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## Committee on Economic, Social and Cultural Rights

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Item 6a of the provisional agenda

**Consideration of reports: reports submitted  
by States parties in accordance with  
articles 16 and 17 of the Covenant**

## List of issues in relation to the combined second and third periodic report of Albania

### Addendum

### Replies of Albania to the list of issues\*

[8 October 2013]

## I. General information

### Question 1

1. In the Constitution of the Republic of Albania<sup>1</sup> are included specific provisions on the rights contained the International Covenant of the Covenant on Economic, Social and Cultural Rights<sup>2</sup>. The fourth Chapter “Economic, Social and Cultural Rights and Freedoms” of the Second Part “The fundamental rights and freedoms” of the Constitution<sup>3</sup> covers several rights contained the Covenant, as below:

- The right to work (article 6 of the Covenant); - Specific provisions related the freedom to choose his profession, professional qualification (article 49/1).
- Trade union rights (article 8 of the Covenant): - Specific provisions related the right to unite freely in labor organizations for the defense of their work interests and the

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\* The present document is being issued without formal editing.

<sup>1</sup> Hereinafter Constitution.

<sup>2</sup> Hereinafter the Covenant.

<sup>3</sup> Information on provisions contained the fourth Chapter of the Constitution related to economic, social and cultural rights is included in Annex 1 attached this document.

right of an employee to strike in connection with labor relations. (articles 50, 51 of the Constitution).

- The right to social security (article 9 of the Covenant):- Specific provisions related the social protection of the work (article 49/2 of the Constitution). In article 52 of the Constitution is provided the right to social security in old age and when everyone is unable to work and also the right to assistance for everyone who remains without work.
- Protection of the family, mothers and children (article 10 of the Covenant): - Specific provisions on family, children and mothers in articles 53, 54 of the Constitution.
- The right to physical and mental health (article 12 of the Covenant): - Specific provision related to health care from the state and health insurance (article 55 of the Constitution).
- The right to education (articles 13-14 of the Covenant): - Specific provisions on the right to education in different levels and professional education (article 57 of the Constitution).
- Cultural rights (article 15 of the Covenant): - Article 58 of the Constitution stipulates that “the freedom of artistic creation as well as profit from their results are guaranteed for all and also the copyright is protected by law.

2. 2. In the Fifth Chapter “Social objectives” of the Second Part of the Constitution (article 59 paragraph 1<sup>4</sup>) are included also specific provisions on the rights contained in the articles 7, 11, 12, 13, 14, 15 of the Covenant concretely related to the right to just and favorable conditions of work; the right to an adequate standard of living; the right to physical and mental health; the right to education; cultural rights.

3. Related to the right to just and favorable conditions of the work the Constitution (article 26)<sup>5</sup> stipulates that “no one may be required to perform forced labor, except in cases of the execution of a judicial decision, the performance of military service, or for a service that results from a state of war, a state of emergency or a natural disaster that threatens human life or health”. This provision is related also with the article 17 of Constitution on the limitations of the rights and freedom.

4. Regarding the cultural rights (article 15 of the Covenant), the Constitution in the article 20 paragraph 2<sup>6</sup>, stipulates that “persons who belong to national minorities have the right to preserve and develop their ethnic, cultural, religious and linguistic belonging, to study and to be taught in their mother tongue, and to unite in organizations and associations for the protection of their interests and identity”.

5. “The right to self-determination (article 1 of the Covenant) is considered as one of the basic principles of the Albanian state functioning and for this reason it is treated separately in the article 1,2,3 of the Constitution (First Part, Basic principles)<sup>7</sup>.

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<sup>4</sup> Information related to the article 59/1 of the Constitution is included in Annex 2 attached this document.

<sup>5</sup> Chapter 2 “Personal rights and freedom” of the Second part “Fundamental human rights and freedom” of the Constitution.

<sup>6</sup> In the Second part of the Constitution “fundamental human rights and freedoms”, the Chapter 1 “General principles”.

<sup>7</sup> The provisions contained in the articles 1,2,3 of the Constitution are included in the Annex 3 attached this document.

6. The rights contained in articles 2, 3 of the Covenant (non-discrimination, equal rights of men and women) are provided in the first chapter “General principles” of the Second Part of the Constitution “the fundamental human rights and freedoms” (articles 18 paragraph 1,2,3, and article 20). The Constitution stipulates the equality before the law for (article 18 paragraph 1). According to Constitution, the persons belonging to national minorities exercise the human rights and freedoms in full equality before the law (article 20 paragraph 1)”. The principle of non-discrimination is considered as one of general principles of fundamental human rights and freedoms (article 18 paragraph 2/3 of the Constitution). In this framework is provided as well that “no one may be discriminated for the reasons of economic condition, education, social status, without a reasonable and objective justification<sup>8</sup>”.

7. Regarding the restriction/limitation of the rights (article 4 and 5 of the Covenant); the Albanian Constitution provides as an exceptional case the restriction and limitation of human rights. The restriction of human rights and freedoms can be enforced solely by virtue of law, for a public interest or for the purpose of protecting the rights of other people. These restrictions shall not encroach on the essence of human rights and freedoms.<sup>9</sup>

8. Since the ratification of the Covenant in 1991, Albania is committed to fulfil the rights contained the Covenant and to submit periodic reports on the measures undertaken and the progress made on its implementation. The implementation of the Covenant and the recommendations of the Committee on Economic and Social and Cultural Rights lead to the improvement of the domestic legal framework. The rights contained the Covenant are provided in different legal act as: the Constitution, the Codes, specific laws, bylaws, etc. The Constitution (article 4) stipulates that “the law constitutes the basis and the boundaries of the activity of the state. The Constitution is the highest law in the Republic of Albania. The provisions of the Constitution are directly applicable, except when the Constitution provides otherwise”.

9. The international law in the Republic of Albania enjoys a privileged position compared to the domestic legislation. Article 5 of the Constitution defines the obligation of the Albanian state has towards the application of the international law. According to article 122 of the Constitution, the international conventions on human rights acceded or ratified by Albania, become part of the domestic legislation.<sup>10</sup>

10. Based on those constitutional provisions, in specific cases where legal vacuum is found in the implementation of the provisions of the Covenant, the Albanian Constitution provides the direct application of the international law included international conventions on human rights, as part of domestic legislation. In this case the provisions of this Covenant can be invoked before the courts, Supreme Court and Constitutional Court.

11. The Constitution of Republic of Albania<sup>11</sup>, the ratified international agreements which are part of the domestic legal system (laws, normative acts of the Council of

<sup>8</sup> Article 18 paragraphs 2, 3 of the Constitution: 2. 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 parentage. 3. No one may be discriminated against for the reasons mentioned in paragraph 2 without a reasonable and objective justification.

<sup>9</sup> According to article 17 “these restrictions shall not encroach on the essence of human rights and freedoms and in any case, they shall not exceed the limitations provided for by the European Convention on Human Rights, as well as they shall be proportional to the situation that has dictated this restriction”.

<sup>10</sup> The provisions of article 5 and 122 of the Constitution are included in Annex 4 attached this document.

<sup>11</sup> Hereinafter RoA

Ministers and by-laws)<sup>12</sup>, which is continually improving guarantee the practical implementation of the human rights.

12. The effective measures/ the remedies for individuals claiming a violation of their rights are related to the right to appeal to different courts<sup>13</sup> (civil, criminal, administrative issues), the rehabilitation and the compensation. Based on the Constitution<sup>14</sup>, everyone has the right to a fair and public trial to protect his constitutional and legal rights, freedoms, and interests, or in the case of charges against him, within a reasonable time, by an independent and impartial court specified by law”. Everyone has the right to appeal a judicial decision to a higher court, except when the Constitution provides otherwise. Everyone has the right to be rehabilitated and/or indemnified in compliance with law if he has been damaged because of an unlawful act, action or failure to act of the state organs.

13. Regarding the fulfilment of social objectives the Constitution stipulates that “the fulfilment of social objectives cannot be claimed directly in court. The law defines under what conditions and to what extent the realization of these objectives can be claimed (article 59 paragraph 2 of the Constitution).

14. Specific articles in the Penal Code, Civil Code, Labour Code, Family Code, the Code of Administrative Procedures, include legal provisions aiming at respecting and protecting the social, economic and cultural rights (in accordance with the articles 1-15 of the Covenant). Depending on the consequences arising from their violations, are provided also the penal and administrative sanctions.

### **Question 2**

15. The process of the elaboration of the report and the reporting process is considered as a tool to identify the fulfilment of international obligations and also as an opportunity to present the situation of human rights within its jurisdiction in the implementation of the Covenant.

16. Considering the importance of the contribution of civil society, in the process of the preparation of the national reports in the framework of international conventions on human rights is encouraged and supported the involvement of civil society. During the preparation of the national reports were officially informed the NGOs dealing with human rights and were invited to provide their contributions, although they have not answered to the invitation for cooperation on every relevant occasion. The combined second and third periodic report is prepared as a result of the coordination and involvement of state institutions, according to their areas of competence related the rights contained the Covenant. Specifically this report was prepared in cooperation with central government, independent institutions and other institutions. Regarding the preparation of this report, the civil society does not provided information in the preparation of the report<sup>15</sup>.

### **Question 3**

17. In the framework of the fight against corruption the Council of Ministers approved the Crosscutting Strategy “On the Prevention and Fight against corruption and for a Transparent Governance (2008-2013)”, (adopted by the Decision of the Council of the Ministers<sup>16</sup> no 1561/2008). The purpose of this strategy is to fight and progressively reduce

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<sup>12</sup> Article 116,118 are treated in the Annex 5 attached this document.

<sup>13</sup> First Instance Courts, the Appeals Courts, the Supreme Court and the Constitutional Court.

<sup>14</sup> The articles 42/2, 43, 44 of the Constitution.

<sup>15</sup> Information on the preparation of the national reports is provided in Annex 6.

<sup>16</sup> Hereinafter DCM

the corruption through: (a) reforms on the prevention of corruption; (b) strengthening of the institutions' integrity and promotion of governance values;

(c) general monitoring of the corruption phenomenon, involvement of civil society and the enforcement of its role in the fight against it; (d) administrative and legal punishment for the corrupt officials. This strategy is based on:

- The platform of crosscutting and integrated comprehensiveness in the fight against corruption balancing a combination of prevention, investigation, punishment and involvement of the public;
- Considering corruptive actions as criminal offenses and treating their in administrative/criminal domain;
- The respect/implementation of the fundamental principles: rule of law, equality before the law, good governance, responsibility, organic relation between prevention and investigation of effective punishment, cooperation and coherence, transparency and participation, effective partnership between the public and private sector;
- The fulfilment of the best international, regional and domestic standards and good practices in this field.

18. The implementation of Anticorruption Strategy in the framework of National Strategy for Development and Integration (NSDI) aims to progressively and sustainably reducing corruption, strengthening the integrity of institutions integrity and promoting the governance values. This will be achieved through the cultivation and strengthening of the mentality of public administration on service offered to citizens, the effective and equal implementation of the law, the transparency and information on time and sustainable economic, human, quality, responsibility and efficient governance.

19. The passive corruptive actions conducted by public officials and senior officials as well as local governance officials are sanctioned as crimes/offences, which punished with imprisonment and fine<sup>17</sup>.

20. The recent legislative package on the Criminal Code prepared by the Ministry of Justice provides a special chapter on "the Responsibility on corruptive crimes". In the Criminal Code are included five new provisions/ dispositions related to the corruptive actions of persons who distort the performance of any duty or behavior, through the asking, giving/receiving directly/indirectly the bribery or any other advantage.

21. Following the positive experience and results of the Joint Investigation Unit established by the Tirana District Prosecution Office (2007), was signed a Joint Memorandum on May 2009 to establish six Joint Investigation Units in several areas (Durrës, Vlora, Fier, Shkodra, Korça and Gjirokastra) within the Prosecution Offices. This memorandum finalized the institutional cooperation between the General Prosecution, Ministry of Interior, Ministry of Finance, State Information Service, the High Inspectorate of Declaration and Audit of Assets and the Supreme State Audit. The aim of those units is to increase the quality of investigation and to exercise the prosecution for criminal offenses in the field of economic crime and corruption and also to bring the cases before the courts.

The Assembly of Albania (the parliament) approved some constitutional amendments that provide for automatic lifting of parliamentary immunity from criminal prosecution for legislators, judges, and other high-level government officials in corruption cases (on September 2012). The amendments will allow the investigation and criminal prosecution of members of the legislature, judges, and members of the Council of Ministers (national

<sup>17</sup> Articles 259 and 260 of Penal/Criminal Code.

government) without prior authorization issued by the Assembly as required under previous law. Those amendments will better serve the process of guaranteeing equality before the law for all the citizens, and will significantly improve the joint efforts in the fight against corruption.

22. In the context of strengthening the rule of law, the fight against the corruption and the conflicts of interests, it is worth mentioning the bilateral agreements/memorandums signed in 2012 between the Ombudsman and the institutions such as: the High Inspectorate of Declaration and Audit of Assets, High Council of Justice and the Ministry of Justice and also an agreement between the Ombudsman and the Transparency International Office in Albania (in 2012).

## **II. Issues relating to the general provisions of the Covenant (arts. 1-5)**

### **Article 2, paragraph 2 - Non-discrimination**

#### **Question 4**

23. In the framework of "Roma Decade Inclusion" was drafted the National Action Plan 2010-2015 on "Decade of Roma Inclusion" in cooperation with central and local institutions, Roma organizations, civil society and UNDP's assistance. This action Plan has included also the objectives of the national Strategy for the improvement of Living Conditions (2005). This action plans aims to improve the socio-economic status, social inclusion, poverty reduction and integration of Roma minority. The main objectives of this action plan were: a) improving access, participation and enrolment of Roma population in the education system; b) creation of conditions for the preservation and development of cultural heritage of Roma community; c) Empowering Roma community by increasing access to the labour market, training programs and social protection schemes; d) Improving the access of Roma community to health care services and improving the service to this population; e) Improving housing and infrastructure conditions for Roma population; f) prevention and reducing the incidents of social and institutional discrimination and increasing the access of Roma community in public institutions.

