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促进和保护所有人权——公民权利、政治权利、
经济、社会及文化权利，包括发展权

对阿尔巴尼亚的访问

发展权特别报告员萨阿德·阿勒法拉吉的报告*

概要

发展权特别报告员萨阿德·阿勒法拉吉于2022年11月15日至24日对阿尔巴尼亚进行了访问。访问的主要目的是评估该国发展权的进展情况，并查明仍然存在的挑战，以便向该国政府和其他致力于落实可持续发展目标的利益攸关方提出建议。

在本报告中，特别报告员阐述了他对法律、政策和体制框架的意见以及在选定的发展领域背景下对发展权的意见；查明了关切的问题；并就包容和参与提出了建议。

* 本报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文分发。



Annex

Report of the Special Rapporteur on the right to development, Saad Alfarargi, on his visit to Albania

I. Introduction

1. The Special Rapporteur on the right to development, Saad Alfarargi, visited Albania from 15 to 24 November 2022 at the invitation of the Government.
2. The Special Rapporteur visited the capital Tirana and the municipalities of Elbasan and Kamëz and met with a large number of government representatives, with representatives of civil society organizations and with United Nations officials. In Tirana he met with representatives from the Ministry of Foreign Affairs.
3. The Special Rapporteur expresses his gratitude to the Government for its excellent cooperation and to the representatives of civil society organizations, academics and other stakeholders for their valuable input. He would also like to thank the United Nations country team and the Resident Coordinator for the assistance extended prior to, during and after the visit.
4. The objectives of the visit were primarily to gain first-hand understanding of the advancement of the right to development in Albania and identify remaining challenges, with a view to formulating recommendations to the Government and other stakeholders who are working towards implementing the Sustainable Development Goals and promoting the realization of the right to development in the country. The Special Rapporteur was especially interested in learning more about the ways in which the national and local governments promote and guarantee effective public participation in development policies and programmes; the key challenges that the country faces in the implementation of the right to development; and the policies and measures that are in place to address inequalities, including those based on gender, disability and social or other status. He focused on inequalities, since they are a major obstacle to the realization of the right to development. Inequalities have an impact on the ability of individuals and communities to participate in, contribute to and enjoy economic, social, cultural and political development; they also threaten long-term social and economic development and impede poverty reduction.
5. The Special Rapporteur chose to conduct a country visit to Albania, as he believes that it is a country that has achieved impressive progress despite numerous challenges that it has been facing.
6. In the light of the broad scope of the mandate and the short time frame of a country visit, it was necessary to limit the scope of the visit, focusing on the implementation of the right to development in only a few areas of human development. The Special Rapporteur regrets that time constraints did not permit him to assess the full spectrum of the promotion, protection and fulfilment of the right to development in the context of the implementation of the 2030 Agenda for Sustainable Development, the Sendai Framework for Disaster Risk Reduction 2015–2030, the Addis Ababa Action Agenda of the Third International Conference on Financing for Development and the Paris Agreement. Nevertheless, the Special Rapporteur believes that fruitful lessons can be drawn from the areas that he was able to look into and that his conclusions and recommendations will serve to assist the Government and other stakeholders in improving their work in implementing the Sustainable Development Goals and the rest of the post-2015 development agenda, as set out in the above-mentioned policy documents, in a manner compliant with human rights, including, in particular, the right to development.
7. The Special Rapporteur paid special attention to the gender dimension, considering the developmental challenges that women and girls face. He also focused on the situation of the most disadvantaged parts of society and, mindful of article 1 of the Declaration on the Right to Development, paid particular attention to the problems that persons with disabilities

are facing in participating in and enjoying economic, social, cultural and political development in Albania.

II. General context

8. Albania is located in the west of the Balkan peninsula, bordering Greece, Montenegro and North Macedonia, as well as Kosovo.¹

9. Albania declared its independence from the Ottoman Empire in 1912; it was subsequently conquered by Italy in 1939 and by Germany in 1943. On 29 November 1944, Albania was liberated by the national liberation movement, and the Anti-Fascist National Liberation Council formed a Government. In December 1945, following elections in which only candidates from the Democratic Party (previously the national liberation movement) could participate, a new parliament was elected. The new parliament formally abolished the monarchy and declared Albania a “people’s republic”. Subsequently, a constitution modelled on the constitutions of Yugoslavia and the Soviet Union was adopted, and a new Government was elected. The leader of the Communist party, Enver Hoxha, became simultaneously prime minister, minister for foreign affairs, defence minister and the commander in chief of the army. Mr. Hoxha remained in power until his death in 1985. Under his rule, Albania was subjected to a strict isolationist regime. The population was subjected to nationalization of all private property, repression of civil and political rights and a total ban on religious observance. They experienced shortages of basic goods and isolation. After Mr. Hoxha’s death, the Communist party eventually lost power and the first post-war multiparty elections took place in 1992. The leader of the Democratic Party, Sali Berisha, became the first democratically elected President of Albania.

10. Following the change of regime, Albanian society was faced with the challenge of overcoming its historical isolation and underdevelopment and of rebuilding democratic institutions and the economy. Subsequent years were marked by numerous reforms, political struggles and the proliferation of fraudulent companies, defrauding thousands of people through the use of pyramid schemes. In 1997, several of the pyramid schemes collapsed, leaving people bankrupt, disillusioned and angry. Armed unrest swept across the country, leading to the nearly total collapse of government authority. The country’s infrastructure suffered serious damage and weapon depots were looted. Those events prompted international intervention and a United Nations multinational protection force was deployed. An interim national reconciliation Government oversaw general elections in June 1997. Between 1997 and 2002, several Socialist-led Governments, none of which completed their full terms, ruled the country. Institutions were gradually strengthened, new political parties were formed, and non-governmental organizations and business associations were developed.

