

# **SDGs implementation in the context of Albania.**

An LGBTI+ perspective

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SUSTAINABLE  
DEVELOPMENT  
GOALS



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# LIST OF ABBREVIATIONS

**LGBTI+** Lesbian, Gay, Bisexual, Transgender, Intersex + LBTI  
Lesbian, Bisexual, Transgender, Intersex

**SDG** Sustainable Development Goals

**HLPF** High Level Political Forum

**UN** United Nations

**UPR** Universal Periodic Review

**IVF** In Vitro Fertilization

**CEDAW** Committee on the Elimination of All Forms  
of Discrimination Against Women EU- European Union

**ECRI** European Commission against Racism and Intolerance

**GoA** Government of Albania

**AMA** Audiovisive Media Authority

**ToT** Training of Trainers

**The LGBT Alliance/The Alliance** Alliance against Discrimination of LGBT in Albania OHCHR  
The Office of the United Nations High Commissioner for Human Rights

**LPD** Legislation on Protection from Discrimination

**CPD** Commissioner for Protection from Discrimination

**SOGI** Sexual Orientation, Gender Identity

# PREFACE

This spotlight report, which is carried out within the framework of the High-Level Political Forum 2020, aims to shed light on the level of implementation of some Sustainable Development Goals, based on a national context and the current situation of the LGBTI+ community, as part of the commitment of the Albanian state to the Agenda 2030.

First, we acknowledge the effort of the Government of Albania in its involvement in the Sustainable Development Framework, through the National Strategy for Development, and Integration and the Sustainable Development Cooperation Program. We appreciate the concrete measures taken in favor of the LGBTI+ cause, especially in the international context, and specifically for its membership in the LGBTI+ Core Group in New York, among 29-member states from around the world.

This engagement of the Government of Albania which is fairly unfamiliar in the national context, and almost unknown to LGBTI+ individuals and organizations in Albania is in fact crucial. As pointed out in the joint statement of the 29 states, in the course of the renewal of the mandate of the UN Independent Expert on Sexual Orientation, and Gender Identity, where Albania can also be found among the parties that voted in favor of the renewal, and the statement's signatories, an inclusive society enables everyone, including LGBTI individuals, to be protected from violence, and discrimination, and to have full access to the enjoyment of human rights, and fundamental freedoms<sup>1</sup>. We encourage the Government of Albania to bring more transparency in the future regarding its position and engagement at these levels, through public stances, which are of exceptional importance for every LGBTI+ person living in Albania.

The object of this report is to measure the level of implementation of SDGs 3, 4, 5, 8 and 10, based on their own spectrum of action, which affects very important, and delicate issues, such as health, education, employment, the specific situation of LGBTI women and girls as well as taking concrete measures of a legalistic nature in favor of the problems that LGBTI+ individuals face nowadays.

The Agenda 2030 has entered its last decade of action, and as can be seen from the theme chosen by the HLPF for this year, member states in this 10-year period are expected to take accelerated measures and pursue transformative pathways towards full compliance with the objectives to which they are committed. As the UN Independent Expert on Human Rights states it, the obligation of states to address violence and discrimination on the grounds of sexual orientation and gender identity remains deeply intertwined with the main principle of the Agenda 2030 to not disregard anyone<sup>2</sup>.

In drafting the present report, we applied qualitative and quantitative methods of scientific research, combining the review of the bulk of annual reports of partner organizations for the period 2015-2020, databases available from the LGBT Alliance, various legal acts, and international literature regarding the sustainable development platform and LGBTI+ issues.

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<sup>1</sup>Statement Delivered on Behalf of LGBTI UN Core Group by H.E. Mrs. Egriselda Aracely González López, Ambassador Permanent Representative of El Salvador to the United Nations; 18 October 2019; New York.

<sup>2</sup><https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23092&LangID=E>

A considerable amount of data was planned to be collected through focus groups with community members, but given the social distancing situation due to COVID-19 that made gatherings impossible, we used an online survey as one of the main sources of data.

The survey published at the end of March had 101 community member respondents, a figure that surpassed our initial expectations, recognizing the reluctance of LGBTI+ people to provide personal and sensitive data, especially through means of technology.

Other quantitative data relevant to this report, were analyzed from the surveys conducted over the years by the LGBT Alliance as well as by previous focus groups and meetings with community members, making the information more complete with data collected progressively over time.

Part of the findings is attributed to the significant number of meetings with representatives of human rights organizations in Albania, who do not hesitate to provide valuable inputs from their experience, whenever the LGBTI+ cause is discussed.

We take this opportunity to thank all members of the LGBTI+ community, colleagues from partner organizations, and representatives of other institutions for their contribution to this reporting.



**The SDGs apply to you as well!  
They leave no one behind!**

## INTRODUCTION

During the times we are living in, the data reported on the human rights situation, in general, seems not to be within the contours of expectations towards progressive realization. The recent pandemic that the world is experiencing has clearly affected and will likely affect fundamental rights retrogressively in the future, especially in countries with fragile democracies such as Albania and the multiple challenges these countries will have to face.

It is worrying that many countries in Europe are taking steps backward in implementing safeguards against the LGBTI +<sup>3</sup> community in particular and independently of the pandemic crisis, which further deepens the sharpness of the problem. Faced with such a situation, vigilance to monitor, retain data, and report on sustainable development objectives, such as the global agenda to which states have pledged, is of paramount importance. Albania is among these countries, which through the cooperation program with the UN for sustainable development 2017-2021<sup>4</sup> has its obligations to progress the realization of rights, especially in terms of more vulnerable communities such as the LGBTI + community. This poses challenges especially in the local context which still faces a justice system involved in an effort to be reformed, but which still

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<sup>3</sup>ILGA Europe, Rainbow map and index 2020, available at: <https://www.ilga-europe.org/rainboweurope/2020>

<sup>4</sup>Program available at: <https://www.un.org.al/sites/default/files/POC2021EnSig.pdf>

remains irresponsible, poorly inter-institutional cooperation, backwardness, and corruption, and as such not equipped to provide for the needs of marginalized and excluded segments of society<sup>5</sup>.

The European Commission against Racism , and Intolerance (ECRI)<sup>6</sup>, in its ongoing reports on Albania, has issued specific recommendations in the context of advancing the protection of the LGBTI + community, starting by strengthening the legal framework in the civil , and administrative field through presenting comprehensive legislative initiatives for fighting direct , and indirect discrimination in all areas of life, as well as concrete recommendations to the Albanian authorities, such as to guarantee full legal recognition of gender reassignment, in particular by making it possible to change the name , and gender marker in official documents quickly, transparently , and accessibly.

It is fundamental in the process of progressive realization, respect, protection, and fulfillment of fundamental rights, conducting systematic research as well as data collection on intolerance and discrimination due to sexual orientation and gender identity, including surveys on attitudes and approaches by the LGBTI + community itself.

It is clear that Albania, as a c, andidate country to the European Union, is politically and strategically engaged in a challenging agenda for integration<sup>7</sup>. However, it is essential to measure and perceive from the community and groups of interest itself aspects of development, to shed light on whether commitments are truly inherent and effective and not contours and ornaments of political dialogue.