24. The education of Roma children, as one of the main and most efficient method of the integration of the Roma population in the social, economic, cultural and political life occupies a special place in the National Strategy for Roma and the National Action Plan 2010-2015. Regarding the education the objectives are the prevention of school dropout, protection and reintegration of children in schools, providing normal conditions for learning, educational, psychosocial and economic support, especially for the children in difficulties. The concrete objectives in the field of the education are: 1) to guarantee the right of children and young of Roma community equal access to all levels of the education system, 2) the elimination of exclusionary and inferior attitudes to Roma in the school community and the transformation of cultural diversity in a source of knowledge and of mutual respect, tolerance and understanding atmosphere; 3) preservation and development of cultural identity of the students of the Roma community ; 4) involvement in compulsory education of Roma children. For its implementation are involved central and local institutions, specialists, students, teachers, parents, representatives of civil society in general and NGOs operating in the field against discrimination

25. The Ministry of Education<sup>18</sup> pursuant to the National Strategy for Roma and Action Plan for the implementation of “Decade of Roma Inclusion” implemented legal and institutional measures to ensure the inclusion and access of Roma children in educative system related to:

a) Continuous monitoring of enrolments and attendance of Roma and Egyptian children in the compulsory education and preschool education, by the Regional Education Directorate and School Directorate, reaching the objective of reduction to zero of school drop-outs during the years 2009-2013.<sup>19</sup>

b) The successful implementation of the “Second Chance” project for the education of the students which drop-out the school.<sup>20</sup>

c) The enrolment of Roma and Egyptian children even in the absence of their birth certificate. Ministry of Education through the Regional Education Directorates/ Education Office has made recommendations to Municipalities and Communes to the support Roma and Egyptian children with scholarships.

d) The subsidy of school books by the State for Roma and Egyptian Children. The Decision of the Council of Ministers no 107/2010, “On the publication, printing, distribution and selling of schoolbooks for the pre university education system” foresees 100% subsidy for the schoolbooks for the classes I-IX of the compulsory education.

e) The implementation of food quotas by some educational institutions for Roma and Egyptian pupils/students.<sup>21</sup>

f) The Instruction of Minister of Education (no 26/2010) provided measures to reduce the school drop-out for the period 2009-2013. The measures are related to specific work programs in class and school, the awareness for the importance of education. For this purpose the Educational Directorates and Offices in the local and regional level, so as the schools directorates are focused on the educational policy and teacher training, in order to guarantee the education of Roma children.

g) The Instruction of the Minister of Education (nr.34/2011) provides the conditions and the opportunities to Roma children: (i) to attend secondary regular and vocational full time and part time education; (ii) organize extra classes with students who have difficulties with the Albanian language or have difficulties in learning; (iii) to receive support by the teaching staff and use of school facilities to organize anti-illiteracy courses and supplementary learning for Roma children (based on the requests of associations representing the Roma minority); (iv) the objective assessment regarding related the implementation of gender, racial, national, religious equality and democratic principles in

<sup>18</sup> According to the new structure of the Albanian government on September 2013, is the Ministry of Education and Sport.

<sup>19</sup> During academic years 2011-2013, attended the preschool education 560 Roma children, while 3,435 children attended compulsory education. The attendance indicator for those level of education was increased by about 17% compared to a year ago. Based on the indicators of the Study “Mapping Roma children in Albania”, conducted by UNICEF in cooperation with Ministry of Labour, it results that 87.2% of Roma children are enrolled in the compulsory education system.

<sup>20</sup> During the academic year 2011-2012, 438 from 878 reintegrated children in the education system were part of the Roma and Egyptian Communities.

<sup>21</sup> This practice was applied in 2012, in an secondary school in Korça region, where 335 food quotas were distributed. This experience will also be applied to other schools with Roma and Egyptian pupils. (DCM nr 42/2012, as amended).

the school books; (v) to identify marginalized children and also to increase trust in schools.<sup>22</sup>

26. Regarding the application of economic aid we inform that as many Roma families do not receive financial assistance because they do not know the rights that are guaranteed to them by law are undertaken several measures. Specifically is programmed the organizing of an awareness campaign in the field of social defence for the rights of economic help benefit and unemployment payment, maternity pay and other rights arising from the legislation, the issuance of an administrative act that obliges municipalities and districts, to give legal assistance to Roma families to complete their relevant file.

27. In the field of employment, the law "To promote employment" defined specific groups of unemployed who have difficulties to enter in labour market included the Roma community. Based on this law, in order to provide equal opportunities for these groups are designed and implemented policies that contain positive measure or positive discrimination, which are necessary having in consideration the difficulties that have these categories. Also in this way is provided equal access without discrimination and equal protection before the law. Concrete programs that are implemented are: 1) the program for promoting employment of unemployed women; 2) the program for promoting employment of unemployed in trouble. Another efficient program is the free charging for special groups who are registered unemployed in labour offices and want to pursue vocational courses, offered by the Regional Directorates of Public Vocational Training (DRPVT). In this target group are included the Roma, trafficked women and girls, persons who have suffered former convictions, orphans, disabled persons and returned immigrants with economic problems.

28. In the field of health we inform that all the Public Health Departments in the different regions instructed the staff on the on-going pursuance of the health for persons belonging to the Roma population. Specifically are taken measures for the implementation of mandatory vaccination, health care of pregnant women and children, health promotion and health education, hygiene and epidemiological problems of the area such as drinking water, urban waste, infectious diseases, etc. In the framework of the National Strategy on HIV / AIDS, a special attention was paid to the expansion of services provided to vulnerable groups through strengthening the network of partners and with the active participation of vulnerable groups. In several districts of the country it was established a close cooperation with representatives of the Roma population to improve and extend the activities on information, education and communication. Specifically there are five non-governmental organizations supported by the Global Fund, which in cooperation with Roma associations offer a range of services in some districts, such as Tirana, Berat, Pogradec, Lezha, Shkodra, Fier and Elbasan. The services include training on the prevention of HIV, promotions of voluntary counselling and testing, distribution of sexual protection tools, family planning and the training of medical staff working in different areas.

29. The elimination of discrimination against the Roma population in the Strategic Plan 2012-2015 and Action Plan for 2012 drafted by the Office of the Commissioner for Protection from Discrimination<sup>23</sup>, takes an important place. The concrete measures are: 1) awareness of the Roma minority and information regarding the right to non-discrimination;

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<sup>22</sup> During the summer season 2011, 60 summer camps were opened in 11 regions, where 722 out of 2677 children belonging to the Roma and Egyptian community. This activity was supported by UNICEF in the framework of the "Zero Drop Out" Programme.

<sup>23</sup> Hereinafter CPD.



2) increase of the numbers of complaints of Roma in the field of delivery of goods and services and the field of employment.

30. Regarding the discrimination against Roma population, the CPD states the need for a greater commitment of the local governance to undertake and implement the measures addressed to this community. By the recommendations addressed to the local authorities CPD invites them "to take into account and make preliminary analysis on the social effects that can induce certain actions toward specific vulnerable groups (as Roma and Egyptian Community), to take measures on facilitating the procedures of social protection programs and ward off the generation of discriminatory situations". According to CPD, the most serious concerns/problems of the Roma are sheltering and education issues. Regarding the first issue, this institution has submitted to the Ministry of Labor, Social Affairs, and Equal Opportunities<sup>24</sup> several recommendations on the effective measures to be taken, in order to ensure appropriate living conditions for this community.

31. The object of complaints on discrimination in the field of education is the segregation of Roma children from other non-Roma children and their collection in special classes, or the failure of other measures with positive character, as: the exemption from university fees, the distribution of free schoolbooks or registration of Roma children in schools without certificate birth.

32. The Commissioner for Protection from Discrimination has organized a series of meetings with organizations representing the Roma Minority and also and Egyptian community associations, in order to inform about the law "On Protection from Discrimination (2010)", the rights guaranteed by law, in order to address the problems, concerns and complaints to those vulnerable groups at CPD, the identification and measures for more effective protection from any form of discrimination. Also these meetings aimed at the establishment of cooperation with civil society and the awareness to address to the Commissioner when they claim a violation. Specifically, within the international Day against Racial Discrimination, the Commissioner, since the year 2010 has developed periodical activities with representatives of the Roma minority and also with the representatives of Egyptians community. In the year 2013 are signed 10 cooperation agreements with the NGOs working in the field of human rights.

33. In the context of the project "Best Practices for Roma Integration" financially supported by ODIHR, the following activities were undertaken: 1) TV spot to increase awareness of the public about the duties of the Commissioner for Protection against Discrimination (CPD), which is broadcast on two national television. 2) Organization of "Open Days" for this minority in cooperation with local governments and municipalities in seven municipalities (Municipality of Tirana, Municipality of Lezha, District of Sushica, Municipality of Lushnja, Municipality of Pogradec, Municipality of Gjirokastra). 3) During the development of these Open Days, the Commissioner has assigned cooperation agreements with Mayors or their respective municipalities. In the framework of these agreements are established the contact points between the CPD staff and employees of these local units, in order to refer cases of alleged discrimination to the Commissioner's Office and Open Days are organized periodically. The total number of contact points set up now in local governing units is 32 contact points. The Commissioner for Protection from Discrimination has contributed to the drafting of the Action Plan which is recommended at the Workshop for inclusion of Roma and Egyptian community, in 2011.

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<sup>24</sup> According to the new structure of the Albanian government on September 2013, is the Ministry of Social Welfare and Youth.

**Question 5**

34. The law no. 9952/2008 “On the prevention and control of HIV/AIDS-it”, and the DCM no113/2011 provides the rules and the restrictive measures for the prevention of HIV/AIDS transmission and care, counselling and treatment of HIV/AIDS infected people in the education and re-education institutions, medical institutions, residential social care institutions, prisons and detention places”. Due to peculiarities of these institutions, the law clearly determines the methods and rules for the prevention of HIV infection in each institution. This is very indispensable, because the persons, who are present in those institutions/places, are vulnerable to this infection. This law emphasizes the necessity to establish: a) a safe and institutional environment, through the implementation of universal measures for the prevention of HIV infection; b) providing information and education programmes, offering counselling services and volunteer testing as well as offering medical care to HIV/AIDS infected persons. *Inter alia*, the law aims to strengthen prevention and care measures to eliminate discrimination, protect data and avoid stigma and discrimination, promote confidential voluntary counselling services and the medical services and support for HIV/AIDS infected people, living in these institutions. Also, the law foresees the procedures for the treatment of prisoners / detainees dependable on drugs, such as services and the therapy. The therapy that is currently implemented in some prisons, help to the reduction of damages caused by drug injection, preventing in this way even the transmission of HIV infection. Antiretroviral therapy for HIV/AIDS for infected people is provided by the health care institutions in prisons and detention places in cooperation with Infective Diseases Service in the Hospital Centre “Mother Theresa”.

35. Legal framework on dissability issues - The rights of people with disabilities are sanctioned by the Albanian Constitution and the domestic legal framework. Article 25 of the Constitution of Albania guarantees the fundamental rights and freedoms of persons with Disabilities (PwD). The law “On protection against discrimination” provides the implementation of the principle of equality for the persons with disabilities. The law “On the Social Assistance and Social Protection” foresees measures on service delivery for this category, evaluation of the situation, the payment procedures and the increase of the payments over the year. Stipulations are made for the treatment at care institutions, both public and private ones and for payment of disabled pupils and students with disabilities. Middle school pupils receive 200% of the minimum payment, and students get 300%. The new Law “On mental health” aproved in June 2012, guarantee the rights of all persons with mental disabilities.

36. The Labour Code prohibits any kind of discrimination in the field of employment and professional training of PwD. They have the right to work in appropriate place of jobs according to the evaluation of the Medical Assessment Commission that defines their ability to work. The law “On the encouragement of employment”, provides and supports the employment, counselling and professional qualification for PwD. Article 15 of this law stipulates that out of 25 employees, one should be a PwD able to work. An employer can chose to employ one person with an aggravated disability instead of five persons with light disabilities. Every employer who does not fulfil his employment quota for the disabled shall pay an amount equal to a minimal pay for each of the PwD he ought to have employed. Article 16 of this law sets out incentives for employers of people with disabilities and “an employer of people with disabilities may ask for subventions from the Labor Office for the suitable equipment of the disabled person. The payment for the people with disabilities is exempt from taxation.

37. The employment of the persons with disabilities was one of the most important areas. The competent institutions, in collaboration with civil society organizations are lobbying for the employment in the government and private entities of people with disabilities. The staff of the Labor Office from all the country is trained. Meetings with

business companies were organized with the aim to recognize the legislation of the employment of persons with disabilities, explaining the benefits, legal basis that affects them in case they hire a person with disabilities. The Labor inspectors obtain information of the number of employees with disabilities through evaluation questionnaires they make to business companies, during inspections conducted in various subjects. The Labor offices face the difficulty of physical adaption in the environment that inhibits businesses from employing even when they have good will.

38. In November 2012 the Albanian Parliament ratified the Convention on the Rights of Persons with Disabilities.

39. In this framework the Ministry of Labour, Social Affairs, with the support of UNDP has carried out the assessment of the national legislation and policy documents, in order to elaborate an Action Plan on implementation/awareness raising of this Convention. Some measures are undertaken to design and deliver the capacity-building activities for government officials, the monitoring mechanisms, the labour institutions, the training for the judges and prosecutors related to the rights contained the Convention, and also training for architects, professionals in construction field and other stakeholders.

40. In 2012, started the process of drafting the Law “On Inclusion and Accessibility of PwD”, in compliance with the Convention requirements, based on the twin-track approach. The study and the evaluation of the domestic legislation, that preceded this process identified the gaps and shortages in approaching disability-related issues and provided several recommendations on aligning the legislation to the Convention. The draft law is consulted with civil society and groups of interest.

41. The issues regarding persons with disabilities are treated in some strategic documents such as: National Strategy for Development and Integration (2007-2013), National Strategy for Persons with Disabilities (2006-2015), Crosscutting Strategy for Social Inclusion (2007-2013), Strategy on Social Protection (2007-2013), Strategy on Employment and Professional Qualification, National Strategy on Education. The objectives of the National Strategy for PwD are: to encourage and educate for a society that allows the participation of PwD; to guarantee their rights; to provide the education for PwD; the employment and economic development opportunities for PwD; to support living standards in the community for PwD; to collect and use the relevant information related PwD and disability issues.

42. The coordinating and monitoring structures of this Strategy are the National Council for Disability Issues and the Technical Secretariat for Persons with Disabilities.

43. The raise of awareness regarding the discrimination phenomenon is one of the most important objectives of the Strategic Plan. In cooperation with the Albanian National Association of the Deaf (ANAD) was organized the Conference “Bilingual education is a right of everybody, not a privilege” (September 2012). Another important process is related to the support of the initiative to formalize the sign language as a right guaranteed in the convention. During the last year, in cooperation with ANADF were organized several activities with various actors, in order to promote the launch of the process of creating the legal basis for the formalization of sign language and the need to provide this service. Some workshops and training are also organized in cooperation with Albanian Disability Rights Foundation for the employees of the Regional Employment Offices, the National Employment Service, Centre of Professional Qualification and the Department of Public Administration in order to raise to awareness and increase the capacity of people who work in collaboration with persons with disabilities.

### Question 6

44. The Commissioner for the Protection against discrimination carries out its activities since 2010, when the law “On Protection against Discrimination” was approved. The Commissioner and its office (civil servant employees) aim to effectively protect from any form of conduct that promotes discrimination. The Commissioner is independent and the exercise of his duty is only based on the Constitution and the legal framework. He is elected by the Assembly for a five year mandate, with the right to be re-elected only once. The Commissioner reports to the Assembly at least once a year. The period of duty ends when: (a) the mandate is over; (b) he dismissed; (c) he present his resignation to the Assembly; (d) he passes away.

