic and religious groups in particular for a significant part of the population, especially older, and in rural areas.

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75 Diaspora Ministry unveils system for tracking online anti-Semitism// Times of Israel. 25 January 2018. Available at <https://www.timesofisrael.com/diaspora-ministry-unveils-system-for-tracking-online-anti-semitism/>

76 Lazaros Vrysis, Nikolaos Vryzas, Rigas Kotsakis, Theodora Saridou, Maria Matsiola, Andreas Veglis, Carlos Arcila Calderón, Charalampos Dimoulas. A Web Interface for Analyzing Hate Speech// Future Internet 2021, 13, 80. Available at [https://www.researchgate.net/publication/350299504\\_A\\_Web\\_Interface\\_for\\_Analyzing\\_Hate\\_Speech](https://www.researchgate.net/publication/350299504_A_Web_Interface_for_Analyzing_Hate_Speech)

77 Salla-Maaria Laaksonen, Jesse Haapoja, Teemu Kinnunen, Matti Nelimarkka, and Reeta Pöyhtäri. The Datafication of Hate: Expectations and Challenges in Automated Hate Speech Monitoring. Frontiers in Big Data. 05 February 2020. Available at <https://www.frontiersin.org/articles/10.3389/fdata.2020.00003/full>

To solve the problem of the complexity of this type of monitoring, it is necessary to clearly limit the volume of the material under study.

It is advised to define 3-4 channels and radio stations. As in the cases discussed above, either the most popular broadcasting of companies should be selected, or those in which you can expect to find hate speech with a greater probability. 2-3 transmissions on each TV channel and radio station that should be monitored in daily mode should be selected. It can be evening news, socio-political talk show, criminal chronicle, religious programs. During broadcast, the transmission must be recorded. In the event that during transmission hate speech has not been used, it is possible not to save the recording. In the event that the launcher has been used, the recording should be saved in the monitoring archive. This may be needed to repeatedly listen during the fixation of the exact quotation in the database, as well as in the case of disagreements in the interpretation on the ether of statements. Of course, the required amount of data warehouse should be provided in advance.

Also, the recording could be avoided if the TV company or the radio station sets the transmissions, that have become an object of monitoring, online in full. But even in this case, it should be saved in your own transfer data storage, in which the launcher has been documented.

## Oral statements

**M**edia and social networks have a wide audience outreach, but the space of the distribution of hate speech is not limited to them. Xenophobic statements could be spoken during different public events, such as political manifestations, religious sermons, concerts of specific musical groups, sports competitions, educational lectures and discussions (including school lessons), stand-up shows in pubs, etc. It is impossible to cover all similar activities by a systematic monitoring. However, **it makes sense to observe public events, in which oral hate speech can be used with high probability**: for example, nationalist political rallies or football matches in some cases. As part of the monitoring, you can study the records of such events, or even to independently carry out video recording if the circumstances and resources allow. Although comprehensive systematic coverage cannot be achieved in this way, the documented case helps to better understand the nature of the hostility in society, or to identify more precisely groups that are an object of xenophobic or otherwise harmful bias-motivated attitudes.

## Receiving Complaints and Interviewing

**T**he most effective means of monitoring and reporting hate speech instances for the purpose of analyzing the country-wide scope of hate speech and informing advocacy efforts is the documentation of appeals of victims and witnesses of

oral hate speech. Empowering victims and witnesses to report by providing tools and incentives to do so, and continuously collecting evidence to assess the developing trends and patterns is a vital component in hate speech monitoring. Tools to report and collect evidence are provided in the annex.

In cases of recording direct complaints, the verification is the most challenging element. As usual, victims can only repeat the offensive language which was used. Not always they can remember exact words; not always they understand clearly what has been said (especially if the offender used language different to the victim's mother tongue). The presentation of any conflict situation from the first person is passed through certain filters of perception and memory. Usually, you don't have any records of the incident. Nothing else remains except to rely on the words of the victim. Methodologically, this source of information in frames of monitoring is weak. Methodology of interviewing a victim is provided in the annex. Here, we emphasize that the appeal of a victim with a complaint should be taken as seriously as possible, including cases of not public use of hate speech, but about private communication. In personal communication, the use of hate speech often can precede threats, violence or other hostile actions.

The following questions should be clarified with the victim reporting or complaining about the hate speech occurrence:

- you will need the most accurate statement of the insult, preferably a verbatim quote;
- the quote should be analyzed subsequently for the content of hate speech – the insults complained of by the victims do not always qualify as hate speech;
- if the insult was formulated in correspondence, for example, received in a messenger, you must ask to save a screenshot;
- was the victim familiar with the abuser? was there any previous quarrel? or was the victim's belonging to a vulnerable group the only reason for the verbal aggression?
- was the insult received once, or was the verbal aggression repeated?
- has the insult been followed by specific threats or aggressive actions?

It is advised to carry out hate crimes monitoring simultaneously. Hate-motivated violence can be monitored for xenophobic physical attacks against persons, for example, those belonging to ethnic minorities, as well as acts of hate-motivated vandalism against community infrastructure, such as religious buildings. Experience has shown that there is often not only a correlation between the targets of the most violent hate speech and the groups most often targeted by physical attacks motivated by hate; the straight correspondence within dynamics is usually evident. "Waves" of hate propaganda have been correlated with spikes in hate-motivated violence. This fact becomes an important argument for advocating active measures aimed at countering hate speech. However, in order to assert something for sure in a particular situation, you first need to collect sufficient credible information as evidence of an alleged hate-motivated incident.

## CONCLUSION

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**H**ate speech is a serious threat to human rights. Without proper response, this phenomenon in a certain situation may lead to serious consequences, including violent acts and state-sponsored international crimes. But even in a moderate form, hate speech creates conditions for the formation and consolidation of inequality in society, legitimizes discriminatory practices and erodes social cohesion amongst communities.

Understanding the place of hate speech in everyday linguistic practices and the relationship of this appearance with broader patterns of prejudice and discrimination is necessary for the ability to effectively recognize statements containing hate speech. To that end, Albanian legislation contains a comprehensive definition of hate speech and explicitly prohibits the most serious manifestations of hate speech, primarily direct incitement to violence, as a criminal offense. The Albanian Commissioner for Protection from Discrimination has a mandate to respond to hate speech. It is hoped that this toolkit provides useful guidance and methodology for the effective gathering of information about manifestations of hate speech in the country with the aim to assess the scope of the phenomena and inform further advocacy and legislative reform efforts, as well as enhance victim protection and prevention mechanisms.

Hate speech monitoring is an essential process for understanding and the marker of the situation of intolerance in a society. Through research, one can find out which groups are the most stigmatized and vulnerable; what negative stereotypes about them are most common; what is the intensity of intolerance towards these groups. As noted throughout the toolkit, hate speech monitoring involves two approaches: passive monitoring, such as receiving and documenting complaints; and proactive monitoring, which includes systematic monitoring of manifestations of hate speech in various fields and enhancing victim reporting and interviewing efforts.

Regardless of the methodology employed, human resources available, and technical capacities developed, collecting evidence and reporting violations of victims' rights helps not only to in the development of further advocacy goals to counter hatred and discrimination, but also serves to protect the rights of vulnerable and often marginalized groups by raising awareness about the scope to which they are subjected to hate speech and the devastating impact it has on the community and the society as a whole.

# ANNEX 1

## HATE SPEECH MONITORING

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### Methodology

Hate speech monitoring is an integral part of addressing human rights abuses with the aim to improve the protection of vulnerable persons and communities in the country. It involves the collection, verification, systemic analysis and use of information to advance protection and prevention mechanisms. The exercise of monitoring hate speech requires diligence in ensuring confidentiality of the victims, impartiality in assessing the situation, and gender-sensitivity in analysing its causes and informing further advocacy efforts.

Monitoring hate speech incidents is a time-sensitive and scrupulous exercise. It should be transparent and based on a clear methodological background. These guidelines serve as an exemplary methodology to carry out monitoring activities effectively.

Foremost, the following points shall be considered prior to proceeding with hate speech monitoring activities:

- Firstly, it is necessary to check all available sources: reports from civil society organizations; recommendations from international organizations; traditional & social media; etc.
- Secondly, it is crucially important to enhance victim reporting mechanism which serves a pivotal source of direct evidence;
- Thirdly, methodological capacities to document and human resources to analyse existing data must be supported to ensure sustainability of the exercise.

The difference between what can and cannot be considered hate speech is slim. In order to determine whether the event/incident constitutes hate speech, the following should be considered:

1) the social and political **context**; 2) **status** of the speaker; 3) **intent** to incite the audience against a target group; 4) **content and form** of the speech; 5) **extent** of its dissemination and; 6) likelihood of harm, including **imminence**.

It is also important to keep in mind the **types of hate speech** that, in the Albanian national context, affect ethnic and religious groups most, classified into three categories in accordance to the degree of rigidity:

### Hard:

- 1) Calls to violence (including veiled/indirect);
- 2) Calls for discrimination, including in the form of general slogans;
- 3) Calls to prevent consolidation in the region.

### Moderate:

- 4) Justification of historical cases of violence and discrimination;
- 5) Publications and statements challenging generally accepted historical facts of violence and discrimination (for example, the denial of the Holocaust);
- 6) Allegations of historical crimes of one or another ethnic or religious group as such;
- 7) Allegations of the criminality of a particular ethnic or religious group;
- 8) Arguments about the disproportionate superiority of a particular ethnic or religious group in material wealth, representation in power structures, the press, etc.;
- 9) Accusations of the negative influence of one or another ethnic or religious group on society and the state;
- 10) Accusing the group of attempting to seize power or territorial expansion;
- 11) Denial of citizenship.

### Soft:

- 12) Creating a negative image of an ethnic or religious group;
- 13) Statements about inferiority of one or another ethnic or religious group as such;
- 14) Allegations of moral flaws in a particular ethnic or religious group;
- 15) Mentioning an ethnic or religious group or its representatives as such in a derogatory or offensive context;
- 16) Quoting of clearly xenophobic statements and text without comment.

To make best use of the monitoring tools, it is necessary to firstly **determine the primary task and objective of monitoring**, i.e. whether the aim is to understand the situation in the information space of the country as a whole, to collect evidence of the

most obvious and egregious manifestations of hate speech, or to assess the impact of and inform protection mechanisms for a particularly vulnerable group that is known to be at high risk of targeted hate speech.

The table below serves as a guiding tool to effectively document and assess reports of victims and witnesses, as well as to strategically analyze trends online and offline. It must be carried out periodically or on an ad-hoc basis as the incidents occur.

	Victims (vulnerable groups)	Perpetrators (actors involved)	Type of hate speech	Motives (ethnic, religious, gender-based, etc)	Gradation (hard, moderate, soft)	Location (online / offline)	Impact (based on victim reports)	Evidence (if known)
Case/ incident								

In case of **hate speech monitoring in traditional media or social networks**, the table below provides points of consideration:

	Characteristics of the platform (e.g. region, audience, political or religious orientation)	Author of the article, author of the hate statement (if they differ)	Quote	Source (incl. URL)	Target groups (ethnic, religious or other grounds)	Type of hate speech	Prevalence of hate speech (incl. gradation)	Current trends
Name of the media platform								

The data collected in the table above should serve as **evidence to find solutions and inform human rights advocacy efforts, legislative changes or law enforcement practices**. It is therefore necessary to determine specific media platforms or other circumstances in which hate speech occurs frequently that within the framework of the monitoring project will be studied systemically, scrupulously and throughout a significant period of time.

## ANNEX 2

### HATE SPEECH VICTIM REPORT FORM

#### Important information

- **The purpose of the questionnaire is to collect evidence** and data of hate speech incidents across Albania with the aim to inform National Human Rights Institutions in their mandate to monitor prevalence of hate speech phenomena in the country. Data collected via this survey will only be used for the aforementioned purpose.
- Please kindly note that there are overall **22 questions** in this questionnaire. The survey is divided in three parts to better understand the nature of the incident, parties involved, and alleged motives of the incident. You are encouraged to provide as much information as possible.
- Should you need victim support or wish for law enforcement intervention in the particular case, please tick the box below. The data provided within this report may then be transferred to law enforcement and/or victim protection service providers.
- In this form, the terms victim and survivor refer to individuals who have been subjected to hate speech. While the two terms are used interchangeably, they can have different implications in different contexts. In some instances, the word victim might be used to refer to someone still experiencing the effects of hate speech, whereas the term survivor carries the meaning of someone who has recovered from the event/incident. Please note that **you do not need to be a victim or a survivor of hate speech to report an incident.**
- **Hate speech is any form of public expression, through any means, of the promotion, incitement of denigration, hatred or vilification, any harassment, insult, negative stereotyping, stigmatization or threat against a person or group of persons, as well as any justification of all forms of expression on the basis of a non-exhaustive list of grounds set forth in Article 1 of the Albanian Law on Protection from Discrimination.**

**By ticking this box, I confirm I have understood the above information and wish to proceed with submitting a report.**

**By ticking this box, I permit the data submitted within this form to be transferred to relevant victim support and/or law enforcement bodies.**

# PART I: GENERAL INFORMATION

## 1. You are:

- Survivor
- Witness
- Civil society organization / support organization
- Other. Please specify: Click or tap here to enter text.

## 2. Your contact details:

Your personal data will not be disclosed to third parties without your consent.

Your name / name of the organization: Click or tap here to enter text.

Email: Click or tap here to enter text.

Phone no.: Click or tap here to enter text.

Address (optional): Click or tap here to enter text.

## 3. Date of report

Click or tap to enter a date.

## 4. Date of event / incident:

- One-off event
- Series of events

## 5. Time of day of the event / incident:

Select all relevant.

- Morning
- Afternoon
- Evening
- Night

Don't know

## 6. Location of the event / incident:

Select where the incident took place.

In public

In the private sphere

In the media, online, or in communication

## PART II: SURVIVOR / PERPETRATOR

### 7. Age of survivor:

<18

18 - 30

31 - 60

61+

Don't know.

### 8. Gender of survivor:

Female

Male

Other

Don't know

### 9. Was the survivor... :

Select where the incident took place.

An individual

- A group (2 or more people)
- A community

If known, please describe the survivor's ethnicity: Click or tap here to enter text.

### **10. Age of perpetrator:**

- <18
- 18 - 30
- 31 - 60
- 61+
- Don't know.