The adoption of the National Action Plan for LGBTI + people for 2016-2020<sup>8</sup> brought energy and hope that social and economic policy would significantly affect the improvement of life and respect for the dignity of the community. Now that this policy document is in the final year of its implementation, there is room to analyze the fruits and draw lessons, and this not only by referring to this program specifically but to the development and the perception that the community itself has for it. It seems that the panorama is not far from the European trend mentioned above, but let's hope that regress is kept at a minimum.

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<sup>5</sup>Ibid, page 21.

<sup>6</sup>European Commission against Racism , and Intolerance, reports on Albania available at: <https://www.coe.int/en/web/european-commission-against-racism-, and-intolerance/albania>

<sup>7</sup>The Strategy available at: <http://dap.gov.al/publikime/dokumenta-strategjik/278-strategjia-kombetare-per-zhvillim- dhe-integrim>

<sup>8</sup>The Plan available at: <https://www.un.org.al/sites/default/files/SKGJB-AL-web.pdf>

### 3 GOOD HEALTH AND WELL-BEING



Goal 3 focuses on ensuring everyone's good health and physical well-being. Each sustainable development goal consists of several targets, the achievement of which is measured from the respective indicators. Under the implementation of the 3d goal from an LGBTI+ perspective, we will consider targets 3.7 and 3.8, which are specifically related to the provision of full access to sexual, and reproductive health services, and the coverage of health care for all society members, as part of the positive obligations of the state.

From the data collected over the years, it was found that LGBTI+ individuals, due to their sexual orientation, gender identity, expression, and sexual characteristics, in addition to their economic status, background, gender, ethnicity or any other characteristic that can make them potential targets of multiple discrimination<sup>9</sup>, encounter difficulties in terms of access to health care and medical services.

According to the data of the past two years, during 2018, the LGBT Alliance's staff alone has accompanied 14 people to the medical institutions, of whom 11 belonged to the transgender community, and 3 to the gay community. For these people it would have been impossible to access the medical assistance they needed without being accompanied.

The situation does not seem to have improved during 2019 when 33 LGBTI+ people were accompanied by the LGBT Alliance's staff to receive necessary medical care.

Considering the statistics of the last two years administered by the LGBT Alliance, it seems that transgender individuals are the most discriminated against among other members of the community who cannot access medical services. It is worth mentioning that currently in Albania there is no possibility to undergo hormonal therapies or sex reassignment surgeries, a fact that is emphasized in the report of the Commissioner for Human Rights- "Discrimination on the basis of sexual orientation , and gender identity in Europe", where Albania is ranked as one of the countries where predictions for specific treatments performed on transgender people are non-existent , and where rehabilitation costs after such interventions are extremely problematic<sup>10</sup>. The study of the Danish Institute for Human Rights also emphasizes the fact that the national health scheme in Albania does not cover sex reassignment surgeries, and that Albanian hospitals are not technically prepared to perform these interventions<sup>11</sup>. Since we are dealing with non-existent treatments, we are not yet in the phase of discussing their coverage by the health insurance scheme or other costs, which are at the heart of the discourse in other Balkan countries.

The fact that the Albanian state does not provide specific treatments, necessary for transgender people, nor does it create the possibility of obtaining them abroad covering all or part of the costs

<sup>9</sup><https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23092&LangID=E>, Pgph. 3.

<sup>10</sup>Commissioner for Human Rights- Discrimination on grounds of sexual orientation and gender identity in Europe- 2nd edition: section 5.2

<sup>11</sup>The Danish Institute- COWI-; Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity-Legal Report: Albania by Independent researcher K. Loloçi



from the health insurance fund, on the basis of equal , and non-discriminatory treatment, shows that the state fails to guarantee the fundamental right of transgenders to full , and effective access to health services while affecting the non-fulfillment of guarantees targeted by the 3d goal of sustainable development.

At a time when the states are expected to take accelerated actions, and to follow transformative pathways towards the implementation of all SDGs, given that we are in the last decade of the Agenda 2030 implementation, but also considering the fact that during the last UPR in May of 2019, Albania did not take into account the recommendation regarding measures to enable the passage of a law on gender identity recognition for at least the next 4 years, which leaves transgenders in a state of insecurity driven by the discrepancy between their factual situation , and what is legally reflected, we estimate that the Albanian state is within the time limits to take concrete steps in order to ensure the implementation of the Agenda 2030, without leaving transgender individuals behind.

On the other hand, the situation of intersex individuals remains extremely vague, as the exact figures regarding the number of intersex born babies remain unclear, and so does the information about the surgeries performed on them, as we have a mixture of cases between those classified as sexual ambiguity, and those born with hyperplasia. As explained in the ISNA's study, the state of adrenal congenital hyperplasia is one of the causes that prevail in causing intersexuality in persons with XX chromosomal combination, but not in those with XY chromosomal combination<sup>12</sup>. In simple terms, it is scientifically accepted that the state of hyperplasia in many cases can also be an indicator of intersexuality, but not always.

The state of intersexuality is still pathologized by doctors, being seen as a disorder of sexual development, and not as a different sexual development<sup>13</sup>.

The representative from the organization TLAS, which has been dealing specifically with the cases of intersex children since 2015, points out that at a first roundtable on the issue in May 2017, doctors accepted that health personnel generally lacked information, training, and a general understanding on intersex issues. Meanwhile, they acknowledged that infantile surgeries performed on intersex children were widespread in Albania.

A series of laws<sup>14</sup> stipulates that persons undergoing surgical interventions in the Republic of Albania must give their expressed consent, but in the case of intersex infants the interventions are performed at a very young age, when the individual does not have the legal capacity to give this consent. On the other hand, and, the law<sup>15</sup> "On Protection against Discrimination" defines the positive obligation of the state to protect LGBTI+ persons equally with the whole society, on the principle

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<sup>12</sup><https://isna.org/faq/conditions/cah/>

<sup>13</sup><https://www.unfe.org/wp-content/uploads/2017/05/UNFE-Intersex.pdf>

<sup>14</sup>Law No. 10107/2009 "On health care in the Republic of Albania"; Law no. 8876/2002 "On reproductive health". <sup>15</sup> Law No. 10221/2010 "On Protection from Discrimination".

of equality in treatment. Given the presented situation, and facts, it is clear that this legal basis is not respected in the case of intersex babies.

Interventions performed on the infants are in most cases irreversible, and can cause infertility, loss of sexual sensitivity, pain, and psychological problems<sup>16</sup>.

From the interview with the representative of TLAS, we are informed that through a request for information that the organization had directed regarding the number of surgical interventions for congenital anomalies of the genitals in juvenile children, it results that in 2017, 120 interventions were performed, in 2018 were performed 106, and during 2019, 83 interventions were counted. In the response, it is specified that in 2 cases during 2018, sex change surgeries were performed. These figures remain extremely unclear with regard to intersex infants on whom surgical interventions have been performed, as the state of intersexuality is not in all cases apparent, and is related to physical factors. It may be related to the chromosomal structure of the individual, and not exhibit obvious features<sup>17</sup>. Intersex condition is also often associated with hyperplasia, indicating that the only two cases referred to in the response as gender-performed surgeries show only two cases of intersex infants exhibiting significant intersexuality features. Meanwhile, there is no data on hyperplastic infants who may also be intersex.

Evidence and facts clearly show that the mentality, and culture of medical staff and parents, as well as the legal framework, which allows only two options for gender markers, F and M, respectively, do not allow children born as intersex to grow as intersex individuals, forcing them to be subject of unnecessary medical interventions, in violation of their rights to bodily and psychological integrity.