45. Based on the article 32 of this law, the Commissioner has the right: to review complaints from persons, groups or organizations (with legal interest) who pretend to be discriminated; to conduct administrative investigations for the violation of law no.10221/2010; to give the sanctions in case of failure to implement decisions taken by the Commission; to promote the principle of equality and non-discrimination; to monitor the implementation of law and to conduct surveys on discrimination; to make recommendations to competent authorities regarding every issue related to discrimination; to submit a written opinion for every issue regarding discrimination based on the request of the court that consider the case; to represent the plaintiff/ complainant with his consent, etc.

46. The decisions taken by the Commissioner have legal effects for the public authorities as well as for physical and judicial persons that exercise their activities in the public and private sector.

47. The Office of CPD has a separate budget financed by the State and by different donations. Regarding human resources, the Commissioner has completed full recruitment of staff, in accordance with the civil service legislation. With the state budget the Commissioner for Protection from Discrimination, covers the basic expenses such as the infrastructure, salaries of employees, a part of activities that accomplishes the publication of leaflets etc. National and international organizations, which are considered as an important partner of the CPD, give support in a part of awareness activities. The commissioner staff has participated in on-going training during the period 2010 and onwards in order to build capacity.

48. According to law the Commissioner offers assistance for the victims, as it has the competence to examine the cases of discrimination (free of charge). Second, the CPD represents the victims of Discrimination in the court, by his request only. Third, the Commissioner has the competence to initiate ex-officio investigations. In this framework, the victims of discrimination are protected under this law even when they do not make a complaint. Fourth, when discrimination is found, the Commissioner gives Recommendations and the timeframe for its implementation. If this Recommendation is not implemented, then the Commissioner gives sanctions by fine to the subject found responsible for the discriminatory behaviour. As a last measure, the Commissioner proposes to remove the license of the private subject that was found responsible by the Commissioner, after the administrative procedure.

49. This Institution during the year 2010, has registered four cases of complaints for discrimination. Two of these cases were out of the jurisdiction of the commissioner<sup>25</sup>. The

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<sup>25</sup> Article 33, Point 4/“d”, of the law “On Protection against discrimination” provides that: “4. Complaints are not accepted if: ... d) all the facts that constitute the object of the complaint have happened before this law entered into force...”

two other cases on “discrimination of sexual orientation/sexual identity” reviews continued during 2011.

50. During 2011 were considered 18 complaints and 15 of these complaints were preceded. The causes of discrimination were mainly related to the sexual orientation, the gender, the ethnicity, the disability, the age. One of the treated cases is the complaint submitted by two non-governmental organizations, activist for the protection of rights for LGBT community. They complained about the public declaration of a former vice minister and for their prohibition to take part in the hearing session of one Parliamentary Commission, where they were interest group. After reviewing the case, CPD decided to recommend to the former vice minister “to avoid in the future declaration that could affect the creation of a tense and not friendly atmosphere with the LGBT community in Albania”. In the recommendation submitted to the Parliamentary Commission, it was asked “to give every possible guarantee that their thoughts, opinions and words would be listen, appreciated and taken into consideration, in certain cases when they are directly involved. This would help this community to enjoy their rights and freedoms”.

51. During the year 2012 the number of complaints reviewed by CPD was 107. The majority of these complaints were submitted by individuals, in total 84 (44 men and 40 females), while the other part was submitted by organizations with legitimate interests. There were considered 83 cases, where were given decisions for 23 of them. The allegations of discrimination were related to the ground of: race (36 cases), disabilities (19 cases), economic situation (16 cases), sexual orientation (7 cases), gender difference (2 cases), age (3 cases), political beliefs (3 cases), nationality (3 cases), residence (2 cases), specific qualities (5 cases), unidentified grounds or reasons (6 cases), social status and parentage (1 case).

52. Those complaints referred to several areas as: the goods and services (74%), employment (18%) and education (8%). Generally, the complaints were directed to the public administration, the central and local government. The number of complaints related to the private sector compared to the public remains small, but there is a growing tendency. The object of allegations for complaints in the private sector is mainly employment discrimination. The Commissioner (CPD) has found out that individuals have the tendency to consider as discriminating behaviors every illegal behavior or injustice. The complaints mainly manage to identify the cause of discrimination, but due to procedural deficiencies of the submitted complaints, of their low level of knowledge and insufficient capacity, the Commissioner cannot continue with the investigation of facts.

53. During the year 2013 the following cases are being sued: In one case the Commissioner (CPD) is summoned as the interested party, after CPD has previously followed an administrative procedure about the same issue for which the decision of discrimination has issued. Another case, is related to the discrimination decision of the CPD, when the complainant/plaintiff has brought the case to the Court, and the Commissioner was summoned as a third party but during the trial the plaintiff asked the suspension of the trial for the third person (CPD), because the object of trial had been changed and eventually the court decision was not expressed against discrimination. In another case previously reviewed by CPD, the plaintiff presented a lawsuit claim in the court for compensation. In this case, the Commissioner communicated to the court the decision. The court decided to suspend the review of the complaint made by the plaintiff based on the Commissioner’s decision to suspend the investigations.

54. On July 2013, was released a Court Decision on Discrimination, related the application of the law “On Protection against Discrimination”. This is the first court decision in Albania in application to the anti-discrimination law. Firstly, the complainant submitted a complaint to the Office of the Commissioner for Protection from Discrimination. After a full and comprehensive administrative investigation, the

Commissioner decided the ascertainment of discrimination and recommended the return to work of the complainant. This Recommendation was not implemented. Hence, based on the law for the protection from discrimination”, the Commissioner, established a measure of punishment by fine to the subject found responsible for discrimination, for not implementing the Commissioner’s Decision. This decision was not changed or revoked by the court. After the administrative review by the Commissioner, the complainant sent the case to the court. Upon the request of the complainant, which was the victim of discrimination, the Commissioner offered its legal assistance in drafting the suit-law and also supported it with all the relevant documentation collected during the administrative investigation. In the meantime, the Commissioner was called by the plaintiff as an interested party, so it followed the judicial process. The Court decided the ascertainment of discrimination and victimization of the plaintiff by the same subject found responsible for discriminatory behavior by the Commissioner. Based on Article 37 of the this law, which provides for the compensation in case of finding of discrimination and a violation of law, the court decided the remedy of the consequences arising as a result of the discriminatory behavior, by ordering the return of the plaintiff to work, as well as providing compensation for the property and non-property damages suffered by the plaintiff. This decision of the Court is a confirmation of the decision-making of the Commissioner and also a positive step towards the implementation of the law for the protection from discrimination.

### **Article 3 - Equal rights of men and women**

#### **Question 7**

55. The economic empowerment of women and girls plays a key role in achieving gender equality and reduce domestic violence. A considerable number of females and girls, including categories of groups in needs have profited from programs promoting employment and professional qualification, during the last years. The Decision of the Council of Ministers (DCM no 27/2012) “On promotion of employment for women jobseekers from special groups”, include a program that encourages leaders, managers to employ female jobseekers from vulnerable groups, that have difficulties to enter the labour market. This support consists of financing the payment of social security and paying for minimal wages a year to every employer.

56. According to statistics proved by Institute of Statistics (INSTAT) in 2010, 26,4% of managers in the private businesses were women, with 0,7% compared to one year ago. The Datas of the Ministry of Economy<sup>26</sup> declare that 31% of the total value of loans for businesses were approved to female entrepreneurs. The women are mainly involved with the small business and mainly 96.2% of this business is owned by women. This institution in operation with Ministry of Labour and Social Affairs are working to implement pilot programmes on credit to promote women's business through the implementation of programs as Credit Guarantee Fund for Export and Competitiveness Fund.

57. According to "Rural Development Strategy", the Ministry of Agriculture<sup>27</sup> supports the creation of employment opportunities in rural areas, by giving priority to encouragement of investment power of the rural population and especially women or young people. On the evaluation criterias for the subsidy schemes for 2012, this institution has given importance to the inclusion and support with priority to applications where

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<sup>26</sup> According to the new structure of the Albanian government on September 2013, is the Ministry of Economic Development, Trade and Enterprise.

<sup>27</sup> According to the new structure of the Albanian government on September 2013, is the Ministry of Agriculture, Rural development and Water Administration.

agricultural farms are managed by women. These financing criterias predicted that if the agricultural farm is owned and managed by a woman, there will be added 20 more points to the final evaluation. Pursuant to the Law "On joint agricultural cooperation", the evaluation criterias are trying to be established for the subsidy scheme, which among others promote the involvement of women in the management of those cooperations. The institution is currently working to identify the cooperations managed by women in the rural areas and to promote their activities. Based on the agricultural data, around 7% of agricultural farms are managed by women. In the framework of the initiative to promote and support the entrepreneur women, to promote businesses managed by them and to raise the awareness for the employment of women and girls, the Ministry of Labour has organized for two years a two day fair on "The empowerment of Women Enterprise" in the city of Tirana, Puka, Korça, Vlora, Elbasan, Shkodra and Durrës. The organization of this fair was a possibility to identify the capacities of artisans women and entrepreneur women, the successful management of small businesses by women.

58. The legal framework in protection of gender equality includes the Law no.10221/2010 "On the protection against discrimination" and Law no.9970/2008 "On Gender Equality in Society". The purpose of these two laws is: (a) the prohibition of discrimination and violation of gender equality in relations between physical persons/legal persons, in public/ private sector b) to provide efficient protection for gender discrimination; c) to determine the measures that guarantee equal opportunities between women and men; e) to identify the responsibilities of the central/local authorities to draft, implement bylaws and policies with the aim to promote the gender equality. The importance of these legal acts consist in that they not only condemn discrimination in general, but they provide particular provisions related to the sanctions on the violation of gender equality in the areas of: (a) employment, (b) education and training; (c) goods and services, and (d) media. Among other issues, those laws provide specific sanctions (taking disciplinary measures, imposing fines, remuneration for moral and material damages).

### **III. Issues related to the specific provisions of the Covenant (arts. 6-15)**

#### **Article 6 - The right to work**

##### **Question 8**

59. From the comparison of data published in the official website of the Institute of Statistics it is noted a slight decrease in the domestic level of unemployment. In 2009 this indicator was in the level of 13,6%, while in 2012 it decreased to 12,8%. Based on those data, it is noted that the indicator of unemployment was higher for women (around 2-5% higher compared to the percentage of men). The greatest number of unemployment belongs to the category of persons with secondary education. In 2009 this category counted 76.056 persons while in 2011 this figure goes to 77.749 persons. The second category of unemployment belongs to persons with high school education. It is a reduction of the unemployment indicator for this group, although it remains in considerable levels (in 2011 were 59.558 persons unemployed from this category). The third category includes people with higher education. Statistics in 2011 show an increase of 37% to the number of unemployment from this group compared to 2009.

60. The highest indicator of the unemployed is indicated in the group of age over 35 years old. During 2011, it was noticed an increase of 7% of this category, compared to 2009. At the same percentage it is noted the decrease of the level of unemployment in the age group between 20-34 years old. The lowest unemployment rate recorded in the age

group between 15-19 years old, which has shown a declining trend in recent years. The indicator of the level of beneficiaries that receive unemployment payment has decreased by 0,4% in 2011, compared to 2009. The number of long term unemployed has also decreased by 3,4%, for the same period of time. The number of beneficiaries for the “full economic assistance” is 19% higher than the beneficiaries for the “partial economic assistance”. This percentage has remained almost the same for the period 2009-2011. Those data do not offer any information regarding the unemployment rates for the minority groups as well as for the division between urban and rural areas.

#### **Question 9**

61. The Law no.10434/2011 “On some amendments on law no. 8872, date 29.03.2002 “On the education and professional qualification in the RoA”, aims to improve the existing law on the education system and professional qualification, and its harmonization with the international standard requests. This system consists of Secondary Professional Education (with several level of education), Post-Secondary Professional School, Professional Qualification and Adult Education. The new structure of professional education is based on professional qualifications provided in the Albanian Qualifications Framework. Those amendments are related to the: (a) structure of the Post-Secondary Professional School; (b) partners social role in the development of professional Education/qualification; (c) increase of the autonomy for schools and the centers of professional education; (d) policy making and the implementation of the plans for the development of the professional education by respective institutions.

62. During year 2011, the employment services registered the employment of 12.749 persons. The employment of 11.556 of them was made possible through direct intermediation of the Employment Offices. Through intermediations, 2.333 beneficiaries were long term jobseekers, 452 persons benefited from the unemployment payment and 655 others received the economic aid. The majority of employments were in: Tirana, Durrës, Fier, Vlora and Korça.

63. The most important sectors of employment were: (a) processing industry, (b) construction, (c) information and communications fields, (d) other services (e) wholesale and retail trade. The Regional Directorates of Public Professional Qualification have trained 8.531 persons, from which were 23% of the trained person had completed secondary education, 38% had completed high school education and 11% university education. According the age, 24% of the unemployed were 15-19 years old, 33% were 20-24 years old, 25% were 25-34 years old and 18% were over 35 years old.

64. During January-May 2012, it results that were trained 3.113 persons, from which 1.576 were women. The number of unemployed persons, who were untrained, was 1,858. The number of jobseekers registered in the employment offices, beneficiaries from the training was 973, out of which 427 were women. Some figures are: 128 unemployed who belong to special groups have received certificates, out of 71 persons belonged to Roma community, 8 trafficked women, 1 ex-convicted, 2 orphans, 33 persons with disabilities and 12 immigrants who have returned (with economic problems). The vocational education and training during 2009-2012 have been a priority of the national education policies. These policies are based on the law of Vocational Education and Training (2011), the National Development Strategy (2007-2013) and the needs of the labor market. In accordance with the law on vocational education and training, are adopted several laws to institutional strengthening of vocational education institutions, their connection to the labor market and business, and to improve access and quality through the subsidy mechanism of school books and also regarding the infrastructure investment.

65. The concrete measures are: a) publishing and printing of 19 texts (3 other texts are in the process of completion) for vocational schools and their distribution in schools; b)



construction and equipping of four new schools with a capacity of 3200 students. 3 vocational schools are in reconstruction process with a capacity of about 3,000 other students; c) establishment of a multifunctional center in Kamza area (supported by GIZ programme); d) approval of the Decision no.836/2011 “On granting scholarships for vocational high school pupils in Shkodra region, which grants 84 scholarships worth 680 Eur/per year; e) creation of courses, in accordance with the requirements of the labor market in the field of agriculture, in and Plant Protection. Mechanization of Agriculture, Aquaculture and Fisheries, Agricultural Economics, Food technology in all agricultural schools in the country. d) Establishment of specialized professional centers, in four schools equipped with facilities of the latest technology (AlbVET programme). e) implementation of school twinning programme for IT schools with counterparts in Switzerland. (AlbVET programme). f) Completion of the first phase of the VET Portal, which has the Module of Management Information System for schools; the module of websites for vocational schools; introduction to school documents for 44 courses and 110 education programmes; g) training of teachers who work in vocational schools in the field of Economy, Mechanics, Electronics, ICT, English etc.

