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## **The Principle of Equality and Non-Discrimination in Albanian Domestic Legislation: A Continuously Evolving Challenge**

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### **Abstract**

This article presents an in-depth analysis of the principle of equality and non-discrimination, which has a very important role in Albanian legislation. After the presentation of this constitutional principle, which is a premise for the enjoyment of basic human rights and freedoms in an equal way and without being discriminated against, the focus is directed towards the way this principle is reflected in the Albanian legislation, where the Law "On Protection from Discrimination" is examined in detail. The article continues with the analysis of some decisions of the Constitutional Court, which has interpreted the principle of equality and non-discrimination, completing and clarifying this constitutional principle for Albanian citizens but also for law practitioners. This article also examines the role of some of the most important institutions in the Republic of Albania that protect and promote this principle. Special focus is given to the Commissioner for Protection from Discrimination, who, despite being relatively new, makes a great contribution to the practical implementation of the principle of equality and non-discrimination. At the end of the article, we present in a summarized way some of the most important findings as well as recommendations aimed at the even better practical application of this principle, which is so important for our society.

**Key Words:** Albanian; Constitutional Court; Non-Discrimination; Principle of Equality

### **Introduction**

Equality and non-discrimination are principles that are enshrined in numerous international conventions, regional frameworks, and constitutions of various countries. These principles form the foundation of a society and the very basis of a state (Haider, Ahmad, et al., 2024). Their presence guarantees protection and promotion and brings justice, security, trust, stability, and peace within a society. The principle of equality and non-discrimination is one of the most important principles expressed in the Constitution and other laws of the Republic of Albania.

The concept of equality is closely linked to the concept of discrimination in the sense that the absence of the former leads to the presence of the latter. Their relationship constitutes an inverse correlation. In theory, all people are equal because they have equal rights, and these rights should be enjoyed equally by everyone. In practice, however, the opposite often occurs. Equality, as a concept, is often treated as having equal opportunities (formal equality), rather than achieving equal outcomes and eliminating legal and social barriers to realizing this goal (substantive equality). In fact, true equality encompasses both (Komiteti



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Shqiptar i Helsinkit, 2011).

Non-discrimination is a pillar of human rights. Differentiation in law must be based on differences in facts. Distinctions require reasonable and objective justification. The principle of proportionality must be observed (Ann, 2013). Some of the worst human rights violations have resulted from discrimination against specific groups. The right to equality and the prohibition of discrimination, explicitly set out in international and regional human rights treaties, are therefore central to the protection of all human rights. The right to equality obliges States to ensure observance of human rights without discrimination on any grounds, including sex, race, color, language, religion, political or another opinion, national, ethnic or social origin, membership of a national minority, property, birth, age, disability, sexual orientation and social or other status (Haider, Ali, et al., 2024). Moreover, it is important to note that discrimination is constituted not simply by an unjustifiable “distinction, exclusion or restriction” but also by an unjustifiable “preference” in respect of certain groups. The fight against discrimination remains a struggle for many people around the globe today (Inter-Parliamentary Union & United Nations, Office of the High Commissioner for Human Rights, 2016).

Regardless of the cause of discrimination, it will always constitute an obstacle for people to exercise their rights equally and peacefully. Moreover, the presence of such a phenomenon in society will lead to insecurity, fear, lack of trust, conflicts, as well as destabilization of both society and the state itself.

It would be impossible, even unimaginable, to conceive that within a state, regardless of its size or population, all individuals would belong at the same time to the same gender, race, religion, ethnicity, language, political beliefs, economic status, educational background, or parental affiliation, etc. Since a state is made up of different individuals, and given this diversity, it is necessary to foresee the principle of equality and non-discrimination, which declares all people equal and prohibits discrimination.