11. In 1998, a new constitution was ratified through a popular referendum, guaranteeing the rule of law and the protection of fundamental human rights. Following elections in July 2005, the Democratic Party and its allies returned to power. Subsequent elections have been generally peaceful.

12. Today Albania is a parliamentary constitutional republic. The President functions as the head of State, the Prime Minister as the head of Government and the Council of Ministers as the Cabinet, which determines the principal directions of general State policy. The President is indirectly elected by the Assembly for a 5-year term (eligible for a second term); a candidate needs a three-fifths majority vote of the Assembly in one of three rounds or a simple majority in two additional rounds to become President.²

¹ References to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

² A candidate for President is proposed to the Assembly by a group of not less than 20 deputies. The Assembly conducts up to five voting rounds for the election of the President; the latter can be elected on the first, second or third vote if one candidate receives not less than three-fifths of the votes of all members of the Assembly. On the fourth and fifth votes, the candidate that receives more than half

13. The Prime Minister is appointed by the President on the basis of the proposal of the party or of a coalition of parties that have the majority of seats in the Assembly, and must be approved by the Assembly. Once appointed, the Prime Minister, within 10 days, presents to the Assembly for its approval the proposed policy programme and composition of the Council of Ministers. The Council of Ministers is responsible for carrying out both foreign and domestic policies. Currently, 13 out of the 17 cabinet members are women.

14. Administratively, the country is divided into counties, which are administered by a prefect and a county council. The prefect is appointed as a representative of the Council of Ministers.

15. The second level of administrative divisions comprises the municipalities. In 2014 a local government reform took place, with the number of municipalities reduced from over 350 to 61. The municipalities are headed by a mayor and a municipal council. Municipalities are further subdivided into 373 administrative units. The most recent local elections took place on 30 June 2019. The elections were monitored by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE), which deployed an election observation mission to assess compliance of the elections with OSCE commitments and with other international obligations and standards for democratic elections and national legislation. On 1 July 2019, the Office issued a statement of preliminary findings and conclusions in which it noted, *inter alia*, that in the climate of a political standoff and polarization, voters did not have a meaningful choice between political options; that in 31 of the 61 municipalities, mayoral candidates ran unopposed; that there were credible allegations of citizens being pressured by both sides; that political confrontation had led to legal uncertainty; and that many decisions regarding administration of the election were taken with the political objective of ensuring the conduct of elections. The Office also noted that voting was conducted in a generally peaceful and orderly manner, with counting being assessed positively overall, although several procedures were not always followed correctly.³

16. Legislative power is held by the parliament, which has 140 seats. Members are directly elected in multi-seat constituencies by a proportional representation vote and serve 4-year terms. The parliament is presided over by the Speaker,⁴ who is assisted by at least one deputy speaker. There are 12 multi-seat constituencies, corresponding to the country's administrative divisions as defined by the law on the administrative-territorial division of government local units in Albania.⁵ The most recent parliamentary elections were held on 25 April 2021.

17. With regard to the power of the judiciary, the Constitution of Albania (arts. 135–147)⁶ provides the basic framework for the organization of the court system. The system consists of the Supreme Court, the Constitutional Court, courts of appeal and courts of first instance, as well as specialized courts (competent to adjudicate cases on corruption and organized crime, criminal charges against the President of the Republic, the Speaker and the Deputy Speaker of the parliament, the Prime Minister, the members of the Council of Ministers, the deputy ministers, the judges of the Constitutional Court and Supreme Court, the Prosecutor General, the High Justice Inspector, the Mayor, the members of the High Judicial Council and High Prosecutorial Council and the heads of central or independent institutions. The Constitutional Court of Albania interprets the Constitution and hears cases concerning alleged human rights violations.

the votes of all members of the Assembly is elected President. The incumbent President of Albania is Bajram Begaj, who was elected as an independent candidate; he began to exercise his function on 24 July 2022.

³ See https://www.osce.org/files/f/documents/1/f/429230_0.pdf.

⁴ The incumbent Speaker of the Parliament is Lindita Nikolla, from the Socialist Party (10 September 2021).

⁵ See [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2004\)032-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2004)032-e).

⁶ See [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2016\)064-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)064-e).

18. Albania submitted its application for membership in the European Union on 24 April 2009.⁷ On 9 November 2010, the European Commission issued its opinion on the application, stating that, before accession negotiations could be formally opened, the Government still had to achieve a necessary degree of compliance with the membership criteria, including completing essential steps in public administration reform, adopting and implementing a reform strategy for the judiciary, strengthening the fight against organized crime, developing a solid track record in the fight against corruption and reinforcing the protection of human rights.

19. In October 2012, the European Commission recommended that Albania be granted candidate status, subject to completion of key measures in the areas of judicial and public administration reform as well as to revision of the parliamentary rules of procedures. Albania was granted European Union candidate status in June 2014. The accession negotiation process has influenced a number of legislative and policy developments and continues to have an impact on the development of the country in a meaningful way.

20. The population of Albania started to decline in the 1990s, as a consequence of massive emigration. In the past decade, Albania's population has decreased by about 2.7 per cent.⁸ In 2021 alone, more than 42,000 people left the country,⁹ predominantly young people in search of jobs and opportunities in Western Europe.

III. Legal, policy and institutional frameworks

21. In its resolution 41/128, the General Assembly adopted the Declaration on the Right to Development. Albania was among the Member States that voted for its adoption. Article 1 of the Declaration defines the right to development as an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized. Since then, the right to development has been reaffirmed in several international agreements, including the 1992 Rio Declaration on Environment and Development and the 1993 Vienna Declaration and Programme of Action. Most recently, in 2015, the right to development was explicitly recognized in four key internationally agreed policy documents: the Addis Ababa Action Agenda of the Third International Conference on Financing for Development; the Sendai Framework for Disaster Risk Reduction 2015–2030; the 2030 Agenda, in which the General Assembly set out the Sustainable Development Goals; and the Paris Agreement. Those documents have become part of the policy and normative foundation of the mandate of the Special Rapporteur.