**Testimony:** *We do not have to wait until the child grows up and can express his or her consent to the surgery, as he/she must grow up to belong to a certain gender category before reaching maturity. A person cannot be both a girl and a boy at the same time, even though he may have been born with the characteristics of both sexes. It is good for these babies to have surgery at an early age, as it gives them the opportunity to belong to a certain gender category in the future, protecting them from identity crises and confusion<sup>18</sup>.*

**Testimony:** *I informed the parents that their child was a girl, born with an enlarged clitoris, but they decided they wanted a boy after they had told relatives that the child born was a boy, and had already given him a name. In the end, I did what I was asked to do<sup>19</sup>. Currently, intersex individuals are not mentioned in any strategy or document of a legal nature related to medical services, being excluded from the need for specific treatment and case management procedures due to their intersexuality.*

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<sup>16</sup><https://www.unfe.org/wp-content/uploads/2017/05/UNFE-Intersex.pdf>

<sup>17</sup><https://www.unfe.org/wp-content/uploads/2017/05/UNFE-Intersex.pdf>

<sup>18</sup>UNDP (2017) Being LGBTI in Eastern Europe: Albania Country Report

<sup>19</sup>UNDP (2017) Being LGBTI in Eastern Europe: Albania Country Report

The lack of written medical protocols so far has led to the diagnosis to be defined verbally between doctors and parents. Even in cases where intersexuality is recorded by doctors and parents decide not to perform surgery at a young age, this is not recognized by the Civil Registry, which recognizes only the terms 'male' and 'female'<sup>20</sup>.

In this context, we appreciate the cooperation initiated during 2019 by the organization TLAS with the Ministry of Health and Social Protection, and medical staff, who are currently working on a medical protocol draft regarding intersex persons, which aims to regulate the situation of non- consensual and unnecessary interventions on intersex children.

On the other hand, it is worth noting that the non-acceptance of the proposal submitted by the Pink Embassy , and CRCA Albania in April 2019 regarding the prohibition of unnecessary , and inconsistent medical procedures on intersex babies<sup>21</sup> , and the rejection of the recommendation on the prohibition of non-consensual , and unnecessary surgical procedures on intersex infants, in the framework of the UPR process in May 2019, are not in line with accelerating the achievement of the 3d goal of the sustainable development, as they prove the avoidance of intersex persons from the necessary protection against the certain risk that non-consensual surgeries pose.

Another issue surfaced in the gathered evidence is the one that relates to the right of lesbian or bisexual women to undergo assisted medical reproduction procedures as single parents. The Albanian Law on Reproductive Health, in its Article 10, sanctions the right of every individual, and/or couple to benefit from the application of affordable and acceptable methods of family planning. Furthermore, Article 30 of this same law specifically sanctions the right of every individual, and/or couple to undergo assisted medical reproduction to have children<sup>22</sup>.

From the testimony of a community member, in the light of this report, it appears that medical staff is reluctant to apply assisted medical reproduction methods to individuals who, through prejudice, are perceived as part of the LGBTI+ community, violating their rights to have children, and to receive reproductive health services, which in itself affects the fulfillment of the 3.5 target of the 3d SDG.

**Testimony:** *We had been thinking for a long time about the IVF procedure, and we went to the X Clinic, where we were received by Dr. O.G together with 2 other young doctors. First, the doctor addressed my partner asking who she was. She replied that we were friends, and she was just accompanying me to the clinic that day. The doctor addressed the other 2 doctors asking them to leave the room. Then he turned to me asking me if I had a partner. I answered that I wanted to have my child as a single mother. He replied that I could not undergo the procedure if I did not have a male partner since he was trying to avoid abuses that could give children to men who are in a relationship with men, and women in a relationship with women.*

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<sup>20</sup><https://www.reporter.al/femijet-interseks-ne-shqiperi-perballen-me-nderhyrje-kirurgjikale-te-panevojshme/>

<sup>21</sup>ILGA Europe (2020) Report on Albania

<sup>22</sup>Law No. 8876/2002 "On Reproductive Health"

Another problem of the LGBTI+ community is related to the level of information in the field of health education. Article 12 of the Law on Reproductive Health<sup>23</sup> stipulates that every individual has the right to health education, which includes the opportunity to be informed and educated in the field of reproductive and sexual rights, and which cannot be restricted by the influence of religion, philosophy, culture or ideology. Article 13 of the Law on Prevention, and Control of HIV/AIDS<sup>24</sup> also provides for the obligation of the Ministry of Education, Sports, and Youth to include in school curricula information related to the prevention and control of HIV/AIDS.

From the survey conducted with community members, it results that more than 78% of respondents expressed a severe lack of information on the topics of sexual, and reproductive health of LGBTI+ persons, and it was noted that the officially approved textbooks refused to cover LGBTI+ oriented issues. The data assembled on the present curricula shows that the education provided does not include any information on sexual health, and the specific problems of LGBTI+ individuals, which leads to a pronounced lack of specialized sexual, and reproductive health education of LGBTI+ persons compared to heterosexual individuals which put them at greater risk of contracting sexually transmitted diseases and infections, and dangerous sexual behaviors.

Over the past two years, the LGBT Alliance has conducted free HIV/AIDS testing for 303 LGBTI+ community members. This initiative carries tremendous importance for LGBTI+ individuals, who feel safer getting tested in a peaceful environment without the fear and anxiety of discrimination by medical personnel in health centers. In the meantime, as stated in the report of ILGA Europe for Albania, the lack of retroviral medications still remains an obvious problem<sup>25</sup>. For years, Albania has not been able to buy and import the necessary retroviral drugs in a timely manner, which should be taken continuously and uninterruptedly by HIV patients, who during the periods when the drugs are missing are forced to change the treatment schemes, to the detriment of their health and quality of life. Despite the proactive role of civil society organizations in raising this issue, the situation is repeated from year to year. In addition to the lack of retroviral drugs for long periods of time, individuals with HIV also face a lack of CD4 testing for viral load and virus resistance, forcing them to perform tests at extremely high costs near private clinics.

The activities organized by the Ministry of Health, and Social Protection regarding HIV/AIDS awareness are non-existent, which strengthens prejudices and stigmas towards those affected by HIV. This social approach pushes many people to not get tested or refuse treatment, which might cause serious health complications and even death. Although Albania is considered a country with a low prevalence of the virus, the number of deaths related to HIV in the country is alarming, where 27 people died during 2018, and 24 people during 2019. LGBTI and HIV+ individuals remain the category most affected by discrimination due to their HIV+ status, being subjects of double stigma, fear of discrimination, and exclusion<sup>26</sup>.

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<sup>23</sup>Law No. 8876/2002 "On Reproductive Health"

<sup>24</sup>Law No. 9952/2014 "On the Prevention and Control of HIV / AIDS"

<sup>25</sup>ILGA Europe (2020) Report on Albania

<sup>26</sup><https://www.lgbti-era.org/news/shocking-, and-unacceptable-2020-albania-fails-its-hiv-aids-fight>

From the survey conducted with LGBTI+ persons, in the frame of this report, more than 11% of the participants stated that they had not had the opportunity to access the medical services that they needed or had accessed them only after they were accompanied by other persons. Of the nearly 88% of participants who said they had received medical care in recent years, 12% said they had been discriminated against by medical staff during their visits, while 19% said they didn't feel comfortable receiving the services because of the feeling of fear and anxiety that they would be discriminated against, prejudiced or even violated in the premises of health care institutions.