#### Question 10

66. The Labour Code (LB) of the Republic of Albania is in full compliance with the provisions of general provisions of the Covenant (articles 1-3). Several articles in the Labour Code (articles 8,34) stipulate the right of contracting parties (employer and employee) to freely decide on their economic, social and cultural status. The principle of non-discrimination is provided in Article 9 of the Code, excluding any form of distinction, exclusion and preference of employment because of sex, race, color, sex, age, religion, ethnic origin, etc. In support of this provision the Labour Code does not discriminate, but provide positive discrimination in the treatment between men and women. They are titled to be just “employers” and /or “employees”. The limitations of the rights provided in article 4 of the Covenant are in accordance with Articles 201-203 of Labour Code. The provisions contained the articles 22-54 of this Code, regarding the mutual obligations between the employer and the employee serve as a guarantee for the implementation of appropriate standard regarding the working conditions. As provided in article 5 of the Covenant, there is no intention to obliterate the rights and freedoms of the parties (contracting parties in this case).

67. “The right to work” (article 6 of the Covenant) is provided in article 20 of the LB. The right to just and favorable conditions of work (article 7 of the Covenant) is provided in articles 45-93, 109-123, 130-133 of LB. The trade union rights (article 8 of the Covenant) are provided in the article 10 of this Code and also are included several provisions on the establishment, the status of unions, the trade union rights, the right to strike ( the articles 178-198 of this Code). Specific provisions are included in this Code related to the right of employees to social and health security (article 9 and 12 of the Covenant)<sup>28</sup>. Related to the protection of the family, mothers and children (article 10 of the Covenant) in this Code are included several provisions (Articles 98-108). The right to an adequate standard of living (article 11 of the Covenant) is provided in the article 111 of the Code.

68. This Code considers special aspects on guaranteeing physical and mental health at work. The reason is related to the fact that general treatment is the object of specific laws such as: security at work, public health, mental health, reproductive health etc. In the articles 135 and 136 of this Code, are included provisions to guarantee the enjoyment of the

<sup>28</sup> Articles 39, 40, 105, 106, 111, 117, 123, 130, 131 of the Labour Code.

benefits from scientific progress and its applications (article 15 of the Covenant-cultural rights).

69. Related the conventions in the framework of the International Labour Organisation (ILO), RoA currently has ratified 44 conventions. The labour legal framework is improved in continuity to responds to the needs of the labour market. The legislation in this field is in accordance with the international standards contained in the international conventions ratified by the Albanian Government.

70. During 2009-2012, are undertaken several measures for improving the legal framework through the adoption of the: 1) Law no.10434/2011 "On Amendments to the Law nr.8872/2002" For education and Professional Qualification in the RoA". 2) Law no 10137/2009 "Legal Amendments for licenses, authorizations, permits in the RoA". 3) DCM no 27/2012 "On the incentive program for the employment of women from special groups". 4) DCM no199/2012 "On the criteria and procedures for the implementation of the program to encourage employment of unemployed jobseekers, starting a job for the first time". 5) DCM No 562/2011 "On the determination of the basic level of unemployment income".

## **Article 7 – The right to just and favorable condition of work**

### **Question 11**

71. State Labour Inspectorate is a public institution under the Ministry of Labour. This institution has representative structures at the local level (12 Regional Directories and Country Offices for Labour Inspection). The Labour Inspectorate monitors and provides guarantees for the implementation of the legal framework that regulates the labour market. Through continuous inspections, it conducts audits on workplaces for working conditions, the duration of employment, wages, security, hygiene and welfare, employment of children, juveniles and women, as well as other issues closely related to them. Inspections are conducted in the public and private sector, as well as to employers and self employed.

72. The modalities and procedures for the intervention of the General Inspectorate are:

- a) Counseling technical advice to employers and workers concerning the most effective means of examining the legal provisions.
- b) The proposal of tools and instruments needed to improve the situation.
- c) Awareness of the population, through television spots on the importance of respecting labor relations and the fight against informal work.
- d) Publication and dissemination of information on applicable labor legislation and effective means of restoring the law on abuse cases.
- e) Promotion of a prevention culture for health and safety conditions at work.
- f) Collection, analysis, dissemination and exchange of information on safety and health at work with different institutions (Head Office and Tax Regional Branch Offices, Employment Regional Offices, Department of Inspection-Rescue-Mines, Inspectorate of Electrical Equipments and Installations, the Regional Social Insurance Directorates, State Sanitary Inspectorate, etc.).
- g) Notification and cooperation with the authorities responsible for deficiencies and abuses in central and regional levels.
- h) Implementation of fines and other legal sanctions provided in labour legislation.

73. The sectors, which are the subject to the inspection (according to the ILO classification) are: (a) agriculture, forestry, fishing; (b) mines (c) production Enterprise (d) electricity, gas, water; (e) trade, hotel-bar-restaurants; (f) construction; (g) transport, storage; (h) finance, insurance services; (i) and other activities. According to the State Labour Inspectorate during the period 2009-2012, there has been an increase in the number of fines against economic entities in several regions of Albania (Tirana, Vlora, Elbasan, Dibra, Durres, Shkodra, Korca, Lezha, Fier, Kukes, Berat and Gjirokastra).

#### Question 12

74. The Constitution as it mentioned above, guarantee the freedom and rights of the individual and prohibits discrimination, *inter alia*, because of the gender. (Article 3 and 18/2 of the Constitution)

75. The Civil Code provides the right to every physical person to enjoy full and equal capacity to related the rights and obligations. Their limitation is an exception, as provided by law (Articles 1, 4 of the Code). The Criminal Code, among other provides equality before the law for men and women in the field of health, dignity and property. Albanian legislation never connects the gender differentiation to criminal responsibility of the individual, but always refers to it in neutral terms, such as individual, person, nobody, Albanian citizen, alien/stateless.

76. The Labour Code guarantees the equal treatment in employment between women and men. It recognizes, *inter alia*, the right to equal pay for equal work. Article 9 of this Code prohibits any form of discrimination in hiring and exercise of duty. With discrimination, among other grounds, this provision implies the distinction, the exclusion or preference based on sex or gender. The violation of equality in payment of salary by the employee, according the article 116 of the Labour Code is fined up to thirty times of the minimum wage of the person violated.

77. Law no.10221/2010 “On Protection against discrimination” regulates the implementation, respect of the equality principle regarding gender, race, colour etc. Article 12/1/ç prohibits the discrimination in the working place including their treatment in setting or changing working conditions, bonuses, benefits and working conditions, treatment regarding professional treatment or during the disciplinary process or regarding dismissal from work or termination of contract of employment. Article 33/13 on procedures, provides fines imposed by the Commissioner for the Protection against Discrimination for persons who violate dispositions of this law. Fines range from 10.000-60.000 Albanian lek (ALL) or (100-600 USD), depending on status (physic subject or legal subject) of the person responsible for the violation of the legal provisions.

78. During its inspections, the State Labour Inspectorate has not found any case of violation of this right by employers. Also, the competent authorities did not register any complaint regarding to the disrespect of the principle “equal pay for equal work”.

#### Question 13

79. The Decision of the Council of Ministers no 522/2009 “On setting the minimum payment at the national scale” determined that the monthly minimum wage for the public sector was 18.000 Albanian lek (180 USD). Based on the change rate living level index, this amount has increased every year with 1.000 Albanian Lek (10 USD). In 2012, the Council of Ministers adopted a decision to state the minimum wage for physic and legal persons, for Albanian and foreign citizens (the amount 21.000 Albanian lek-210USD).

## **Article 8 – Trade union rights**

### **Question 14**

80. The Constitution (articles 46, 47 and 48) guarantee the right of the individuals to organize collectively in organizations and/or associations, to carry out any lawful purpose. According to the provisions, this term means: a) the representation through registered and recognized bodies under the procedures provided by law; b) no unconstitutional and illegal demands, peaceful and unarmed rallies. The right of employees to strike, regarding labor relations is sanctioned in article 51/1 of the Constitution. The second paragraph foresees the restrictions on exercising this right from the category of workers who provide essential services, which are provided in a specific law.

81. The rights to strike and to organize are provided in Labour Code. This Code regulates the judicial relations between employers and employees that interact in the public and private sector. In its Article 10, the Code provides that “nobody can condition employment of the employee or to cease or violate his syndical right due to his membership or not in the union created, based on the law”. The right to strike is guaranteed by the article 197 of the Code, which qualifies it as a way "to solve economic and social demands." The Code stipulates the voluntary participation and the prohibition of any form of coercion, violation or discrimination against employees who participate or not in the strike.

82. The Restrictions on exercising the right to strike in this Code are referred to some specific situations and categories of services. Under the provisions of 197/3, 4 and 5, the right to strike may not be exercised in those cases: (a) where it is illegal; (b) or, when started, it can be suspended in cases of natural disasters, state of war, state of emergency; when the freedom of elections is endangered; (c) in vital sectors services. The latter category includes, specifically, the following institutions: (a) clinics, polyclinics and public hospitals (b) Water and Sewerage Utilities in districts (c) Albanian Energy Corporation (d) the National Agency of Air Traffic (e) public / private entities contracted for fire protection; (f) personnel of services in prisons. The Code related the categories of services provided in paragraphs (a) and (e), does not distinguish whether they are public or private entities.

83. According to Law No. 8549, date 11.11.1999 "On the Status of Civil Servants", civil servants who work for the state administration are not allowed to strike. In the new law (not yet into force) it is foreseen to grant this right to civil servants, unless otherwise specified by law. Law no 9210/2004 "On the status of military service of the Armed Forces of the Republic of Albania", provides that "active soldier has the right to be organized in association that do not have political or union character”.

## **Article 9 – The right to social security**

### **Question 15**

84. The social security system in Albania is established based on the PAYG scheme and is based on the principle of solidarity. All persons active in work pay contributions, which fund the benefits from mandatory social insurance scheme. The Social Security System in the RoA, is regulated by the amended Law no. 7703/1993 "On Social Insurance ". According to article 2 of this law, the employed persons benefit from social insurance scheme in case of temporary incapacity to work due to: (a) illness, (b) maternity, old age, invalidity, loss of family breadwinner, work accident and occupational disease; (c) unemployment of other economically active persons (employers and self-employed) in relation to maternity, old age, disability and loss of family breadwinner. The contributions paid according the insurance scheme serve to compensate a part of the income to ensure

minimum living standards. The Albanian legislation on social security provides the equal treatment to all economically active persons, being either Albanian citizens, foreigners or stateless persons working in Albania. In the case of stateless persons, the law provides only for former Albanian citizens, and those originating from countries, with mutual cooperation agreements in this field (article 7). The criteria for social security benefits for foreign nationals, employers or employees operating in the Albanian territory, are defined in DCM no 1114/2008.

85. The benefits from compulsory insurance are covered incomes and contributions, which are currently 24.5% of salary, from funding in the form of contribution, as well as farmers subsidies and contributions to cover the deficit of the pension branch. The minimum and maximum limits of retirement age is defined each year by DCM. The minimum amount of the pension is half of the maximum amount of the pension. Another limit is related to the amount of pension up to 75% of the net average wage, indexed to three consecutive years in the last ten years. The legal measures on social insurance, on pensions, on insurance in different fields, on compulsory contributions of social and health security, etc. aim to ensure the benefit of social support based on the needs of beneficiaries<sup>29</sup>.

#### **Question 16:**

86. The existing mechanisms of the unemployment benefits, pensions and other social assistance for the older persons are:

- Benefit from social security scheme (pensions)- The Albanian government is committed to significant increase of pensions, both in urban and rural areas. In 2012 the DCM no 387/2012 "On Pension increase" a growth of 4% was provided for all pensions, disability pensions, family pensions and invalidity pensions in the urban areas as well as a 5% increase for same pensions in the rural areas. A 4% increase was benefited by former military pensions; specific categories of flying pilots, seamen, employees at the former military enterprises, former underground workers and professors supplementary pensions. This pension increase was implemented from 1 July 2012. Narrowing of differences between rural and urban pension and its harmonization with the amount of the contribution is a process to be realized very quickly.
- In total, the number of people who benefited from pension increase is 160.188 persons. The number of persons in the urban area is 552.904. 291.893 of them are pensions for older persons, 50.167 are invalidity pensions and 50.656 are family pensions. After this increase, the minimal pension in the city is 11.562 ALL (110 USD) per month, while the maximal pension is 23.123 ALL (230 USD) per month. According to the DCM no 874/2012 "Providing immediate economic assistance to retired persons benefiting from pensions" 576 186 pensioner got a reward of 2000 ALL (20USD).
- Collection of contributions- Impact on increasing the number of contributors to the social security scheme in the urban sector caused the increase of the number of contributors in the private sector, which in 2012 turns out to be about 6% higher than a year ago. Adoption of the Law no 10418/2011 "On the legalization of capital and forgiveness of a portion of customs and tax debt" increased the number of contributors to the scheme. During 2012, the participation in the social security scheme of compulsory self-employed in agriculture has declined due to the lack of

<sup>29</sup> Detailed information on those legal provisions is provided in annex 7 attached this document.

purchase of insurance by farmers for the former periods and due to the movement of population in urban areas.

- Monitoring indicators of social insurance scheme are (a) the system dependency rate and (b) the pension replacement rate. The System Dependency rate is determined by the ratio of the average number of contributors to the average number of total pension (old age pensions, disability and family). Social insurance scheme includes all categories of employees in urban and rural, public and private sector, employees and self-employed. According to data, during the year 2012 was an increase of this indicator in urban areas and a reduction in rural areas. The replacement rate is determined by the ratio between the average pension and the average wage. The amount of pensions depends on the contribution period and the salary on which contributions are paid, but the maximum pension is limited to twice the minimum pension. Restriction results in a low replacement rate for persons who contribute higher wages, highlighting the problem of a weak link between contributions paid and pension benefits. This is one of the problems in the process of reforming the system to improve and payments of contributions.

87. The benefits generally have to meet a certain level of net income in recent years to work. International standards stipulate that the replacement rate should not be below 40%, but a system is considered as a good system when the rate is over 55%, so that together with supplementary schemes give 70-75%. For 2012 this rate in the urban sector average income amounted to 51.5% and average pension at the rate 46.3%. The average pension and average earnings are calculated as an annual average. On average income it is included average pension, compensation for electricity, bread and minimum income allowances for pensioners.

## **Article 10 - Protection of the family, mothers and children**

### **Question 17**

88. As a result of the cases of violence in the family, as well as the impact and awareness raising campaigns undertaken for this purpose, number of charges of violence in the family in police structures, in recent years has been increasing.