22. Albania is a party to all of the core human rights treaties and was a member of the Human Rights Council during the period 2015–2017. The Committee against Torture considered the second periodic report of Albania in 2012, and the Human Rights Committee and the Committee on Economic, Social and Cultural Rights reviewed the country's record on human rights in 2013. In July 2016, the Committee on the Elimination of Discrimination against Women reviewed the country's relevant rights record. In May 2018, the Committee on Enforced Disappearances considered the report submitted by Albania under article 29 (1) of the International Convention for the Protection of All Persons from Enforced Disappearance. In April 2019, the country was reviewed by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and, in September 2019, by the Committee on the Rights of Persons with Disabilities. In January 2019, the Committee on the Elimination of Racial Discrimination issued its concluding observations on the combined ninth to twelfth periodic reports of Albania.¹⁰ Throughout, Albania has engaged constructively with the committees reviewing its human rights policies and

⁷ See

<https://www.consilium.europa.eu/en/policies/enlargement/albania/#:~:text=Albania%20applied%20for%20EU%20membership,EU%20membership%20application.>

⁸ See https://www.instat.gov.al/media/9828/popullsia-me-1-janar-2022_final-15-04-2022.pdf (in Albanian).

⁹ *Ibid.*, p. 2.

¹⁰ CERD/C/ALB/CO/9-12.

practices. In 2023, the country will be reviewed by the Committee on the Elimination of Discrimination against Women and by the Committee on the Rights of the Child.

23. In May 2019, the Government of Albania had its third universal periodic review. Out of 197 recommendations, Albania accepted 186 and took note of 11¹¹ (including those on the prohibition of discrimination on the basis of nationality; on discrimination against Egyptian communities; on differentiated treatment for national and ethnolinguistic minorities; and on the protection of national minorities with regard to ensuring the teaching of and instruction in their mother tongue). The fourth universal periodic review of Albania is scheduled for 2024.

24. Albania issued a standing invitation to the special procedure mandate holders in 2009 and has since been visited by the Special Rapporteur on extrajudicial, summary or arbitrary executions (2010), the Special Rapporteur on the human rights of migrants (2011), the Working Group on Enforced or Involuntary Disappearances (December 2016) and the Special Rapporteur on freedom of religion or belief (May 2017).

25. The Constitution of Albania does not explicitly mention the right to development. Article 59 (1) of the Constitution, however, states that:

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

- (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 health, physical and mental standards possible;
- (d) Education and qualification according to ability of children and the young, as well as unemployed persons;
- (e) A healthy and ecologically adequate environment for present and future generations;
- (f) Rational exploitation of forests, waters, pastures and other natural resources on the basis of the principle of sustainable development;
- (g) Care and help for the aged, orphans and persons with disabilities;
- (h) Development of sports and recreation activities;
- (i) Health rehabilitation, specialized education and integration into society of disabled people, as well as continual improvement of their living conditions;
- (j) Protection of national cultural heritage and particular care for the Albanian language.¹²

26. Article 18 of the Constitution declares that all are equal before the law and that no one may be unjustly discriminated against for such reasons as gender, race, religion, ethnicity or language, or for political, religious or philosophical beliefs, economic condition, education, social status or parentage. Article 20 guarantees that persons who belong to national minorities shall exercise in full equality before the law their human rights and freedoms, and that they have the right to freely express, without prohibition or compulsion, their ethnic,

¹¹ One of the recommendations noted by the Government was to ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (Denmark). Several recommendations related to amending legislation to provide legal recognition for same-sex partnerships, adopting provisions that allow for legal gender recognition of trans individuals (Iceland) and intensifying efforts to protect lesbian, gay, bisexual, transgender and intersex individuals from acts of violence, discrimination and harassment by fully implementing the National Action Plan for Lesbian, Gay, Bisexual, Transgender and Intersex Persons. Other recommendations noted by the Government related to measures to end impunity for acts of terrorism committed by members of the Monafeghin-e Khalge Organization and bring them to justice, including for violations of human rights against its own members, women in particular, as well as to the provision of support to the victims.

¹² See [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2016\)064-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)064-e).

cultural, religious and linguistic belonging. They also have the right to preserve and develop their ethnic, cultural, religious and linguistic belonging, to study and be taught in their mother tongue and to unite in organizations and associations for the protection of their interests and identity.¹³

27. The above-mentioned provisions are generally aligned with the basic principles contained in the Declaration on the Right to Development and with the 2030 Agenda, in which the States Members of the United Nations made a commitment to leave no one behind.

IV. Right to development, and implementation of the commitment to leave no one behind

28. In the implementation of his mandate, the Special Rapporteur pays special attention to the inclusion of the most disadvantaged groups in all decision-making and related sustainable development processes. He also pays special attention to the gender dimensions of his work, considering the developmental challenges that women and girls face in most societies. Thus, in the present section he shares observations on the situation of women, persons with disabilities, minorities and other vulnerable members of the population.

A. Women's participation in political and economic development

29. The Special Rapporteur notes that Albania has achieved impressive progress in ensuring and institutionalizing the participation of women in such governing and decision-making bodies as the central Government and public administration, and is on its way to achieving a high level of women's representation at the management level in businesses. According to information received, among the elected members of the current parliament, 90 are men (64.3 per cent) and 50 are women (35.7 per cent);¹⁴ the Speaker of the Parliament and one of the deputy speakers are women. The Assembly of Albania consists of eight permanent commissions, of which five are headed by women and three by men. In 2019, the percentage of women employed in senior management positions in the public sector was 41.3 per cent. Those positive changes result to a great extent from progressive amendments to the country's electoral legislation.