### **11. Gender of perpetrator:**

- Female
- Male
- Other
- Don't know

### **12. Was the perpetrator... :**

Select where the incident took place.

- An individual
- A group (2 or more people)
- A community

If known, please describe the perpetrator's ethnicity: Click or tap here to enter text.

### **13. Perpetrator's relationship to the survivor(s):**

- Perpetrator and survivor know each other in a personal capacity

- Perpetrator and survivor know each other in a professional capacity
- Perpetrator and the victim do not know each other
- Other. Please specify: Click or tap here to enter text.
- Don't know.

**14. Please add any other details about the perpetrator you would like to report. Please ensure that this does not identify an individual, for legal reasons.**

## **PART III: THE INCIDENT**

**15. Please indicate the type of incident you are reporting:**

Select all that apply.

- Verbal violence / verbal abuse
- Incitement to hatred (humiliation, insults, incitement to violence, etc.)
- Threats / intimidation (verbal or written)
- Harassment / Sexual harassment
- Other. Please specify: Click or tap here to enter text.

## 16. If the incident happened to another person, how did you find out about it? (Optional)

- Saw / heard
- Another person told me about it
- I found it on the internet
- Other. Please specify: Click or tap here to enter text.

## 17. In your view, what was the basis of the hate speech incident?

Hate speech is any form of public expression, through any means, of the promotion, incitement of denigration, hatred or vilification, any harassment, insult, negative stereotyping, stigmatization or threat against a person or group of persons, as well as any justification of all forms of expression on the basis of a non-exhaustive list of grounds set forth in Article 1 of the Albanian Law on Protection from Discrimination.

It is important to note that while you or another person(-s) who were targeted may not necessarily belong to the particular group, the perpetrator considered you as a member of any of a particular group.

Select all that apply.

- Age
- Gender / Gender identity
- Sexual orientation
- Disability
- Race
- Ethnicity
- Citizenship / Nationality
- Language
- Socio-economic status
- Political affiliation
- Religious beliefs
- Health status

- Family / Marital status
- Affiliation with a particular group
- Other. Please specify: [Click or tap here to enter text.](#)

**18. Why do you think this was an incident of prejudice, bias and hate motivated speech against a certain group? Please describe the incident in detail.**

Provide as much information as possible about the phrases spoken, the location of the incident that may be related to a particular community, the distinctive clothing marks observed, or other circumstances that make you believe it was a hate speech incident.

**19. Please provide evidence (e.g. pictures, screenshots, online links etc.) of the incident:**

If you have hard copy evidence, please provide them as an attachment to this form.

**20. What consequences did the incident have on the victim/survivor?**

Select all that apply.

- Physical violation and injuries
- Psychological distress (fear, anxiety, trauma, shame)
- Other. Please specify: [Click or tap here to enter text.](#)

## **21. Was this incident reported to any other institutions / police / NGOs?**

This helps us to know whether your case may already be counted in other statistics. Select all that apply.

- Police / Criminal Justice System
- NGO or civil society organization. Please specify: Click or tap here to enter text.
- Other
- No
- Don't know

## **22. If the incident has not been reported to law enforcement or victim support services, please provide a reason.**

Select all that apply.

- I felt ashamed / uncomfortable
  - I was afraid to disclose my identity
  - I was afraid of the police / law enforcement
  - I didn't think the police or law enforcement would take any action
  - I was worried for the reprisal from the perpetrator
  - I thought it would be too difficult to report
  - Such incidents happen so often that I didn't think they should be reported
  - I didn't think these were serious enough actions to be reported to law enforcement
  - I didn't know how to report it
  - Other. Please specify: Click or tap here to enter text.
- I certify that the information provided above is correct.

Name:

Date:

Signature:

## ANNEX 3

# HATE SPEECH VICTIM INTERVIEWING GUIDELINES

Interviewing victims and witnesses, together with or in lieu of collecting written evidence through reporting mechanisms, are the most effective means of documenting cases of hate speech in view of examining the scope of the phenomena and assessing the impact it has on differential marginalized groups. Direct information provided by victims and witnesses also serve as the most credible source of evidence that lays the foundation for further engagement in countering hate speech through various awareness raising and capacity-building means such as sensitivity trainings for law enforcement or public awareness raising campaigns on vulnerability of certain groups to hate speech.

### Methodological guidelines

The following guidelines must be followed in preparation and in conduct of interviewing victims and witnesses of hate speech.

## STEP 1

### Ensure victim-centered and human rights-based approach to conduct

**B**uilding evidence through interviews with victims is a process that requires gender-sensitivity and human rights-based approach to ensure that victims do not suffer from double victimization and secondary traumatization. In many specific cases, gender and age considerations must be taken into account. A woman who is the victim of discrimination, sexist hate speech, harassment, or especially gender-based violence should only be interviewed by the woman. When interviewing a minor, it parents or guardians may be present, as well as a psychologist or a teacher, with the consent of the victim. Furthermore, it may be necessary to obtain an interpreter (or, if time is of critical importance, use a family member or friend) to interpret for a victim who does not speak in a language understood by the interviewer.

## STEP 2

### Appoint adequately trained staff for conduct

**P**rior to conducting and in the process of assessing information provided by the victim or a witness in an interview it is crucially important that the personnel who conduct interviews with victims are adequately trained, i.e. have sufficient familiarity with the procedure, are equipped with tools to document and, if needed, are able to refer victims to law enforcement or victim support services. While the purpose of the monitoring exercise does not involve direct service provision to victims, interviewers must be aware of the fact that hate speech may encourage or accompany hate crimes; the two phenomena are interlinked and often reinforce each other. Information provided by the victims during an interview may therefore serve as evidence for an alleged hate crime or other crimes that may be prosecuted. In that respect, interviewer must be capable to refer victims to appropriate institutions. It must be noted however that interviewers must be cautious about asking questions about needs that cannot be met due to lack of adequate service providers. Information about available services should be provided to victims in a format that they can understand, allowing them to make informed decisions about what support they are able to and wish to access.

## STEP 3

### Create a safe space for the victim(s)

**I**n the interview should be conducted in an atmosphere that allows the victim to feel safe, comfortable and trustworthy. This is sometimes difficult to ensure, especially if the applicant belongs to an already marginalized group at higher risk of hate speech. However, the interviewer should do everything possible to create a safe space for the victim.

The ideal interview location is the Commissioner's office. But this is not always possible (for example, during field monitoring visits) or desirable (for example, the victim does not want someone to notice his visit to the Commissioner's office). Each situation is unique and has its own challenges. Individuals who are isolated in society and feel lack of support, such as LGBTI people, are not always ready to trust representatives of a government agency at first instance. The victim or witness may want to meet with the interviewer, but not want their acquaintances, neighbors, or family members to be aware of this contact.

In any case, it is highly undesirable to conduct interviews on the street or in public places. This will not add comfort and security to the victim/applicant/witness. The meeting should take place in a safe, closed space that inspires confidence in both you and the witness. If you are interviewing in another city, it is preferable to find a partner organization willing to lend an office on time, rather than conducting the interview at

the hotel. However, if there are no other options, the hotel is preferable to the cafe. In some cases, it is possible to interview the victim at his home. It is important that there should be no third party interventions in the room, including colleagues who are not related to the interview. A sense of the interviewee's comfort and safety is an essential element of quality case documentation.

## STEP 4

### Document with no benefit of a doubt

**T**he distinction between direct evidentiary proof from the victim/witness and indirect evidence provided from secondary sources must be made clear. While direct evidence is the most reliable source of information, indirect evidence (e.g. "I did not witness it, but I was told by [...] that [...]") may well be included in interviews and accepted during the documentation process if it is relevant to the subject matter of the incident. It must be noted that no benefit of the doubt must be employed in assessing the claims and evidence provided by the victims. Conducting interview is a primary stage of collecting evidence and victims should not feel that their claims are being questioned.

### Interview protocol

- 1. Introductory information.** Introduce yourself. State the **purpose of the interview** – what are you doing it for. Explain clearly why the applicant needs to communicate with you.
  - a. Inform the person about where and how the **information** received from them will be used and the consequences of its use.
  - b. Make sure the person is comfortable with the interview and that they are comfortable with the interview **location**. If not, move the conversation to another place or to another time.
  - c. Discuss the approximate **time** it will take to conduct the interview, and ask the person how much time they have.
- 2. Reference Information.** Record the applicant's personal information. Find out which way of communication is most convenient for a person (phone, email, skype, personal contact).
- 3. Information about the violation/incident itself.** Ask the complainant to describe the offense in detail using a chronological sequence of events.

- a. You need to be able to clearly define **what, when, where, how and why** happened in a logical manner.
- b. The applicant must provide the most detailed information, tell as much as possible about the **crime scene**.
- c. **Record verbatim statements** about the applicant that contain hate speech. Ask the applicant to recall them and quote them as accurately as possible, preferably verbatim, avoiding using euphemisms or allegories. An accurate quote can play a key role in qualifying an offense. It would be ideal if this statement has witnesses other than the victim. It is even better if there is a video or audio recording of the statement as **evidence**.
- d. If during the interview a person points out the presence of witnesses or other victims, the interviewer should check with them whether it is possible to conduct the same conversation with those people. In addition to the possible confirmation of the victim's words, this will be useful for completeness of the case and will allow you to collect more detailed information about what happened.
- e. In this part, also pay particular attention to **victim's emotional condition**:
  - i. Show concern for the victim's feelings by telling the victim that you are sorry the crime happened to him or her.
  - ii. Be seen as a source of security and comfort.
  - iii. Do not diminish the impact of the incident.
  - iv. Allow the victim the opportunity to vent.
  - v. Display neutrality.
  - vi. Be proactive and supportive.
  - vii. Describe the victim's emotional state in your report.
  - viii. Do not comment on the victim's judgment in terms of his/her own safety.
- f. Do not allow personal value judgments of the victim's behavior, lifestyle, or culture to intrude on the professionalism of your interview. Be aware that if the victims are from a background different from your own, you may not know what is accepted behavior in their culture. **Use appropriate terminology** to describe minority groups. Be sensitive to the fact that particular individuals may be offended if they are described as belonging to a group with which they do not identify.

4. **Information about the alleged offender.** The applicant must provide as detailed a description of the offender as possible.
  - a. Ask about the height, hair color, eye color, any important physical characteristics of the alleged offender.
  - b. Ask questions about clothing, decals, accent, and any other details. Some features of clothing or symbols on clothing may indicate the ideological orientation of the alleged perpetrator or belonging to a group. Sometimes this can be indirect evidence of intention in actions or speeches.
  
5. **Completion of the interview.** At the end of the interview, reread your notes aloud to make sure you got it right, or let the witness reread the notes.
  - a. Discuss a suitable method for renewing contacts in the future, if it will be necessary.
  - b. Thank the applicant for the information provided. If necessary, express your support or regret for the incident and, if necessary,

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## **PART 2:**

# **MONITORING DISCRIMINATION AGAINST WOMEN AND GENDER-BASED VIOLENCE**

## LIST OF ABBREVIATIONS

<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CPD</b>	Commissioner for Protection from Discrimination
<b>CRIPDP</b>	Commissioner on the Right to Information and Protection of Personal Data
<b>CSO</b>	Civil Society Organisations
<b>DaW</b>	Discrimination against Women
<b>DV</b>	Domestic Violence
<b>ENHR</b>	European Network of National Human Rights Institution
<b>ECHR</b>	European Convention for the Protection of Human Rights and Fundamental Freedoms
<b>ECtHR</b>	European Court of Human Rights
<b>GANHRI</b>	Global Alliance on National Human Rights institutions
<b>GBV</b>	Gender Based Violence
<b>GoA</b>	Government of Albania
<b>HCNM</b>	High Commissioner on National Minorities
<b>IC</b>	Istanbul Convention
<b>LDV</b>	Law on Domestic Violence
<b>M&amp;E</b>	Monitoring and Evaluation
<b>NGO</b>	Non-governmental Organization
<b>NHRIs</b>	National Human Rights Institutions
<b>NSGE</b>	National Strategy for Gender Equality and its Action Plan
<b>OSCE</b>	Organization for Security and Cooperation in Europe
<b>PA</b>	People's Advocate
<b>PiA</b>	Presence in Albania
<b>VAW</b>	Violence against Women

# DISCRIMINATION AGAINST WOMEN AND GENDER-BASED VIOLENCE

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## Country Context

**A**lbania has made considerable progress in establishing a relevant institutional framework and policies, as well as partake in various international commitments to ensure gender equality and non-discrimination. The legal framework on equality and non-discrimination stems from the fundamental rights and freedoms recognized by the Constitution of the Republic of Albania approved in 1998, which recognizes that all are equal before the law and that no one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious, or philosophical beliefs, economic condition, education, social status, or ancestry.

The Law on Gender Equality in Society specifically aims to guarantee protection from gender discrimination and foresees measures for discriminatory practices, anti-discriminatory provisions and role of the responsible institutions to protect against anti-discrimination at work, education and decision-making process and the media. It defines measures guaranteeing equal opportunities among men and women to eliminate gender-based discrimination in any of its forms and defines the responsibilities of the central and local state authorities for developing and enforcing laws and policies in support of encouraging gender equality in the society.

Nevertheless, the Gender Equality Index for the year 2020 in the Republic of Albania scores 60.4 points and it is seven points lower than EU-28 average. There are still steps to be undertaken in order to achieve full gender equality and these require commitments of all stakeholders, including the government, private sector, civil society and citizens.

Discriminatory gender stereotypes and harmful practices remain prevalent and the persistence of harmful practices as child marriage, families choosing husbands and the payment of a bride price or dowry, exist in rural and remote areas and among minority communities. In recent years, the re-emergence of concepts of justice (kanun) and codes of conduct that condone killings of women and girls in the name of so-called “honour” have occurred.

In addition, there is limited access to education for Roma and Egyptian girls and girls with disabilities, as well as children living in rural and remote areas, as a result of poor school infrastructure and lack of teachers.

There is a high concentration of women in the informal labour market, especially in the textile and shoe industries, without adequate labour and social protection.

The gender wage gap remains significant, in particular in the private sector, and

that the minimum wage remains extremely low, something that disproportionately affects women. Women belonging to ethnic and linguistic minorities and women with disabilities have limited access to the formal labour market.

