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PERMANENT MISSION OF
THE REPUBLIC OF ALBANIA
GENEVA

No Protocol 307

Geneva, 9th of April 2015

The Permanent Mission of the Republic of Albania to the United Nations Office and Other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honor to transmit therewith Albania contributions to the Study of the Office on the best practices, experiences and challenges and ways to overcome them relating to the right to participate in political and public affairs in reference to paragraph 6 of resolution 27/24.

Furthermore, we would very much appreciate if you could notify the receipt of the present Note Verbal.

The Permanent Mission of the Republic of Albania to the United Nation Office and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



**Office of the United Nations
High Commissioner for Human Rights**

GENEVA

Information provided by Albanian institutions related with the resolution 27/24 of the Human Rights Council

1-Do the Constitution and/or other laws of your country provide for the right of individuals to participate in the conduct of public affairs? Please provide for the right of individuals on relevant legislation and constitutional provisions.

The right to information, which is part of the public participation and consultation in public matters, is an individual fundamental right, guaranteed in the Constitution of the Republic of Albania. As a basic right to democratic governance, recognized internationally, the right to participate in public decision-making have found specific regulation in the Constitution as well as in a set of laws as follows:

The Constitution of the Republic of Albania, in Article 23 provides:

1. The right on information is guaranteed.
2. Everyone has the right, in accordance with law, to get information on the activities of state bodies, as well as persons exercising public functions.

Law No.146 / 2014 "For notification and public consultation";

Law No. 8485, dated in 12.5.1999, "Administrative Procedure Code";

Law No. 119/2014 "On the right to information";

Law No. 8552, dated in 31.7.2000 "For the organization and functioning of local government";

Even the regulation of the Albanian Parliament, in its Article 105, attaches special importance to the transparency of Parliamentary functions, and public participation in the legislative process.

The ultimate instrument, which guarantees the position of citizens on issues of special importance, is provided by the Constitution of the Republic of Albania, and is the right of the Referendum (Articles 150-152 of it).

2-What is the scope and content of the right to political and public participation as provided in national law?

The right to participate in political and public life of the Albanian citizens, lies within a general scope, where people are nominated and then voted for being representatives in the Assembly of Albania or in the elections for local government, where are nominated and voted for mayors and municipal councillors.

Law-nr.146 / 2014 "For notification and public consultation" is focused on the procedural rules which should be applied in order guarantee transparency and public participation in policy and decision-making processes of local authorities. This law aims to promote transparency, accountability and integrity to local authorities and regulate the relationships which are formed through a process of public consultation, a transparent, and comprehensive process, which is timely and effective conducted between central and local public authorities and stakeholders in the decision-making process as draft, national and local strategic documents and policies of high public interest.

3-How does the State guarantee that all the individuals take part in the conduct of public affairs? Which concrete measures (including legislation) does the State take in order to enable the full and equal political and public participation by members of all groups? How does the State monitor and enforce legislation adopted to enable the full and equal political and public participation by members of all groups?

Law No. 146/2014 "For notice and public consultation" contains provisions regarding the obligation of public authorities to take all necessary measures for the participation of the public and all interested parties in the process of notification and public consultation. Each drafted act shall be published in the electronic register for notification and public consultation, an official website, which serves as a central point of consultation. Interested parties have the right to seek information on the process of notification and public consultation for the proposed public authorities which initiate the drafting and adoption of the draft which will be submitted to public bodies, as well comments and recommendations on the draft which someone is interested in the process of notification and public consultation. If public bodies impair the right of interested parties to participate in the process, then the Law, provides procedures of administrative appeals, as well as administrative sanctions.

4-To what extent are all the individuals consulted during the legislative and policy-making processes? Please describe best practices or experiences of representative structures, processes or any other means to encourage participation prior to reaching a political decision.

The consultation process begins with the public announcement for developing a draft for the public who is interested in this process, notice which is performed in the official electronic register established for this purpose. In cases where the public authority considers it necessary, the notification may be delivered by mail, by public notice, publication in the national, regional or local audiovisual media or publication in local newspapers or newspapers of national range. During the consultation period, due to the high importance of public interest for this draft, the public can organize public meetings or hearings where interested parties submit their views and information on public issues / draft being treated.

One of the recent experiences of consultation and public participation in public affairs, in Albania, is the consultation process for the new territorial reform, which was approved by Law No.115 / 2014.