30. It appears that fewer women are represented in government at the local level: according to data received, while 44 per cent of the seats on local councils were won by women in the 2019 local elections, only eight of the mayors in the 61 municipalities are women. In addition, women from disadvantaged communities continue to be unrepresented among the most recently elected members of parliament and the Cabinet of Ministers. Lastly, data on the percentage of women in the judiciary do not appear to be available.

31. With regard to budgeting, the Special Rapporteur was informed that, between 2017 and 2021, there had been an important increase in gender budgeting, from 1 per cent of the total budget to 9 per cent in the 2022–2024 budget cycle. He was extremely encouraged to learn that the Ministry of Finance and Economy had started to apply gender-sensitive key performance indicators for monitoring budget execution, and that reporting on such indicators would be implemented for a second time in 2022. The Supreme Audit Institution of Albania was in the process of finalizing the first gender audit, which was to be launched in January 2023. The Special Rapporteur is looking forward to seeing the impact of those positive measures.

32. While the education levels of women and men appear to be largely equal,¹⁵ the participation of women in the labour force appears to be lower: according to statistics from

¹³ Ibid.

¹⁴ In contrast, in the 2017 parliamentary elections, approximately 40 per cent of candidates were women, but they were elected to only 26 per cent of the seats. See <https://www.idea.int/data-tools/data/gender-quotas/country-view/47/35>.

¹⁵ According to official data, during the academic year 2021/22, about 83.1 per cent of male children and 81.1 per cent of female children were enrolled in kindergarten. The gross enrolment rate in

2021, among persons between 30 and 64 years of age, 86.9 per cent of the men participated in the labour force, as compared with 68.7 per cent of women. For persons between 15 and 29 years of age, the percentages are 58.6 per cent for men as compared with 46.3 per cent for women. The Special Rapporteur was informed that women from the Roma and Egyptian communities are much more likely to drop out of school early and face higher levels of unemployment; even when employed, their work is in the informal sector and they thus experience difficulties in accessing social benefits and health care. Roma and Egyptian women are frequently sexually harassed or abused on grounds of gender; they are also less likely to benefit from measures against domestic violence.

33. No disaggregated data are available regarding the employment situation in the rural regions, but civil society representatives have raised concerns with regard to the much higher levels of unemployment in the rural areas. In addition, women appear to be employed predominantly in such sectors as health and social services, education, manufacturing and agriculture, which are characterized by lower wages. In addition, unmet childcare needs lead to women's inability to participate in the labour force. Women perform 96 per cent of domestic chores: in 2021, 22.9 per cent of women were out of work primarily owing to unpaid care work at home, as compared with only 1.5 per cent of men. Similarly, girls perform almost four times more unpaid care work than boys.¹⁶

34. The gender pay gap for the formal sector in 2020 was 6.6 per cent.¹⁷ While the gender pay gap in Albania is lower than the average for countries in the European Union, some concerns have been raised that those results reflect women's lower participation in the labour market. In addition, the gender pay gap is higher in sectors in which women are concentrated. Moreover, the formula applied for gender pay gap calculations does not consider the situation in the informal sector.

35. The concentration of women and girls in the informal economy and in a limited number of sectors also acts as a brake on the overall economic growth of the country. In 2020, informal employment in Albania as a percentage of total non-agricultural employment by sex was 34.1 per cent for men and 21.9 per cent for women; this share has remained without major change since 2017.¹⁸ The informal employment rate in agriculture is 61 per cent, the highest in the region (for example, the rate of informal employment in Serbia is 18.7 per cent, and 30.5 per cent in Bosnia and Herzegovina), representing more than half of the population that is employed.¹⁹ Official country-specific studies or analyses of the gender dimension of the informal sector in Albania are currently unavailable.

36. The Special Rapporteur was informed that the coronavirus disease (COVID-19) pandemic had disproportionately increased the burden of unpaid domestic and care work for women. A rapid gender assessment revealed that every second employed woman (51 per cent) had been working remotely, compared to almost every fourth man (27 per cent). Among women, 76 per cent reported an increase in providing unpaid domestic work, and 72 per cent reported that they had experienced an increase in providing unpaid care work.²⁰

37. In Albania there are several bodies at the central and local government levels responsible for ensuring gender equality. The Law on Gender Equality in Society (2008)

compulsory education was 98.7 per cent for boys and 92.7 per cent for girls. Participation in upper secondary education was higher for boys than for girls, 98.7 per cent and 89.9 per cent, respectively, while for higher education the rate was 73.2 per cent for girls, compared to 49.6 per cent for boys.

¹⁶ The Government informed the Special Rapporteur that, in 2021, out of the registered unemployed job seekers who received economic assistance, 49.2 per cent were men and 50.8 per cent women, while out of the beneficiaries of unemployment payments, 60.0 per cent were women. See <https://www.instat.gov.al/media/11027/burra-dhe-gra-2022.pdf>.

¹⁷ INSTAT, *Women and Men in Albania, 2021* (Tirana, 2021).

¹⁸ INSTAT, *Women and Men in Albania, 2020* (Tirana, 2020).

¹⁹ International Labour Office *Women and Men in the Informal Economy: a Statistical Picture*, 3rd Ed. (Geneva, 2018). Available at https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_626831.pdf.