The continuous discrimination against and lack of appropriate legislation or measures for the protection of women and girls belonging to disadvantaged and marginalized groups, such as older women, Roma and Egyptian women, women with disabilities, migrant women, lesbian, bisexual and transgender women, women in detention, secluded women and asylum-seeking women, in particular as regards their access to education, health services, employment, housing and participation in public and political life. Hendeku gjinor i pagave mbetet i konsiderueshëm, veçanërisht në sektorin privat; paga minimale mbetet jashtëzakonisht e ulët, diçka që prek në mënyrë disproporcionale gratë. Gratë që u përkasin pakicave etnike dhe gjuhësore dhe gratë me aftësi të kufizuara kanë akses të kufizuar në tregun formal të punës.

In Albania gender based violence has been recognized as one of the most pressing gender equality issues in Albania. According to the available reports and research the most common type of gender-based violence is domestic violence. Albania has ratified the Istanbul Convention, nevertheless the relevant changes in legislative and policy framework aimed to improve institutional response and support are yet to be harmonized with its requirements.

In 2017, the Albanian parliament issued a resolution condemning violence against women and girls, which foresees the establishment of a permanent subcommittee on gender equality and preventing violence against women, housed under the Parliamentary Committee on Labour, Social Issues and Health. The main task of the subcommittee is to design an action plan to address recommendations from both CEDAW and GREVIO. The National Strategy on Gender Equality (NSGE) (2016-2020) has been operating as the guiding document on principles of gender equality in society and included commitments stemming from the IC. It recognizes as its third strategic objective the fight against GBV and DV, but did not define either term. In its situational analysis, the strategy recognized the need to combat VAW, especially among the most vulnerable groups. However, it failed to properly analyze the patriarchal mentality that still looms at large in many parts of the country, which in turn leads to women being disproportionately affected by violence and multiple discrimination purely due to their status as women.

Furthermore, gender equality and the reduction of gender-based violence and domestic violence are amongst the priorities and main directions for development defined in the National Strategy for Gender Equality 2016-2020 and in line with the National Plan for European Integration (NPEI) 2016-2020.

While the progress has been made in establishing the legal framework, its implementation and de facto equality lag significantly behind, disproportionately affecting women in particular. As stated also in the last European Commission report<sup>78</sup>,

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78 European Commission, Albania 2018 Report, April 2018 Available at <https://ec.europa>.

enforcement and monitoring of human rights protection mechanisms remain to be strengthened. Institutional mechanisms to protect the rights of the child and to tackle gender-based violence remain weak.

Domestic violence against women in Albania has cultural roots, deep-seated in traditions and customs such as gender identities and roles, patriarchal authority, adherence to an honor-and-shame system, and customs of hierarchal ordering within the family. A national survey found that 52.9 per cent of women in the country experienced some form of domestic violence in their lifetime.<sup>79</sup> In 48.7% of cases of domestic violence reported, the perpetrator was either a parent or other member of the family (brother, cousin, etc.). An OSCE study published in 2019, measuring wellbeing of women in Albania, found that while violence against women is considered common, only few women report their experiences or seek support. Shame, fear of the perpetrator, lack of trust in institutions and the lack of financial support are barriers to women's reporting. Cultural norms about women's obedience to men and about sexual violence in intimate relationships contribute further to an environment that tolerates violence against women and girls. Gaps in the legislation and in its implementation persist.

Domestic Violence/Gender Based Violence (DV/GBV) remains widespread in all corners of the country and in all social strata. While the number of women denouncing violence is increasing, the number of those who do not dare to file reports and experience violence every day is much higher. Victims of domestic violence are part of vulnerable groups in Albania and statistics<sup>80</sup> are showing increasing figures about the extent of this issue in the country.

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[eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf](http://eu.neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf)

79 National Institute of Statistics (INSTAT) Albania. Domestic Violence in Albania, National population- based Survey, November 2013. pp. 9, 55, 56. Available at [http://www.instat.gov.al/media/2618/dhuna\\_ne\\_familje\\_ne\\_shqiperi\\_2013.pdf](http://www.instat.gov.al/media/2618/dhuna_ne_familje_ne_shqiperi_2013.pdf)

80 Leviz Albania, Monitoring the referring mechanism for cases of violence in the family at the local level, April 2018 Available at [https://portavendore.al/wp-content/uploads/2018/05/"Monitorim-i-Mekanizmit-të-Referimit-për-rastet-e-Dhunës-në-Familje-në-nivel-lokal-aktivizëm-qytetar-për-përmirësimin-e-tij".pdf](https://portavendore.al/wp-content/uploads/2018/05/)

# LEGAL FRAMEWORK

## Domestic Legal Framework

### Domestic Legal Framework on Gender Discrimination in Albania

**T**he law on Protection from Discrimination approved in 2010 and amended by the Law No. 124/2020 foresees new forms of discrimination and is expected to formalize the Commissioner's practice regarding forms of discrimination, to expand the protected causes and to create opportunities for raising issues of structured discrimination by CSOs and Commissioner's Office. It increases the responsibility of public and private entities not only with regards to non-discrimination, but also for the promotion of equality. The law puts in place a solid legal foundation guaranteeing the rights to equality and non-discrimination.

**The Law on Gender Equality** was approved in 2008. This law regulates the fundamental issues of gender equality problems, by requiring equal treatment of women and men and equal opportunities and chances in exercising their rights in all areas of social life. It defines "gender equality" as: equal participation of women and men in all areas of life, equal status between women and men, equal opportunities and chances to enjoy rights and fulfill obligations in society and obtain equal benefits from their achievements and developments. The law defines "gender-based discrimination" (Article 4/3) as distinctions, exclusions or restrictions made due to gender, that aim or result in the impairment, non-recognition, non-enjoyment and non-exercise, equally by both genders of their human rights and fundamental freedoms in the political, economic, social, cultural, and civil fields, as envisaged in the Constitution and in the legislation.

### Domestic Legal Framework on Domestic Violence, including Gender-based Violence

**T**he **Law on Measures against Violence in Family Relations** was passed by the Albanian Parliament in December, 2006 and entered into force in June, 2007. It has been an initiative of civil society organizations where 20,000 signatures were collected, which compels the Parliament to discuss it and consider its approval. Its main purpose entitled is to prevent and reduce domestic violence in all its forms through appropriate legal measures, and to guarantee protection to members of the family who are subject to domestic violence, paying attention to the needs of children, disabled people, and the elderly.

Its main objectives are:

- To set up a coordinated network of responsible authorities for the protection, support, and rehabilitation of victims, and mitigation of consequences and prevention of domestic violence.
- To direct efforts for the setup of responsible structures and authorities at the central and local level in support of victims and prevention of domestic violence.
- To empower the judiciary in taking protection measures against domestic violence.
- To guarantee that quick, affordable, and simple services are provided to victims of domestic violence by courts and other law enforcement agencies in compliance with the law.

In 2010, the law was amended. The changes included a commitment to set up a national centre for services of social care for victims of domestic violence. It also included a focus on the confidentiality of victim's personal data and information, enhancing coordination and referral mechanisms to support and rehabilitate domestic violence victims, and enhancements to protection orders.

The law was amended again in 2018. The most important changes entail how local law enforcement and courts should respond to reports of domestic violence. The legislative changes have increased the role of local structures in terms of monitoring and enforcing court decisions. Police officers after these changes to the law must perform risk assessments after identification of the victim, report the domestic violence cases to the referral mechanism system at local government (municipality) and issue preliminary protective orders. These preliminary protective orders allow the police to remove the perpetrator of violence from the residence before the court has issued an actual protection order. It is an essential tool that allows for strengthened protection of the victim during the time gap between the moment of the denunciation and the protection order that will be subsequently issued by the court. The other important change in this law is the prohibition of the reconciliation procedure in court based on recommendations from the baseline evaluations of Albania conducted from GREVIO81 in 2016. The amendments of 2018, have foreseen under 'family members' those who are in an intimate relationships. Nonetheless, these changes did not include protection of homosexual couples.

The changes of November 2020 introduced to LDV define that the court may order as a protective measure against DV the immediate removal of the perpetrator from the premises in which he/she lives, for a defined period of time. This novelty of the Albanian legislation is in line with Article 52 of the Istanbul Convention, which

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81 Baseline Evaluation Report: Albania. Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO). Council of Europe. 2016. Available at <https://rm.coe.int/grevio-first-baseline-report-on-albania/16807688a7>

establishes the obligation of equipping the competent authorities with the power to order a DV perpetrator to leave the residence of the victim/person at risk and to ban the perpetrator from entering the residence or contacting the victim or person at risk, in cases of immediate danger.

In 2012 the **Criminal Code** was amended to criminalize domestic violence and recommended punishment of up to five years imprisonment.<sup>82</sup> The amended Criminal Code states: "Domestic violence, including battery, threat and intentional injuries, punishable by imprisonment up to five years."<sup>83</sup>

Sexual violence, which falls within the remit of domestic violence as defined in the **Istanbul Convention**, is not included in Article 130/a and is criminalized under the separate provision of **Article 102 of the Criminal Code on sexual assault**. This provision only refers to "engagement in sexual activity by use of force ... between spouses or cohabitants" which attracts the same punishment as sexual assault outside any intimate partner relationship. Sexually violent acts within the domestic sphere are subject to private prosecution, as are all acts of sexual violence.

In 2013, in the **Criminal Code Article 108/a was added by law no. 144, dated 02.05.2013** regarding Sexual Harassment "Commitment of actions of a sexual nature which infringe the dignity of a person, by any means or form, by creating a threatening, hostile, degrading, humiliating or offensive environment, shall constitute a criminal offence and is punishable with one to five years of imprisonment.

When this offence is committed in complicity, against several persons, more than once, or against children, it shall be punishable by three to seven years of imprisonment."

**Stalking** was also introduced as a criminal offence under the Criminal Code in 2012.

According to **GREVIO<sup>84</sup> report for Albania**, other forms of violence against women, such as forced marriage, sexual harassment and sexual violence, have received little legislative and political attention. Available data regarding these other forms of violence against women - however limited - corroborates the need to address them comprehensively.

There are several articles addressing rape in the Criminal Code. Article 102 establishes a punishment of three to ten years for non-consensual intercourse with adult women. If serious consequences affecting the health of the victim occur, the punishment increases from five to fifteen years of imprisonment. If the offense leads to the victim's death or suicide, the sentence increases from ten to twenty years of imprisonment. Article 284 establishes that the party injured under the first paragraph of Article 102 must file a complaint to begin the prosecution.

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82 Law no. 7895, dated 27 January 1995, "Criminal Code of the Republic of Albania". Available at: <https://euralius.eu/index.php/en/library/albanian-legislation/send/10-criminal-code/11-criminal-code-en>

83 Article 130/a - Domestic Violence of the Law no. 7895, dated 27 January 1995, "Criminal Code of the Republic of Albania".

84 GREVIO is the independent expert body responsible for monitoring the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by the Parties.

Articles 100 and 101 refer to intercourse with minors. Under Article 100, intercourse with minor children, who have not reached the age of 14, or with a minor girl who has not reached sexual maturity, is punishable by seven to fifteen years of imprisonment. Under Article 101, non-consensual sexual intercourse with a minor between the ages of 14-18 is punishable by five to ten years of imprisonment. If the sexual intercourse is committed by force with the complicity of others, or repeatedly, or if serious consequences to health have been caused to the injured child, it is punishable by ten to twenty years of imprisonment. If the offense caused the death or suicide of the minor child, it is punishable by not less than twenty years of imprisonment.

In 2013, an amendment to the Criminal Code introduced spousal rape and spousal sexual violence as criminal offences. For rape of an adult, the prison term is three to 10 years; for rape of an adolescent between the ages of 14 and 18, the term is five to 15 years; and for rape of a child under 14, the term is seven to 15 years. The criminal code includes provisions on sexual assault and sexual harassment and makes the criminalization of spousal rape explicit.

**The Family Code of Albania** also includes several articles relevant to domestic violence against a spouse and children. The Family Code addresses parental obligations and child rights in the family life, as well as child abuse and neglect. Article 62 provides that “the abuser spouse may be removed from the conjugal domicile.”

**The law “On Reproductive Health”** stipulates that every woman shall decide of her own free will and without any form of discrimination, pressure, or violence all issues related to her own sexuality, and sexual and reproductive health.

## International Standards on Women rights and GBV

**O**SCCE Ministerial Council decision no. 4/18 on “Preventing and combating violence against women” (Albania became a participating country to the OSCE during the proceedings of the Ministerial Council of Berlin in June 1991)

The decision, recognizing progress and the existing gaps in the field of preventing and combating violence against women and the importance of ensuring the full and equal enjoyment by women and girls of human rights and fundamental freedoms, urges states to take measures on the following issues, among others:

- access to justice
- education on gender equality and human rights
- address specific forms of violence facing women and girls, including through digital technologies
- combat sexual harassment in public and private spaces
- equal access to quality education for all girls
- involvement of civil society in preventing and combating violence against

women and girls.

**UN Covenant on Civil and Political Rights** (ICCPR) is an international human rights treaty adopted by the United Nations (UN) in 1966. Albania holds accession status as of 4 October 1991. It is one of the two treaties that give legal force to **the Universal Declaration of Human Rights** (the other being the International Covenant on Economic, Social and Cultural Rights, ICESCR). Journalists reading this guide, might know that ICCPR rights are fundamental to enabling people to enjoy a broad range of human rights, including those relating to:

- freedom from torture and other cruel, inhuman or degrading treatment or punishment
- freedom from slavery and forced labour
- treatment by the judicial process
- privacy, home and family life
- marriage and the rights of children
- equality and non-discrimination, etc.

**UN International Covenant on Economic, Social and Cultural Rights** (ICESCR) is one of the most important United Nations (UN) human rights treaties. Albania holds accession status as of 4 October 1991. It is one of the two treaties that give legal force to the Universal Declaration of Human Rights (the other being the International Covenant on Civil and Political Rights, ICCPR).

**UN Convention on the Rights of the Child** (CRC) is an international treaty setting out the civil, political, economic, social and cultural rights of all children. Albania ratified on 27 February 1992. In doing so, Albania agreed that public bodies should consider the best interests of the child when doing anything that affects children. The CRC protects the rights of children in all areas of their life, including their rights to:

- express their views freely and be heard in legal proceedings that affect them
- privacy
- freedom from violence, abuse and neglect
- health
- an adequate standard of living
- education
- freedom from economic and sexual exploitation, and be treated with dignity and respect within the criminal justice system.