For the period September 2013-May 2014, which preceded the adoption of this law, an active engagement and public consultation took place in different meetings were 4,000 people participated, among them:

- 2200 local government representatives, president, counselor, civil servants;
- 1000 representatives of civil society, businesses and citizens;
- 200 representatives and experts from international organizations
- Over 50 domestic and foreign technical experts
- Over 500 representatives of the media

5-Are there any outreach efforts in place to effectively involve women, indigenous peoples, persons, with disabilities, members of minorities and other groups requiring special attention in participatory processes?

To enable the actual realization of the rights of individuals, Albanian state intervenes by taking positive measures, with either permanent or temporary effect, necessary to achieve the desired results. These measures are included in the Albanian legal framework as follows: Electoral Code, Article 3, paragraph 3 which provides that: Every Albanian citizen who has reached the age of 18, even on election day, regardless of race, ethnicity, language, political opinion, religion, physical skills or economic condition has the right to elect and be elected, in accordance with the rules provided in this Code.

Election Code, Article 108, paragraph 1.2 and 8 provides that:

1-Voters, who for physical reasons are unable to conduct themselves the voting procedures, may require the help of a family member or another voter who is not on the list of voters for that polling station area. Both voters must be present at the voting center when utilizing this procedure; 2. A person may help only one voter who can't vote on his own; 8. In the case of blind voters, the chairman of the local government unit notifies the CEC for the number of blind voters and their voting centers. The CEC, in accordance with the procedures and time distribution of election materials, supplies the commissions of these voting centers with special voting devices, which allow voters to read or understand the ballot and vote independently. A blind voter is informed by the VCC of the manner of voting with special voting devices, and with his request, is equipped with them. Otherwise, voter votes in accordance with paragraphs 1 and 3 of this Article.

Article 67 paragraph 5 and 6, the Election Code provides that:

5-The names on the party list appear listed in numerical order, starting with number one. The number of candidates in the name list of a political party registered as a separate entity for election or the total number of candidates of a coalition should not be smaller than the number of seats to be elected in relevant district. For a party which is member of the coalition, the number of candidates can't be less than half of the seats assigned to the relevant constituency. For the multi-name lists of municipal councils and the municipalities, the same rule is applied.

6- For each constituency, at least thirty percent of the multi-name list and the names of the first three multi-name lists should be consisted from each gender proportionally. The lists are then presented by the subjects to the public in accordance with the regulation of the gender quota.

Electoral Code Article 175 paragraph 1.2 provides that:

1- The discrepancy by the electoral subject of the obligations stipulated in the provisions of this code, on the composition of multi-name list submitted to the CEC or KZAA as appropriate, shall be punished by a fine from CEC ALL 1,000,000 in the case of elections for the Assembly and All 50,000 in the case of elections to local government authorities.

2-When on an electoral subject has committed violations of the regulations, the CEC implements additional sanctions for the replacement of any vacancies in the list of the subject, in the area where this infringement is present, and the following candidates of the list of the under-represented group are included, to the fulfillment of gender quota. A special issue which each state should address carefully, is the respect of its national minorities. Recognition of minority issues should be addressed with special attention, through the affirmation of a set of rights granted to them specifically. Regarding the respect of their rights in Albania, the Constitution of the Republic of Albania, in Article 3, calls for pluralism and respect for the national identity and heritage, and mentions the principle non-discrimination and of equality before law, especially for the members of a national minority.

Moreover, in Article 20, is explicitly mentioned that the persons belonging to national minorities shall their rights and freedoms in full equality before the law. This group of people, have the right to express their beliefs freely, without being stopped, and have the right to preserve and develop their ethnic, cultural, religious, and linguistic traditions. The Constitution has recognized their right to learn and be taught in their mother tongue, as well as their organization in organizations and associations to protect their interests and their identity.

6-Is there universal and equal suffrage in your country? Are the rights of article 25 b) of ICCPR guaranteed by law? If yes, please make reference to such legislation.

-The Constitution of the Republic of Albania provides in Section 3 the political rights and freedoms for the Albanian citizens. The right to vote and to be elected is a right that our Constitution reserves only for those having an Albanian citizenship, since the element of citizenship is very important. Thus Article 45 of the Constitution, provides the right of every citizen who turned 18 years old even on elections day, to elect and be elected. Simultaneously, Article 45 of the Constitution guarantees the fundamental principles of the right of election through personal, free, equal and secret vote. These rights of the individuals, sanctioned in the Constitutional provisions set forth above, are expressed in the General Principles of the Electoral Code in Article 3 of it. Also Article 63 of the Electoral Code of the Republic of Albania, defines the category of subjects provided in Article 3 of the Electoral Code, citizens who fulfill the conditions included in Articles 45 and 69 of the Constitution for the registration as a candidate for deputy to the CEC or candidate for mayor or local councils in KZAZ.