### **Albanian Legal Framework on the Principle of Equality and Non-Discrimination.**

If we refer to Albanian legislation regarding the provision of such a principle, of course, the first thing we will do is refer to the constitution of the Republic of Albania. In article 18 of the Constitution, which was adopted by Law no. 8417, dated 21.10.1998, the principle of equality and non-discrimination is expressly provided for. If we analyze Article 18, paragraph 2 of the Constitution, it seems as though we are confronted with an exhaustive list of reasons for discrimination. However, we are aware that in society, many other causes could lead to discrimination.

Since the constitutional provision does not provide an open list of causes for discrimination, we turn to Law No. 10221, dated 04.02.2010, "On Protection from Discrimination." The law is fully aligned with several European Union directives. This law regulates the implementation and enforcement of the principle of equality and non-discrimination across a wide range of grounds. These include but are not limited to, race, ethnicity, color, language, nationality, political, religious or philosophical beliefs, economic, educational, or social status, gender, gender identity, sexual orientation, sex characteristics, HIV/AIDS status, pregnancy, parental affiliation, parental responsibility, age, family or



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marital status, civil status, place of residence, health condition, genetic predispositions, physical appearance, disability, membership in specific social or cultural groups, or any other grounds that may lead to unequal treatment. By addressing these diverse and complex aspects of human identity and status, the law aims to ensure that individuals are treated fairly and without discrimination, fostering a society based on equality, justice, and respect for diversity.

Based on the law on protection against discrimination, an open list of causes is provided, including cases for "any other reason," considering that the protected cause may be an identifiable, objective, or personal characteristic, or "status," by which individuals or groups of individuals are distinguishable from one another, which is not expressly foreseen in Article 1 of the law (Annual Report of the Commissioner for Protection from Discrimination, 2023).

The law "On Protection from Discrimination" ensures protection from discrimination in the following key areas: protection from discrimination in employment and during the period of exercising employment relations, in the field of education, and in the field of providing goods and services.

The Constitution of the Republic of Albania does not provide a specific definition of the term "discrimination." However, the "On Protection from Discrimination" law serves as a complement to the Constitution and provides clarification in Article 3, paragraph 1. According to this provision, "discrimination" is defined as any distinction, exclusion, restriction, or preference based on any of the grounds specified in Article 1 of this law, which has the purpose or effect of obstructing or making it impossible for an individual to exercise, on an equal footing with others, the fundamental rights and freedoms recognized by the Constitution of the Republic of Albania, international treaties ratified by the Republic of Albania, and applicable laws.

Article 6 of the "On Protection from Discrimination" law expands upon the provisions of paragraph 3 of Article 18 of the Constitution, which states, "No one may be discriminated against on the grounds mentioned in paragraph 2, unless there is a reasonable and objective justification." According to Article 6 of the law, discrimination is permissible in cases where the objective is objectively justified and warranted by the Constitution, agreements or international treaties ratified by the Republic of Albania, and applicable national legislation. The provision outlined in Article 6, paragraph 1, serves as a clearer reiteration of the formulation found in paragraph 3 of Article 18 of the Constitution, effectively reinforcing the constitutional principle by specifying the conditions under which discrimination may be legally justified.

The "On Protection from Discrimination" law, through several provisions, has prohibited and addressed discrimination in relation to the exercise of freedom of conscience and religion, employment (Law No. 10221, 2010, Article 12), education (Law No. 10221, 2010, Article 17), and the provision of services and goods (Law No. 10221, 2010, Article 20). Regarding the prohibition of discrimination related to the exercise of freedom of conscience and religion, particularly when it comes to their expression individually or collectively, in public or private life through worship, education, practices, or the performance of rites, the law specifies that this is not an absolute right. Discrimination can only occur when there is a reasonable and objective justification, and, among other things, the limitation must not exceed the restrictions outlined in the European Convention on Human Rights (Law No. 10221, 2010, Article 10). The



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Constitution of the Republic of Albania and the "On Protection from Discrimination" law are not the only legal instruments that enshrine the principle of equality and non-discrimination. This principle is also reflected in many other codes, laws, and legal acts of the Republic of Albania. Below, we will examine several of these laws to explore how this principle is articulated and applied in different legal contexts.