Albania hold accession status to the **UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** (CAT) as of 11 May 1994. The Convention makes it clear that torture is not justified under any circumstances. States that sign up to the treaty must act to prevent and investigate torture and

punish anyone who carries it out. States must also ensure that any victim of torture (or their immediate family if the victim dies) gets adequate compensation, including support for rehabilitation. By ratifying CAT Albania agrees to prevent acts of torture in connection with activities that include:

- returning, expelling or extraditing someone to another country where there are real grounds to believe he or she will face torture
- arrest, detention and imprisonment
- interrogation, and connected to the training of police (civil or military), medical staff, public officials and anyone else who may be involved in the arrest, detention and questioning of a person.

### **UN Convention on the Elimination of all Forms of Discrimination against Women**

is the international human rights treaty that focuses specifically on equality between women and men in all areas of life. Albania holds accession status as of 11 May 1994. It is often referred to as the 'women's bill of rights'. CEDAW provides the basis for making equality between women and men a reality. The ratification of the convention showed the Albanian State's commitment to promote women and men's rights altogether.<sup>85</sup> The Committee recommended that Albania should promote substantial equality for positions in political and public life by monitoring the implementation of special temporary measures provided for in the Law "On Gender Equality" regarding the participation of women in decision-making bodies at central and local level, such as in the public and private sector, in order to meet the objectives, set out in the law.

Albania ratified the **European Convention for the Protection of Human Rights and Fundamental Freedoms** on 2 October 1996, as well as the related Protocols to the Convention of the Protection of Human Rights and Fundamental Freedoms<sup>86</sup> (ratified with declarations, denunciation and/or derogations).

**European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment** (CAT), which Albania ratified on 2 October 1996, makes it clear that torture is not justified under any circumstances.

States that sign up to the treaty must act to prevent and investigate torture and punish anyone who carries it out. States must also ensure that any victim of torture (or their immediate family if the victim dies) gets adequate compensation, including

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85 UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13. Preamble. Available at: <https://www.refworld.org/docid/3ae6b3970.html>

86 Council of Europe. Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, Europ.T.S. No. 5; 213 U.N.T.S. 221. Available at : [https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations?p\\_auth=13Q66qI5&coeconventions\\_WAR\\_coeconventionsportlet\\_enVigueur=false&coeconventions\\_WAR\\_coeconventionsportlet\\_searchBy=state&coeconventions\\_WAR\\_coeconventionsportlet\\_codePays=ALB&coeconventions\\_WAR\\_coeconventionsportlet\\_codeNature=10](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations?p_auth=13Q66qI5&coeconventions_WAR_coeconventionsportlet_enVigueur=false&coeconventions_WAR_coeconventionsportlet_searchBy=state&coeconventions_WAR_coeconventionsportlet_codePays=ALB&coeconventions_WAR_coeconventionsportlet_codeNature=10)

support for rehabilitation.

By ratifying CAT Albania agrees to prevent acts of torture in connection with activities that include:

- returning, expelling or extraditing someone to another country where there are real grounds to believe he or she will face torture
- arrest, detention and imprisonment
- interrogation, and connected to the training of police (civil or military), medical staff, public officials and anyone else who may be involved in the arrest, detention and questioning of a person.

Albania ratified the **European Convention on Preventing and Combating Violence against Women and Domestic Violence** on 4 February 2013. The **Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)** is a Council of Europe convention against violence against women and domestic violence which was opened for signature on 11 May 2011, in Istanbul, Turkey. The convention aims at prevention of violence, victim protection and “to end with the impunity of perpetrators”. Albania was the second country that ratified Convention on 4 February 2013. The Convention came into force on 1 August 2014.

One of the distinctive features of the Convention is its insistence on a multi-pronged comprehensive approach encompassing prevention, protection, prosecution and integrated policies (“the 4 Ps”) in order to ensure the successful eradication of violence against women and domestic violence, as well as its clearly stated premise that violence against women is a manifestation of the historically unequal power relations between women and men. The convention places the many forms of violence against women, ranging from female genital mutilation to domestic violence, under the banner of “gender-based violence against women”, pointing to gender inequality as their common structural cause and calling for states’ comprehensive response to combat all of these different manifestations of power inequality between women and men.<sup>87</sup>

Article 6 of the Istanbul Convention that Albania ratified in 2014 calls for the integration of a gender perspective in the development of measures to implement the convention and in the assessment of their impact. On the other hand, this article calls on parties to promote and implement policies aimed at gender equality and women’s empowerment.<sup>88</sup> Gender sensitive policies must aim for both de jure and de facto equality between women and men. These policies are based on the principle

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87 Council of Europe, 1<sup>st</sup> General Report on GREVIO’s Activities covering the period from June 2015 to May 2019. Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), 2019. Available at <https://rm.coe.int/1st-general-report-on-grevio-s-activities/16809cd382>

88 Council of Europe, Convention on preventing and combating violence against women and domestic violence (CETS No. 210). Explanatory Report, paragraphs 61-62.

that gender inequality is both a consequence and a root cause of violence against women. The obligations provided under Article 6 of the convention reinforces Article 4, paragraph 2, which condemns and prohibits discrimination. “Parties condemn all forms of discrimination against women and take, without delay, the necessary legislative and other measures to prevent it, in particular by:

- embodying in their national constitutions or other appropriate legislation the principle of equality between women and men and ensuring the practical realisation of this principle;
- prohibiting discrimination against women, including through the use of sanctions, where appropriate;
- abolishing laws and practices which discriminate against women.<sup>89</sup>

While paragraph 3 of the Article 2 secure to protect that the rights of the victims will be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.

Article 2, paragraph 2 of the Istanbul Convention, encourages parties to apply the convention also to domestic violence committed against men and children. It is therefore up to the parties to decide whether to extend the applicability of the convention to these victims. However, the convention is clear in requiring parties to pay particular attention to women victims of this form of violence, because they are affected disproportionately. Indeed, the Istanbul Convention is clear in asserting that both domestic violence and violence against women should be understood as a gendered phenomenon. This is because the historically unequal relationships between women and men have led to the domination of men over women and are among the root causes of violence against women.

**Agenda for Sustainable Development Goals** of the United Nations Member States was adopted from Albanian Parliament on December 4th, 2017. In this Resolution, the Parliament underlined that peace and security, democracy and the rule of law, the elimination of all forms of discrimination, the empowerment of women, the engagement of younger generations and, last but not least, good governance are the essential requirements to ensure an irreversible evolution towards sustainable development.

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89 Council of Europe Convention on preventing and combating violence against women and domestic violence. Istanbul, 11.V.2011. Available at <https://rm.coe.int/168008482e>

## Best practices from NHRIs in monitoring women rights and GBV

**2**020 has been a difficult year, where planning and adjustments were needed in all layers of society, the People's Advocate (PA) and Commissioner on Protection from Discrimination (CPD) included. The institutions' work were impacted by shortages of staff due to COVID-19, technical issues due to combined office and online working, restriction measures, and practical difficulties to comply with administrative requirements. Despite these challenges, in all its initiatives and follow-up activities the PA and CPD have continued to work towards ensuring the highest standards of human rights protection and creating the right conditions for their real enjoyment. Meanwhile the Institution thoroughly reflected on the necessity to maintain the right balance between two high interests: respect for the rights of citizens on the one hand and protection of public health on the other.

National Human Rights Institutions (NHRIs) and state institutions will be able to provide evidence-based reporting, advocacy and policy dialogue supported by data collection that focuses on human rights thanks to the signing in September 2020 of a Memorandum of Understanding between the People's Advocate and Institute of Statistics (INSTAT), facilitated by United Nations Population Funds (UNFPA) in cooperation with Office of the High Commissioner for Human Rights (OHCHR) to improve the data collection system DocuLive.

In 2020, through contributing to the achievement of Sustainable Development Goals (SDG) targets 10.3, 16.3 and 16.a, United Nations Development Programme (UNDP) and United Nations International Children's Emergency Fund (UNICEF) laid the solid foundations for an effective institutional cooperation with the People's Advocate and the Commissioner for Protection from Discrimination to improve access to justice for vulnerable and marginalized groups, through the following:

- CPD increased its outreach to vulnerable groups, as customers of services provided under domestic laws, especially in remote areas, to address challenges to equal and unhindered access to basic services.
- PA have been supported in providing remedies and upholding human rights standards and gender considerations through development and implementation of a work plan to support (i) strengthening dialogue with the public administration in ensuring implementation of the PA's recommendations, (ii) reaching out to vulnerable communities, with a keen focus on women, Persons with Disability, Roma and Egyptians, and LGBTI to encourage their use of the PA in seeking redress for violations of human rights of women and men, and (iii) strengthening the policy framework in fighting all forms of harassment and sexual harassment in the public administration.

According to 6th ECRI report on Albania, a very effective and collegial relationship between the two institutions (PA and CPD) has been established in which both build on each other's mandate, capacities and expertise. 10 local/regional offices have

been opened (seven by the People's Advocate and three by the CPD), which can all be used to lodge complaints with either institution so as to promote better access to both independent authorities.<sup>90</sup>

## Office of the people's advocate

**P**eople's Advocate is one of the most important human right institution established for the protection of human rights. The establishment of this institution was achieved through the provision in the Constitution of the Republic of Albania, approved by a referendum in 1998. The Albanian Parliament adopted the organic law "On the Ombudsman" in 1999, by affirming the Ombudsman's institution, as a constitutional guarantee for the protection of the rights, freedoms and legitimate interests of the individual, the Albanian citizens, foreigners, regular or non-regular residents in Albania, refugees as well as stateless people who are located in the territory of the Republic of Albania, by the unlawful and irregular acts or inactions of the public administration bodies.

In accordance with the Paris Principles,<sup>91</sup> the Ombudsman was provided with a broad mandate, based on the international human rights standards, for the promotion, prevention of violations and the protection of human rights.

During 2018, the People's Advocate has gave 14 recommendations to the Ministry of Education, Sports and Youth, of which 50% (7 recommendations) were rejected by this institution, 6 were accepted and implemented and 1 has not yet been implemented.

In its Annual Report 2019, it has been concluded that the Ministry of Justice has still not completed approval of the establishment of primary legal aid service centers. Setting up these centers in some cities of the country remains a necessity, taking into account the expansion of the geographical distribution for the provision of services as close as possible to the community.

With regards to the complaints registered with the PA institution in 2019, 40 requests filed by citizens on issues such as termination of economic assistance, non-entitlement and exclusion of citizens from economic assistance schemes and the low economic assistance amount were addressed. According to the report, the economic assistance is insufficient to address the needs of needy groups in general and female family heads, Roma women or women from other vulnerable groups, including victims of domestic violence or trafficking in particular. The PA institution deems that the

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90 Council of Europe, ECRI General Policy recommendation No. 2, Equality Bodies to combat racism and intolerance at national level, February 2018, par 40 a-b. Available at 16808b5a23 (coe.int)

91 The UN's commitment to the establishment of national human rights protection institutions, which began in 1946, recognized a very important development of the workshop organized by the UN General Parliament in October 1991, in Paris. In this activity, several principles were laid down for enhancing the effectiveness of the work of national human rights protection institutions, otherwise known as the Paris Principles. They form the model (accepted by the member states) for the establishment and functioning of these institutions.

current situation (2019) related to women and girls' rights in Albania features sharp issues, especially regarding the use of misogynistic language, gender-based violence, domestic violence, access to justice, employment and other social services provision. The staff of PA has noted that the issues standing out the most from the content of complaints filed and handled for the 2019 by women consist of claims related to employment, economic assistance, pension, access to justice, non-execution of alimony granted by court decision etc.

An easily identified issue is the use of misogyny language by MPs, TV shows or articles published in the Albanian press and social media. Misogyny is more hostile towards career women.

In terms of subject, the PA has handled for the 2016-2019 period 17 complaints filed by women about the non- execution of final court decisions on alimony by former spouses; 11 complaints about the non-execution of final court decisions on obligation to resort to a specific course of action; 3 complaints about the non-execution of final court decisions on child arrangements; 10 complaints about the non-execution of final court decisions on monetary liability of state or private entities; 2 complaints about the non-execution of final court decisions on property division and 8 complaints about bailiff actions for enforcing women or girls to settle their liabilities.

In its "Alternative Report on implementation of CEDAW Convention in Albania 2016-2020" the PA office has recommended the Ministry of Justice to allocate sufficient funds to Non-governmental Organizations (NGOs) providing primary legal aid. In the Report, the AP is concerned for the low reporting level of GBV phenomenon experienced by remote or rural area women, because of the mentality and cultural development in these areas, the lack of information on services they can seek, the lack of free legal aid services, or the lack of referral mechanisms for violence in these areas. The low reporting level is also a result of the fact that a part of the requests submitted by GBV victims are not considered with respect and professionalism by the relevant staff at the local and central levels, while there are no provisions for civil and/or criminal sanctions for failing to address such requests in compliance with the law. In addition, in a number of cases, police structures continue to address GBV as an issue of private domain, avoiding their intervention in cases reported and diverting the resolution of the dispute to reconciliation between the family members. With regard to women and girls with disabilities and victims of violence, the Committee on the Rights of Persons with Disability considers the lack of effective tools to restore their rights, such as compensation, rehabilitation, or social reintegration, to be a concern.<sup>92</sup>

Especially during the last two years, the People's Advocate has made hate speech a prominent topic in the recent annual report.

Last but not least, the PA staff currently is working on a parallel report on victims of DV in accessing the protection orders and economic assistance.

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92 See: Concluding Observations on the initial report of Albania, Committee for the Rights of Disabled Persons, 14 October 2019, para. 31. Available at : <http://docstore.ohchr.org/SelfServices/FilesHandler>.

According to the responses collected from the needs assessment questionnaire for the staff of PA<sup>93</sup>, they responded that field visits are the main tool for data collection, monitoring and reporting, followed by individual complaints and media reports. The majority of respondents believe that interview models tailored to the category of persons to be interviewed and questionnaire tailored to the human rights/discrimination issues to be monitored are needed.

Based on the statistical data to the respondents, hate speech and discrimination against women and GBV have been prioritized as areas needed of increased intervention and monitoring. On another question, the staff of AP indicated that trainings on collection, analysis and reporting of statistics is considered most helpful in order to collect and report accurate statistics.