7-Which obstacles have been identified as preventing individuals from exercising the right to vote and which measures have been adopted to?

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8-Is information on voter registration and on the electoral process (e.g .voting sheets) available in formats and languages, that render them accessible to all? Please provide examples.

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9-If voter registration is required, how is it facilitated? Are education and registration campaigns organized prior to major elections?

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10-With respect to the right to vote and to be elected, how are the rights and needs of members of specific groups (women, persons with disabilities, minorities, indigenous people, first-time voter) taken into account?

Regarding the participation of women to the political processes, representation and participation of women in decision-making are key indicators of a society that has embraced gender equality in all spheres of life. Specifically, democratization and sustainable development of the socio-economic indicators, can only be achieved through empowering women's status and through emancipatory efforts which guarantee equal representation of women and men in all sectors and fields.

Taking this into consideration, the legal framework has improved significantly through the ratification of a series of important international documents, as well as through substantial changes and harmonization of the national laws under the spirit of international legal framework, some of which are listed below:

Equal rights for men and women are embodied in the highest legal acts of Albania, in the new Constitution, which promotes the principles of equality and non-discrimination, and the protection of human dignity and respect of human rights and freedoms. Article 18.2 states: "All are equal before the law and no one can be discriminated for reasons such as gender, race, religion, ethnicity, language, political opinions, religious or philosophical beliefs, economic, educational, and social status". Legislation in Albania provides the representation of at least 30 percent of the underrepresented gender in all government and political bodies. This includes all decision-making positions in public administration, the judiciary, the police force and peacekeeping missions, and senior political and electoral processes.

Indeed, Article 15, of the Law on Gender Equality in Society: Participation in decision-making process, provides:

1. Equal gender representation in all authorities of the legislative, executive and judicial and other public institutions is achieved when: a) a representation of over 30 percent per gender, is included in the governing bodies; b) Ensures equality to both genders on competition procedures and the criteria for the assignments in these bodies; c) Ensures over 30 per cent of each gender on the list of candidates for the elections at local representative bodies; d) provides for the inclusion of no less than 30 percent of each sex in the list of candidates presented by political parties for the proportional system for elections to the Assembly of the Republic of Albania; e) Ensures the participation of over 30 percent of each gender in the administrative bodies of central and local elections.

In relation with minorities, in Albania there are two types of minorities, ethnic minorities which consists a national minority such as the Greek, Macedonian and Serbo-Montenegrin minority, and ethno linguistic minorities, including Vlach minority and Roma minority. Despite this reality of our society, the Albanian

legislative recognizes "de facto" few other communities different from the ethnic Albanian population as the Bosnian, Egyptian community, or the Gorani community. Albania's membership in a variety of organizations and international organizations with focus the protection of human rights, has as result, the ratification, or the signing of a significant number of international acts aiming the promotion and protection of human rights, particularly in reference to minorities, such as the ratification of the Framework Convention "On Protection of National Minorities", which sets a strong institutional commitment.

Application of the principles of good governance, plays a vital role in the inclusion of minorities in our society, but also in protecting their rights and interests. Through recognition, dialogue and participation of all citizens in a society which is characterized by diversity, a greater understanding of each other's concerns is achievable.

11- What are the legal restrictions to the right to stand for election in your country, if any? Which practical obstacles have been identified in relation to the right to be elected? Which measures have been put in place to overcome these obstacles?

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12-What positive measures have been taken to ensure that women, members of minorities, indigenous peoples, persons with disabilities and members of other disadvantaged groups are able to stand for elective office?

The above categories of people, are guaranteed to stand for elective offices via (TSM) Temporary special measures such as:

Gender Equality Law in Article 8 / paragraph 1 states that: "Temporary special measures include quotas to achieve equal gender representation, increasing the participation of the underrepresented sex in decision-making processes in political level, the economic empowerment, labor relations among genders, are in place for improving the equality in educational level, as well as other measures in any area where people of one gender do not enjoy equal status with persons of the opposite gender. Under paragraph 2 of this article, these measures cease to exist once gender equality is achieved and the objectives are reached.