89. Number of events of domestic violence reported by the Ministry of Interior for 2009 was 1217 cases, in 2010 there were 1998 cases, in 2011 there were 2118 cases, while in 2012 it reached 2526 cases. Higher numbers belong to mainly to developed cities like Tirana, Durrës, Vlora, Lezha, Elbasan, Shkodra, Korca and Berat regions. Also it is noted that each year the percentage of requests to the court for "Order of Protection". In 2009 those claims represented 40% of cases reported to the police and for the years 2010-2012 these claims represented 62% of them.

90. Regarding the marital rape, there are no identified cases. This is due to the fact that recently in the Criminal Code are included provision related to the marital rape as a criminal offense. Sexual abuse of women and children is a criminal offense provided for different penalties.

91. Ministry of Interior reports that in 2009 43 cases were reported of minors affected by sexual violence (Article 100 of the Criminal Code). According to the same source, in 2011 and 2012 is reported the same number of cases: 22. For the same offense the Ministry of Justice reports that 12 lawsuits were filed in 2012, while for the first six months of 2012 10 lawsuits were filed.

92. For the crime of "sexual relations between adults" (article 102 of the Criminal Code) Ministry of Interior reports that the number of women affected by sexual violence for 2009

was 33, in 2010 was 37, in 2011 was 27 and for 2012 was 22. Number of demand shown in court lawsuits for 2011 was 5. The same figure reported for six months I of 2012.

93. Measures taken to fight against domestic violence, during the period January 2010-March 2013, relating to the adoption of the following legal acts:

- Law no 10329/2010 "On amendments to the Law nr.9669/2006" On measures against violence in family relations "has brought these improvements: 1) determines the obligation of confidentiality of personal data and information provided by the victim; adopt "normative act" for mechanism of coordination between the authorities responsible for referring cases of domestic violence; 3) legitimizes Police /Prosecutor requesting protection order (PO) to minors; 4) specifies a minimum time (24 hours) for the issuance of the Order of Immediate Protection to minors; 5) dismisses "seekers" of all tax obligations and fees for court costs and as well as those of state enforcement services; 6) the procedures of free legal aid to victims.
- Law no 10347/2010 "On protection of children's rights" guarantees the protection of the child from all forms of violence (physical, psychological, physical punishment and humiliating and degrading treatment, discrimination/exclusion/insult, abuse and abandonment, neglect, exploitation and abuse, sexual violence).
- Law no 9669/2006 Pursuant to the Law "On measures against violence in family relations", as amended, was adopted by Decision no.334/2011 "For the work coordination mechanisms for referring cases of violence in family relationships and its form of proceedings. "More specifically, this crosscutting mechanism consists of:
  - Steering Committees for the coordination of responsible authorities at local level and referral of family violence cases. These committees are established in every Municipality and they are composed of their local institutions involved, responsible as defined in section 3 of this decision.
  - Technical Interdisciplinary established under the decision of the Steering Committee consisting of representatives technicians of institutions represented in this committee.
  - Local coordinators for the referral of domestic violence which act in every Municipality, serve as intermediaries with NGOs, police, health services, courts, social services, etc., to provide information to victims about the services and to ensure the continuity of their care; accompanying the victim to court, police and other services , and organizes meetings and monitoring for managing cases.
- Among others, in the document are established procedures for multi-disciplinary intervention to help victims of domestic violence.
- National Strategy for Gender Equality and Reduction of Gender Based Violence and Domestic Violence 2011-2015 (approved by Decision no.573/2011) is a reevaluated document of the previous National Strategy ( 2007-2011 ). The basics of this strategy are the four priority action fields such as: 1) Strengthening Institutional and Legal Mechanism; 2) to increase participation of women in decision-making; 3) economic empowerment of girls and women; Reducing gender violence.

94. Among other issues, the objective of this strategy is the protection of victims of domestic violence from a coordinated network of institutions, improvement of legislation and data collection system, their reporting and analysis, as well as continuous training of personnel.

95. Law no 23/2012 "On amendments to the Law nr 7895/1995 "Criminal Code", provides "domestic violence" as criminal offense with the sanctions (article 130). The

amendments also include systematic abuse, psychological and economic, as well as measures to liberate the victims of family violence from the obligation to press charges in the case of "minor physical injuries".

96. The amendments to law 10399/2011 "On social assistance and social services", provides the right of getting economic aid not only to the head of the family only, but also to women (women raped) when they have protective orders. The wife also has access to benefits and social assistance in cases where spouses are in the process of divorce awaiting a final decision.

97. Law no 104/2012 for the ratification the Council of Europe Convention "For preventing and combating violence against women and domestic violence." With its ratification Albania declares its commitment to cooperation in regional and international level against gender -based violence and domestic violence, as well as taking all legislative and executive measures to the phenomenon.

98. During this time were conducted several awareness campaigns conducted with the objective to eliminate gender stereotypes, to increase public and political awareness of women, and her economic development. This is accomplished through national conferences, meetings programmes in the electronic media, the development of trade fairs with women works and businesses, preparation of awareness materials, posters, TV spots, etc. Each year, as part of the global campaign of 16 days of activism on violence against women (25 November-10 December), the Albanian institutions are organizing a series of activities and events on gender awareness.

- 2010 - The campaign titled " Violence is a crime - violence kills if you remain silent - Say stop domestic violence " ;
- Year 2011 - The campaign entitled "Family violence is a crime. Domestic violence-free Family, Societies in Peace ";
- Year 2012 - campaign titled "Violence is a crime. Act now. A real man never hurts a woman"

99. Law no 10347/2010 "For the protection of children's rights" are established and functioning in all regions of the country units of the Rights of the Child to monitor law enforcement and realization of children's rights. In the municipality / commune level are set around 130 Child Protection Unit (CPU), which are responsible for protecting children from all forms of violence, including corporal punishment of children. The State Agency for Child Protection in collaboration with UNICEF, has organised a training cycle of the local administration in all regions of the country, the implementation of the law on children's rights and legal acts for its implementation. In these trainings attended by representatives of local institutions such as the police, health, education, social services, etc. Pursuant to the right of children to protection from violence and abuse, Ministry of Education is implementing the National Programme "For a friendly school pro positive behavior." All schools in the country are equipped with informational materials. An important part of this program is the involvement of the community and parents.

100. Ministry of Education is currently promotes psychological services in schools. This service operates in all urban areas of the country and step by step are extended to rural areas, initially in schools with high numbers of students. Psychologists in schools are working to build the capacity of school administrators, teaching staff, children and parents to use child-centered approaches, promoting participation and strengthening the links between school, family and child. They have contributed to encouraging schools to use child protection policies, identifying violence inside and outside the school and its address through multidisciplinary approaches.



101. Information on the gender equality and domestic violence is provided also in the paragraph 5-12 (related the question 4) of the written replies on the list of issues of the Human Rights Committee to be taken up in connection with the consideration of the second periodic report of Albania, in the framework of the International Covenant on Civil and Political Rights (CCPR/C/ALB/Q/2 Add1)<sup>30</sup>.

#### **Question 18**

102. The placement and treatment of children in health care institutions is provided according to law no 9355/2005 "On social assistance and social services", (as amended), the Document for custody of children in need (adopted by DCM nr 209/2006) and the Social Protection Sector Strategy 2008-2013 (adopted by DCM nr 80/2008). Those legal acts provide the criteria to place the children in health care shelters where: (a) they have no living parents or relatives who do not take their custody; (b) are born out of wedlock and cannot be raised by the mother; (c) one or both parents are deprived of the parentage right; (d) they have been declared abandoned by the district court; (e) the court decides to place them in the social care institutions; (f) the parents are not economic able to take care of the children; (g) parents are hospitalized or sent for treatment abroad.

103. At the orphanage for babies and children are not accepted "dystrophy" or "disabled" children even when they meet the above criteria. Age eligible to be placed in orphanages and baby orphanage is from 0-15 years old. The children 0-3years old are placed in baby home; the children 3- 6 years old are placed in orphanages / preschool; the children 6-15years old in child home / school age). In the case of orphans, children held in these institutions until the age of 18 years old.

104. Information on the protection of children is provided also in the paragraph 123-132 (question 21) of the written replies on the list of issues of the Human Rights Committee to be taken up in connection with the consideration of the second periodic report of Albania, in the framework of the International Covenant on Civil and Political Rights (CCPR/C/ALB/Q/2 Add1).

#### **Question 19**

105. The Ministry of Health (MoH) with support of the Office of the National Anti-Trafficking Coordinator and International Organization for Migration (IOM) has compiled and published the guidelines related to "the personnel in the field of health working with trafficking victims and potential victims of trafficking" which aims to help health care providers, especially primary care, to make use of the opportunities, using their skills and experience in order to provide necessary medical assistance to trafficking victims and potential victims of trafficking.

106. DCM nr 395/2012 "For the treatment of victims of trafficking and the profit of health services for this category." Ministry of Health in 2012 signed the Cooperation Agreement on the Functioning of the National Referral Mechanism for Victims and Potential Victims of Trafficking in Persons where are included the obligations regarding the care and assistance to those victims. Providing health services in three levels, the primary, secondary and tertiary, in the context of providing the best health care possible in Albania, without discrimination, is reflected in the general lines of the Budget Plan and the MediumTerm Project Health Strategy 2013-2020.

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<sup>30</sup> [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fALB%2fQ%2f2%2fAdd.1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fALB%2fQ%2f2%2fAdd.1&Lang=en)

107. With the support of the Office of the National Anti-Trafficking Coordinator (ONAC) and IOM are organised in 12 regions of the country training of the health personnel regarding the treatment of victims and potential victims of trafficking. Those trainings aim to inform the employees of the health sector on the implementation of obligations procedures for identification and referral of those victims. This multidisciplinary participation has contributed to building bridges of cooperation and the management of situations in protection and assistance. Primary health care providers, are trained for the identification and referral function of those victims and also to manage these cases locally. Specific tasks of the health workers related to the victims of trafficking or potential victims are: (a) the notice of the competent authority periodically for health care provided to them; (b) collaboration with stakeholders to facilitate access to healthcare services framework; (c) training/information to health workers in contact with victims of trafficking or those at risk of trafficking, anti-trafficking issues.

108. Institute for Health Insurance (IHI) is obliged to provide to victims of trafficking the health card, depending on the categories provided by law, nr 7870/1994, "For health insurance in the Republic of Albania". In the categories financed by the State, related health care services, are included among others the children, students and full-time students. Health institutions at primary, secondary and tertiary level offer the health care based on the reference system. Here are cases of medical emergency, which is treated by emergency service, based on the principles of non-discrimination, confidentiality, anonymity

109. Local public health structures established of the focal points network to coordinate the appropriate medical assistance to victims of trafficking. Through Testing Centres and Voluntary Confidential Counseling centres are provided special service programs, testing and counseling for HIV/AIDS and Sexually Transmitted Infections (STIs). Those structures evaluate the level of immune protection against preventable infectious diseases and implement the screening programs for diseases and risk factors. The Sanitary Inspectorate carries out periodically, sanitary inspections of centers which accommodate the victims of trafficking, according to a schedule drawn up in advance between the parties.

#### **Question 20**

110. Statistics of Ministry of Interior regarding the number of victims/potential victims of trafficking, referred to the period 2009-2012, indicate a stable number of cases. The highest number of cases was registered in 2010 with 97 cases, while the lowest was recorded in 2011, with a total of 84 cases. The data show that all victims/potential victims of trafficking were Albanian citizens, except two foreign persons (men), trafficked in 2012 (2 of 92 total). It was noted that victims/potential victims of trafficking are mostly women. Percentage of child victims / potential victims of trafficking has been variable, with a tendency to decrease in 2012. The lowest level of this indicator was marked in 2010 by 24% and the highest in 2011 with 47%.

111. To protect victims of trafficking are taken a number of measures to ensure on time and in proper standards the process of identification, the referral mechanism and protection of victims/ potential victims of trafficking. The shelters for victims of trafficking provide quality services such as accommodation, counselling, reintegration and monitoring during all phases of the defence until to full integration of victims. State agencies have made reference to possible referral of all cases of victims/potential victims of trafficking identified. Victims of trafficking in Albania actually receive free health care. State institutions guarantee the non-imprisonment for the victims of illegal trafficking acts committed as a direct result of being trafficked.

112. During this period, are adopted a number of agreements and bylaws that improve the overall regulatory framework for the protection of victims of trafficking:

- National Action Plan to Combat Trafficking in Human Beings (adopted by DCM no 142/2011) and the additional document "Action Plan to Combat Trafficking in Children and Protection of Child Victims of Trafficking"
- Order no 69/2010 of the General Director of State Police "For the coordination between central/local structures in fight against human trafficking and identifying victims of trafficking"
- DCM no 582/2011 on the "Standard Operating Procedures (SOPs) for the Identification and Referral of Victims / Potential Victims of Trafficking ". Those procedures constitute the basic document on which actions are performed for identification and referral of victims / potential victims of trafficking , including the provision of a package of services for victims of trafficking;
- Instruction of the Minister of Interior No 7/2012 " On approval of the procedure and transactions, which will be met by representatives of the State Police and Municipalities/ Municipal Units / Municipalities, in the case of children found and unregistered in the Civil Registry"
- New Cooperation Agreement on the Functioning of the National Referral Mechanism for Victims/Potential Victims of Trafficking in Persons (2012). The purpose of this Agreement is the identification, referral, protection , improved aid for victims / potential victims of trafficking , as well as their reintegration.
- DCM no 395/2012 "For the Treatment of Victims of Trafficking and health services for this category" provides free health care. This legal act was prepared the result of collaboration between the Anti-Trafficking Unit, Ministry of Health, Health Insurance Institute, Ministry of Labor and the centers for victims of trafficking.
- Each year the Ministry of Interior through Trafficking Unit compiles and publishes annual reports on developments in the fight against trafficking in persons, including women and children.

## **Article 11 - The right to an adequate standard of living**

### **Question 21**

113. The improvement of legal, social economic situation is related to the need to establish an institution responsible for overseeing the food safety in Albania. National Food Authority (NFA) is a national agency under the Ministry of Agriculture. The establishment and functioning of this agency brought a significant change in the level of food security, as a result of more rigorous control and satisfactory market food safety in the country. This body carries out the initial verification of eligibility of plans for Food Business Operators, the control and evaluate the implementation of the system of self-control subjects, collects and analyzes data required regarding the definition and labeling of products circulating in the domestic market food. Since 2009 were adopted several amendments in the legal framework that regulates the activities of the National Food Authority<sup>31</sup>.

114. In the framework of IPA projects (2009-2010) namely "Consolidation of Food Security in Albania and Project Fiche '09 "Support for food security infrastructure" is working for the orientation of the samples to the analysis of food safety and is working on a strategy concrete to improve the performance and efficiency of the laboratory network.

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<sup>31</sup> Information on legal provisions is included in Annex 8

The device microbiological laboratories with microbiological terrain, chemical reagents, and consumables continued in 2012, as a result of funds allocated by the Government.

115. Consumer awareness of food safety are conducted from time to time in the national polls for the first level of information to citizens in relation to food safety.