## Commissioner for the Protection against Discrimination

**B**ased on the Law no.10221, dated 04.02.2010 “On Protection from Discrimination”, the Commissioner for Protection from Discrimination (CPD) is the responsible authority that ensures effective protection from discrimination and from every other form of conduct that encourages discrimination.

During 2018, the CPD has initiated 8 ex officio cases, after receiving reliable information. The review of these cases by the CPD has begun based on information received from organizations operating in the field of discrimination by, providing free legal aid to people in need in the field of services, providing services and protection for people with disabilities, as well as organizations that protect the rights of children in education.

The CPD has dealt with several complaints concerning hate speech in recent years: in total 12 cases reviewed during the period 2015-2018. In four cases, the CPD concluded that the language used was in excess of what could be considered as being protected by freedom of speech and found that hate speech had been used.

In order to enhance the criminal law responses to hate speech, the authorities jointly with the CPD and in cooperation with the state police, organized the training of state police officers at district level. 19 training sessions were held in 12 regions of Albania and 471 local police directorate staff members were trained. The training was not limited to hate speech only, but covered anti-discrimination measures in general, including the work of the CPD and the ECtHR, and specifically referred to the situation of the LGBTIQ community.<sup>94</sup>

In 2018, the Commissioner for Protection from Discrimination has issued in total 239 decisions and 2 recommendations on ex-officio cases (which have focused on

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93 OSCE Presence in Albania, Needs Assessment on National Human Rights Institutions in Albania, Mauro Puzzo and Albana Gërxi, June 2021

94 Council of Europe, ECRI Report on Albania (6<sup>th</sup> monitoring cycle). Adopted on 7 April 2020. Available at <https://rm.coe.int/report-on-albania-6th-monitoring-cycle-/16809e8241>

a specific target group), out of which: 232 decisions on individual complaints and 7 decisions by fines.

In 2019, CPD handled 225 cases (215 complaints and 10 ex-officio cases). From these cases, 215 cases were based on complaints. These complaints were mainly submitted by organizations with legitimate interests on the protection of the rights of children, Roma/Egyptian community, disability etc. In some cases the information given by civil society organizations and media has served as an indicia or information for the commissioner for initiating cases.

During this year, the CPD has handled 14 cases (12 complaints and 2 ex-officio) on hate speech, mainly related to the affiliation in LGBTI as well as Roma and Egyptian community. At the end of the review process, to the above-mentioned cases, in 3 cases the Commissioner has found discrimination of the complainants.

In the first six months of 2021, CPD handled 200 cases (180 complaints and 20 ex-officio cases). During this period, the Commissioner has expressed 1 decision to achieve effectiveness. The object of the complaint that the Commissioner spoke about with this decision was related to the fact that a female student was not admitted to school due to the headscarf she wore. After the mediation of the CPD, the conditions were created for the girl, giving her access to attending the lesson like all other students.

During the first 6 months of 2021, the Commissioner has issued 10 basic decisions on complaints / cases ex-officio, where discrimination based on gender has been alleged and has reviewed 9 complaints, and 3 ex-officio cases, which address issues of hate speech. 5 of the complaints address hate speech because of race. While 7 complaints address hate speech against the LGBTI community.

Focusing on the election campaign of April 2021, the CPD in cooperation with the Central Election Commission (CEC), issued a joint recommendation, emphasizing the need and obligation of political parties and media outlets to respect for the principle of equality and non-discrimination. Specifically, it is recommended that political parties and media outlets review the adoption or rely on Electoral Campaign Codes of Conduct in which there are rules on discrimination, harassment and hate speech; that political parties and candidates, as well as the people who work for them, among other things should refuse to use discriminatory language in their programs and campaigns, express or support ideas or theories of the superiority of a group of people based on race, ethnic origin, religion, gender, age, sexual orientation, gender identity, disability and other protected characteristics or a combination thereof; that media outlets in their coverage of election campaigns refuse to use or support hate speech; that political parties provide in their lists a representation which reflects the diversity of people in society, etc.

During 2021, CPD did made recommendations regarding the matrix of the Action Plan for "National Strategy for Gender Equality 2021 - 2030".

The CPD has proposed that in the proposed measures such as: “Information, especially of women and girls in urban and rural areas, on improved legislation regarding women’s property rights, with a focus on the right of ownership over agricultural land”.

As for the proposed measure “Increasing the range of courses offered in Centre for Professional Formation adapted to the requirements and needs of the labour market, CPD has proposed to add a specific module to address the part of gender discrimination, legal protection provided by law, so that women and young women are informed in advance about this part, without yet entering the labour market.

The CPD and UN Women conducted a study about the women representation in the appointed local government bodies. The aim of this study was to portray a panorama, of the gender configuration in the composition of the appointed local government bodies.

According to the responses collected from the needs assessment questionnaire for staff of CPD on which of the following sources should their institution improve cooperation with in order to strengthen monitoring, data collection and information exchange, the majority of responses goes to Central Government Institutions. The staff has indicated lack of training on interviewing techniques and challenges in adapting the interview according to the personal characteristics of the interviewee (i.e. gender, age, religion, race, ethnicity)

Based on same responses, the staff has identified that interview models adapted to the category of persons to be interviewed will be useful to better conduct data collection and reporting on discrimination issues, to be trained on ethical considerations (e.g. do no harm, informed consent, confidentiality). The staff recommend in majority that discrimination against women and Gender Based Violence is one of issues worthy of increased monitoring from CPD and the need to be trained for Hate Crimes and Hate Speech issues.

According to the responses collected from the Questionnaire, the main sources that CPD draws on to monitor, collect data and report discrimination cases are complaints or petitions addressed to the institution and complaints, statements or monitoring reports by CSOs.

The staff of CPD have indicated some of the best examples and practices that the institution is using to monitor and report discrimination cases. We could mention monitoring of the situation of gender equality, disabled people, including reasonable adjustment of physical infrastructure, the case of monitoring the use of hate speech in the election campaign, the kind of vocabulary that may be used by political forces competing with each other and collaborations with other institutions, including on supporting evidence for their reporting with fact- finding monitoring by CPD and various NGOs.

## Monitoring Discrimination against Women and GBV

**B**oth the People's Advocate and the Commissioner for the Protection from Discrimination offices in Albania have the capacities to support a human rights based approach when monitoring discrimination against women and gender-based violence (GBV), as per their already established existing roles and responsibilities. These institutions have the capacities to offer a clear picture of what is occurring, based on real evidence.

The goal of human rights protection is first and foremost to ensure the establishment or reinforcement of a protection framework, to identify and investigate human rights abuses, to bring those responsible for human rights violations to justice, and to provide effective remedies and redress for victims, within a structural framework of policies, laws and programmes that ensures prevention and enforcement.

People's Advocate and Commissioner for Protection from Discrimination are both institutions directly linked to working with civil, political, economic, social and cultural rights. Their role is focal in promoting human rights and reinforcing rule of law.

Both these institutions can ensure the application of international human rights norms and domestic ones. The administrative mechanisms that both institutions have are required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively based on the fact that they are independent and impartial bodies.

For this purpose, the European Commission against Racism and Intolerance (ECRI) have issued a recommendation to the Albanian authorities to establish a comprehensive monitoring process for hate speech incidents and work closely with PA, CPD, the prosecution service, police, as well as relevant CSOs.

By monitoring, they mean the collection, verification and use of information to address human rights issues. Human rights monitoring includes gathering information about incidents, observing events, visiting sites, discussions with national authorities to obtain information and to pursue remedies and other immediate follow-up. Monitoring is usually conducted over a period of time.

There is a substantial and growing body of State obligations, laws and norms related to the equality rights of women and girls. Although the main legal sources of these rights are the Istanbul Convention, and CEDAW, there are other instruments, which contain a basic equality guarantee, such as the Convention on the Rights of the Child (CRC) and a number of labour instruments from the International Labour Organization which contain rights affecting women and girls.

For NHRIs, women's human rights engage not only legal standards but also monitoring the effect given to legal provisions, which provide indicators of progress.

The institution might produce an assessment tool in order to identify how roles and responsibilities to implement gender equality and mainstreaming are clearly assigned

across the institutions.

According to the Paris Principles<sup>95</sup>, the PA office has a responsibility to advise the Government, the Parliament and any other competent bodies on all types of human rights matters.

In many contexts “gender” often means “women”. This is especially true for Albania. Nevertheless, gender-related violations of the rights of LGBTI people or gender-specific violations that affect men should not be forgotten. Most of these challenges are particularly serious when monitoring violations involving violence against women or other particular forms of discrimination.

Thus, when conducting monitoring processes, the AP office and CPD must:

- Apply the “do no harm” principle;
- Assess possible security risks;
- Follow recommendations for conduct when interacting with survivors of trauma;
- Take into account the recommendations of specialized NGOs working with them (in case they are cooperating with such entities)
- Avoid making wrong assumptions, i.e.:
- Identify all women as victims;
- Labelling all women as a group that is naturally marginalized or vulnerable.

PA office and CPD should objectively analyze their own stereotypes, and should act in a way that empowers women as rights holders rather than downgrading them to the role of victims in need of sympathy and assistance.

Some ways in which these can be achieved are:

- Using gender-sensitive and empowering language in interactions and reporting;
- Monitoring a broader range of women’s rights violations (beyond violence against women), and fully integrating a gender perspective throughout their monitoring and reporting;
- Consulting, partnering and engaging extensively with women and women’s rights NGOs;
- Carrying out efforts and initiatives that counter harmful gender stereotypes.
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95 Principles relating to the Status of National Institutions (The Paris Principles). Adopted by the UN General Assembly resolution 48/134 of 20 December 1993. Available at: <https://www.un.org/ruleoflaw/files/PRINCI-5.PDF>

## The methodology for monitoring gender discrimination using a human rights approach

**G**ender analysis is fundamental to understanding how gender affects human rights and to designing interventions accordingly.

There are two ways in which gender affects human rights:

- All forms of discrimination against women in the enjoyment of all human rights are gender-specific violations. Their legal determination is anchored in the Convention on the Elimination of All Forms of Discrimination against Women and other core international human rights treaties;
- Other human rights violations are not overtly or directly discriminatory but have a different impact on men than on women. For example, refugee women have different security and health needs and problems than refugee men, access to education can be different for boys and girls depending on the choices their parents make.

Use gender analysis to identify both types of violations: gender-specific aspects of human rights violations, as well as violations of the human rights of women. Gender analysis makes the assessment of a situation more thorough and results in better targeted corrective actions, so that women and men benefit equally, and inequality is not perpetuated. It also implies the use of gender-sensitive language.

The figure below illustrates the monitoring cycle and describes the different steps and aspects of human rights monitoring. This chapter is about understanding how a gender dimension can be integrated in all aspects of the cycle.



Figure 1

Monitoring cycle of gender discrimination. From “Manual on human rights monitoring”, United Nations High Commissioner for Human Rights (2001).

## 1. Information gathering

When gathering contextual information and information about specific human rights violations, the data collected should be sex- and age-disaggregated, and possibly disaggregated on the basis of other parameters relevant for the identification of potential discriminatory practices (e.g., ethnicity, religion, political affiliation,

disability). It is important to understand the links between gender and other social identities. Disaggregating solely on the basis of gender or age is often insufficient to reveal all forms of discrimination. Where gender-specific information is not available, this gap is to be explicitly acknowledged. Information on gender is to be integrated into the whole information-gathering process. While specific gender concerns can be summarized under the heading “women”, it is important to remember that, in general, women as such do not constitute a “vulnerable group”, but are half of the population and their presence (or absence) has to be acknowledged and analysed in all spheres of life for the analysis of the contextual situation to be complete.

## 2. Analysis

A three-stage analysis is proposed to understand human rights problems through the use of a variety of tools: (a) an overview of the human rights problem; (b) the human rights risk equation; and (c) actor mapping.

### Overview of human rights problem

Analysis begins with a general review of the human rights problem that is being studied, including its causes, circumstances, consequences and barriers to remedies. Analysing these elements helps to identify systemic and structural problems that affect the human rights problem that is being monitored. This is particularly important when working on gender, as many—if not most—gender-specific violations or gender aspects of human rights violations are linked to systemic and structural discrimination against women.

When undertaking analysis, the relationship of culture and human rights, and the intersection of discrimination against women and other forms of discrimination (multiple discrimination) are to be taken into consideration. Cultural arguments shall never condone discrimination or violence against women.

### The human rights risk equation

This tool helps to analyse a human rights problem by breaking it down into four components: threats, vulnerabilities, commitments and capacities.

The following “gender questions” can be used to integrate gender in this analysis:

### Threat

- Is the behaviour of the threat’s author(s) based on gender-discriminatory laws, policies, attitudes, practices or positions?
- What are the positions of the threat’s author(s) vis-à-vis gender equality?

## Vulnerability

- Do threats affect women and men differently? If so, how?
- Are there threats specifically targeting men or women? If so, is it because of their gender?
- Are men and women vulnerable in a different way to threat(s)? If so, how?

## Commitment

- Do commitments made by duty bearers to respond to threats affect women and men differently?
- What are their formal and real commitments to gender equality?
- Do duty bearers monitor and act with due diligence to protect women and/or men from gender-based violations?
- Do such commitments (or lack of) influence the situation being analysed?

## Capacity

- Are there differences between how women and men respond to threats?
- Do limitations in the State's capacity to respond to threats affect women and men differently?

## Mapping the actors

Actor mapping is an analytical tool to identify key actors related to a given human rights problem, and the power relationships and channels of influence among them.

There are different ways in which gender can be integrated in this tool:

- a) by mapping the actors on gender;
- b) by integrating a gender perspective in an actor map of the human rights problem being monitored.

## How to use gender sensitive and empowering language?

**A**void using terms as male and female. These terms reduce people to their reproductive roles.

On the other hand, gender is socially-constructed notion, so terms like man and woman, as well as non-binary terms should be used, when needed.

Gendered generic nouns such as mankind, forefathers, and motherly should be replaced with gender-neutral terms like humankind, ancestors, and nurturing.

Job titles should not be segregated based on gender. Gender is not a determinant of how people fulfil their roles.

Terms like police officer should be used instead of policeman or policewoman, chair or chairperson instead of chairman or chairwoman, and *actor* for both women and men.