Regarding sexual and reproductive health visits, 64% of the surveyed community members said that they had not made such visits in the last 4 years, and/or had deliberately avoided them even though they thought they were needed, due to the fear that they would face misunderstandings from the staff, the fear of maintaining confidentiality, but also because of their economic difficulties.

About 20% of respondents said that they suffer from permanent pathologies or chronic diseases, and as a result they'd need to visit health institutions more than 7 times a year, making them a frequent target of potential discrimination or violence which they face in these environments.

Given the above-mentioned fact, we can conclude that LGBTI+ persons in Albania face significant obstacles to accessing and receiving basic medical services, and that their LGBTI+ status, which often overlaps with other difficulties, makes them vulnerable subjects of multiple discrimination, prejudice, and violence in violation of their fundamental rights and freedoms, bringing the urgent need to take specific measures towards the realization of the 3d SDG within 2030.

## 4 QUALITY EDUCATION

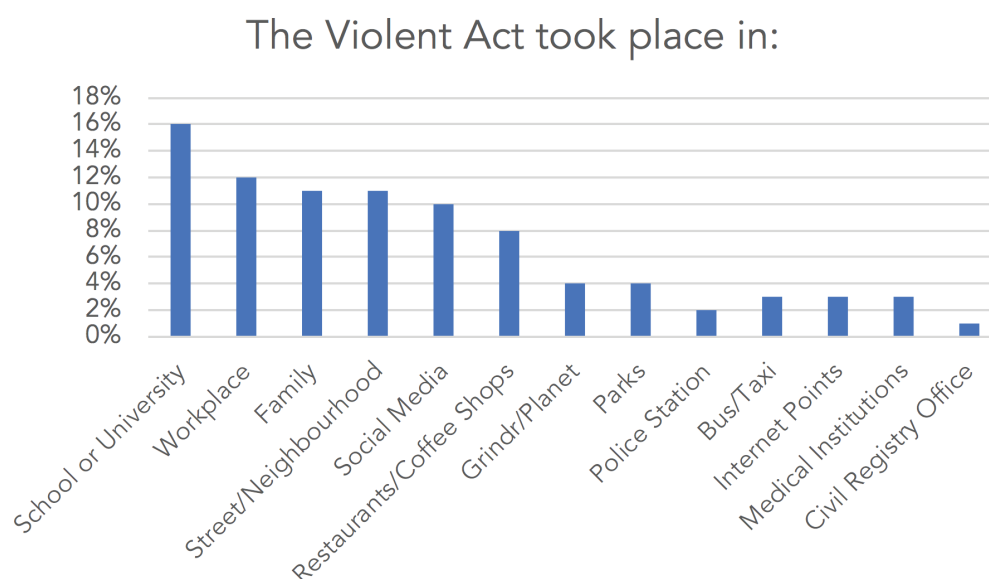


SDG 4, which deals with quality education, is one of the most important to be addressed in this report, as it affects education as a vital aspect of everyone's life. We have chosen to focus on target 4.5 of this objective, which is related to the creation of opportunities for equal access at all levels of education for children in vulnerable situations and target 4.7, which encourages an education system that promotes a culture of peace, non-violence, and respect for human rights.

Members of the LGBTI+ community, due to their sexual orientation, gender identity, and expression, and sex characteristics, which contradict the heteronormative mindset and cultural mentality, are targeted in school environments by academic staff, and the social circle. In most cases, this targeting has very negative consequences, ranging from pressure, psychological violence, and bullying to physical violence, and decisions to drop-out of schools due to discrimination.

As described in the ILGA Europe report on Albania, bullying, and discrimination in the educational system continue to be widespread in Albania, lacking specific policies that protect LGBTI+ students<sup>27</sup>. The absence of these policies is evidenced by last year's case where an LGBTI+ student, in a High School in Vlora, was repeatedly pushed, insulted, and violated by classmates after coming openly about his status as LGBTI+. The only measure taken by the school leaders was allowing him to stay in the janitor's room during the lunch break in order to protect himself. High School authorities never reported the case to the police, and as a result the juvenile dropped out of school. As part of the event, LGBT Shelter wanted to conduct training with school psychologists on LGBTI+ issues, but the Ministry of Education refused to provide the lists of the practitioners.

If we talk about the situation of the last two years, during 2018, out of 421 cases of violence and discrimination reported to the LGBT Alliance, 25% of them occurred on the premises of educational institutions. As for 2019, the LGBT Alliance reported 304 cases of violence (psychological, physical, and sexual) targeting LGBTI+ individuals, of which 50% reported systematic, and non-episodic violence. As shown in the table, the school and university environment has the most reported cases of violence, which makes the situation extremely worrying.



Given the fact that bullying and discrimination remain among the most prevalent problems for LGBTI+ youth, and that information on school curricula is completely absent, which brings to a very limited understanding of the social circle in schools, as part of the National Gender Equality Strategy 2016-2020, the Ministry of Education, the Municipality of Tirana, and the LGBT Alliance undertook the initiative of holding a series of meetings in public schools in March 2018. The initiative aimed at eliminating discrimination based on sexual orientation and gender identity, as well as mitigating common gender stereotypes. The awareness campaign was met with strong and

<sup>27</sup>ILGA Europe (2020) Report on Albania



aggressive reactions on audiovisual and social media with public manifestations of hate speech against the LGBTI+ community, including that initiated by public officials. Albanian lawmakers expressed that the initiative was a "revolt". Following these attitudes, a well-known television program undermined the initiative exhibiting vulgar and offensive humor against community members. The Ministry of Education initially denied that it was part of the initiative and that it had supported the development of the activities, and after some time acknowledged that the activities were authorized by the Ministry, but only as a pilot project.

The LGBT Alliance sent a public letter to the Prime Minister, asking him to condemn the hate speech against the LGBTI+ community, but there was no official reaction. Official statements related to this issue, from the Ombudsman, and the Commissioner for Protection from Discrimination, were also missing. As a result, the Ministry of Education decided to ban further activities in schools<sup>28</sup>. Although a series of awareness-raising activities focusing on the education system, and academic curricula have been subjected also by the National Action Plan for LGBTI people 2016-2020, they continue to remain unimplemented, as the process was blocked by the 2018 incident, making it completely impossible for LGBTI+ organizations to access the educational institutions.

The results of the survey conducted in the function of this reporting, show that only 6% of respondents described the Albanian school environment as safe in relation to individuals belonging to vulnerable groups, while more than 54% of respondents described it as very insecure.

Although in recent years, within the framework of meeting the objectives of the National Action Plan regarding LGBTI persons there has been an effort to train educational staff, about 60% of respondents are convinced that teachers and principals of educational institutions are not informed on the LGBTI+ issues. 34% of the respondents say they cannot answer for sure, as they have not been in contact with educational environments for years, while only 6% of the responses show that teachers are informed about the issue.

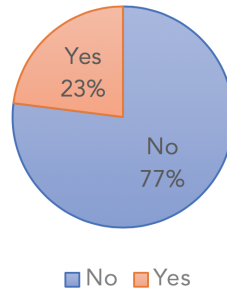
Due to bullying, discrimination, stigma, and social pressure, in the last five years, 14 cases have been reported only to the LGBT Alliance wherein LGBTI+ persons have terminated their education permanently, and/or for a period of more than 2 years. In 5 of the reported cases, individuals were also forced to interrupt sports training.