²⁰ Rapid gender assessment survey, United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) Albania in partnership with IDRA Research and Consulting. See <https://albania.unwomen.org/en/digital-library/multimedia/2020/07/covid-19-is-taking-a-higher-toll-on-women-shows-un-women-albania-rapid-assessment>.

regulates gender equality in public life, the protection and equal treatment of women and men with regard to equal opportunities for the exercise of their rights and their participation in the advancement of all social spheres. The Law designates the minister that is responsible for implementation of the law and of State programmes targeting gender-equality. The Minister of Social Affairs and Youth was assigned that responsibility from June 2017 to September 2017; the Minister of Health and Social Protection from September 2017 onwards.²¹ The Minister has a leading position on the National Council of Gender Equality and in the Sector of Policies and Strategies for Social Inclusion and Gender Equality, under the General Directorate of Policies and Development of Health and Protection in the Ministry of Health and Social Protection. The National Council for Gender Equality was established as an advisory body and is composed of nine representatives from line ministries and three civil society representatives. The Law envisions the employment of gender equality officers in every ministry and local government unit; however, those positions have not always been adequately filled. At the municipal level, the majority of gender equality officers serve as local coordinators for domestic violence case management and, in some cases, are also responsible for other tasks related to the protection of children, persons with disabilities and minority groups. Concerns have been raised that the gender equality machinery, including the Sector of Policies and Strategies for Social Inclusion and Gender Equality and other bodies given the task of implementing the Law, have experienced a lack of technical capacities and inadequate budgetary allocations. According to the 2020 amendments to the Law on Protection from Discrimination, the Commissioner for Protection from Discrimination is also designated as responsible for monitoring the Law on Gender Equality in Society.²²

38. The Special Rapporteur has received information that, in recent years, the legal and policy framework on anti-discrimination has been developed and improved largely in accordance with international standards. The Law on Protection from Discrimination was amended in 2020, introducing a number of improvements, including new grounds for discrimination such as gender identity, sexual orientation, sex characteristics, HIV/AIDS and physical appearance; reversal of the burden of proof in favour of claimants in all cases related to discrimination; inclusion of new forms of manifestation of discrimination, such as intersectional discrimination, harassment and sexual harassment, and hate speech. The Labour Code and the Code of Administrative Procedures have also been revised to reverse the burden of proof with regard to discrimination in the workplace. However, with regard to the burden of proof, the Code of Civil Procedure has yet to be amended to ensure full compliance with anti-discriminatory legislation.²³

39. The Special Rapporteur notes the extensive work that has been done by the People's Advocate and the Commissioner for Protection from Discrimination. The Special Rapporteur commends the fact that the legislation provides the opportunity to bring complaints on a variety of discrimination grounds to the Commissioner for Protection from Discrimination, as well as to the courts. However, according to information received, anti-discriminatory case law, in particular in the court system, has not yet been substantially developed. The Special Rapporteur has also been informed that some of the recommendations of the People's

²¹ Ombudsperson of Albania, *Alternative Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women in Albania, 2016–2020*, prepared for presentation before the Committee on the Elimination of All Forms of Discrimination against Women. See <https://www.avokatipopullit.gov.al/media/manager/website/reports/Alternative%20report%20on%20i%20mplementation%20of%20Cedaw%20convernt%20on%20Albania.pdf>.

²² The Law on Protection from Discrimination, as amended in 2020, art. 32 (1), states that the Commissioner has the authority to examine complaints from persons or groups of persons who claim to have been discriminated against, as provided for in this Law and in the Law on Gender Equality in Society; and to monitor the implementation of the present Law as well as the Law on Gender Equality in Society.

²³ In letter No. 60 dated 23 January 2017, the Commissioner for Protection from Discrimination recommended to the Assembly of Albania the addition to the Code of Civil Procedure of a paragraph that would exceptionally provide for the shifting the burden of proof in cases of discrimination.

Advocate and the Commissioner for Protection from Discrimination have not been implemented.

40. From 2016 to 2020 Albania implemented a national strategy on gender equality and action plan, subsequently replaced by a new strategy and action plan for the period 2021–2030. The Special Rapporteur was heartened to learn that, compared to the previous strategy, the new strategy includes a stronger focus on addressing gender equality during the COVID-19 pandemic, as well as stronger references to the impact on gender equality of other natural disasters and crisis.

41. With regard to the private sector, the Special Rapporteur received information that, while women's participation in business in the formal economy had increased (from 25.4 per cent of women owning or managing a business in 2019 to 31.1 per cent in 2021), the majority of women-led enterprises are under-capitalized micro- or small businesses in mostly informal and lower value-added sectors. Women's active participation in private-sector development remains low, especially for women in rural areas. The gender gap in access to credit has not decreased over the years.

42. Domestic violence has an impact on victims' ability to enjoy their right to development, for example, by affecting their ability to participate in the workforce owing to injuries or displacement, and results in additional financial burdens for social protection networks. The Special Rapporteur was heartened to hear, from civil society representatives as well as from State and municipal officials, about progress in revising the legislation and policies to combat domestic violence and of the positive cooperation that exists between the stakeholders concerned. Despite all efforts, there are still numerous victims of domestic violence every year.

B. Persons with disabilities

43. The Special Rapporteur met with several organizations of persons with disabilities and was informed that they are facing exclusion and poverty resulting from both a lack of awareness among the population at large and from widespread accessibility problems. The levels of disability pensions and funds provided to persons assisting persons with disabilities are insufficient to cover basic needs. At the same time, persons with disabilities appear to be poorly represented in legislative and governing bodies at both central and local levels.

44. In terms of access to health care, the Special Rapporteur was informed that persons with disabilities are confronted with numerous obstacles, including inaccessible buildings; the absence of public transportation that they can use; a lack of information provided in formats accessible for persons with a variety of disabilities; a lack of personnel adequately qualified to address their specific needs, including in the area of sexual and reproductive health; and a lack of equipment adapted to persons with disabilities. Women with disabilities face additional hurdles when trying to access reproductive health-care services. No recent and reliable data appear to exist in respect of the number of persons with disabilities and the types of disabilities affecting them.

45. In addition, the Special Rapporteur received information that a preponderance of the schools are not physically adapted to integrate children with disabilities. While a number of the schools reconstructed after the 2019 earthquake have been brought into compliance with accessibility requirements, much remains to be done to make the entire school system accessible to children with disabilities.

46. The Special Rapporteur was encouraged to hear that the numbers of teaching assistants dedicated to work with and assist children with disabilities in schools has increased to 1,600 throughout the country and that a specific university curriculum has recently been introduced to train teaching assistants to work with children with disabilities.