The Labor Code is one of those laws that provides for the prohibition of discrimination, respectively in Article 9 of the code it is provided, prohibits discrimination in the exercise of the right to employment and profession. Paragraph 2 defines discrimination as any distinction, exclusion, restriction, or preference based on factors such as gender, race, ethnicity, language, sexual orientation, political or religious beliefs, social status, disability, health status, and several other characteristics. This definition aligns closely with the concept of discrimination outlined in the "On Protection from Discrimination" law, reflecting consistency across legal frameworks in the country. The principle of equality and non-discrimination is also reflected in other provisions of the Labor Code, such as Article 8, Article 115, Article 146, Article 181/4, Article 197/4, etc.

Regarding the Penal Code of the Republic of Albania, it is important to note that amendments made in 2007 and 2013 introduced aggravated circumstances for sentencing when a criminal offense is committed due to motives related to gender, race, color, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, health status, genetic predispositions, or disability (Law No. 7895, 1995, Article 50(j)). Additionally, Article 253 criminalizes discriminatory actions by public servants or those in public service, based on origin, sex, sexual orientation, gender identity, health status, religious or political beliefs, trade union activities, or ethnicity, that result in the creation of unfair privileges or the denial of rights or benefits guaranteed by law. Furthermore, the 2013 amendments to Article 265 expanded the list of causes that incite hatred and conflict, thereby broadening the scope of offenses related to discriminatory acts.

The Administrative Procedure Code of the Republic of Albania, in Article 17, upholds the principle of equality and non-discrimination. It mandates that public authorities must act per equality, treating parties in identical situations equally while justifying any differentiated treatment based on objective characteristics. It also prohibits discrimination based on various grounds, including gender, race, ethnicity, sexual orientation, health, and more. These provisions align closely with the Law "On Protection from Discrimination." Additionally, Article 82, second paragraph, of the Code addresses the burden of proof in cases of discrimination, ensuring proper legal safeguards in administrative proceedings.

The Juvenile Justice Code (Law No. 37/2017), introduced in Albanian legislation, enshrines the "Principle of Protection from Discrimination" in Chapter II. Article 11 guarantees that all rights under the Code are provided to minors in conflict with the law, victims, or witnesses without discrimination on grounds such as gender, race, ethnicity, language, sexual orientation, health status, or other personal characteristics. The Code explicitly protects minors from all forms of discrimination, ensuring broad and detailed safeguards for their rights.

This principle is also found in Law No. 18/2017 "On the Rights and Protection of Children". Law No. 69/2012 "On the Pre-University Education System in the Republic of Albania", amended. Law No. 96/2017 "On the Protection of National



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Minorities in the Republic of Albania”. Law No. 111/2017 “On Legal Aid Guaranteed by the State”. Law No. 9970, dated July 24, 2008, “On Gender Equality in Society”. Law No. 93/2014, “On the Inclusion and Accessibility of Persons with Disabilities”. Law No. 44/2012, “On Mental Health”. Law No. 7889/1994, “On the Status of Work Invalids” amended. Law No. 8098, dated March 28, 1996, “On the Status of the Blind” amended. Law No. 8626, dated June 22, 2000, “On the Status of Paraplegic and Tetraplegic Disabilities” amended. Law No. 57/2019 “On Social Assistance in the Republic of Albania”. Law No. 22/2018, “On Social Housing” amended. Law No. 81/2020, “On the Rights and Treatment of Prisoners and Detainees”. Law No. 97/2013, “On Audiovisual Media in Albania”.

The codes and laws referenced above represent only a selection of the legal documents in the Republic of Albania in which the principles of equality and non-discrimination are enshrined. While these documents provide a comprehensive framework for safeguarding these principles in various sectors, such as healthcare, social services, and criminal justice, there are undoubtedly other laws and regulations not discussed in this paper that also contribute to the protection and promotion of equality and non-discrimination.