77% of respondents said they had never reported discrimination, bullying, or violence in the relevant structures within their educational institution, the main reasons for non-reporting being the fear that anonymity would not be maintained, and concerns that they would be discriminated against by educational staff.

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<sup>28</sup>ILGA Europe (2018) Report on Albania

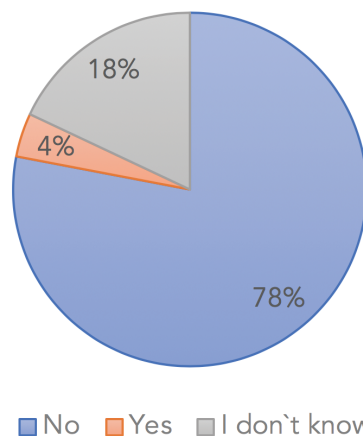
Have you ever complained to the School Authorities if you have been subject to prejudice/discrimination/violence?



12.5% of respondents said they had personally found it difficult to access professional education institutions and high schools due to sexual orientation, gender identity and expression or sex characteristics, while about 54% said they knew at least one other person who has not been able to access these services due to their LGBTI+ status.

78% of the LGBTI+ respondents answered that there is no information provided on LGBTI+ issues during the period of obligatory education from 1st to 9th grade, and secondary education curricula, while about 18% said that they do not have any information regarding this issue.

Did the textbooks contain unbiased information on LGBTI + issues and/or specific sex education for members of the community?




From the research in the existing curricula, it turns out that there is no valuable and educational information for the LGBTI+ community. When dealing with sex education topics, such as sexually transmitted diseases or sexual development, they are taught from a heteronormative perspective,




which causes LGBTI+ individuals to leave the education system with fragmented information about specific issues that affect them directly.

It is noted that even when the LGBTI+ community is mentioned, mainly in university curricula, these quotations contain double connotations reinforcing social stereotypes, such as mentioning homosexuality whenever it comes to HIV, as two issues that go in the same direction, enhancing the idea that different sexual orientations and different gender identities go against normalcy thus reinforcing stereotypes in general.



- *Do individuals use condoms when having sex?*
- *Adolescents: Most of them don't use condoms, and are exposed to a higher risk of contracting STDs. The number of adolescents affected by sexually transmitted diseases has increased.*
- *Homosexuals: The use of condoms is associated with casual relationships. However, within this group with an extremely high risk, condom use is extremely low.*
- *Bisexuals: They are a connecting bridge between homosexuals and heterosexuals, yet condom use is quite low among them.*



Slide from a lecture held at a University in Albania, where stereotypes about bisexuals are reinforced

The lack of accurate and impartial information regarding the LGBTI+ community, emphasizing especially the absence of specific education regarding sexual health, contributes to boosting the level of misconception and stereotyping that Albanian society generally displays towards the community.

If we look inside the projections of both National LGBTI+ Action Plans, the implementation of which we will address more widely within the 10th SDG, the goal of reducing discrimination against the LGBTI+ community is sanctioned by reviewing the curricula at all levels of the education system as well as through the training of educational staff. From the monitoring report on the implementation of the national action plan for the period 2016-2020, it results that the only positive steps have been taken towards the training of educational staff, while there is no progress in terms of school curricula<sup>29</sup>.

As above indicated, we estimate that bullying, discrimination, violence, classification of school environments as insecure for LGBTI+ persons, lack of realistic approaches to the problems

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<sup>29</sup>UNDP (2017) Being LGBTI in Eastern Europe: Albania Country Report

of LGBTI+ youth in education curricula, which continue to not be updated with information (we recall that Albania, in the framework of the UPR Process did not accept the recommendation on updating education curricula for at least the next 4 years), the very low number of reports of cases of discrimination, and violence to the school authorities, and the mentality of the social circle, affect the right of LGBTI+ individuals to quality, and inclusive education. This fact causes the community to result in a lower level of education, and to adopt dangerous and uninformed sexual behaviors, interconnecting with other aspects such as poor physical and psychological well-being or predisposition to high numbers of potential LGBTI+ unemployment.

Meeting the SDG 4 within 2030 without leaving behind LGBTI+ persons, makes it necessary to undertake specific, and transformative pathways towards the correct, and a real implementation of legislation on protection from discrimination, and the National Action Plan.



This goal will be addressed as part of our report from the perspective of LGBTI women and girls, based on targets 5.1 and 5.2, which envision the positive obligations of states to eliminate all forms of discrimination and violence against all girls and women around the world. In line with the Agenda 2030, where it is envisioned that no one is left behind from the protection offered by the SDGs when we talk about all girls and women around the world, we cannot exclude from this spectrum those LGBTI.

In Albania, especially in recent years, gender-based violence, and discrimination are becoming increasingly evident, given the high numbers of murders, and violence perpetrated in the family context. Within one year, in Albania, the courts issue more than 4000 Restraining Orders, and Immediate Restraining Orders for women and girls against their perpetrators<sup>30</sup>.

Lesbian, bisexual, transgender, and intersex women, due to their sexual orientation, and/or gender identity, and expression, and/or sex characteristics, but also because of their gender are subjects of multiple discrimination, in a society where the concept of gender, driven by culture, and mentality, is extremely binary and based on well-defined roles, and stereotypes of female, and male behavior, and appearance<sup>31</sup>. Any deviation from the roles, appearance, and expectations on behaviors based on patriarchal mentality makes the individual perceived as a morally wrong being. In a study on social perceptions of the LGBTI+ community, it is cited that Albanians have an extremely negative, and conservative attitude, based on heteronormative stereotypes, where the idea that they do not seem to accept at all is that of parenting by community members.

48% of the Albanian public thinks that homosexuality is a disease, and 42% think that homosexuality should be cured<sup>32</sup>.

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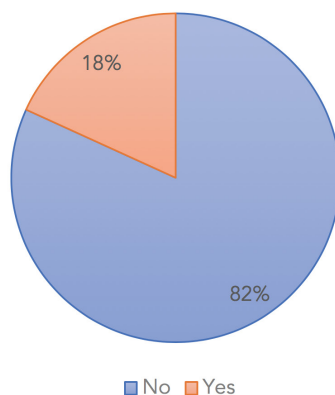
<sup>30</sup><https://www.crca.al/sq/news/shqiperi-mbi-100-gra-dhe-vajza-te-vrara-ne-18-vjet>

<sup>31</sup>NDI (2015) Public Opinion Poll on LGBTI issues

<sup>32</sup>Ibid.

In the survey created for the purposes of our reporting, LGBTI participants were asked if they generally felt safe in Albania, and the answers show that 81.8% of them do not feel safe at all.

Do you feel safe in Albania?



Among the issues that worried them most, we can mention the lack of a legal basis for gender identity recognition, lack of independence due to economic status, gender-based discrimination, violence in public spaces, and sexual violence, limited education, and forced marriages. Based on the reports of the last two years, it results that during 2018, 285 out of 421 registered cases of physical, psychological, and sexual violence belong only to LGBTI women, and girls, where the most affected category remains that of transgender people with 125 reported cases. As for 2019, it turns out that 206 out of 304 reported cases of violence in total belong to LGBTI women, where that transgender continues to be the most affected category. It is worth mentioning in this light, the case of the transgender woman who was brutally attacked by 5 men after the parade of lesbians that was held in Tirana in November 2019. All partner organizations in the region condemned the act, and the President of the Republic called for the perpetrators to be brought to justice.