Avoid	Use
Male	Man
Female	Woman
Mankind	Humankind
Motherly	Nurturing
Forefathers	Ancestors
Policeman	Police officer
Policewoman	Police officer
Chairman	chair
Chairwoman	chair
Primitive man	The average person/individual
Committee of wise man	Advisory panel
Manpower	Staff, workforce, employees, personnel
Brotherly	Friendly
Businessman	Business manager, executive

## Discrimination against Women

**A**rticle 1 of the Convention on the Elimination of Discrimination against Women<sup>96</sup> defines such discrimination as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a

96 Convention on the Elimination of All Forms of Discrimination against Women. United Nations. New York, 18 December 1979. Available at <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” Several other international instruments prohibit discrimination on the basis of sex.<sup>97</sup>

Non-discrimination is a fundamental human rights principle that cuts across all sets of rights. Some possible examples include:

- The unequal participation of women in political and public life;
- The unequal remuneration of women workers for work of equal value;
- Discrimination against girls in accessing primary and secondary education;
- Denial of girls’ access to sexual and reproductive health services and information;
- Gender stereotypes leading to disproportionate and unpaid domestic and caregiving responsibilities for women and girls;
- Laws limiting the possibility for women to transmit or acquire nationality as compared to men.

Discrimination restrains the enjoyment of all women’s human rights. Identifying and ultimately **capturing discrimination** in all its parts is a key aspect of monitoring them, from the right to quality education to meaningful political and public participation, full participation in economic, health, access to justice, social and cultural life, and so on. By systematically collecting and analyzing disaggregated information and data, one can identify and document discrimination.

There is **disaggregated information** that PA and CPD could collect directly – especially when interviewing victims and witnesses of human rights violations – using forms and recording information in databases that capture elements such as the sex, gender, age, ethnicity and religion of potential victims, witnesses, sources of information and alleged perpetrators. Regular analysis of this simple information can already provide the field presence with a better understanding of how monitoring is being conducted and of its direction and impact.

**Referral** should be part of monitoring women’s rights. Whenever appropriate, and with the informed consent of the individuals concerned, for the people they come into contact with PA and CPD should facilitate access to structures and organizations that can provide psycho-social support, legal aid, shelter, physical protection, health care services, etc. This entails mapping existing referral pathways or networks, and establishing contacts with these organizations and services in advance so as to be in a position to advise on how to access them and to facilitate contact when needed.

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97 Article 2 of the Universal Declaration of Human Rights; article 2 of the International Covenant on Civil and Political Rights; article 2 of the International Covenant on Economic, Social and Cultural Rights; article 1 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; article 2 of the Convention on the Rights of the Child; article 6 of the Convention on the Rights of Persons with Disabilities.

**Coordination** with other actors is thus essential to ensuring a wider availability of services, but also to ensuring that a referral respects confidentiality and protects the security of the individuals assisted. For example, PA and CPD can create good links with police units responsible for cases of violence against women, check whether they have and use Standard Operating Procedures for the referral of victims to appropriate services

**Types of discrimination against women**

Types of discrimination against women	What it is	Monitoring Tips
<b>Direct discrimination</b>	Different treatment of women and men based on the grounds of sex and not justified by reasonable grounds (polygamy, different legal age of marriage for girls and boys).	Direct discrimination can be detected by monitoring legislation and different types of regulation and protocols. Often is established in laws, regulations and policies.
<b>Indirect discrimination</b>	A condition that appears neutral, but results in unequal treatment of women (e.g. when women are disadvantaged in the pension scheme that excludes part time workers, most of whom are women)	<p>Indirect discrimination becomes evident when notions based on stereotypes are enshrined in laws and policies. When you observe a difference between women and men in relation to their rights, analyze it to see whether a certain gender stereotype is preventing women from benefiting from laws and policies that are relevant to them. (e.g. look at the assumptions about who is “breadwinner”, the “head of the family” and who cares for children.</p> <p>In the situation you monitor, always consider the differentiated experiences, views and needs of women and girls. Which are the challenges they do face compared to men and boys? Are these differences due to discrimination, inequality or gender stereotypes?</p>

<p><b>Discrimination in law (de jure)</b></p>	<p>Direct discrimination and indirect discrimination established in laws, especially laws that have the effect of being detrimental to women.</p>	<p>Discriminatory laws can be found in all areas. The legislation that might be monitored include: constitution, criminal law, labour law, health law, civil code, electoral law, etc.</p>
<p><b>Discrimination in practice (de facto)</b></p>	<p>This relates to unequal opportunities and results. Opportunities for men and women to enjoy human rights to achieve equal results.</p> <p>In the areas of housing and property, the laws provide for co-ownership with the agreement of both spouses. But in reality, only the well-educated or people in urban areas take the steps to register as co-owners. In many cases women obtain title and even in cases when they have it, they hardly could gain control over it.</p>	<p>Explore what is happening in practice. For example; do the girls in a certain region complete the high school in the same numbers as boys? Are women candidates on electoral campaign having same opportunities as men candidates? Are women favored as men to find a job? Are women excluded from the opportunity of property?</p>
<p><b>Intersecting forms of discrimination</b></p>	<p>Some layers of discrimination interacting in parallel (lack of possibility to get her title of property of a woman with disability).</p> <p>The growth of discrimination on more than one ground (age, race, gender identity, disability, sexual orientation, ethnicity, religion, ect.)</p>	<p>Collect data and information on the basis of several grounds (age, race, gender identity, disability, sexual orientation, ethnicity, religion, ect.) and analyze the interaction of different grounds of discrimination. Some discrimination may target only specific groups of women.</p>

## The case of discrimination against refugee women and girls

**C**hallenges that women face around the globe having to do with discrimination, are further exacerbated for refugee women and girls. Refugee women may experience violence and discrimination in different stages of their journey, either in their country of origin, while they flee to find a shelter or in the place where they find refuge.

Discrimination against refugee women and girls happens in many spheres and affects their health, education, and access to resources and economic opportunities.

### Access to education

Girls are 2.5 times more likely to be out of school than boys in countries affected by conflict. Early marriage, poverty, insecurity, and gender roles hinder women's school attendance. Displacement often forces women and girls to take on additional caregiving roles and responsibilities to support their families and communities, which often results in a high number of school dropouts.

### Access to health care

Refugee women often have limited access to public health systems, reproductive health services, hygienic products, and contraceptive methods. The limited access to adequate maternal health services can have serious health implications. 60% of preventable maternal deaths happen in situations of displacement or conflict. The lack of access to sanitary products can also hinder women and girls' ability to attend school, go to work or perform other activities.

### Access to resources and economic opportunities

Refugee women often face obstacles in accessing jobs and financial services, which makes them more susceptible to violence, abuse and exploitation. Furthermore, gender pay gaps favoring men over women are common in refugee-hosting states.

## Monitoring Violence against Women

**V**iolence against women" is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;<sup>98</sup>

The Istanbul Convention speaks to all forms of violence against women, such as: forced marriage, psychological violence, stalking, physical violence, sexual violence,

98 Council of Europe, Convention on preventing and combating violence against women and domestic violence. Istanbul, 11.V.2011. Available at <https://rm.coe.int/168008482e>

including rape, female genital mutilation, forced abortion and forced sterilisation and sexual harassment.

Women, men, boys and girls can be victim of gender-based violence, but the majority of the victims all around the world are women and girls. Violence is disproportionately directed against women simply because they are women. Similarly, violence against LGBTI community is also often based on gender.

The PA and CPD, as human rights institutions in Albania, should be aware of the multiplicity of forms and the intersecting nature of the violence and discrimination against women that may take place in a given society, both in the public and the private life.

Monitoring violence against women would require gathering information on the following aspects:

- The legislation, regulations and procedures in place (or the lack thereof) to protect women against all forms of violence;
- Measures and policies in place to ensure timely, impartial and objective investigations into cases of violence against women and to promote survivors' access to justice;
- The customs, traditions and religious values that exist in Albanian society and regulating both the behaviour and the sexuality of women and girls;
- The political, social, cultural and economic contexts in which violence against women occurs, as well as the political, legal and societal reactions to such violence;
- The structures and mechanisms responding to and addressing violence against women;
- The existence of support services for women who are victims of violence (e.g., national helpline 116117 (Counselling Line for Women and Girls), specialized police services, health care, psycho-social assistance, legal aid, shelters, etc.);
- Disaggregated statistical data on the incidence of all forms of violence against women, and on women victims of violence, including in terms of age, race, religion, disability, ethnicity, education, migrant status, sexual orientation, gender identity, economic conditions and other status, as relevant;
- Gaps in the protection of women from intersecting forms of discrimination and violence in areas such as economic exclusion, poverty, education, health, etc.

## Sexual violence

**S**exual violence includes forcing, coercing, or attempting to coerce any sexual contact or behaviour without consent. Sexual violence includes, but is not limited to marital rape, attacks on sexual parts of the body, forcing sex after physical violence has occurred, or treating one in a sexually demeaning manner. This type of violence can be committed by intimate partners and family members within the context of marriage, dating relationships and family. It also encompasses acts such as the touching of body parts, forced nudity, humiliating medical examinations, targeted injuries to breasts and the genital area, intentional infection with sexually transmitted diseases, and threats of sexual nature.

Where there are patterns of discrimination, including violence against women, the existence of **conflict or health emergencies such as pandemic of Covid-19** is likely to reinforce and exacerbate them.

Understanding these dynamics will help the PA and CPD, when deployed in emergency situations, to identify better what forms of sexual violence may be observed in a given society, what their causes and consequences are, and who are potentially the individuals/groups at the greatest risk of harm.

## Trafficking in women and girls

**T**rafficking in human beings” means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.<sup>99</sup>

When conducting monitoring on trafficking of human and girls, the monitor might focus on following issues:

- What forms of trafficking exist in Albania?
- Is Albania a source, transit or destination country?
- Who are the victims and who is at risk of becoming a victim?
- Who is involved in committing the crime?
- Is the legislation adequate? Is it implemented?

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99 Council of Europe, Convention on Action Against Trafficking in Human Beings, 16 May 2005, CETS 197, available at: [https://ec.europa.eu/anti-trafficking/council-europe-convention-action-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/council-europe-convention-action-against-trafficking-human-beings_en)

- How Albania is implementing the national plan to combat trafficking?
- What measures are taken to prevent trafficking, in particular by providing people at risk with information and opportunities?
- Is protection and support available to survivors of trafficking? Are legal assistance and temporary residence permits provided?
- Are assistance and support made conditional upon the victim's willingness to cooperate?
- Any special measures for children survivors of trafficking?
- What are the guarantees for the safe repatriation of survivors of trafficking?

## Monitoring on Legislation

**M**onitorimi i legjislacionit dhe të drejtave të njeriut ndahet në dy kategori kryesore:

1. Monitoring the legal framework in order to ensure that is in the same line with international standards and norms on women's rights (conventions that have been signed and ratified from Albania).
2. Monitoring the implementation of legislation on women's rights.

PA has produced an alternative report in relation with CEDAW Convention (2016-2020), and it might be suggested to do the same for Istanbul Convention since GREVIO monitoring report offer technical expertise and in-depth analysis on law and policy on violence against women, which is a field not covered by other instruments.

A comprehensive list of the recurrent problems has been listed in baseline evaluation of GREVIO for Albania and in the alterative report produced for the CEDAW Convention by PA.

In general, the laws produced in Albania are in line with international legislation and what is lacking is the proper implementation. That's one of the monitoring jobs that should be conducted by PA and CPD.

The main questions for this monitoring are listed below:

- Are the structures and mechanisms provided for by law in place?
- Do they function?
- Do rights holders use them?
- Is the law achieving its objectives?
- Should it be changed to achieve more, or to adapt to new circumstances?

- Does the State allocate the resources needed for implementing the law?
- Is a gender budgeting tool being employed?

## Monitoring Gender Stereotyping

**M**onitoring work on **gender stereotyping** it is very important because that doesn't allow women to thrive. There are several convention and international laws that do that. For example, Convention on the Rights of Persons with Disabilities obligates States to combat stereotypes and stereotyping, including compounded stereotypes and stereotyping based on sex, age or disability.

Gender stereotypes can increase their harmful impact when are accompanied with other negative assumptions associated with other groups, such as women with disabilities, women in conflict with the law, women with lower economic status, or women from minority, etc.

Some examples of stereotypes that can adversely affect women's enjoyment of human rights:

- The idea that "women are born to take care of children and family" reinforces the notion that women should be responsible for most of the domestic chores and unpaid care. This can also lead to violations of women's human rights when translated into laws and practices that deprive them of educational and professional opportunities.
- Stereotypes, patriarchal attitudes and some religious beliefs and practices contribute to the persistence of violence against women and also to harmful practices including child and forced marriage.
- Stereotypical imaging of women and their objectification in the media, especially in advertising, reinforce notions that women are subordinate to men, and this leads to violations of women's rights in many areas of life.

Monitoring women's human rights also requires identifying and analysing gender stereotypes and especially how they impact on women's rights. Key areas to monitor, because of their role in intensifying gender stereotypes, include:

- The media, the entertainment industry and advertising (e.g., is there sexist advertising?)
- How are women and men portrayed in the media?
- How are women who engage in politics portrayed?
- Education, school and university textbooks, curricula and teaching methods (e.g., do they change or perpetuate harmful gender stereotypes?)
- Attitudes and behaviour of leaders and decision makers (e.g., what is the

discourse of political leaders on women's participation in political life or, more broadly, on women's role in society?).

- Traditional or customary laws and practices relating to women's role in society.
- The judiciary and the administration of justice and law enforcement.
- The workplace (are women equally represented in highly valued professional sectors? Are women represented in leadership positions? Is there sexual harassment? If so, is it addressed or tolerated?).
- The digital space and technology (e.g., monitor data that perpetuate cyberbullying and misogyny online, etc.
- The private sphere.

## The Private Life

**F**amily and school are the ones that could promote human rights. They are also the place where the first stereotypes are shaped and then reproduced in a larger sphere. Very often the majority of discrimination start here at the private sphere.

Below are listed some examples of violations occurring in private sphere:

- Domestic violence that includes psychological, physical and sexual
- Forced abortion
- Child sexual abuse and exploitation
- Child labour
- Decisions undertaken from the family to interrupt education for girls
- Decisions undertaken from the family to the women and girls on how to live life, who to marry with, etc.
- Early marriages and forced marriages
- "Honor based violence"
- Harmful gender stereotypes
- Discriminatory practices against women and girls in relation to gender identity and sexual orientation
- Marital rape

Some of the individuals that could perpetuate the above mentioned forms of violations are:

Family and extended family members, religious leader, community leaders, people known to the victim, employers (formal and informal economy).