47. According to information received, persons with disabilities face numerous issues related to public infrastructure that is not accessible to them. To name but a few of the most pressing problems, roads and public buildings are not accessible for wheelchairs; road crossings are not provided with traffic lights adapted for visually impaired persons or persons in wheelchairs; and information on a number of issues is not available in a form adequate to

the needs of persons with visual or hearing impairments. The Special Rapporteur was encouraged to learn that all necessary by-laws for the implementation of Law No. 93/2014 on Inclusion and Accessibility for Persons with Disabilities had been adopted, although he was also informed that the law does not foresee sanctions for violations of the rights that are envisaged in it.

48. The Special Rapporteur was also informed that Law No. 15/2019 on employment promotion provides that employers must employ one person with a disability for every 25 employees. However, the by-laws for the implementation of the Law, which were supposed to include an enforcement mechanism, have not yet been adopted. In addition, no official data disaggregated by type of disability exist regarding the employment levels of persons with disabilities. According to information received, fewer than 200 persons with disabilities are employed in public administration and even fewer in private businesses. The social employment fund foreseen by the Law has not been put into place, since the Law failed to identify the institution responsible for collecting contributions from employers. Amendments to the Law proposing that this function be given to the General Directorate of Taxes have been prepared and approved by the Council of Ministers and are pending adoption by the Assembly.

49. The Special Rapporteur was also informed that the meetings of the National Council on Disability had been suspended owing to COVID-19-related restrictions and had not yet resumed. The Special Rapporteur calls on the responsible government authorities to resume those meetings and to continue the dialogue with associations of person with disabilities and other civil society organizations.

50. The Special Rapporteur is aware that Albania will soon be submitting a report to the Committee on the Rights of Persons with Disabilities, and he believes that this will provide an excellent opportunity for the Government to discuss the above-mentioned issues with the experts on the Committee and take steps towards resolution of the problems faced.

C. Minority communities

51. In 2017, the parliament adopted Law No. 96/2017 on the Protection of National Minorities,²⁴ which, inter alia, eliminates the distinction in domestic law between national minorities and linguistic minorities and recognizes nine minority groups: Greek, Bosnian, Bulgarian, Egyptian,²⁵ Macedonian, Montenegrin, Roma, Romanian and Serbian. The Law declares that every person has the right to self-identify as a member of a national minority (art. 6) and prohibits discrimination against minorities (art. 8). Moreover, article 8.2 (a) states that central and local public institutions shall adopt and implement the necessary measures to guarantee full and effective equality in economic, social, political and cultural life between persons belonging to a national minority and those belonging to the majority. However, the Special Rapporteur was informed that the secondary legislation, which would enable the full implementation of the Law, has not been fully developed.

52. In addition, while article 7 of Law No. 96/2017 on the Protection of National Minorities states that public institutions at the central and local levels shall collect data concerning the identification of persons belonging to national minorities, based on the right of self-identification of such persons, the most recent census of the population dates back to 2011. That census does not provide reliable demographic data disaggregated by ethnicity, religious practices and languages spoken in Albania. A new census has been in preparation for several years and is expected to respect the principle of self-identification. Pursuant to

²⁴ See <https://rm.coe.int/law-on-protection-of-national-minorities-in-albania-english/1680a0c256#:~:text=Persons%20belonging%20to%20national%20minorities%20have%20the%20right%20to%20preserve,of%20the%20Republic%20of%20Albania>.

²⁵ According to historical and archaeological evidence, people of Egyptian origin have been present in the Balkans since the twelfth and thirteenth centuries B.C. They are descendants of Egyptians who came to the Mediterranean to search for iron ore and export it to Egypt and then remained in the region. They have a distinct identity and culture. See, for example, https://www.coe.int/t/dg4/education/ibp/source/fs_1_10.5.pdf.

article 4 of Law No. 140/2020 on the population and housing census, replies to questions about ethnicity, religion and language will include the option “I prefer not to answer”.

53. The Special Rapporteur was also concerned at reports he received regarding the situation of the Roma and Egyptian communities, which remain among the most politically, economically and socially disadvantaged groups in the country. In addition to widespread societal discrimination, those communities generally suffer from high illiteracy, a lack of access to education, poor housing and health conditions, poor infrastructure and marked economic disadvantages.

54. Article 13 of Law No. 96/2017 on the Protection of National Minorities also specifies that persons belonging to a national minority enjoy the right to learn a minority language and that, in municipalities where they reside traditionally or in substantial numbers, if there is sufficient demand, are to be provided with the opportunity to learn or take minority language lessons in accordance with the relevant legislation in the field of education (art. 13 (2)). In practice, to qualify for State-funded education in a minority language, more than 20 per cent of the population in a municipality needs to belong to that minority. While that is an appropriate solution for some of the communities that are concentrated in particular parts of the country, for others (Roma or Egyptians) who are present throughout the territory, but not in high numbers, alternative solutions must be found.

55. The Special Rapporteur met with the State committee on minorities and was encouraged to learn about the functioning of that body and the positive impact that it has in bringing the needs and development priorities of the various minority communities into the discussion on plans and policies that affect them. He was, however, informed that opportunities for participation in local governance bodies are limited; unless there is a high percentage of persons from the minority community living in an area, their representatives are not elected. In election processes, posters and other materials are not available in all minority languages, despite an agreement with the Central Election Commission on the matter.

D. Participation of civil society

56. The role of civil society organizations and their cooperation with the authorities and other relevant stakeholders is fundamental to the advancement of the right to development and of human rights more broadly. The Special Rapporteur was pleased to learn from civil society organizations that they have been included in the discussions leading to formulation of domestic development policies and legislation and budgeting. He was even more encouraged to learn that the participation of civil society in consultation processes related to the elaboration of national and local strategies and action plans, as well as budgeting, is mandated by several pieces of legislation.