However, since November there have been no concrete results regarding the investigation, where it is said that there is not much hope for finding the perpetrators as the security cameras in the area did not work, while we are talking about a central area of the city. Whenever they are asked for a written version of the explanation given by the Police officers, they refuse to provide it. In the last official answer regarding the case, whilst the Institution of the Ombudsman addresses the transgender woman in question with a discriminatory language, the police letter directed to the Ombudsman shows that the cameras in the area were functional and that after the images were checked, the woman was not seen to be attacked by anyone, although forensic expertise proved the violence. Given the contradicting answers of various public institutions, the refusal to issue a written version of the response from the State Police, and the way the case has been institutionally handled, it is likely that we are witnessing an ineffective investigation.

From the results of the survey, 35% of the participants answered that they did not consider having full and free access to sexual, and reproductive health care services, identifying the main cause the lack of information by doctors, the enforced gender system, and patriarchal mentality as well as the fact that doctors refuse to provide service to women who are perceived as LGBTI, especially when they appear unaccompanied.

Respondents of the survey answered that they encountered difficulties during recruitment, and employment procedures. In 47% of the cases sexual orientation, gender identity and expression, and sex characteristics and an appearance that does not conform with the standards of the rigid gender system, were considered to be the main causes of these difficulties.

Regarding the level of information on the rights, and freedoms legally guaranteed to them, nearly 40% of LGBTI respondents answered that they are unaware about the obligation of the employers to comply with the provisions of the Law on Protection from Discrimination<sup>33</sup>, which has been in force for 10 years.

In terms of the family situation, which LGBTI women seem to face, it is worth noting that Albanian parents who are aware of the gender identity or sexual orientation of their children, put pressure on them not to appear in public as LGBTI, fearing the opinion of relatives, and society, but also the prejudice, and discrimination, as it is reflected in the study of social perceptions towards the community, where 76% of the selected population thinks that LGBTI people should try to hide their sexual orientation, and gender identity so as not to infringe on the 'honor' of themselves, their families, and friends<sup>34</sup>. When we speak about transgender people, these attitudes are extremely rigorous, as their new gender identity is perceived as a personal choice. The BLEE<sup>35</sup> report states that lesbians and transgender people experience the highest levels of domestic violence, but on the other hand are the most prone to not report it, even though these acts committed based on their sexual orientation and/or gender identity are criminalized by the provisions of the Albanian Criminal Code in vigor. The 2016 ILGA Europe report clearly states that violence within the Albanian family is a problematic and worrying issue for LGBTI women<sup>36</sup>.

Based on the above-mentioned facts, we emphasize the need for additional legal protection by the GoA towards LGBTI women and girls, especially regarding the referral procedures of cases and their reporting, as well as taking effective measures to create legal opportunities for access to hormonal therapy procedures and sex reassignment surgeries necessary for transgender people. The 5th SDG cannot be achieved in an accelerated way leaving behind LGBTI women and girls.

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<sup>33</sup>Law no. 10221/2010 "On Protection from Discrimination"

<sup>34</sup>UNDP (2017) Being LGBTI in Eastern Europe: Albania Country Report

<sup>35</sup>Ibid.

<sup>36</sup>ILGA Europe (2016) Enlargement Review: Albania 2016

## 8 DECENT WORK AND ECONOMIC GROWTH



SDG 8 envisions the encouragement of continuous, effective, inclusive, and sustainable economic growth as well as employment and the right of everyone to decent work. For our reporting we have chosen to focus on target 8.5, which provides full and productive employment for all women, men, and young people, as well as target 8.8 which focuses on protecting labor rights and promoting safe workplaces for all employees.

The right to earn income through legal work is one of the most present and important in anyone's life. Homophobia, biphobia, and transphobia, which are present in the Albanian reality, where still 76% of the public thinks that being LGBTI means that they suffer from a pathological<sup>37</sup> disease, affect the realization of this right of community members, bringing the need of taking specific measures to meet the SDG 8. Discrimination, bullying and dropping out of school, social isolation, low self-esteem and the aggravated psychological state of LGBTI individuals, among whom the most affected seem to be transgender people, result in a poor level of education amid the community, which in turn leads to barrier the access to the labor market, making it impossible to obtain financial independence. These factors are often the reason why many members of the transgender community turn to sex work, considering it as the only solution for their survival, despite the fact that sex work is criminalized in Albania, which subsequently puts them at high potential risks of discrimination, violence or trafficking. If we refer to recent years data, 19 transgender community members who attend the Alliance for daily services, are found to work as sex workers.

The 2016 ILGA Europe report clearly states that violence in the Albanian family is a persistent problem and a wand, from the ranks of employed individuals, during 2018 alone, 39 cases of discrimination at work have been reported to the LGBT Alliance. Regarding the beneficiaries of Shelter services, during 2018 they have managed to be employed in 64 jobs, where in most cases they have had difficulties in establishing stable employment relations due to the discriminatory environment, lack of job security, and employment contracts or emotional difficulties.

Even for 2019, it seems that matters of employment of LGBTI youth continue to be a challenge. During the year, the LGBT Alliance has assisted 42 young jobseekers, with application requests, preparation for interviews, and direct mediation in the labor market or enrollment in vocational courses, depending on their needs. As a result of the continuous support, and follow-up of the cases, 5 young people from the community were employed, while the dismissals continued, due to the pressure of the employers, and due to direct discrimination on grounds of sexual orientation and gender identity towards the employed LGBTI+ individuals. 37 community members reported near the LGBT Alliance for discrimination, and violence in the workplace.

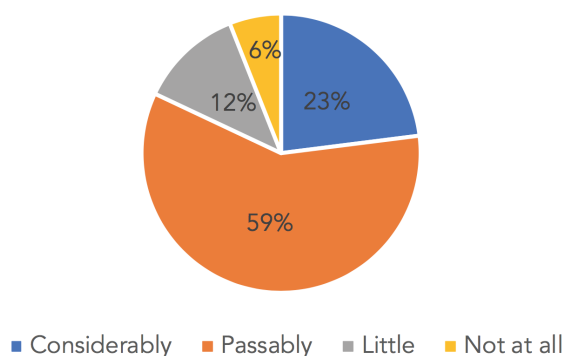
**Testimony:** "I think I did well in the job interview, answering questions well, and I was careful to thicken my voice so as to not be understood that I am gay."

**Testimony:** "During the Parade, there is a lot of talk at work about sexual orientation and gender identity, hearing colleagues, and bosses talking with so much hate is very difficult for me, but the hardest part is that I do not speak, I do not give an opinion...I can't...I lose my voice when I think about the consequences."

<sup>37</sup>UNDP (2017) Being LGBTI in Eastern Europe: Albania Country Report

From the data collected as part of the survey conducted in the function of this reporting, it results that only 23% of respondents felt safe in their work environment, while 66% of participants, on the other hand, claim that although they have not come out openly as LGBTI+, they have again felt pressure , and discrimination, which goes in line with the culture of prejudice that stems from behaviors and appearance which do not correspond with gender binary models.