116. In this regard, the institution has made available to citizens a free green number, which is reflected in the website and is made present in the annals of television and the visual and written media. A very important aspect has been the staff through training and different Work-shop-s inside and outside the country, which have increased significantly during the performance of official controls inspectors.

117. As a result of the intensification of inspections, on-going mentoring and implementing entities of administrative measures, this institution has created a positive impact not only in the context of increasing the quality of inspections but also in self-awareness on the necessity of implementing legislation and effective food safety and consumer protection.

## **Question 22**

118. Housing for families in need is provided on Law no 9232/2004" On the social housing of urban residents", amended recently by Law no. 54/2012. These amendments include:

1. First of all the extent of its applicability regarding the territory. The new law is applicable not only in the urban territory, but also in rural ones, thus giving the opportunity to implement social housing programs in rural areas. Second, the inclusion of some categories that were not included before in the law and also the states the obligations of the Housing Sector by different legal acts as below:

a) Law no 10289/2010 "On the economic and financial treatment and immediate assistance for the families of employees of the State Police, National Guard, Internal Audit Service, Police, Fire and Rescue Protection, Armed Forces, State Information Service, Police in Prisons, who lost their life in duty or due to the duty.

b) Law no. 9555/2006 "On the ratification of the European Convention "On the legal status of migrant workers".

c) National Strategy for Reintegration of Albanian Returned Citizens 2010-2015.

2. The categories of beneficiaries who were added by the new law are: 1) Returning migrant, immigrant worker; 2) Family of police officers fallen on duty; 3) Victims of domestic violence; 4) Persons with disabilities (including all categories as defined in the relevant law, and not just those who enjoy the special status). The law on social housing also defines the conditions to be met by families in need of housing, which are divided into: (a) housing conditions, (b) family conditions, (c) social conditions, (d) economic conditions that define the amount of maximum and minimum income.

3. In addition to existing programs such as "Low cost housing", "Social renting", "Bonus housing", "Rent subsidy" and "Provision of land infrastructure", by the new law were added some new programs: 1) Immediate grants for persons with disabilities (PWD) and orphans; 2) Small grants for Roma and Egyptians to improve their housing conditions.

4. It is important to mention that Housing Strategy is integral part of the National Strategy. Different services as power supply, water and sanitation services are provided to the citizens through two joint stock companies "CEZ Distribution" and "Water Supply". Both companies offer their services to public and private customers. Their legal

relationship is governed on the basis of bilateral agreements, which have established the rights and obligations of each parties. To take advantage of both services (energy supply, water supply and sanitation), customers should provide the legal ownership of the object they wish to guarantee energy and water supplies and sanitation.

### Question 23

119. Regarding the case of forced eviction of Roma families from the area of Train Station, in Tirana, Ministry of Labour, took immediate actions in cooperation with other central /local institutions and with a network of interested actors for the purpose of resolving the issues concerning the Roma situation. In order to systemize and their rapid housing, Roma families transferred in an emergency camp in Babrru, the Tirana area. For a long lasting solution, efforts are made in order to identify a list of public buildings currently in the process of privatization and possibly suitable for the housing of Roma families. A property of the Ministry of Defense have been identified and been transferred to the ownership of Ministry of Labour, by a Decision of the Council of Ministers. It is being worked to make these premises suitable for permanent housing needs of this community. Roma families settled in the Kombinat Area in Tirana compound and registered in the municipality unit of Kombinat Area in Tirana. All of them benefit from economic aid. The conditions of premises are further being improved.

120. According to the information provided by Ombudsman are made some complaint by the President of one Roma minority organization "Amaro Drom" related to alleged abuse and forced eviction from their homes, neighborhoods near Tirana Train Station, of a few community members Roma, in February 2011. They complained that they were physically abused, insulted with different words and were to be seriously threatened with life. The victim also alleged that police officers have not registered any criminal charges and were followed by the words "to escape that this will not happen again." Police Station in Tirana, at the request of the Ombudsman, informed through a letter that there was no act of negligence in following of the event. In press release the police stated its commitment to act immediately, but states also that "the victim refused to make any criminal charges and to provide the necessary explanations for its pursuit." After the Ombudsman interests in the following days at the police station were presented some claims of individuals belonging to the Roma minority, who informed on the circumstances. Based on the investigation were arrested two persons as alleged perpetrators of the incident. Investigative materials were sent to the prosecution of Tirana District Court for further investigation. After the consideration of this case, the Ombudsman concludes that "the employees of the Police Station does not have been committed any acts of discrimination because of the ethnicity".

121. Another issue considered by this Institution was the housing of more than 65 members of the Roma community for several weeks in the premises of the Ombudsman Institution, in early 2012. This case attracted wide attention about the unsolved problem of housing of those persons, living in very difficult conditions. The Ombudsman considers that despite the intention to protect vulnerable groups, the current legislation in the field of housing provides generally difficult criteria to meet for this category, primarily related to loan the apartment. The Ombudsman has recommended to the Minister of Transports, to propose the amendments on the law no 9232, dated 13.05.2004 "On Social Housing Programmes", specifically related the specific provisions for Roma, provisions that would allow their inclusion in the scheme of real benefits because their situation of economic, social and cultural particular requires a special treatment, "positive discrimination" within a certain duration, not permanent. The institution of the Ombudsman believes that non-discrimination provided by laws means guaranteeing in practice the rights of all citizens equally and in circumstances where a category /group is significantly disadvantaged, it must necessarily be treated as a prior category.

122. Another issue addressed by this institution is related to the problem of homeless families that live in dwellings former property expropriated subjects. The number of complaints filed presented by them was increase immediately after the issuance of the DCM no 3/2012 - Normative Act related to the "release of housing of the rightful owners which were occupied by citizens homeless and living in apartments owned by former expropriated subjects" and in particular, after the adoption this normative act. The Ombudsman estimates that property return to its rightful owners and the full enjoyment of it, is a constitutional and legal obligation to the government. He estimates that the resolution of this issue should be complete and final, taking into account not only the restoration of the rights of former owners but also the equal treatment of those affected by the implementation of this act. Those people, on the complaints directed by the Ombusman, have expressed their dissatisfaction about the difficult conditions to obtain a loan, lack of transparency by the municipalities and the difficult economic conditions of their families. To solve these cases the Ombusman Office has contacted with many of the municipalities of the country, which do not have the financial means or social housing to address these categories. This condition is found in the municipality of Kuçova, Berat, Shijak, Corovoda, Vlora and Gjirokastra, Pogradec. Based on information from state institutions and the assessments of local government bodies, the Ombudsman cocluded that despite that the normative act aims to address the improvement of the situation of te category of owners, on the other hand the current implementation of this act it is very difficult.

## **Article 12 - The right to physical and mental health**

### **Question 24**

123. The primary Service in the RoA is based on the functioning of public health centers and clinics, organized at the municipals and communes. Its infrastructure is subject to national standards approved by the Ministry of Health. The total number of health centers is 415, operating as autonomous units in the urban and rural areas. Those centres are contracted to provide health services through the scheme of compulsory health insurance. Each health center manages the planned budget by cost elements for each service, the number of people covered, operating and maintenance costs. The tools to financing the medical services and packages are provided DCM no.857/2006 "On the financing of primary health care services from the scheme compulsory health care insurance".

124. For 2012, the budget spent on primary health care was 16.416 million Albanian Lek (around 165.000 USD) or 56% of the total annual budget for the health system. In 2013 the budget provided for this is increased in the level of 58% of the total estimated annual budget for the health system. In order to promote the employment of doctors/physicians in the hospitals and ambulatory centers in remote areas, the Ministry of Finance has approved salary increases for this category of professionals to move almost twice the salary of a doctor who works in hilly or urban areas.

125. Maternal and child health remains a priority in the policies of the Albanian state. According to the data from the Ministry of Health for the year 2011 the rate of maternal mortality is reduced to the extent of 5.8 deaths per 100 thousand live births. The same levels on maternal mortality in Albania was declared by the international organizations, such as World Health Organisation, UNICEF, World Bank.

126. The health services in the country is offered free for mothers, regardless of whether they are insured or not. "The basic package of primary health care services" includes services following the health of women during pregnancy and after birth. They include: (a) the normal number of visits (4 visits in normal pregnancies and pregnancies with many problems); (b) to conduct tests during pregnancy; (c) a reference to those who carried out the analysis center; (d) to manage the common problems of pregnancy; (e)to provide

vitamin supplements with folic acid, iron and iodine preparations; (f) reference and the management of major problems in pregnancy (high blood pressure, diabetes; (g) management of anemia in pregnancy, etc. In connection with post-natal care in the package is specified the number of postnatal provided by the personnel of the Health Center (visits within 3 days after birth, day 8 and 40 after birth). Also, the center has a duty to provide the education, information and advice to women during pregnancy and after birth for various topics such as breastfeeding, family planning etc.

127. The measures undertaken by the Ministry of Health in the framework of reform to improve services for mothers and children during the period 2010-2012 are:

- Preparation of guidelines antenatal and postnatal care, updated recommendations based on evidence and best practices.
- Improving the infrastructure in maternity services (for 2011, the value for the maternity equipments in 16 districts was over 110 thousand dollars).
- Practical application of the principles of Effective Perinatal Care (improving the management of normal births, complications related to the birth, specialized care for the newborn (pilot project in maternity of Tirana, Shkodra, Korca and Vlora).
- Development of 15 national clinical protocols for obstetric and neonatology and 27 clinical protocols for paediatrics. They are based on scientifically medical records and are adopted in the national context . Protocols are accredited by the National Accreditation and Quality Center. In collaboration with World Health Organisation were adopted the tools for assessing the quality of care for mothers and newborns in maternity hospitals . This is a unified mechanism to assess the quality of care service delivery and newborn baby based on international standards;
- Raising awareness and promoting successful breastfeeding, which significantly affects the reduction of morbidity and infant and maternal mortality. The level of this indicator for 2010 is estimated 37 %.
- Implementation of the national program for reducing child malnutrition. This program is supported by the Ministry of Health , Ministry of Agriculture and international agencies such as WHO, UNICEF, FAO. The program is oriented for the implementation in the regions of the country dominated by the more socio-economic issues.
- Promoting the health education in family and community, regarding a safe motherhood. Promotional activities have been forms as: (a) awareness campaigns; (b) training of media on various issues like family planning reproductive health , mental healt; (c) the use of all forms of mass media (talk on television and radio, articles in newspapers of the country periodically, magazines) relating to information on maternal and child health; (d) Publication of periodic 3 - monthly journal "Reproductive health", on the topic of maternal and child health during pregnancy and after.

128. In 2011 the infant mortality index was at 8.7 deaths per 1 000 live births. This indicator is decreased compared with the year 2009 (11/1000). The same trend is also confirmed by reports of UNICEF, World Bank, WHO and UNFPA. Their data also show a decrease in infant mortality (0-1 years). This rate for the year 2010 was 16/1000 live births (in 2000 was 36/1000). Also, the mortality of children under 5 years is reduced at 14/1000 live births. These data classify Albania already in the group of countries as Developed Countries.

129. The measures undertaken to reduce infant and child mortality include:

- Providing free preventive services, promotional and treatment for children. From 2010, the package clearly defined primary health care services provided to children and the community, its purpose, management of common childhood conditions, the preventive care and promote child/ families must possess skills that medical personnel provides this service, referral systems, service standards and clinical practice guidelines, equipment and medications should dispose center that provides service to children, unified medical records, etc.
- Preventing malnutrition, obesity and overweight among children. The data shows that backwardness in length to children 0-5 years of age (stunting) is reduced by 32% in 2000 to 19% in 2009, while the percentage of children with low weight births has decreased from 14% in 2000 to 6% in 2009. The statistics show that 39% of children are breastfed, and this figure doubled from 2000.
- Establish the cooperation with institutions at national and local level. In 2010 began the implementation of the national program for reducing child malnutrition followed by several forms of cooperation at national and local level.
- Memorandum of cooperation between the Ministry of Education, Ministry of Health, Ministry of Labour, Ministry of Finance and Ministry of Agriculture, in order to undertake the intersectoral actions to improve the nutritional status of the population, especially in improving maternal and child health (2010).
- The Strategic Document for Nutrition Communication (adopted by the Order of the Minister of Health), with the aims to address the issues of food security, especially related to marginalized groups of the population.
- Development of a national awareness campaign "New Ways and better infant and child nutrition in Albania" (march 2012).
- Application of the monitoring modules new curves (WHO standard) for growth and nutrition basics (for pregnant women and children). Modules are designed for health workers in Principal health Care, which measure and assess the child growth, the nutrition, or monitor these activities: pediatricians, family physicians, nurses, health system officials and Nutritionists, public or private sector.
- Training of 400 family physicians and nursing staff related the new growth curves and nutrition of mother and child.
  - Preparation of uniform protocols for regular monitoring of children's growth and development of primary health care personnel.
  - Inclusion in school curricula of the education, the information on healthy nutrition to children. Institute of Educational Development supported by UNICEF has developed the curriculum package for Healthy Nutrition Education in compulsory education (Class I-IX).
  - Improving quality consulting services to child - On the reform of Consultancy services to mothers and children in primary health care during this period, efforts to prepare the roadmap for Monitoring the growth and development of appropriate protocols. It is also working on new standards governing the operation of the child Consultancy in the city and in the villages.

#### **Question 25**

130. Ministry of Health in its document "Performance Report 2011", states that "Albania is a country with low HIV prevalence. However there is a growing trend in the number of new cases diagnosed and estimates made indicate an increased incidence of undiagnosed".



According to the report, the number of children infected with HIV / AIDS in 2009 was 2 (out of 55 in total) and was 3 in 2011 (from 67 in total). These children belonged aged 1-14. Transmission of the disease was made through vertical transmission (mother/child).

131. Since 2007, the infected persons with HIV/AIDS are consulted and assisted with medical assistance from the Center for Treatment of Victims, which operate in the prefecture. By order of the Minister of Health (2010), the structure of the Department of Public Health in the districts is increased by one psychologist and one laboratory technician too. Testing for sexually transmitted infections made at Public Health Centres and Victim Treatment Centers in cities, the National Centre for Blood Transfusion and ambulatory clinics.

132. The framework legislation that foresee treatment and health care forms for these children is composed by Law no 9952/2008 "On prevention and control of HIV/AIDS" and DCM no.113/2011 on "Rules for prevention of transmission of HIV/AIDS and care, counseling and treatment of people living with HIV/AIDS in institutions of education, rehabilitation, medical treatment, residential social care institutions, prisons and places of detention" (also refer the information related the question no 5, above).

### **Question 26**

133. Since 2011, there has been a fundamental reorganization of health services in schools, where there are defined the role of doctors and other health workers who care for the children's health of compulsory education (I-IX-years) and high school. For this purpose it is approved an package of services for this category (according to the model supported by WHO), in which clearly defined the actions regarding doctor, nurse, dentist and psychologist, both in the medical and education field. Packages of services includes assistance in cases of domestic violence in society, accidents and trauma (with particular information and education on the Road Code) mental health and psychological well-being, healthy growth and development, healthy nutrition, children with special needs, chronic disease, infectious disease prevention, oral health, sexual and reproductive health, HIV, physical activity, smoking, alcohol and drug abuse.