57. While in Albania, the Special Rapporteur met with numerous active civil society organizations working on a variety of aspects of human rights and development. He was concerned, however, to learn that the registration procedure for establishing a non-governmental organization is complex and lengthy, involves considerable expense and is centralized in the capital, making it especially difficult for persons living in remote areas to register such organizations. In comparison, the creation of a new business company has been simplified and can be done remotely and online. The Special Rapporteur urges the responsible authorities to revise the regime for the establishment of civil society organizations to make it easy, fast and inexpensive, in particular for small associations from remote and rural areas, so that communities can be better represented in various consultation processes.

E. Rural development

58. The Special Rapporteur is also concerned by the fact that development of remote and rural communities is lagging behind, leading to widespread poverty, unemployment and marginalization of people living in those areas. He was encouraged to hear that the national strategy for agricultural development and fisheries was approved in the summer of 2022 and

that it foresees providing financial support to farmers who own or rent a particular amount of land and to fishers, following an application process managed by the Agricultural and Rural Development Agency. However, he is concerned that the scheme appears to be designed to provide support to medium-sized and large farms, while leaving out small farms, which constitute 29 per cent of all farms in the country.

59. In addition, while the support schemes are oriented towards boosting production, the main concerns of communities living in remote areas, which the Special Rapporteur was appraised of, relate to access to public services, such as adequate health care, education and social protection for the vulnerable sectors of the communities. He was informed that the rural population had been decreasing at alarming rates, since people leave the rural areas to seek better living conditions in the cities and abroad. To address their concerns, strategies for the development of economic life need to be supplemented by strategies addressing the fulfilment of the social and economic rights of people in remote communities.

60. Some of the representatives of organizations with whom the Special Rapporteur met raised concerns about varying levels of inclusion in the urban and rural populations and about the low levels of outreach and opportunities to participate at the municipal level, in particular in remote rural areas. The reduction of the number of municipalities from over 300 to 61, following the administrative reform of 2015, resulted in many communities being far away from local governing authorities and limited the opportunities for their participation and representation in municipal consultation and planning processes.

61. According to information the Special Rapporteur received, women are heavily involved in labour-intensive agricultural activities: as of 2020, 41.4 per cent of women were working in agriculture compared to 31.8 per cent of men. However, only 8 per cent of farms in Albania are managed by women. The problem appears to stem to a great extent from the tradition that agricultural land is inherited and owned by men, despite the inheritance laws prescribing equal rights to male and female heirs.

V. Conclusions and recommendations

62. **The Special Rapporteur recalls that the right to development is defined in article 1 of the Declaration on the Right to Development as an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.**

63. **The Declaration on the Right to Development states that development policies should aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development (art. 2). This implies a twofold set of rights and duties: first, the requirement to involve all members of the population as participants in formulating development policies and, second, the requirement that the policies benefit all people equally. Those underlying principles were reaffirmed throughout the 2030 Agenda, which recognizes the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights, including the right to development, on effective rule of law and good governance at all levels and on transparent, effective and accountable institutions.**

64. **The Special Rapporteur highlights the need for communities affected by development agendas, budgets and processes to have ownership over those processes to ensure that they are effectively addressing their development priorities and that all segments of society benefit from development, in line with the commitment to leave no one behind included in the 2030 Agenda. The processes leading to the elaboration of development plans and policies need to address all visible and unseen barriers to participation, such as a lack of legal identity, the existence of violence or social restrictions.**

65. **The Declaration on the Right to Development also provides that development should be carried out in a manner in which all human rights and fundamental freedoms**

can be fully realized (art. 1 (1)) and recognizes that the human person is the central subject of the development process. In other words, development gains that do not benefit the human person fall short of fulfilling the right to development. The Special Rapporteur encourages the responsible authorities to work on identifying a variety of methods of evaluating the impact of development programmes on human beings, such as through community monitoring, human rights impact assessments, national institutions and crowdsourcing. Incorporating constituents in the process of monitoring and evaluation increases legitimacy and ensures that programmes are carried out in accordance with rights holders' priorities.

66. The Special Rapporteur has assessed selected aspects of the laws, policies and practices of Albania, in accordance with the principles set out in the Declaration and the 2030 Agenda. The Special Rapporteur has identified some remaining challenges and presents his recommendations on addressing those challenges to the Government and to all relevant stakeholders.

67. The Special Rapporteur encourages actors at all levels of government to involve, at an early stage, civil society and other stakeholders in discussions relating to development plans and policies, to allow adequate time for consideration of their inputs and to maximize the impact of those inputs when working on development policies and legislation, in particular those affecting the economic and social rights of the population.

68. The Special Rapporteur encourages civil society and grass-roots organizations to make use of the available mechanisms and engage the responsible authorities, such as the School of Magistrates of Albania and the Albanian School of Public Administration, to provide additional specialized training for judges and prosecutors on the application of the Law on Protection from Discrimination, in line with international human rights standards. He also recommends revision of the Code of Civil Procedure to bring it into full compliance with anti-discriminatory legislation with regard to the burden of proof. He further recommends that institutions created to ensure gender equality under the framework of the Law on Gender Equality in Society be adequately funded, so that they have the necessary human and other resources to implement their mandates.

69. The Special Rapporteur urges the Council of Ministers to adopt the by-laws necessary for the implementation of Law No. 15/2019 on Employment Promotion, including a robust enforcement mechanism, as a priority matter. He also urges the authorities to invest in gathering adequate disaggregated data regarding the situation of persons with disabilities and to ensure adequate funding for the implementation of the Law, so that persons with disabilities in Albania do not remain among those left behind.

70. The Special Rapporteur recommends that the responsible authorities systematically develop and apply disability-specific indicators when setting and measuring development targets, and that they factor in the Inter-Agency and Expert Group on Sustainable Development Goal Indicators related to disability²⁶ and the Washington Group short set of questions on disability.²⁷ He urges the Government to actively include people with disabilities, and their organizations, in all political and other relevant strategy, planning, implementation and monitoring processes.