Albanian legislation has been significantly harmonized with international human rights standards, including:

Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination Against Women; Convention on the Rights of the Child; Convention on the Rights of Persons with Disabilities; United Nations Convention on Migrant Workers; International Labor Organization Conventions, including Convention No. 111 on discrimination in employment and occupation and Convention No. 100 on equal remuneration for work of equal value (ratified in 1994); Framework Convention for the Protection of National Minorities; European Convention on Human Rights; European Social Charter, etc.

This broader body of legislation collectively reflects Albania's commitment to ensuring that all individuals, regardless of their background or status, are treated fairly and with respect, in line with both national constitutional provisions and international human rights standards.

### **The Constitutional Court's Interpretation of the Principle of Non-Discrimination.**

The Constitutional Court is the highest authority, which protects and guarantees the implementation of the Constitution (Elsa Toska Dobjani Isa, 2016). It is the last instance charged with the control of the acts issued by the bodies of state power, focusing on the aspect of their compliance with the constitutional provisions. As provided in article 124 of the constitution, the Constitutional Court settles constitutional disputes and makes the final interpretation of the Constitution. The Constitutional Court is subject only to the Constitution. While Article 132 provides for the nature of the decisions of the Constitutional Court, these decisions are final and binding for enforcement.

Regarding the topic we are dealing with in the framework of the principle of equality and non-discrimination, we consider it reasonable and at the same time



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very important to refer to some of the decisions of the Constitutional Court in order to better understand this principle through the interpretations and clarifications that the court has made in its decisions. First, let's look at the provision made for this principle in the Constitution of the Republic of Albania.

In Article 18 of the Constitution, which was adopted by Law no. 8417, dated 21.10.1998 (as amended), the principle of equality and non-discrimination is expressly provided for. According to this article:

1. All are equal before the law.
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.

The principle of equality, as outlined in Article 18 of the Constitution, requires that all citizens be equal before the law, not only in the fundamental rights guaranteed by the Constitution but also in other legal rights. On the other hand, the Constitution of the Republic of Albania, while enshrining the principle of equality before the law, does not regard it as an absolute right because it simultaneously defines the conditions under which this right can be limited. Paragraph 3 of Article 18 of the Constitution acknowledges limitations on the right to equality, provided that certain specific conditions are met, namely, reasonable and objective justification. Respecting the principle of equality requires, among other things, non-discrimination of groups in the same conditions of citizens without justified reasons. This principle requires that all individuals be treated equally, but it does not prohibit differential treatment when individuals or groups are not in the same or similar conditions, or when there is a reasonable and objective justification, establishing a reasonable and proportional relationship between the means used and the goal to be achieved (Decision of the Constitutional Court of the Republic of Albania, No. 9, 2007).

The Constitutional Court of the Republic of Albania has consistently emphasized in its jurisprudence that the principle of equality, as outlined in Article 18 of the Constitution of the Republic of Albania, does not prohibit differentiated treatment when individuals or groups are not in the same or similar conditions, or when there is a reasonable and objective justification, establishing a reasonable and proportional relationship between the means used and the goal to be achieved (Decision of the Constitutional Court of the Republic of Albania, No. 33, 2010). Equality in law and before the law does not mean that there should be identical solutions for individuals or categories of persons who are in objectively different conditions. Equality in law and before the law presupposes equality for individuals who are in equal conditions (Decision of the Constitutional Court of the Republic of Albania, No. 11, 1993). The Constitutional Court of the Republic of Albania has followed the same reasoning even in other decisions, such as decision No. 39, dated October 16, 2007; No. 16, dated April 17, 2000; No. 04, dated February 12, 2010, etc.

Article 18 in its second paragraph provides for the prohibition of discrimination due to gender, race, religion, ethnicity, language, political, religious and philosophical belief, economic, educational, social, or parental status. However, seeing and reading in connection with the third paragraph of this article, the provided principle is not absolute, since if the conditions of the reasonable and



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objective law are met, this principle can be limited.