134. Currently Family Planning Services in Albania provided in the public health system in three levels of care: (a) health centers /clinics and primary health care system, public health, (b) Family Planning centers at public maternity hospitals in districts, (c) NGOs centers that offer services in the field of women's health. The number of health centers that provide family planning services for the first two categories is about 435. Their staff is highly trained and provides free information and advice on family planning. There are some NGOs acting as Association for Population and Development supported by the International Planned Parenthood that provide family planning services especially for young people in some districts of the country. One of the priorities of the Ministry of Health for the success of the national program of Family Planning (FB) increase access to these services not only geographically, but also their quality. Today the Family Planning Services provided to municipal level in 2011 marking a 12% increase respectively compared to 2008. Currently these services are available in over 98% of all health care centers, primary and secondary in the country. Family planning services, counseling and modern contraceptive methods in primary health care is free. MoH has complete financial independence in buying contraceptives to public health and since 2010 they purchased with funds from the state budget and provided free of charge.

135. Health services are provided by these centers at the base of the package of primary health care services. In the service pack is clearly defined family planning counseling and contraceptive distribution of modern integrated into reproductive health services to be provided by health center staff, referral system, the services to be provided in the community, the standards should this service on compliance with clinical practice

guidelines prepared by the university departments of family medicine, equipment and drugs that centers should have and unified medical documentation.

136. Ministry of Health and Public Health Department (PHD) provide the necessary information to monitor and improve family planning services through the national information system and providing logistic management and use of contraceptives (LMIS). This system provides management, registration and distribution of contraceptives and coordinates activities at family planning centers in different level. The system LMIS is operated by the Institute of Public Health. The comparison of these indicators for districts, municipalities, in different intervals, helps to monitor progress, trends for example increasing the number of couples who use modern contraceptive methods. LMIS is already a computerized system in local and central level, ensuring timely flow of information and policy-based data.

137. Following this reform is established a monitoring system that controls packet offered services in primary health care in view of the new conditions. This list is designed to control and monitor the performance of reproductive health services and are working on their involvement and indicators of use of modern methods of contraception in the list. It is these structures who periodically monitor the performance of Family Planning services provided in the package of health centers in urban and rural areas. The spread of the new National Protocol on Family Planning, was realised over the years 2010-2011 through the organization of a series of trainings. Overall, by the end of 2011 was trained the personnel of 440 health centers around the country. Ongoing staff training is conducted for medical doctor, nurse about various issues, according to the National Programme for the Ministry of Health in collaboration with various organizations and agencies such as UNFPA, WHO USAID, etc.

138. The Strategy of the National Contraceptive for Providing (2012 - 2016), aims to ensure that Albanian men and women can choose, to obtain and use contraceptives and family planning services with high quality. This strategy also aims to increase the consumption of modern methods of contraception by 30% over the level in year 2008. The first phase (2012 - 2013) of this document is characterized by having the same policy as in 2011 to provide free contraception to all populations in need through the public sector. During this phase, the MoH will conduct an analysis to determine the most vulnerable groups associated with the appropriate services or contraceptives and will carry out a study to identify the costs of family planning services in the public sector. This phase will serve to improve the national system of logistics information and contraceptives, including tending of information on the private sector (pharmacies and other points of sale of condoms), social marketing and NGO sector. During the second phase (2014-2016), will be provide free contraceptives from the public sector will be targeted to the most vulnerable groups of the population identified during the first phase.

139. Ministry of Health has drafted the Strategic Document and Action Plan for Reproductive Health Strategy 2010-2015. These documents are intended to provide important and priority areas for reproductive health in Albania, where interference and improve the situation in each of them are integrated and inclusive. Included in these areas are: (a) safe motherhood (b) Family Planning (c) child health, (d) health for adolescents (e) reproductive tract cancers (f) sexually transmitted infections; (g) gender equality and violence in the family; (h) infertility. The purpose of the reproductive health strategy is to fulfil the needs of each individual, especially women, children and youth, offering quality services, affordable to all components of reproductive health, as well as to influence the improvement of health status and reducing morbidity and mortality. During the period 2009-2012, the Ministry of Health in collaboration with international organizations, local and international NGOs, media and visual radio has developed quite promotion and education activities related to family planning, women's and children's health, the use of

contraception as a preventive of abortions, etc.. Activities include launching spots on national and local TV, billboards, all activities in the country's beaches, etc.

140. Ministry of Health, Public Health Department in collaboration with Roma organizations have created a database with areas inhabited by Roma (Roma map areas) across the country. The health structures on different districts are instructed to pay attention to the special medical treatment of this part of the population. Health personnel in those areas organizes educational and informational meetings on key health issues such as the implementation of compulsory vaccination scheme, mother and child care, health promotion and education, hygiene and epidemiological problems residential area regarding drinking water, removal of waste, infectious diseases, etc.

141. In a fundamental reorganization of The health service in schools is organized defining the role of doctors and other health workers who care for the children health of compulsory education (I-IX-year school) and high school in the country, creating a package that contains 12 questions according to a model with the support of WHO, for any medical issues and educational activities, as the doctor, and the nurse, dentist and psychologist. Part of this package is also family planning, sexual and reproductive health, adolescent health.

142. The theme of sexual and reproductive health are treated in university education curricula in specific subjects and modules as curriculum. Based reproductive health education in biology classes treated in seventh grade according to the following topics (reproductive system, sexual abuse, contraception and abortion, puberty, Sexual Transmitted Diseases). In high school, reproductive health is treated in biology classes in the 11th grade (construction and functions of the human reproductive system, the construction and function of cells male and female reproductive, ovulation and menstrual cycle women, problems of puberty and pregnancy, stages of development of zygotes, fetuses and birth, control problems birth, types and contraception method, information on abortion, contraception and safe protection.

143. During the period 2010-2012 in the framework of the "One UN" is developed a joint project by the Ministry of Education and Science, Ministry of Health, Institute of Public Health, UNICEF, UNFPA and UNDP "nation for HIV/AIDS". In the view of this project there have been trained about 30 specialists (coaches and trainers) and then trained 400 teachers in secondary schools. It is made a promotional package information (information materials for teachers and students, posters and leaflets, as well as audio-visual material), which was distributed to all secondary schools and in some middle high schools. In all schools, teachers in collaboration with student have developed informative activities, which aim to help young people aware to take a thoughtful decision about sex, especially for postponing the first sex intercourse relationship.

## **Article 13 and 14 - The right to education**

### **Question 27**

144. The amount of public expenditure allocated from the state budget have been respectively, as follows: (a) 39.256 million Albanian lek for 2009; (b) 42.107 mln Albanian lek for 2010; (c) 42.331 million Albanian lek for the year 2011 (d) 45.256 mln Albanian lek for 2012; (e) 46,362 mln Albanian lek for 2013. Public expenditure on education accounts for 11.3% of total public expenditure or 3.33% of GDP. At the national expenditure on education (public and private) to the extent estimated 4,24% of GDP. Financial compensation package for teachers, in an effort to grow quality of teaching for the period 2006-2012 is increased by an average of 2.4 times, while for the period 2009-2012 has increased an average of 4-5% per year.

145. Based on DCM no 107/2010 “On the publication, printing, distribution and sale of textbooks, for the under-graduate system”, amended, 120 thousand students benefit from the state subvention of the textbook purchase (over 300 million Albanian lek/year).

146. In the years 2009-2012, the investments in education have mainly targeted the building and reconstruction of educational facilities, new edifices and restorations, and also in the provision of furniture, computer and science labs, library equipment and other teaching tools or production material. Such investments reach the value of 4 billion Albanian lek.

147. The quality of under-graduate education is the main long-term challenge of Albanian educational system. With the aim of monitoring and developing the quality of educational system, specialized institutions subordinates of Ministry of Education have well defined responsibilities. The Institute for the Development of Education assists the educational institutions with expertise and highly professional counseling based on the results of research studies and practice of education.

148. The State Education Inspectorate (SEI) is in charge of assessing the quality of service offered by the national educational institutions and local educational units. The scope of its function is to monitor compliance of the activity of local educational institutions with the legal framework in force, to instruct the directors and employees of such educational institutions and education units to achieve the objectives set as part of the under graduate education development strategy and also to develop the adoption of best practices from educational institutions and local government units.

149. Another achievement of the education system is the new standard related to the under-graduate State exam which consists of four exams (two compulsory and two elective exams). The State Under-Graduate Diploma is issued by the National Agency for Examinations. This is a new quality standard, increasing the education level of the students enrolled in universities and influences the graduate studies, facilitating the enrolment of Albanian students in foreign universities and student mobility in general.

### **Question 28**

150. According to the statistics from the Ministry of Education, during the last two years (2010/2011 and 2012/13), there is a noticeable increase in the number of private institutions in the pre-university education. This increase is the result of the education- related policies (elementary education is compulsory for all Albanian citizens) and also the increase in numbers of the young families that migrate from the cities to capital.

151. According to the same source of information, 9.9% of the under-graduate education institutions are private, including kindergartens (7%), elementary schools (8.6%), high schools (25.5%) and professional/social - cultural schools (17.9%). In percentage terms, the number of pupils and employees registered in private education institutions is respectively: (a) kindergartens- 6.3% and 8 %; (b) elementary schools – 5.3% and 7.2%; and (c) middle schools – 11.2% and 19%.

152. The considerable number of private education institutions (especially high schools) in the country, increases the competition between these institutions. It is not only the tuition fee that makes the differentiation between such institutions, but also the quality of instruction, school facility conditions, physical safety, transportation, nutrition, accommodation/ housing etc. Given only the percentage that this category occupies in the under-graduate education (only 9.9%), it can be stated that choosing to follow a private school has a considerable impacts on the family’s economy.

**Question 29**

153. According to Ministry of Education's reports, during the academic year 2012-2013 the pre-school abandonment was recorded at 0.37%, of which 0.40% was females and 0.33% was males. The abandonment rate in the cities is similar to that of the rural areas (0.36% and 0.37%). The middle-school abandonment rate was recorded at 0.24%, of which 0.27% was females and 0.21% males. The similar data for high-school abandonment are respectively 0.5%, 0.53% and 0.49%.

**Question 30**

154. In Albania, special and continuous attention is given to providing the education of national minorities in their mother tongue language, as the language is one of the core elements of the identity of national minorities. The new law (no.69/2012) "On the undergraduate system in the Republic of Albania" creates an opportunity for students belonging to national minorities to learn and be taught in their mother tongue for subjects such as their own culture and history, according to curricula developed and approved by the Ministry of Education (Articles 10 and 41 of the abovementioned law).

155. In the field of education of national minorities, Ministry of Education has completed the reform for the elementary education curricula and is working on the same for the secondary education. The new curricula for the elementary education of persons belonging to the national minorities were drafted by professionals, including minority language teachers, as well as new programs for grade I-IX. Textbooks are provided free by the state (DCM no 67/2010, amended). The ratio of subjects taught in Greek or Albanian in the middle schools of the Greek minority are: 59.48% in Albanian to 40.52% in Greek language, and for the primary school 81.9% is taught in Greek compared to 18.1% in Albanian. At Regional Education Directorate at Gjirokastra, Korca regions as well as Education Offices at Saranda and Delvina regions, there are dedicated professional staff dealing directly with the specifics of education of pupils belonging to national minorities.

156. The curricula, which is mandatory for all public schools, includes in its structure elective classes, where communities themselves, through parent councils in schools decide what subject to take. This enables that various minorities can choose to include their language as an elective course. Important steps have been taken for inclusion in textbooks, at all appropriate levels, of the chapters on the history and culture of national minorities living in Albania. In this context, the Joint Committee of Albanian and Greek experts has been established to review history textbooks.

157. In the framework of the State Matura, Ministry of Education has taken all measures to provide facilities for minority students. In each academic year model minority schools are set up to be best practice and provide quality lectures, such as the Dervician and Bularat schools for the Greek national minority, that have very good teaching conditions. These schools were built up in collaboration with the community. It is to be underlined that the establishment of these schools has not affected other schools (there are no other schools closed). Through cooperation with local government, the transportation of students to these schools is being provided free of charge. Ministry of Education has prioritized funding related to the reconstruction and equipping of minority schools and their equipment with labs and basic material.

158. The number of textbooks used in schools where Greek national minorities are taught is almost identical to the number of Albanian textbooks used in primary education. In order to meet the increased demands for such textbooks, Ministry of Education established in 2012 a publishing house for this purpose. Currently in Albanian schools where Greek national minorities are taught, there are 98 teachers for 777 pupils in total; the rate is 1 teacher for 8 pupils, while the national ratio is 1:20.

## Article 15 - Cultural rights

### Question 31

159. Albania is committed to respect and protect the rights of persons belonging to national minorities according to the international standards. The Convention of the Council of Europe "For the protection of national minorities" (ratified by law no 8496/1999), which after ratification is part of domestic law, constitutes the basis for the protection of national minorities and ethnic-linguistic minorities in Albania. According to the Constitution minorities are considered as an integral part of the Albanian society and the state has the duty of respecting and protecting them (article 3). As it mentioned above, persons belonging to national minorities exercise the human rights and freedoms in full equality before the law. They have the right freely to express, without prohibition or compulsion, their ethnic, cultural, religious and linguistic belonging and the right to preserve and develop those rights. The law "On protection from discrimination" and the Office of Commissioner for Protection from Discrimination constitute a guarantee for protection of persons belonging to national minorities and ethno-linguistic minorities.

160. Albania recognized as a national minority those groups of individuals which have a kin state, with which they have common characteristics, such as language, culture, customs and traditions, religious beliefs etc. Greek minority, Macedonian minority and Montenegrin and Serbian minority are recognized as national minorities, and Roma and Aromanians/Vlachs are recognized as ethno-linguistic minorities. Currently, in a situation where there is no legal definition related the term "national minority" on international instruments, the process of their recognition criteria is based on objective criteria recognized by international conventions dealing with the existence of ethnic, cultural, religious, linguistic and specific stable, different from the rest of the population. Also on subjective criteria that imply personal choice to be part of the minority, and to show the will to preserve the culture, traditions, religion, language. The only distinction between national minorities and ethno-linguistic minorities is the existence of a kin state which is an objective distinction and it has no negative or discriminatory effect on the volume of rights that they recognized for national minorities<sup>32</sup>.

161. Based on international commitments and according to Constitution, on the questionnaire of population and housing census conducted in October 2011 was included the question on ethnicity as a facultative question. According to international definitions, the question on ethno-cultural characteristics in the population and housing census refer to data on language, ethnicity and religion. The ethnicity was defined as based on common understanding of the person's ethnic group or a community's historic and territorial (national, regional) origin as well as of particular cultural characteristics, encompassing, and/or religion and/or other specific customs and ways of life. This question offered the option to indicate one ethnic group or to declare the preference to not answer.