71. The Special Rapporteur urges the Government to implement markers for the inclusion and empowerment of persons with disabilities as soon as possible to enable it to track its spending related to persons with disabilities in supported countries.

72. The Special Rapporteur urges the responsible authorities to prioritize the implementation of Law No. 93/2014 on Inclusion and Accessibility for Persons with Disabilities and its related by-laws and impose sanctions for non-compliant public and private actors.

²⁶ See <https://unstats.un.org/sdgs/iaeg-sdgs/>.

²⁷ See <https://www.washingtongroup-disability.com/question-sets/wg-short-set-on-functioning-wg-ss/>.

73. The Special Rapporteur encourages the education authorities of Albania to consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations, in all aspects of planning, implementation, monitoring and evaluation of inclusive education policies and programmes.

74. The Special Rapporteur urges the responsible authorities to ensure the recruitment of a sufficient number of teaching assistants, particularly in remote and rural areas, and to invest in their continuous education, so that they are fully qualified to meet the needs of children with disabilities.

75. The Special Rapporteur urges the Government to make additional efforts to promote the equal inclusion of women in the labour force and to increase its focus on the creation of employment in and development of rural areas. He also urges the responsible central and local authorities to work on providing a sufficient number of places in early childhood care institutions and kindergartens in order to allow women with young children to rejoin the workforce. More work needs to be done on reversing gender stereotypes with regard to housework and on reducing the amount of unpaid work done by women.

76. The Special Rapporteur urges the authorities to take concrete measures to combat the perception of traditional gender roles in the family and in society, with a view to promoting equality of opportunity in employment. He also urges the authorities to continue to promote increased women's representation at all levels of public administration, particularly in decision-making positions, and promote their participation in management roles in the private sector.

77. The Special Rapporteur recalls that from the standpoint of the right to development, domestic human rights institutions have a dual role. If they have a mandate to take up individual or collective complaints related to the fulfilment of economic and social rights or to address issues related to access to information or discrimination in the context of development programmes or projects, they can provide an avenue for accountability. They can also use their monitoring functions: (a) to assess participation and inclusiveness mechanisms put into place by the State authorities, and (b) to bring to the attention of the legislature and the executive recommendations to adopt measures to ensure that every person is entitled to participate in, contribute to and enjoy economic, social, cultural and political development. The Special Rapporteur recommends strengthening the existing machinery for gender equality by providing adequate human and financial resources at the central and local levels.

78. The Special Rapporteur urges the legislative authorities to amend the Code of Civil Procedure to ensure full compliance with the Law on Protection from Discrimination by reversing the burden of proof in favour of claimants on all cases related to discrimination.

79. The Special Rapporteur urges the responsible central and municipal authorities to ensure that the scheme providing financial support to farmers is extended to benefit small farmers as well; to engage in a widespread information campaign on the implementation of the national strategy for agricultural development and fisheries and on the application process; and to provide practical assistance free of charge to potential applicants, in particular in remote and rural areas where people do not have the necessary knowledge and facilities. He appeals to the Government and international donors to ensure the adequate funding of the scheme.

80. To address the issue of women being denied ownership and inheritance rights for agricultural land, the Special Rapporteur recommends accelerating progress in ensuring the full enjoyment of property rights by women, including by developing or amending secondary legislation and administrative procedures as needed, as well as making serious efforts to change the gender stereotypes with regard to land ownership in the society.

81. The Special Rapporteur notes the absence of accurate information on the situation of persons belonging to national minorities and, in particular, of women

belonging to minorities and on the instances of multiple discrimination to which they may be subject. He urges the responsible authorities to include indicators in the upcoming census that relate to gender and minority status, based on self-identification. He also urges the responsible authorities to gather additional data, including through cooperation with organizations representing women and girls from different communities, in order to design and implement effective development plans and policies that address the development priorities of minority communities and women and girls from those communities.

82. The Special Rapporteur urges the Council of Ministers to adopt all the necessary by-laws for the implementation of Law No. 96/2017 on the Protection of National Minorities.

83. The Special Rapporteur further urges the local authorities to invest additional efforts in ensuring representation of minority communities in all discussions that relate to the establishment of development priorities for the respective territories to ensure they reflect the real needs of the population.

84. The Special Rapporteur further urges the authorities to take additional measures to ensure that members of Roma and Egyptian communities and in particular women and girls from those communities achieve the same levels of education as the rest of the population and invest in employment boosting schemes for this part of the society.

85. Since the population in remote rural areas is suffering from the highest level of poverty and exclusion, the Special Rapporteur calls on municipal governments to increase their efforts to include those communities in decision-making regarding issues that affect them. He also calls upon the national Government to work on raising the capacity of local governments to put into place and institutionalize participatory consultative mechanisms related to, for example, municipal budget planning, and of grass-roots organizations to participate meaningfully in such processes.

86. The Special Rapporteur recommends the introduction of shared paid parental leave to improve the equal sharing of responsibilities within the family and in society.

87. The Special Rapporteur encourages the Government to collect and make available data on the participation of women in the judiciary.

88. The Special Rapporteur urges the responsible authorities to focus more attention on the enforcement of existing measures to combat domestic violence, on systematically applying appropriate sanctions for non-compliance and on investing in building the capacity of first responders to domestic violence complaints.

89. The Special Rapporteur recommends that the responsible authorities finalize the adoption of the secondary legislation necessary to ensure the effective implementation of Law No. 96/2017 on the Protection of National Minorities.

90. The Special Rapporteur urges the responsible authorities to implement the planned census, with full respect for the principle of self-identification, with a view to gathering accurate information on the ethnic and ethno-religious composition of the population and to enable better evaluation of the needs of the various groups and ensure their effective participation in political, social, economic and cultural development.