The Constitutional Court, in one of its decisions regarding non-discrimination, has defined several standards by means of which it intended to assess whether a law is discriminatory in terms of Article 18 of the Constitution. Thus, the Court examines whether the law has defined differentiated treatment of subjects and, if so, whether the differentiation was legitimate and for an objective reason. This legislation is evaluated in relation to the goals and effects of the measures taken. Also, it is not enough just to have a legitimate differentiation, but also that the means chosen to achieve the goal of the legislator be reasonable and appropriate (Decision of the Constitutional Court of the Republic of Albania, No. 48, 2013). The Constitutional Court of the Republic of Albania has followed the same reasoning even in other decisions, such as decision No. 19, dated July 09, 2009; No. 10, dated February 29, 2016.

Regarding the selection of means in another decision, the Court stated that they must be effective, that is, chosen in such a way that they are suitable for the realization of the goals pursued. The use of these means must be necessary, which means that the goal cannot be achieved by other means. Necessity is also related to the use of the least harmful means for subjects whose rights and freedoms are violated. The condition of proportionality of the restriction with the situation that dictated it is concretized in the requirement of necessity, utility, and proportionality, in the strict sense of the imposed restrictions. The respect of these conditions requires a careful analysis in each specific case, confronting the public interest that dictates the restriction with those rights that are subject to the restriction as a result, as well as evaluating the manner of the restriction (Decision of the Constitutional Court of the Republic of Albania, No. 34, 2017).

Also, the Court, in its jurisprudence, has emphasized that the definition of a legal regulation, regardless of whether or not it is objectively justified, also requires a real assessment. Differentiations, as well as the reasons leading to them or against them, must be confronted to finally leave the decision to the competent body, according to its criteria. The method of resolution is a right of the relevant body because each issue has its own specifics. According to the practice of the Court, we are faced with discrimination when legal subjects who are in the same situation are treated in different ways without reasonable and objective legal justification. Of course, the definition of any criterion to qualify objective reasoning depends to a large extent on the value judgment and cannot be precisely defined (Decision of the Constitutional Court of the Republic of Albania, No. 27, 2021). The Constitutional Court of the Republic of Albania has followed the same reasoning even in other decisions, such as decision No. 78, dated December 22, 2015.

The protection against discrimination in the enjoyment of the rights and freedoms defined by the ECHR is also guaranteed by its article 14, as an essential principle of the rule of law and of fundamental importance for the values of tolerance and social peace. This protection is reinforced by Article 1 of Protocol no. 12 of the ECHR, which prohibits in any case discrimination, even in the enjoyment of the rights provided by the law. The court notes that discrimination can come from several causes, acting separately or interacting with each other simultaneously (Decision of the Constitutional Court of the Republic of Albania, No. 31, 2021). Article 14 of the ECHR, which expressly forbids member states to subject the rights and freedoms guaranteed by this convention to criteria such as



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gender, race, skin color, language, belief or political views, as well as social and national origin (Decision of the Constitutional Court of the Republic of Albania, No. 20, 2021). Also, the Constitutional Court referred to the jurisprudence of the European Court of Human Rights, concluding that the difference in treatment will be considered discriminatory, when there is no reasonable and objective justification, when it does not follow a "legitimate goal" or when there is no "...reasonable and proportional relationship between the means used and the goal that is intended to be achieved" (Decision of the Constitutional Court of the Republic of Albania, No. 18, 2008).

Since we are analyzing Article 18 of the Constitution, one of the reasons provided on the basis of which discrimination is prohibited is that of "political conviction". Of course, it would be impossible for the drafters of the constitution to dwell on every reason and clarify what would be included in the notion of that reason, anyway in one of the decisions of the Constitutional Court, it has stopped precisely on this point and has interpreted what the notion of "political conviction" includes.

The court stated that the notion of political belief includes not only the expression of political views and participation in political debate or framing, collective organization or participation in organizations or political parties, but also the right to have ideas or views that are not part of any platform or program of political parties, as well as the right not to join the structures of organizations or political parties (Decision of the Constitutional Court of the Republic of Albania, No. 18, 2008).