In this context, "temporary special measures" are initiated during 2010-2014 such as:

- Review of the Electoral Code (2012) for gender quotas and sanctions, among other things: at least 30% of the election lists and one in three first names of the list must belong to each gender.
- State Police, has set a quota of 50% (women) on new admissions to the police, initiated recruitment campaigns just for women, ranked winners according to gender, extended the deadline of submission of permit driving for women, within one year from receipt to the police.
- Armed Forces are in process of increasing the representation of women in terms of civilian and military target which was set at 15%, within the "Strategy of Human Resources Management in the Armed Forces, 2011-2015" and drafted policies / regulations which promote the progress of women in their forests, and

- The implementation of the Law "On Civil Service in the Republic of Albania" emerged by Decision No. 143 / 12.03.2014 "On the procedures of recruitment, selection, trial period, parallel movement of promotion for civil servants executive category, the low and middle managers ", item 13 / Chapter IV" competition "determines that candidates with equal points rank:

- First, some of the candidates should be included from the category of persons with disabilities

- The candidates who are selected should be belonging firstly among the less represented gender.

- When a person cannot apply, the above alternatives are made by lottery.

In addition to the above, different policies and programs are set for achieve the above goals.

The National Strategy on Gender Equality, Reduction of Gender Based Violence and Domestic Violence Strategy 2011-2015 aims on at increasing women's participation in decision-making processes. Concrete measures provided for Strategic Goal are the rise of public awareness of women's rights and respect for gender quotas at all levels of public and political representation.

In June this year (2015) local elections will be held. In this framework, a series of awareness activities to increase access and participation of women and girls in the polls for local elections are planned to be performed; Awareness and advocacy for the inclusion of more women in decision-making processes in local government elections through roundtables; media involvement in this process etc is also under process.

Regarding persons with disabilities, with regard to paragraph 10, and 12 we are taking steps to facilitate the voting process in the polling stations, adjust polling sites in accordance with the Law 93/2014, Article, 5, based on the principle of independent living.

13- What measures (including LEGISLATIVE measures) are in place to ensure that candidates for elective office are not faced with discrimination, harassment and violations of their rights to freedom of opinion, expression, assembly and association?

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14- Please explain how possible interferences with the electors' will and with voter or candidate registration are avoided. Is undue interference prohibited by law? How does the state ensure effective access to judicial and other remedies in case of violations?

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15- What are the conditions for access to public service in your country? Do any restrictions apply? How is the requirement for equal access met?

Admission to the civil service, for all categories, is carried out according to law no. 152/2013, for civil servants, as amended, and the decisions of the Council of

Ministers which approved the implementation of this law. Based on the above-mentioned legislation, the administration of civil service managed, based on the principle of equal opportunities, non-discrimination, meritocracy, transparency, professionalism and political impartiality, the guaranteeing of the sustainability of Civil Servants and their continuity in the civil service.

Moreover, Article 21 of the Law no. 152/2013, set out the general requirements which should be met by a candidate to be employed in the civil service, as follows:

1. Have an Albanian citizenship
2. To have full capacity to act
3. Possess Albanian language, written and spoken
4. Have an adequate health condition which allows him/her to carry out relevant tasks
5. Lack of any sentence by final judgment for committing a crime or a criminal infringement intentionally
6. Have no dismissal from service, due to disciplinary measures, and which is not erased by this law
7. Meet the special requirements regarding the level of education, experience and other requirements of the relevant position.

16-How does the state ensure that recruitment processes used by government authorities and political associations are transparent, objective and reasonable? Which measures (e.g. temporary special measures, quotas, etc) are in place to ensure that equal recruitment of woman, minorities, persons, with disabilities and members of other disadvantage groups?

The recruitment procedure in all categories of civil service is defined in the Law No. 152/2013 and by laws for its implementation. In addition, the Department of Public Administration has adopted specific guidelines related with the recruitment process (published on the official website of DAP).

The admission procedure for the first time in the civil service, as well as the promotion procedure for state administration institutions, organized by the Department of Public Administration, is based on an annual recruitment plan approved by the Council of Ministers. According to the legal basis, the announcement of the competition, is required to include all stages of the process (receipt of documents, the terms of the complaint, the pre deadlines, requirements of general and specific nature, methods of communicating with candidates, candidate evaluation stages, and areas of knowledge and testing). Regarding the evaluation, each candidate is informed for the competition, while detailed information can be obtained from the official website of DAP, related with guidance.