### How safe and respected do you feel in your workplace?



Among the main reasons that respondents have listed as obstacles to come out at work is the fear of losing their job, that colleagues who work in the same environment will alienate them, the fear of violence that could be exercised, fear from administrative sanctions they could face, but also that they could be paid less or be exploited outside of official working hours in exchange for tolerance for their LGBTI+ status. The aforementioned fear is also due to the fact that most LGBTI+ individuals have not come out openly about their sexual orientation or gender identity to their families, which means that they do not report the cases, and follow them legally, as these steps would force them to expose publicly personal and sensitive data.

It is worth mentioning that in recent years there have been amendments to the labor legislation, in the course of non-discrimination on the grounds of sexual orientation and gender identity, since in case of alleged violation the employer has the burden of proof to show that it has not violated the principle of equal treatment of employees. Along with the Law on Protection from Discrimination, the legal framework for the protection of LGBTI+ persons in the work environment is internationally<sup>38</sup> considered complete, but when we talk about the implementation of sanctioned rights and obligations, the situation changes as we understand from the above facts that LGBTI+ individuals due to unfavorable social, cultural, and family circumstances are in most cases reluctant to report cases of discrimination to independent institutions, and bodies.

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<sup>38</sup>International Labour Standards Department (2019) Information paper on protection against sexual orientation, gender identity and expression, and sexual characteristics (SOGIESC) discrimination



Asked in our survey where they would first refer a case of discrimination, more than 52% of respondents said that they would turn to the LGBT Alliance or any other NGO and that they would not take any further legal steps to report or pursue the case.

Considering the high cases of discrimination reported to organizations, where only a low percentage of them turn to the Commissioner for Protection against Discrimination, and no case has been referred to the Court; the high number of unemployed in the community; low job offer; the level of education, and financial situation of LGBTI+ individuals, in order to move towards a quick fulfillment of SDG 8 it is necessary to take specific measures, the full implementation of the National Action Plan for LGBTI+ persons, and a differentiated treatment within the legal provisions on employment.



**The SDG 10** aims to reduce inequalities within and among countries. For this reporting, we will focus on targets 10.2, and 10.3, which provide for the empowerment and social inclusion of anyone regardless of age, sex, disability, race, ethnicity, origin, religion, economic status, and any other status as well as ensuring equal opportunities for all, through drafting and implementing legal instruments or repealing them when disfavours specific social groups.

Out of the literal and systematic interpretation of the targets, and from the language used by the goal, it is indisputable the need to include an LGBTI+ perspective in the efforts to shed light on the level of its concrete implementation by the Albanian state.

It is a fact that the implementation of different laws, policies, and practices affects the situation of the targeting subjects, but also the general social mentality and mindset, contributing to the facilitation or reinforcement of negative, stereotypical or stigmatizing approaches, especially when we speak about LGBTI+ individuals, who are seen by society over the years as pathologically ill.

Albania has undoubtedly taken steps forward in terms of the legal framework, citing, in particular, the adoption of the Law on Protection from Discrimination, where sexual orientation and gender identity are explicitly mentioned as grounds that legitimize protection against discrimination; changes to the Labor Code regarding the prohibition of discrimination on the grounds of sexual orientation and gender identity; amendments to the Criminal Code, which in its three articles mention sexual orientation and gender identity as sufficient causes, that when motivating a criminal offense can affect its classification as committed to aggravating circumstances, as part of the violation of the equality of citizens, as well as in the case of incitement to hatred and quarrels, and the provisions of the Code of Administrative Procedures, which explicitly mentions within the principle of non-discrimination the basis of sexual orientation, and gender identity.

Following the recommendation of CM/Rec(2010)5<sup>39</sup> of the Committee of Ministers of the Member States regarding measures to combat discrimination on the grounds of sexual orientation, and gender identity, Albania adopted the National Action Plan 2012-2014, which aimed to strengthen organizations with a focus on LGBTI rights and the contribution they made to improving the lives of LGBTI people in Albania. The implementation of this plan during the years 2012-2014 remained a challenge, as there were many obstacles and shortcomings in the implementation and application of the envisioned objectives and activities, as stated in the cooperation document of the Council of Europe<sup>40</sup>, regarding Albania.

Based on the lessons learned from the implementation of the First Action Plan, some legislative reforms were carried out, which mainly affected the criminal, and labor legislation, but at the end of the implementation period, the existence of a major gap in execution was noticed at all levels, especially in the regional, and local ones, where LGBTI+ persons continue to be subject to discrimination in daily life<sup>41</sup>. As a result, based on the expertise of the Council of Europe experts, Albania worked on a new National Action Plan for LGBTI+ persons, which this time aimed at legislation, access to policies, and the provision of services to LGBTI+ persons.

The Action Plan 2016-2020 was based on the Albanian Guide to addressing 5 key priorities as part of the EU membership plan<sup>42</sup>; The results of the 2014's UPR Process, and the recommendations of the European Commission against Racism and Intolerance (ECRI) of 2015. The three strategic goals of the plan were:<sup>43</sup>

- (i) Improving the legal and institutional framework, and raising awareness of non-discrimination and protection of the rights of LGBTI persons, in accordance with international standards;
- (ii) Eliminating all forms of discrimination against the LGBTI community;
- (iii) Improving access to services: employment, education, health care, housing, and sports services for LGBTI people, guaranteeing equal opportunities, and rights.

Along with this Action Plan, during 2016, an inter-ministerial body was established for the implementation, and coordination of the activities. In close cooperation with the main parties involved in the implementation, such as the Ministry of Health, and Social Protection, Public Administration, and responsible staff in different ministries, the Commissioner for Protection from Discrimination, the Ombudsman, Members of Parliament, employees in the fields of education,

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<sup>39</sup>[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805cf40a](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf40a)

<sup>40</sup>Council of Europe (2014) Co-operation Document Albania 2012-2014

<sup>41</sup>MSWY, Document of NAP 2016-2020

<sup>42</sup>Roadmap for 5 Key Priorities for Albania, EU accession (Guide to the Five Key Priorities for Albania: EU Membership), April 2014, Priority 5: Strengthening and Protecting Human Rights, including Roma, and Non- Discrimination Policies, and Enforcement property rights ", includes measures to increase the professional capacity of the statute of the CPD; publication of information materials; amendments to the Criminal Code regarding hate speech, and discrimination; amending the Family Code; organizing trainings for LPD "; increasing public awareness of protection against discrimination, and the role of the CPD in this regard; including SOGI concepts in the Family Code and Labor Code.

<sup>43</sup>UNDP (2017) Being LGBTI in Eastern Europe: Albania Country Report



health care, youth, social services, and employment, national, and international NGOs focusing on LGBTI persons, and human rights local, and international experts<sup>44</sup>, it was responsible to ensure the achievement of the set objectives, and the realization of the foreseen activities.

2020 is the last year of implementation of this Action Plan, which deserves increased attention in the frame of the implementation of SDG 10, as from a legal point of view it is the most important document in support of the further realization of LGBTI+ rights.