One of the areas where the principle of equality and non-discrimination is violated the most is that of work, and often in practice there is confusion about who has the burden of proof to prove that the principle of equality and non-discrimination in the employment relationship has been violated. In one of its decisions, the Court has addressed this issue and resolved this confusion by determining to whom the burden of proof belongs.

The Court emphasizes that Article 18 of the Constitution, first of all, sanctions a negative obligation, according to which no one shall be unjustly discriminated against for reasons related, among others, to political beliefs or social situations. At this point, the Court notes that where there are facts from which it can be assumed that there was discrimination, it is up to the author of the discrimination, in this case, the employer, to prove that there was no violation of this principle. The transfer of the burden of proof from the employee (victim of discrimination) to the employer (perpetrator of discrimination) is related to the vulnerability of the discriminated, so it is sufficient for him to present reliable facts that presuppose *prima facie* the existence of a specific discriminatory circumstance that has led to a less favorable treatment or causing harm to him. In other words, this means that the burden of proof regarding the grounds for discrimination in employment relations initially belongs to the employee, but if the latter presents some facts, which reasonably support a presumption of discrimination, the burden of proof shifts to the employer (Decision of the Constitutional Court of the Republic of Albania, No. 16, 2024).

The impression is often created among the citizens of the country, but not infrequently also among the practitioners of the law, that for issues that seem to have the same solutions from the courts based on the principle of equality, there are even claims that believe that the unifying decisions of the courts have their





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source from the principle of the equality of citizens before the law.

To clarify these opinions or attitudes, the Constitutional Court, in one of its decisions, stated that equality in the law and before the law should not be understood to mean that there are identical solutions from the courts for alleged identical court cases. The way of solving the case and applying the law is the right of every court because every concrete case is specific and has its individuality, harmonized with circumstances, factors, motives, or judicial evidence, which cannot be the same. Equality in law and before the law has nothing to do with the way the case was fundamentally resolved but with the legal guarantees, with the rights that the state has made available to its citizens to solve their problems. And the unification of judicial practice should not be understood as having its source from the principle of equality of citizens in the law and before the law, but serves the ordinary courts, that during their work they maintain the same and approximate positions for the correct understanding and application of the laws, without ignoring the evidence and all other circumstances of each concrete case (Decision of the Constitutional Court of the Republic of Albania, No. 71, 1998).

As we can see from all the decisions mentioned in this part of this article, the Constitutional Court has made a great contribution to the interpretation of the constitutional principle of equality and non-discrimination, clarifying and facilitating even more the work of law practitioners.

### **Institutional Mechanisms for the Implementation of the Principle of Non-Discrimination.**

Despite the existence of a strong legal framework on the constitutional principle of equality and non-discrimination in Albania, one of the most important challenges is the successful implementation and application of these laws in practice. For the fight against discrimination to be successful and to ensure equality, it is very important to link the awareness of the citizens themselves, the effective engagement of institutional bodies, political will, and monitoring mechanisms.

In our country, several institutions have been set up, are functioning, and are responsible, among other things, for the supervision of the applicability of the laws that have been issued within the framework of the principle of equality and non-discrimination. Among these institutions, we mention: the Peoples Advocate, which protects the rights, freedoms, and legal interests of the individual from illegal and irregular actions or inactions of public administration bodies, as well as third parties acting on its behalf. The Commissioner for Protection from Discrimination, which is the responsible authority that ensures effective protection from discrimination, as well as from any form of behavior that encourages discrimination. The State Inspectorate of Labor and Social Services is the authority responsible for guaranteeing working conditions and safety at work as well as monitor the principle of equality and non-discrimination in the workplace; Courts and the Prosecutor's Offices, are responsible for examining all those cases where the violation of the principle of equality and non-discrimination is claimed.