The assessment of candidates is carried out by the commissioners of acceptance, which are specific for each position or announced group. Candidate's tests are kept secret and candidates are notified of the outcome of each stage of evaluation. In relations with the measures taken on gender equality and persons with disabilities, we clarify that the Council of Ministers in points 13 /a) and 13 / b) of the head 4, section 17 of chapter 6, section 7 of chapter 7 of Decision No. 143, dated in 03.12.2014 and the points 18 / a and 18 / b, Chapter 4 of the Decision no. 118, dated

in 03.05.2014, has determined that at the end of a competition procedure, and according to the principles set out in Law no. 152/2013:

Candidates with equal points are ranked according to the following criteria:

If one of the candidates is included in the category of persons with disabilities, then he is chosen first, before the rest of the candidates.
In the case of candidates of different sexes, the order of selection is such, that the candidate belonging to the less represented gender, comes first.

17-Please state if there are restrictions imposed on the rights contained in Article 25 of the ICCPR in your country. If so, how does the state ensures that these restrictions are non-discriminatory, exceptional and based on reasonable and objective criteria?

Limitations of the right to vote and to be elected are legal restrictions which the Constitution and the law on "Electoral Code" of the Republic of Albania, sets. Various criteria are applied which leave no reason for discrimination. Thus, the Constitution defines as restrictive criteria: mental incapacity; age, less than 18 and carrying a conviction for a criminal offense.

Some restrictive criteria are also defined in Article 63, paragraph 4 of the Electoral Code, which provides the group of candidates who cannot run for a certain position nor be elected without resigning from office such as: a) judges and prosecutors; b) military personnel on active duty; c) employees of the police and national security; d) diplomatic representatives; e) mayors and municipalities councilors, running for election to the Assembly; f) deputies, when competing for elections to local government bodies; h) chairmen and members of election commissions. g) The President of the Republic; g) senior officials of the state administration defined by law.
In this sense the electoral legislation stresses that taking part in political life is incompatible with other public functions.

18-Full enjoyment of the right protected by Article 25 requires respect for the rights guaranteed in Articles 19, 21 and 22 of the ICCPR. In this regard, what legislation exists to provide an independent and pluralistic media? Are journalists, human rights defenders and civil society organizations able to freely pursue their activities? Please provide information on restrictions to freedom of association, in particular the right to form and join associations concerned with public and political affairs? If there are any conditions to the exercise of the rights guaranteed in Article 19, 21 and 22 of ICCPR, are they prescribed by law, necessary and proportionate?

The right of collective organization is a constitutional right set out in Article 46. According to this article, "Everyone has the right to initiate a collective organization for any lawful purpose." Freedom of association may be restricted only if the organizations or associations pursue unconstitutional purposes, which are prohibited by law (Article 46/2 of the Constitutional).

Likewise, Article 22 of the Constitution guarantees freedom of expression, freedom of press, radio and television. Prior censorship of means of communication is prohibited.

19-Please provide information on measures taken to ensure that the information and education materials on human rights, especially on the rights and opportunities associated with participation in public and political affairs, are available and accessible to all.

-The Right to be informed about participation in public affairs and politics is an elementary right in the context of creating a transparent, accessible and equally available to all, environment. This right is guaranteed at the constitutional level and various relevant laws. Thus, Article 23 of the Constitution provides that: The right to information is guaranteed. Everyone has the right, in accordance with the law, to obtain information about the activity of state bodies, as well as persons who exercise state functions.

Meanwhile, Article 2, paragraph 1.3 of the law on the right to information provides that: 1. Every person has the right of acquiring public information without being forced to explain his/her motives. 2. Every person has the right to access public information, through the original document or by taking a copy of it in the form or format that allows full access to the content of the document.

20-Please provide information on how your country ensures that its public institutions are accountable for their policies on public and political participation.

Political accountability regarding the public institutions is limited by the rights of citizens, regarding their right of addressing requests, complaints or comments to public bodies within the scope of their activities. The Constitution in Article 48 expressly provides that: Everyone separately or in group with other people, can send requests, complaints or comments to the public organs, which are obliged to answer in accordance with the terms and conditions set by the laws.

- If the interested parties evaluate that a public body has violated their right on information and public consultation, the Law "On information and public consultation" has provided the right of appeal to the Commissioner of Information and Protection of Personal Data.

The Commissioner for the Right to Information and Protection of Personal Data, upon receipt of a complaint, against a public body, he demands an appeal to be submitted in written form and then, the Commissioner holds a public hearing with the participation of the parties.

On completion of the review, Commissioner, after concluding that no violation of the provisions of law is registered, the public body responsible for proposing administrative measures against the person / persons responsible, acts under the legislation.