162. According to the results of the 2011 Census, 3368 people have declared themselves as Egyptian or 0.12% of the total Albanian population resident in Albania (2,800,138 inhabitants).

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<sup>32</sup> The Albanian official stance on minorities is presented in three periodic reports on the implementation of the Framework Convention on National Minorities (published at official website of Council of Europe).  
[http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/Table\\_en.asp#Albania](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/Table_en.asp#Albania)

### Questions 32 and 33

163. One of the priorities of the Ministry of Tourism and Culture<sup>33</sup> is the implementation of the legislation to guarantee the exercise of cultural rights and artistic expressions of different minorities.

164. This institution has supported various artistic activities for these social categories, in order to promote the exercise of rights and cultural values of different ethnic, national or ethno-linguistic minorities. A good example in this regard is the annual "multicultural festival Përmeti", with the aim to promote the cultural heritage of national minorities.

165. The Republic of Albania ratified the UNESCO Convention on Protection and Promotion of Diversity of Cultural Expression on 2006<sup>34</sup> and is committed to achieve the objectives to strengthening the contribution of culture to sustainable development and increasing collaboration with other countries in the field of cultural industries, promoting intercultural dialogue through implementation of different projects, awareness-raising activities and exchanges of good practice. Specific objectives in this framework are:

- Establishment of the proper mechanisms to enable the development of diverse cultural communities in Albania;
- Encouragement of projects on regional and international cooperation amongst libraries, information centers and cultural institutions, aiming at motivating the presentation, the study and the deep understanding of diverse cultures;
- Involvement of cultural institutions in cooperation programmes and exchange of information and ideas, the reorganization of the library system whilst including new technology in drafting a common electronic catalogue;
- Promotion and distribution of the Albanian written art and culture, projects to finance different editions, literature evenings, supporting the diverse cultural expressions through National prizes in literature, bibliophile, drama etc.

166. One of the main objectives of the policies on development of cultural expressions is related to the support of creativity of Albanian artists and their art and creation of the appropriate conditions for increase of the level of the creativity. More concretely the priorities in this field are: a) Creation of a supportive climate for the Albanian artists. b) Creation of fiscal facilities for Albanian artists. c) Increase of quality of the cultural product. d) Improvement of social status of artists. Regarding the protection and preservation of cultural heritage and national identity the priorities are: a) Preservation of tangible and intangible heritage. b) Safeguard the monuments and sites within their cultural landscape. c) Promotion of Albanian cultural heritage values. Other priorities are related to increase the role of cultural life in the improvement of quality of life and increase of the demand of quality cultural goods and services, through: a) Increase the dissemination and promotion of culture. b) Facilitate the mobility of cultural professionals. c) Create access to the market of cultural products. d) Support cultural organizations.

167. In January 2010, at the Ministry of Tourism was established the Diaspora and Minorities Sector. The objectives are: to maintain and develop the cultural, artistic heritage; to promote artistic creativity of persons belonging to national and ethno linguistic minorities, literary artistic writing and demographic studies of minorities.

<sup>33</sup> According to the new structure of the governments in September 2013 is Ministry of Culture.

<sup>34</sup> Albania submit annual national report on the implementation of this Convention. Last report was submitted on September 2012 and is published in:  
<http://www.unesco.org/culture/culturaldiversity/2005convention/en/periodicreport/list/2012/>.

168. This Sector has organized a series of meetings with representatives of the State Committee for Minorities, the representatives of different minority organisations in different regions. The main meeting took place in Pustoctec (Liqenas) district in the municipality of Korca with representatives of the Macedonian minority.

169. The Ministry of Tourism and the Department of Books and Libraries, on May 25th 2013 as part of the celebration of World Day of Aromanians, organized artistic event with the participations of Aromanian/vlah artists. There are also some different projects to support the cultural diversity of the national and ethno linguistic minorities.



## ANNEXES

### **Annex 1** **Related the information contained the paragraph 1 of this document.**

The articles (49-58) contained in the fourth Chapter “Economic, Social and Cultural Rights and Freedoms” of the Second Part “The fundamental rights and freedoms” of the Constitution.

#### **Article 49**

1. Everyone has the right to earn the means of living by lawful work that he has chosen or accepted himself. He is free to choose his profession, place of work, and his own system of professional qualification.
2. Employees have the right to social protection of labour.

#### **Article 50**

Employees have the right to unite freely in labour organizations for the defence of their work-related interests.

#### **Article 51**

1. The right of an employee to strike in connection with labor relations is guaranteed.
2. Limitations on particular categories of employees may be established by law to ensure essential social services.

#### **Article 52**

1. Everyone has the right to social security in old age or when he is unable to work, according to a system set by law.
2. Everyone who is without work involuntarily, and has no other means of support, has the right to assistance under the conditions provided by law.

#### **Article 53**

1. Everyone has the right to marry and have a family.
2. Marriage and family enjoy special protection of the state.
3. Marriage and divorce are regulated by law.

#### **Article 54**

1. Children, the young, pregnant women and new mothers have the right to special protection by the state.
2. Children born out of wedlock have rights equal to those born within marriage.

3. Every child has the right to be protected from violence, ill treatment, exploitation and from performing any work, especially under the minimum age for child labor, which could damage his health and morals or endanger his life or normal development.

### **Article 55**

1. Citizens enjoy in an equal manner the right to health care from the state.
2. Everyone has the right to health insurance in accordance with the procedure provided by law.

### **Article 56**

Everyone has the right to be informed about the status of the environment and its protection.

### **Article 57**

1. Everyone has the right to education.
2. Mandatory education is provided by law.
3. General high school public education is open to all.
4. Professional high school education and higher education can be conditioned only on merit.
5. Mandatory education and general high school education in public schools are free of charge.
6. Pupils and students may also be educated in non-public schools at all levels, which are created and operate on the basis of law.
7. The autonomy of institutions of higher education and academic freedom are guaranteed by law.

### **Article 58**

1. The freedom of artistic creation and scientific research, their application, and the benefits from their achievements are guaranteed for all.
2. Copyright is protected by law.

## **Annex 2**

### **Related the information contained the paragraph 2 of this document.**

#### **Article 59 paragraph 1 of Constitution**

##### **Part two**

##### **Fundamental human rights and freedoms- Chapter 5 Social objectives.**

The state, within its constitutional powers and the means at its disposal, and to supplement private initiative and responsibility, aims at:

- a. employment under suitable conditions for all persons who are able to work;
- b. fulfilment of the housing needs of its citizens;
- c. the highest possible standard of physical and mental health;
- d. the education and qualification of children and the young, as well as unemployed persons, according to their abilities;
- e. healthy and ecologically adequate environment for the present and future generations;
- f. care and help for the aged, orphans and persons with disabilities;
- g. the development of sport and recreational activities;
- h. health rehabilitation, specialized education and integration of persons with disabilities into society, and continual improvement of their living conditions;
- j. the protection of national cultural heritage and particular care for the Albanian language.

## **Annex 3**

### **Related the information contained paragraph 3 of this document.**

#### **Article 1 of the Constitution**

1. Albania is a parliamentary republic.
2. The Republic of Albania is a unitary and indivisible state.
3. Governance is based on a system of elections that are free, equal, general and periodic.

#### **Article 2 of the Constitution**

1. Sovereignty in the Republic of Albania belongs to the people.
2. The people exercise sovereignty through their representatives or directly.
3. For the maintenance of peace and national interests, the Republic of Albania may take part in a system of collective security, on the basis of a law approved by a majority of all the members of the Assembly.

### **Article 3**

The independence of the state and the integrity of its territory, the dignity of the person, his rights and freedoms, social justice, the constitutional order, pluralism, national identity and inheritance, religious coexistence, and coexistence with, and understanding of Albanians for, minorities are the bases of this state, which has the duty of respecting and protecting them.

### **Annex 4**

#### **Related to the paragraph 6 of this document.**

### **Article 5 of the Constitution**

The Republic of Albania applies international law that is binding upon it.

### **Article 122 (paragraph 1, 2) of the Constitution**

1. Any ratified international agreement constitutes part of the internal legal system after it is published in the Official Journal of the Republic of Albania. It is directly applicable, except when it is not self-executing and its application requires the adoption of a law. The amendment and repeal of laws approved by a majority of all members of the Assembly is done by the same majority for the purposes of the ratification of an international agreement.

2. An international agreement ratified by law has priority over the laws of the country that are incompatible with it.

### **Article 121 paragraph b**

The ratification and denunciation of international agreements by the Republic of Albania is done by law when they involve also: b. human rights and freedoms, and obligations of citizens as provided in the Constitution.

### **Annex 5**

#### **related the paragraph 8 on the articles 116, 117/3/118 – First chapter “Normative acts” Seven Part “Normative acts and international agreements”.**

### **Article 116**

1. Normative acts that are effective in the entire territory of the Republic of Albania are:

- a. the Constitution;
- b. ratified international agreements;
- c. the laws; ç. normative acts of the Council of Ministers.

2. Acts that are issued by the organs of local government are effective only within the territorial jurisdiction of these organs.

3. Normative acts of ministers and directors of other central institutions are effective within the sphere of their jurisdiction in the entire territory of the Republic of Albania.

### **Article 117 paragraph 3**

International agreements that are ratified by law are promulgated and published according to the procedures contemplated for laws. The promulgation and publication of other international agreements is done according to law.

### **Article 118 paragraph 1**

By-laws (sub legal acts) are issued on the basis of and for implementation of the laws by the organs provided in the Constitution.

## **Annex 6**

### **Related to the paragraph 11 of this document, information regarding the process of the preparation of the reports.**

1- Based on the Prime Minister's Order no 201, dated 05.12.2007 "The Establishment of the Working Group for the preparation of the National Reports in the framework of international conventions to which RoA is a party", the Ministry of Foreign Affairs (MFA) has the duty to coordinate the process of the preparation of the national periodic reports in cooperation with state institutions. Specifically in relation to the preparation of the reports included the combined second and third periodic report of Albania (E/C.12/ALB/2-3), MFA has informed the competent public authorities and has set up an working group on drafting this report. This report has been prepared as a result of the coordination of the work and involvement of state institutions, according to their areas of competence over matters covered by this Convention. Specifically this report was prepared in cooperation with central government, independent institutions and other institutions.

2. After the consideration of the First Report by the Committee on Economic, Social and Cultural (CESCR) the Concluding Observations of the CESCR are translated into the official language, are published on the official website of the Ministry of Foreign Affairs , and the relevant institutions are informed about their implementation. In the context of the preparation of the periodic report the respective institutions are involved to provide information regarding the implementation of the relevant articles of the Covenant and the implementation of the recommendations of the CESCR, and also in the preparation of the list of issues in connection with the consideration of the combined second and third periodic report of Albania (E/C.12.ALB/2-3).

## **Annex 7**

### **Information related the question 16, paragraph 69.**

The legal measures to ensure the benefit of social support based on the needs of beneficiaries.

- Law no 10070/2009 "On Amendments to the Law 7703, date 11.05.1993" On Social Insurance ".
- Law no 10447/2011 "On amendments to Law No. 7703/1993" On Social Insurance in RoA", amended.

- Law no 10076/2009 “On Compulsory Insurance in the transport sector”.
- Law no 10455/2011 “On Amendments to the Law nr.10076/2009" On mandatory insurance in the transport sector”.
- Law no.10139/2009 “On supplementary state pensions for employers in Universities, Research Centers, Academy of Sciences and all other public research institutions”.
- Law no 10142/2009 “On supplementary social security of the Armed Forces, the employees of the State Police, the National Guard, State Intelligence Service, the Prison’s Police, fire and Protection Units , employees of the Internal Control System Service”.
- Law no 10418/2011 “On the legalization of capital and forgiveness of a portion of tax and customs debt ”.
- Law no 23/2012/2012 “On some amendments to Law No. 7895/1995 of the Criminal Code ”.
- DCM no 415/2009 “On Pension Increase”.
- DCM no 416/2009 “On the increase of supplementary pensions of State Police employers and other special financial treatments”.
- DCM no 641/2009 “On an amendment in the Decision no 382/1996 “On the implementation of the Law no 8097/1996 “On Supplementary State Pensions to persons that exercise constitutional functions and state servants.
- DCM no 700/2009 “On Amendments in the DCM no 1114/ 30.7.2008 of CM “On some issues for the implementation of the Law no 7703/1993 “On social securities in the RoA”, amended, and law no 9136/2003 “On collection of compulsory social and health security contributions”.
- DCM no 642/2009 "For indexing of individual annual assessment base for calculating pensions initial" which improves the relationship between contributions and individual benefits.
- DCM no 471/2011 “On Pension Increase”.
- DCM no 541/2011 "On Amendments to the Decision no.1114, date 30.07.2008" On some issues pursuant to Law No. 7703, date 11.05.1993 "On Social Insurance System in the RoA", the Law no. 9136, date 11.09.2003 "On the collection of compulsory contributions to social and health security in RoA", and the Law No. 7870, date 13.10.1994 "On health insurance in RoA”.
- DCM (2001) “For indexing individual basis for calculating the initial annual pension”.
- DCM no 5/2011 “On the extension of implementation period of the Law no.10418/2011 “On the legalization of capital and forgiveness of a portion of tax and custom debt”.
- DCM no 414/2012 “On Amendments to the DCM 1114 /2008" On some issues in the implementation of laws 7703/1993, "On Social Insurance in the RoA", Law no 9136/2003 "On the collection of compulsory contributions of social and health security in the ROA", and Law No. 7870, dated 13.10.1994 "On health insurance in the Republic of Albania.
- DCM no 387/2012 “On Pension Increase” provides the increase of supplementary pensions and special treatments.

- DCM no. 874/2012 “Providing immediate economic assistance to retired persons who benefit from pensions”.
- Regulation - date 20.01.2012 "On protection and personal data management information system."

## **Annex 8**

### **Information related question 21, paragraph 93 on legal amendments regarding the activities of the National Food Authority.**

- Law No 10 390/2011 "On the use of fertilizers for plants" Law no 10416/2011 "On the plant and herbal multiplier".
  - Law no10433/2011 "On inspection of the Republic of Albania"; Law no 10465/2011 "on Veterinary Service of the RoA".
  - DCM no1081/2009 "On the organization and functioning of the national food authority"; DCM no 750/2010 "on approval of rules of quarantine phytosanitary inspection".
  - DCM no 462/2012 "On Amendments to the DCM no 1188/2008," On approval of rules for the importation, marketing, transportation, storage, use and disposal of plant protection products”.
  - The Instruction no.16/2011 "For additives from other food coloring and sweeteners "; Order no 10/2010 “ For evaluation and categorization of food establishments animal origin".
  - Instruction No 2/2013 "On the Establishment and Functioning of the Scientific Committee and Scientific panels of the National Food Authority"
  - Order no 69/2013" For the composition of the Scientific Committee and Scientific Panels of the National Food Authority ".
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