To refer again to the Law on Protection from Discrimination, article 21 of this law stipulates the creation of the Commissioner for Protection from Discrimination, which is an institution that was created to offer protection against discriminatory behavior as well as any other behavior that pushes or incites discriminatory



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behavior. The Commissioner for Protection from Discrimination has a very important role in the Albania within the framework of the principle of equality and non-discrimination, a role which he expresses through the investigation of cases in which discrimination is alleged, the addressing of complaints, recommendations as well as through promotion and awareness regarding the principle and discriminatory behaviors in society.

The Commissioner for Protection from Discrimination exercises its competences in three main areas: (I) providing assistance to victims of discrimination through the examination of complaints, conducting administrative investigations, imposing administrative sanctions, and participating in court proceedings for civil matters; (II) monitoring the implementation of the Law on Protection from Discrimination; and (III) raising awareness about discrimination and promoting a culture of equality and non-discrimination. These functions ensure that the Commissioner effectively contributes to the prevention, identification, and redress of discriminatory practices while also fostering a broader societal commitment to human rights and equality (Annual Report of the Commissioner for Protection from Discrimination, 2023).

Another institution that has the responsibility to protect the basic human rights and freedoms in general and the principle of equality and non-discrimination is the constitutional institution of the People's Advocate, which is provided for in the Constitution and regulated by Law No. 8454, dated 4.02.1999, "On the People's Advocate", as amended. According to Article 60 of the Constitution, the People's Advocate protects rights, freedoms, and legal interests from legal or illegal actions by public administration bodies. Although similar to the Commissioner for Protection from Discrimination, the People's Advocate is a special constitutional institution and is even older. Commissioner's work deals only with those issues related to discrimination, while the People's Advocate focuses on the protection of all basic human rights and freedoms.

Individuals, when seeking protection from these institutions, should perceive them as complementary entities that offer different legal mechanisms tailored to the specific nature of their concerns. However, it is important to recognize that the proliferation of such diverse institutions can present opportunities and challenges. On the one hand, individuals are offered multiple avenues for legal recourse; on the other hand, this multiplicity can lead to potential confusion, especially since the People's Advocate is not excluded from addressing issues related to equality before the law, including cases of discrimination. This overlap can complicate the process of seeking redress, underscoring the need for clarity in the roles and functions of each institution (Xhezair et al., 2011).

In 2020, the Albanian Parliament, after reviewing the activities of the Commissioner for Protection from Discrimination in 2019, recommended increasing awareness efforts in rural areas to inform the public about the legal framework and the Commissioner's role. It also called for enhanced cooperation with the People's Advocate, particularly in monitoring hate speech and cases affecting the Roma and the Egyptians. The Parliament requested regular updates on this collaboration to be provided to the Parliamentary Committee on Legal Issues, Public Administration, and Human Rights (The Assembly of the Republic of Albania, 2020).

The Law on Protection from Discrimination, in its article 32, provides for the competences of the Commissioner, among which the examination, investigation,



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and assistance that the Commissioner provides for all those complaints that come from individuals who claim to have been victims of discrimination. Apart from individuals, these complaints can also be submitted to the Commissioner by those organizations that represent individuals or groups that claim to be victims of discrimination, but on the condition that the latter have given their consent in writing. After carrying out administrative investigations, when the Commissioner finds a violation of the law, he has the right to impose administrative sanctions, which are provided for in the law.

In addition to the duties mentioned above, the Commissioner has the right to take legal action when protecting collective interests within the framework of the principle of equality and non-discrimination. In those cases where legal norms or different legal acts violate fundamental rights and freedoms, he has the right to appeal to the Constitutional Court. The Commissioner also plays the role of monitor for the implementation of the Law on Protection from Discrimination and the Law on Gender Equality.

The Commissioner plays an important role in legislative reform, as he has the right to make different proposals in the case of the approval of new laws, but also in the case of changes to existing laws. For all issues related to discrimination, the Commissioner draws up reports and recommendations, as well as carries out various campaigns intending to raise awareness in society regarding issues related to discrimination.