While these violations are happening in the private sphere, state is responsible for

protecting women and girls from risk of violence based on CEDAW and Istanbul Convention. Protective measures may include, for instance, issuing exclusion orders or detaining potential perpetrators.

## Women human rights defenders

**W**omen's human rights defenders (WHRDs) are mainly women working on any human rights issue, but also anyone working on human rights issues concerning gender equality.

WHRDs are exposed to the same types of risks as any human rights defender, but in the case when they are women, they are also targets of additional human rights abuses – both online and offline. The work of WHRDs can be perceived as challenging a society's traditional notions of family and gender roles, which can lead to hostility from the general population and the authorities. In addition, WHRDs can be stigmatized by community leaders, faith-based groups, families and communities that consider their work threatening to religion, honour or culture. This increases their risk of becoming the target of attacks.

Some examples of attacks and threats WHRDs are subject to:

- WHRDs are often targets of threats and violence directed against them or their family members. This is also true for instances when they talk in public and give interviews, make presentations in forums, etc.;
- Gender-based violence is a common feature of attacks against WHRDs;
- Attacks against WHRDs in the media and social networks often build on the same stereotypes they are trying to challenge: stereotypes about the role of women in society and about their sexuality (e.g. they are portrayed as bad mothers or bad wives, lesbians -considered by attackers as a derogatory word- or prostitutes).
- Restrictions on WHRDs' freedom of opinion and expression, freedom of movement, assembly and association. These are often justified in the name of public morality.

In order to ensure a fair and balanced monitoring, NHRIs should:

- Work with WHRDs as part of their monitoring activities: defenders are valuable sources of information, and can support them in reaching out to women;
- Taking into account the gender-specific challenges and violations that WHRDs face, NHRIs should monitor and report on their human rights situation;
- The work of WHRDs should receive public recognition and support. This is one of the first steps in preventing or reducing threats and attacks against them.

- Measures that prevent, protect from and respond to threats and attacks against WHRDs should be supported. These measures are such that take into account the particular experiences, views and needs of women human rights defenders.
- Masat që parandalojnë, japin mbrojtje apo përgjigjen ndaj kërcënimeve dhe sulmeve në drejtim të MDNJG-ve, duhet të mbështeten. Këto masa janë të tilla që mbajnë parasysh përvojat, pikëpamjet dhe nevojat e mbrojtësve të të drejtave të njeriut të grave.

## Sexual and reproductive health and rights

**H**ealth is a fundamental human right indispensable for the exercise of other human rights. Among other things, women's right to health includes their sexual and reproductive health. Their right to sexual and reproductive health contributes as an integral part of the general right to health, and is also intrinsically linked to the enjoyment of other human rights, i.e. rights to education, work and equality, as well as to the rights to life and privacy.

Sexual and reproductive health (SRH) and rights encompass both the freedom to control one's own health and body and the right to enjoy a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of sexual and reproductive health. Sexual and reproductive health also means being able to have a safe and satisfying sex life. Women are entitled to decide on the number and spacing of their children and to have the information and services, including contraceptive services, needed to make such decisions.

In the Albanian context, sexual and reproductive health is often poorly addressed and seldom monitored or researched. Disregarding this aspect of health creates various obstacles to accessing SRH related services and education. This threatens the health of women, namely through increasing the probability of unplanned pregnancies and unsafe abortions, augmenting the risk of acquiring sexually transmitted infections, and most importantly, increasing the hazard of maternal and neonatal death.

There are some categories of women who are more susceptible to not acquiring their SRH rights. Women with disabilities require enhanced attention and extra sensitivity to their situation,. On the other hand, adolescents should not fear going to the gynaecologist because they are not supposed to have any sexual encounters. This is difficult as in many countries, including Albania, taboos around sex and sexuality exist. Similarly, this also affects the ability of single women to access services.

## Women and sexually transmitted infections (STIs) and HIV/AIDS

**W**omen and adolescent girls are particularly at risk of HIV/AIDS and other sexually transmitted infections. This is not only due to their innate reproductive function, but also because of economic and social inequalities. Moreover, culturally prescribed gender stereotypes generally place women and girls in subordinate positions in relation to men and boys when it comes to sexual relations.

It is often the case that violence against women (VAW) is both a cause and a consequence of an STI or HIV/AIDS. VAW can also further contribute to transmission of STIs and/or HIV/AIDS. Women who are HIV-positive are usually stigmatized, which triggers further discrimination and violence. These women are also at increased risk of being subjected to involuntary sterilization in many countries. Organizations and governmental bodies must be cognizant of, and analyze, the interplay between gender-based discrimination, inequality, violence against women, STIs and HIV/AIDS, and how it impacts on women's access to health care.

Violations of women's sexual and reproductive health rights are frequent, despite it being a fundamental human right. These violations are of many forms, including numerous legal, procedural, practical and social barriers to accessing sexual and reproductive health care and information, the denial of access to services that only women require, poor-quality services and procedures relating to a woman's reproductive and sexual health, including forced virginity examinations and forced abortion, performed without their informed consent. 52

These violations are deeply rooted in societal values relating to women's sexuality. Patriarchal traditions of women's roles within the family place the value of women on their ability to reproduce. Early marriage and pregnancy, or repeated pregnancies spaced too closely together, often as the result of efforts to produce male offspring because of the preference for sons, have a devastating impact on women's health, sometimes with fatal consequences. Similarly, many women are frequently blamed for infertility. As a result, they are subjected to various human rights violations.

When monitoring women's right to health, NHRIs should take into consideration the following aspects concerning STIs and HIV:

- The regulations, policies or plans providing for women's particular health-care needs, including by taking into account ethnic, regional or practices based on religion and tradition;
- The policies, strategies or plans to combat HIV/AIDS and to protect women living with HIV/AIDS from discrimination;
- The policies or strategies for a medical response to violence against women, and the availability of health services staffed by health providers specialized in or with training on the issue of violence against women;

- The regulations, policies or plans for sexual and reproductive health care, such as contraceptive services and goods;
- The laws and policies on abortion or termination of pregnancy, whether abortion services are accessible on request, as well as the existence of policies for preventing unsafe abortion and providing post-abortion care;
- Laws criminalizing the non-disclosure of HIV status, exposure to and transmission of HIV, consensual sexual activities between adults, and transgender identity or expression;
- Cases and patterns of forced virginity examinations and forced abortion (who are the victims and the perpetrators? What is the government doing about it? etc.);
- The impact on women's rights, in particular sexual and reproductive health and rights, of health crises such as the Covid-19 virus and state's responses to this;
- The availability and accessibility of publicly funded health-care services to prevent, detect and treat illness and conditions specific to women, including in terms of sexual and reproductive health. Where those services are not publicly funded, the availability, for disadvantaged women, of waivers or exceptions to any fee-for-service scheme, or other mechanisms to ensure that women in need can access and use health-care services;
- The extent to which health-care services are provided, and are being accessed, by women in vulnerable, marginalized or disadvantaged situations (e.g., older women, adolescents, women with disabilities, women living in rural areas, etc.).
- The role of health workers as human rights defenders engaged in the protection of sexual and reproductive health and rights, as well as attacks against them for their activities;
- Whether the right to health, including sexual and reproductive health, is justiciable, and whether women and girls have access to effective, transparent and gender-sensitive remedies, including administrative and judicial ones.

## Maternal mortality and morbidity

**A** maternal death is the death of a woman while pregnant or within 42 days of termination of pregnancy from any cause relating to or aggravated by the pregnancy but not from accidental or incidental causes.

Over a quarter of a million pregnant women and girls die every year. As many as 98 per cent of these deaths are estimated to be preventable.

Reasons for which women and girls die or suffer injury during pregnancy and childbirth are often classified as the "three delays":

1. delays in seeking appropriate medical care,
2. delays in reaching an appropriate health facility, and
3. delays in receiving appropriate care once at a facility.

These delays are propelled by multiple factors that are concerning from a human rights perspective.

These factors include:

- Women and girls have fewer resources and less education to enable them to access health-care services. Women who experience violence in the home may be less likely to seek health services for pregnancy or for injuries suffered as a result of domestic violence;
- Girls and adolescents, the highest risk group for maternal mortality and morbidity, encounter particular challenges when it comes to accessing information, including comprehensive sex education, and to accessing sexual and reproductive health services;
- Early marriage, which disproportionately affects girls, increases the likelihood that they will become pregnant before they are ready;
- Certain groups of women – such as women living in rural areas, displaced or refugee women – are subjected to multiple or intersecting forms of discrimination, affecting not only their access to facilities but also the way in which they are treated there, which in turn affects their willingness to return to such facilities;
- A lack of emergency obstetric care services, or the denial of abortion, often leads to maternal mortality and morbidity.

What can responsible institutions monitor when it comes to SRH rights of women, specifically concerning maternity?

- Are services related to sexual and reproductive health of good quality, available, accessible, affordable and acceptable to women and girls? These services include contraceptive services, the detection and treatment of sexually transmitted infections, the detection of domestic violence, the management of unintended pregnancies, skilled birth attendance, emergency obstetric care and appropriate post-partum care?
- What is the situation of adolescents and unmarried or single women on these issues?
- Do they face specific challenges and stigma?
- Do women and girls, as well as civil society organizations, participate meaningfully in the development of laws, policies and programmes that concern their sexual and reproductive health?

- Can women and girls access safe abortion services, where legal, and post-abortion care?
- Can women and girls access contraceptive goods, services and information to enable them to decide on the number, timing and spacing of their children? What are the barriers to accessing such goods, services and information, and what is the government doing to remove them?

## Work and employment

**E**mployment rights and opportunities of women should be the same as those of men. NHRIs should monitor the extent to which authorities take all the measures necessary to eliminate discrimination against women in the field of employment, including by ensuring that women enjoy, on a basis of equality with men, the following rights:

- To work;
- To employment opportunities;
- To free choice of profession and employment;
- To equal remuneration and to equal treatment in respect of work of equal value;
- To promotion, job security and all benefits and conditions of service;
- To social security and paid leave;
- To the protection of their health and to safe working conditions.

In monitoring the enjoyment of women workers' rights, NHRIs should consider aspects such as:

- Societal and cultural attitudes towards the presence of women in different work areas;
- The ability of women to choose a profession freely, including outside the traditional areas of women's work;
- Disaggregated data on women at work (e.g., employment rates by sector, level, formal and informal, income levels);
- The transparency of recruitment processes, and any differences between the hiring criteria applied to women and men;
- Women's access to social security, including retirement, unemployment, sickness and old-age benefits;
- The protection of women – in law and in practice – from discrimination at work based on their marital status or maternity, including in terms of employers'

practice of using pregnancy or marital status as a criterion when hiring or dismissing women employees;

- Regulations and policies allowing parents to combine family obligations with work responsibilities, including access to paid maternity leave, parental leave and child-care facilities;
- The protection of women – in law and in practice – from all forms of violence in the workplace, including sexual harassment, and women's ability to seek redress through appropriate administrative and judicial proceedings;

## Housing, land and property

**A**ccess to adequate housing is recognized in international human rights instruments for both men and women, on basis of equality. Property and land is a cross-cutting issue that impacts directly on the enjoyment of a number of human rights of women.

When monitoring women's rights in the area of housing, land and property, NHRIs may consider the following aspects:

- Customary rules and practices that make women's access to housing, land or property dependent on a third person, often a male relative. For instance, traditions that make the husband the head of household, with the implication that he has control over marital property during marriage and upon separation or divorce;
- In the context of access to, use of and control over land for purposes of livelihood, NHRIs may need to analyze whether women have equal access to the services necessary for them to use and control land effectively, such as agricultural incentives and financial credits;
- Women's access to different forms of formal and informal property, and factors limiting or increasing such access;
- Any potential correlation between the incidence of domestic violence and the type of housing. Research has shown that violence against women can result from inadequate housing conditions. This happens because it is more difficult for women who do not enjoy security of tenure to leave an abusive relationship. When their access to land is granted simply through a marital relationship, women may be forcibly evicted from their land after being divorced. This makes many victims reluctant to leave their perpetrators and report violence.

## Education

**A**rticle 10 of the Convention on the Elimination of Discrimination against Women calls on responsible parties to take measures to ensure that women enjoy equal rights in the field of education. Particularly, that they have the same conditions as men for access to education at all levels, including continuing education, early childhood education, adult literacy programmes and career and vocational guidance, and the same opportunities to benefit from scholarships and grants. States should eliminate stereotypical concepts of the roles of men and women at all levels and in all forms of education. This is done by periodically revising textbooks, curricula and school programmes and adapting teaching methods to reflect more modern and progressive gender norms. States should reduce student dropout rates among women and girls and introduce measures allowing them to return to school and providing education opportunities for those who have left school prematurely. In monitoring girls' and women's enjoyment of the right to education, NHRIs should assess a range of aspects, such as:

- Legal and policy frameworks on education and gender equality. Are there gender-sensitive and adequate budgets? Is the right to education reflected in the legal framework?;
- The enjoyment of the right to good-quality, inclusive education by every girl, with a particular focus on those most at risk of marginalization, exclusion and generally being left behind (girls with disabilities, girls who belong to a minority, etc.);
- Differences in educational and scholarship opportunities granted to women and girls on the one hand and men and boys on the other;
- Disaggregated data (by sex, age, race, ethnicity, geographical area, etc.) on girls' and women's education at all levels (enrolment, attendance, evolution over the years);
- The availability of career and vocational guidance and mentorship to women and girls that are students.
- Violence against women and girls in accessing and enjoying their equal right to education, including in the context of violent extremism (by teachers, fellow students, online, etc.);
- The extent to which textbooks, school programmes and teaching methods are gender-sensitive as opposed to reproducing harmful gender stereotypes that undermine gender equality and women's empowerment;
- The dropout rates for women/girl students and related causes, including discrimination, gender-based violence and the exclusion of women and girls relating, for example, to menstruation, pregnancy, childbirth, harmful practices such as child marriage, sexual orientation or gender identity;

- Distance to school and the provision of safe, affordable, gender-sensitive and accessible means of transport to and from school;
- The regulations, policies or plans to grant adult women the opportunity to return to school or to attend training courses;
- Other obstacles that may hinder women's and girls' access to education, such as disproportionate domestic or caretaking responsibilities, child labour or sexual exploitation and abuse. The protection of girls (or lack thereof) against exclusion from by third parties in quality education, including education provided by private entities and non-State organizations such as religious or community schools or schools run by non-governmental organizations.

## Access to justice

**A**ccess to justice is a right that circumscribes all interactions between women and the justice system. When monitoring women's access to justice, NHRIs should be aware that the principle of equality before the law, as stated in Istanbul Convention, means that women's equal status before the law should be protected. States must take all appropriate measures to guarantee the substantive equality of men and women in all areas of life, justice system included.

Nevertheless, women face legal, institutional, social and other types of barriers to accessing justice.

Monitoring women's access to justice means looking at the so-called groundbreaking judicial decisions that advance women's rights, and understanding the factors enabling positive judicial developments. At the same time, obstacles preventing women from accessing and obtaining justice should be identified and analyzed.

**Examples of groundbreaking jurisprudence related to women's right to access to justice are:**

- Marital rape is a crime (husband raping wife);
- Women have the right to be free from sexual harassment in the workplace;
- Women have the right to an abortion in certain circumstances;
- Customary inheritance laws must comply with guarantees of equality;
- Sexual violence is a tactic of war and a war crime.

Some of the obstacles preventing or hindering women from accessing or obtaining justice include:

- De facto or tangible discrimination, biases against women among practitioners from law enforcement agents to prosecutors, judges and lawyers. This can come as consequence of knowledge gaps in applying laws on women's rights to a lack of expertise in dealing with trauma and to procedures for hearing

victims that result in re-victimization.

- Laws and procedures regulating judicial proceedings that discriminate against women. Proceedings may also be discriminatory by making it difficult for women to report cases and obtain positive outcomes (e.g., because of standards or the burden of proof for cases of sexual violence or sexual harassment in non-criminal proceedings).
- Social, cultural and institutional barriers – or a lack of access – to effective, gender-sensitive remedies, such as a lack of (or limited) legal literacy, cost, distance, barriers concerning language or evidence, or the threat of social sanction or stigma if women report violations and approach the justice system.
- Judicial gender stereotyping, when judges or other legal practitioners reach conclusions based on preconceived beliefs about women rather than on the basis of the facts of the case (e.g., a woman was sexually assaulted because she was “provoking”). This also concerns situations where judges did not address or counter harmful gender stereotypes in a particular case, perpetuated either by a law, a policy, a legal argument or a decision in a lower court.
- Standards of proof that make proving claims of sexual violence difficult, and unlikely to be successful.
- The overall functioning of the judiciary and the trust, or lack thereof, it enjoys among women rights holders and the population as a whole.

Obstacles relating to the perpetrators, their means to defend their interests and positions in court and outside it, and their accountability – or lack thereof – for past behaviour.

In cases of violations of women’s rights, these obstacles, which often accumulate, result in high levels of attenuation: in the first place, cases are under-reported, while the few that are reported are dropped as they progress through the justice chain (sometimes thanks to the intervention of men within the complainant’s family), so that only a fraction of them end in a conviction. Women who face multiple or intersecting forms of discrimination often face additional obstacles in accessing justice or in seeking redress for human rights violations.

### **Judicial stereotyping**

“Women’s demands for equal pay for equal skills are not justified, because women are likely to stop working to have children”.

“It is natural for a man to respond to a nagging female partner with violence”.

“A man who kills his wife may receive a more lenient sentence if she was unfaithful”.

These are only some comments made by judges towards women. These court cases were definitely affected by deeply embedded notions that limit the protection of

women's and girls' human rights. Justice was denied to the women in these cases, and this happens everyday in courtrooms around the world.

Despite decades of struggle for women's right to equality, judicial processes worldwide are often ridden with discriminatory gender stereotypes. This can amount to a denial of a woman's right to justice by the very legal system that is supposed to protect fundamental human rights for everyone.

Stereotyping in the legal system undermines justice for women, in particular in cases of gender-based violence and sexual and reproductive health and rights.

This may occur in many ways, some of them entailed below:

- Judges' impartiality is compromised;
- Stereotypes affect judges' opinions on witness credibility and legal capacity. This happens when judges do not give credibility to victims who do not behave in a stereotypical manner;
- The understanding of judges' criminal offences and their interpretation of laws regulating such offences could be altered. The same happens on their perception of whether or not violence has occurred in cases such as the rape of sex workers, or of married women by their husbands, or cases of domestic violence in same-sex relationships.
- Stereotyping can also stop judges from holding perpetrators accountable, or can even cause them to blame the victim.
- Stereotypes affect judges' opinions on witness credibility and legal capacity, for example when they take a negative view of the credibility of victims who do not behave in a stereotypical manner.
- It can impede access to legal rights and protection for women victims. As part of their monitoring of women's access to justice, field presences can undertake research and report on judicial stereotyping (e.g., by reviewing how cases of sexual crimes are investigated and decided, as well as cases relating to sexual and reproductive health and rights, such as those on abortion, sex work, HIV transmission, adultery, contraception, same-sex sexual conduct and gender identity).

NHRIs should advocate for measures to overcome the obstacles impeding or limiting women's access to justice, and should monitor the impact of such measures. These may include:

- For women claimants, providing legal-aid services that are gender-sensitive, accessible, and sustainable.
- Creating specialized courts such as separate rooms and video possibilities, which help bring justice to remote rural areas.
- Employing women in law-enforcement positions. Data shows that there is a

positive correlation between the presence of women police officers and the reporting of sexual assault. Experience also shows that simply employing women is not enough: adequate investment in resources and expertise is also needed.

- Setting up referral networks of support services that provide emergency medical treatment (including a forensic medical examination), sexual and reproductive health care, psycho-social support, shelter and legal advice for women, in a holistic, gender-sensitive, confidential and survivor-friendly manner. This has proved to reduce attrition considerably and to increase the number of convictions.
- Educating judges, lawyers and police on the standards and principles underpinning women's rights, what they mean and how to implement them, and raising their awareness of gender stereotyping.

Formal judicial systems are, however, only one avenue through which women may access justice. Either by choice or from necessity, many women, especially those living in rural or poor urban areas, seek justice through **informal justice systems**. These systems often adopt practices that derive their authority from perceived cultural, customary or religious concepts, and tend to emphasize community harmony rather than individual rights. They are usually dominated by men, and favour patriarchal outcomes, often reinforcing discriminatory practices against women.

## Where to Refer Victims for Help

<p><b>Counseling Line for Women and Girls – (National Hotline for Victims of GBV, VAW and Sexual Violence)</b>  Address: Rr “Muhamet Gjollësja”, Pall 122, Apt 8  Tirana, 1023  Toll Free Number: 116 117  Tel: +355 422 33408  E-mail: <a href="mailto:linjakeshillimit@gmail.com">linjakeshillimit@gmail.com</a></p> <p><a href="mailto:info@clwg.al">info@clwg.al</a>  Web: <a href="http://www.hotlinealbania.org">www.hotlinealbania.org</a></p> <p>-  Activities: Offers on the phone counseling to victims of domestic violence and sexual assault through the free toll number; face to face and group counseling; legal assistance and refer victims in other services. It offers capacity building for stakeholders, awareness raising activities, lobby and advocacy on women’s rights, etc.</p>	<p><b>Counselling Line for Men and Boys</b>  Address: Rr “Vllazën Huta”, Shk 1, Kati 8, Apt 39, Tirane, 1010  Tel: (04) 2363712  E-mail: <a href="mailto:linjakeshillimit@gmail.com">linjakeshillimit@gmail.com</a></p> <p>Web: <a href="http://www.clmb.al">www.clmb.al</a></p> <p>Activities: offers counseling services for men and boys by court order, probation service, penitentiary system and by self-referrals. Training with youth and youth networking, training in schools and awareness campaign. Lobby and advocacy for young people. Support fatherhood campaigns and offer capacity building for education officers in prison and probation offices.</p>
<p><b>Centre for Legal Civic Initiative</b>  Address: Rr. “Vaso Pasha”  Pall 12, Shk 1, Ap 1. Tirane  Tel: 00355 4 2 259 795  E-mail: <a href="mailto:avokatore@albmail.com">avokatore@albmail.com</a>  Web: <a href="http://www.qag-al.org">www.qag-al.org</a>  Activities: The Center for Legal Civic Initiatives operates as a legal service center for the violated and poor women.</p>	<p><b>Refleksione Association</b>  Address: Rr.Elbasanit, P.Fratari, Tërshana, Tirane  Tel:  E-mail: <a href="mailto:info@refleksione.org">info@refleksione.org</a>  Web: <a href="http://www.refleksione.org">www.refleksione.org</a>  Activities: Protects women’s rights and fight against women discrimination of all types and forms. Its projects are designed to promote women’s participation in the social, political and economic life of the country as well as to increase women participation in policy and decision making.</p>

<p><b>Shelter for Abused Women</b>  Activities: It assists and supports women and girls who have fallen victim to gender violence (physical, emotional, sexual, economic and otherwise). It also provides care and support for children of abused mothers The abused women, girls and children receive shelter, emotional support and counseling.</p>	<p><b>Gender Alliance for Development Centre</b>  Address: Street: "Abdyl Frasheri", P.10/1, Ap.3, Shk.1, Tirana,  Tel: +355 42 255 514  E-mail: <a href="mailto:gadc@gadc.org.al">gadc@gadc.org.al</a>  Web: <a href="http://www.gadc.org.al">www.gadc.org.al</a>  Activities: GADC works mainly in the fields of gender mainstreaming, EU integration, economic empowerment, governance, gender budgeting, violence against women, education, and media.</p>
<p><b>"Une Gruaja" Association</b>  Address: Rr. Kajo Karafili, Pogradec  Tel: 083222140  E-mail: <a href="mailto:une_gruaja@yahoo.com">une_gruaja@yahoo.com</a>;  Web: <a href="http://www.unegruaje.com">www.unegruaje.com</a></p> <p>Activities: The activities of UG include: counseling services, training, public awareness raising, information dissemination, encouraging women to actively participate in decision-making, monitoring local government decisions from a gender perspective, and leading advocacy and lobbying campaigns at the local and national levels.</p>	<p><b>Women to Women</b>  Address: Lagjia "Vasil Shanto", Rruga "Marin Barleti", Nr. 161, Shkodër  Tel: 0682079112  E-mail: <a href="mailto:grujatekgruaje@gmail.com">grujatekgruaje@gmail.com</a>  Web: <a href="http://www.grujatekgruaje.com">www.grujatekgruaje.com</a></p> <p>Activities: Direct services for children, women and girls – victims of domestic violence such as counselling, 48 hours shelter and legal assistance.</p>

<p><b>Women’s Association with Social Problems</b>  Address: L.2, Rruga “Sefer Efendiu”, prapa Prokurorise se Rrethit Gjyqesor Durrës  Tel: 052234600  E-mail: shoqatagrave@yahoo.com; qendraekeshillimit@yahoo.com;  Web: <a href="http://www.drejtesisociale.com">www.drejtesisociale.com</a></p> <p>Activities: Offers psycho- social, legal, and medical services, as well as on the provision of informative and awareness activities.</p>	<p><b>Psychosocial Center “Vatra”</b>  Address: “Nermin Vlora Falaski” Pallati 13, Shkalla I, Kati i trete Vlore, Albania  Tel: +355 33 22 40 78  E-mail: info@qendravatra.org.al  Web: <a href="http://www.qendravatra.org.al">www.qendravatra.org.al</a>  Activities: Offers shelter for victims of trafficking and domestic violence. Increase of information and awareness raising of the public opinion on the risk posed by the human trafficking and domestic violence phenomena and the other problems they generate; Improvement of the social status of a significant number of victims of trafficking and domestic violence;</p>
<p><b>FWomen’s Forum</b>  Address: Lagja “5 Maj”, Rruga “Muç Shqiptari” Pallati 450/1, Elbasan  Tel: 054257723; 054254516  E-mail: forumigruaselbasan1991@gmail.com  Web: <a href="http://www.forumigruaselbasan.org">www.forumigruaselbasan.org</a></p> <p>Activities: The organization has a good working experience for women’s rights, direct service delivery to girls and women in need, training capacity, and management and specific services providers. The organization assists yearly more than 180 cases through psychological and legal counseling. Offers shelter for 48 – 72 hours.</p>	<p><b>Another Vision</b>  Address: agja “Aqif Pasha” Rruga “Ali Arapi”, Nr.19 Elbasan  Tel: 00355 54 252919  E-mail: tjetervizion@gmail.com  Web: <a href="http://www.tjetervizion.org">www.tjetervizion.org</a>  Activities: daily center for kids, services for children, youth and women and shelter.</p>

<p><b>Social Center “Hapa të Lehtë”</b>  Address: Rr. Murgeshave Nr 6, Shkodër  Tel: 022241316  E-mail: qendragruashk@yahoo.com;  hapatelehte@gmail.com;  Web: <a href="http://www.hapatelehte.org">www.hapatelehte.org</a></p> <p>Activities: Offers psycho- social, legal, and medical services, as well as on the provision of informative and awareness activities</p>	<p><b>“Jona” Association</b>  Address: Rruga “Adem Sheme” Sarandë  Tel: 085 222 425  E-mail: <a href="mailto:jonaojq@yahoo.com">jonaojq@yahoo.com</a></p> <p>Web: <a href="http://www.facebook.com/pg/ShoqataJona">www.facebook.com/pg/ShoqataJona</a></p> <p>Activities: The association works to prevent domestic violence and human trafficking. It has collected data and worked to improve inter-ethnic relations and qualified women and girls to get skills that meet the labour market demands.</p>
<p><b>Agritra Vision</b>  Address: Peshkopi  E-mail: <a href="mailto:a-vizion@adanet.com.al">a-vizion@adanet.com.al</a>  Web: <a href="http://www.anrd.al">www.anrd.al</a></p> <p>Activities: to assist and advise rural women in Diber area on sectors of agriculture, livestock and agro-processing, to stimulate and support the organization (cooperation) of women in groups as an opportunity to increase their economic role in the family and community.</p>	<p><b>Office for Men and Boys</b>  Address: Shkoder  Tel: +35522241154  E-mail: <a href="mailto:endrituligaj@yahoo.com">endrituligaj@yahoo.com</a>  Web: <a href="http://www.clmb.al/hello-world/">http://www.clmb.al/hello-world/</a></p> <p>Activities: Individual counselling for violent men and boys, assistance in case management, conflict and aggressive behaviour. Awareness through media.</p>

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