From January 1, 2023, to December 31, 2023, the Commissioner for Protection from Discrimination addressed a total of 359 cases, including 344 complaints and 15 ex-officio cases. Of these, 280 cases (276 complaints and 4 ex-officio cases) were registered in 2023, while 79 cases (68 complaints and 11 ex-officio cases) were carried over from 2022 (Annual Report of the Commissioner for Protection from Discrimination, 2023).

The Law "On Protection from Discrimination," as amended, protects three main areas: employment, education, and goods and services. During 2023, out of the total 359 cases addressed (344 complaints and 15 ex-officio cases), 14 cases were in the field of education, 144 cases were in the field of employment, and 201 cases were in the field of goods and services. Of these, 280 cases were registered in 2023, while 79 cases were carried over from 2022 (Annual Report of the Commissioner for Protection from Discrimination, 2023).

From January 1, 2022, to December 31, 2022, the Commissioner for Protection from Discrimination addressed a total of 297 cases (281 complaints and 16 ex-officio cases). Of these, 213 cases (208 complaints and 5 ex-officio cases) were registered in 2022, while 84 cases (73 complaints and 11 ex-officio cases) were carried over from 2021 (Annual Report of the Commissioner for Protection from Discrimination, 2022).

During 2022, of the total 297 cases addressed (281 complaints and 16 ex-officio cases), 14 cases were in the field of education, 140 cases in the field of employment, and 143 cases in the field of goods and services. Of these, 213 cases were registered in 2022, while 84 cases were carried over from 2021 (Annual Report of the Commissioner for Protection from Discrimination, 2022).

In the period from January 1, 2021, to December 31, 2021, the Commissioner for the Protection from Discrimination addressed a total of 324 cases (302 complaints and 22 ex-officio cases). Of these, 257 cases (242 complaints and 15 ex-officio cases) were registered in 2021, while 67 cases (60 complaints and 7 ex-



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officio cases) were carried over from 2020 (Annual Report of the Commissioner for Protection from Discrimination, 2021). During the year 2021, out of the total of 324 cases addressed (302 complaints and 22 ex-officio cases), 13 cases were in the field of education, 168 cases in the field of employment, and 143 cases in the field of goods and services (Annual Report of the Commissioner for Protection from Discrimination, 2021).

The Commissioner for Protection from Discrimination, from the moment of its creation until now, has conducted numerous investigations and made many decisions regarding all those issues that contained elements of discrimination presented by various individuals or organizations. The issues investigated by the Commissioner highlight the many causes that lead to discrimination, as well as the inequality that exists among Albanian citizens. Discrimination has occurred based on sexual orientation, political beliefs, race, economic status, religious belief, limited ability, as well as many other characteristics. Based on the Commissioner's reports, we understand the real situation as well as the challenges faced by the effective implementation of laws within the framework of the principle of equality and non-discrimination.

### **Conclusions and Recommendation**

Having consolidated domestic legislation in terms of the principle of equality and non-discrimination, focusing on the Law on Protection from Discrimination and not leaving out the work of institutional mechanisms in the implementation of this principle, such as Commissioner for Protection from Discrimination or People's Advocate, we can say that during these last years, the implementation of the principle of equality and non-discrimination has led to positive changes. Regardless of the mentioned positive aspects, many challenges are present, where, among others, we mention the low level of awareness of the citizens themselves regarding their basic rights and freedoms; the lack of human and economic capacities in handling cases of discrimination, proper interpretation and application of the law. Although we now have consolidated legislation, there is still room for improvements or for the filling of those legal gaps that affect the effective implementation of the principle of equality and non-discrimination. To have an even more effective implementation of this constitutional principle, work must be done in the direction of the legal framework, increasing the human and economic capacities of the institutional mechanisms, strengthening them in a way that they can more effectively deal with the cases they face every day, as well as a special work must be done in the direction of making Albanian citizens aware of basic human rights and freedoms as well as the existence of institutions that they have the responsibility to protect these rights and freedoms from any action or inaction that violates their peaceful enjoyment. In this way, we can have the threshold, and we can have a transformation of Albania into a positive example for the countries of the region in the framework of respect for human rights.

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