Keeping in mind the monitoring process carried out in 2018 regarding the implementation of the NAP, some of the key findings, which remain relevant, consist in the fact that the national inter-ministerial body for implementation and coordination has not effectively performed its role. The ministries and other institutions involved in the implementation have not created the necessary mechanisms for the inclusion of LGBTI issues in their work, identifying the lack of human resources, frequent transfers of responsible staff, lack of communication within institutions, lack of necessary coordination, lack of budgeting, and lack of knowledge, and skills of administration as the main reasons. It is noted that in the strategic acts and action plans drafted during the period 2016-2020 there are no concrete references for LGBTI persons, sexual orientation and gender identity, despite the fact that in some cases the documents cover important aspects that affect the fulfillment of the objectives of this National Action Plan.

During the period 2016-2020, some activities were organized by international and local civil society organizations, in line with the objectives of the education and training plan set forth by the NAP. Nevertheless, similar initiatives undertaken by public institutions to reiterate these types of trainings remain limited. During the implementation period, there doesn't seem to be any type of improvements, and/or updates of the curricula comprising information on LGBTI+ community nor is it observed any measure taken in regards to the LGBTI+ asylum seekers.

In the framework of service delivery, which is a priority for the NAP, the only positive steps taken are observed in the training of a number of service providers, and staff of local organizations, which continue to have significant problems with lack of funds and lack of institutional support.

Even in the European Commission document for Albania regarding the enlargement policies<sup>45</sup>, it is emphasized that the Second National Action Plan for LGBTI persons lacks the budget, and has not produced visible results. The document also refers to the low public awareness of LGBTI+ persons, especially in rural areas. Hate speech and discriminatory language are referred by the document as very obvious problems, especially in online media, including the active participation of members of the Albanian Parliament in these types of acts. The Commission emphasizes that, despite the strong statements of the international community towards these flagrant cases, the reaction of the Albanian institutions remains weak.

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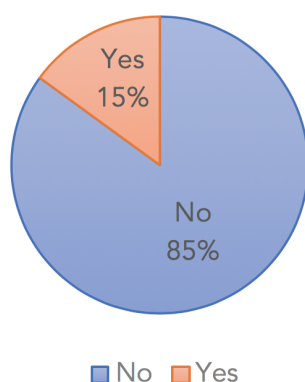
<sup>44</sup>UNDP (2017) Being LGBTI in Eastern Europe: Albania Country Report

<sup>45</sup>Commission Staff Working Document (2019) Albania 2019 Report, Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic, and Social Committee, and the Committee of the Regions

In the matter of hate crimes, the recorded data in the database of the LGBT Alliance, during 2018, show 421 cases of violence and discrimination reported to the organization, of which only 5 cases were referred to the competent authorities. Of the 5 reported cases, 3 cases of violence were referred to the Police, and 2 cases of discrimination to the Commissioner for Protection from Discrimination. None of the 3 reported cases have been properly prosecuted, while the filing party claims that during the time of the complaints they have faced ridicule, and insults from the Police employees. In 2 of the 3 cases reported to the Police, the employees refused to provide a copy of the process-verbal, despite their obligation for transparency and the right of individuals to information. In 1 out of 3 cases, they were forced by the police officer to withdraw the complaint. Regarding 2019, the LGBT Alliance reported 304 cases of violence and discrimination, of which only 34 cases were referred to the competent authorities, 5 of which have reported the violence directly to the head of the institution where the act took place, 15 cases to the Police, 10 cases to the Commissioner for Protection from Discrimination, and 4 cases to the Ombudsman. Based on the following data, only 4 of the officially reported cases (12%) have received any solution.

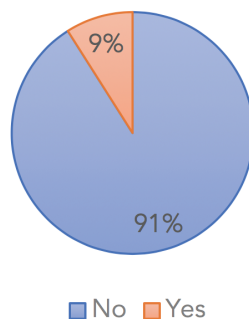
The low number of reports are in line with the answers given in the survey conducted with community members, where 85% of the respondents claimed that they did not trust the law enforcement agencies at all.

### Do you trust the Albanian Law Enforcement Agencies?



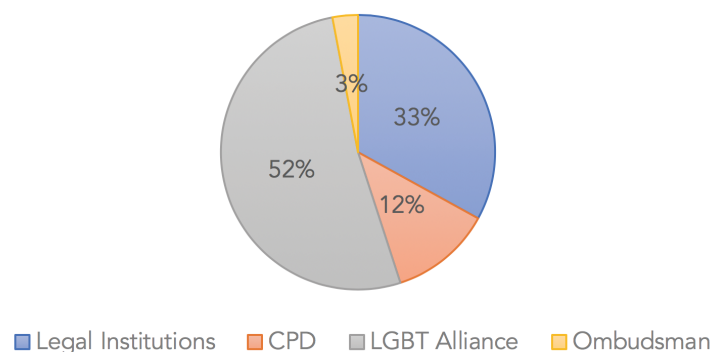
91% of respondents stated that they had never reported violence against them or any other member of the community to the legal institutions, while 60% said they had no knowledge of referral procedures or the Institution of the Commissioner for Protection from Discrimination.

Have you ever reported  
discrimination/violence against you or  
another member of the Community to the  
Police/CPD/Ombudsman?



Asked if they had been part of any training or meeting organized by government officials regarding the anti-discrimination legislation and their legal rights, 79% of participants answered negatively. 52% of the participants answered that in any case of violence against them or any other member of the community they would choose to address the case to the LGBT Alliance.

In case of violence against you or any other  
community member you would address the  
case to:



COC Netherlands, LGBT Alliance, and Pro LGBT faced with the need of service providers for more training and knowledge, conducted during 2019 the training of trainers (ToT) with 40 police officers of the Security Academy, and concluded that the need for such initiatives remains quite high, especially outside Tirana, at a time when hate crime cases are on the rise<sup>46</sup>.

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<sup>46</sup>ILGA Europe (2020) Report on Albania

During 2019, Pro LGBT documented a high number of hate speech incidents against LGBTI+ people, transgender people being the most targeted. In the following, trainings were held for journalists regarding ethical reporting towards the LGBTI+ community, which will continue to be developed during 2020. The study conducted by the organization showed that the hate speech used by political figures faced an increasing trend during 2019, whereof two of the most flagrant cases were reported to the Complaints Council at the Audiovisual Media Authority (AMA).

In the recommendation of the Human Rights Committee of 2013, the need to intensify efforts to combat stereotypes, and prejudices of the general public towards LGBTI+ persons, and the need to provide appropriate training for public officials to end the stigmatization of LGBTI+ persons, were emphasized. The recommendations stress that states should effectively investigate any allegations of discriminatory statements against LGBTI+ persons by public officials, and take effective steps to prevent such statements in the future. 2 reports made in 2019 in Albania, resulted only in a warning for the television in question, to which no penalty or other fine was imposed<sup>47</sup>, disproportionately to the aggravated nature of the situation.

It is worth noting the lack of specific predictions regarding cybercrime, as a subcategory of crimes that incite hate speech, discrimination, and strife against LGBTI+ persons. Based on 2018 data, community members expressed that they experience violence exercised through technological means, mainly in their social network accounts at the rate of 35.5% of the total reported cases of violence and discrimination based on sexual orientation, and/or gender identity<sup>48</sup>.

As for the laws that would improve the lives of members of the LGBTI+ community, we emphasize that in Albania no law recognizes partnership or cohabitation between persons of the same sex, in violation of constitutional guarantees, which are very clear in terms of the right of every Albanian citizen over the age of 18 to marry. The lack of such a provision brings many practical difficulties for gay, and lesbian couples, who are legally unable to establish a joint property regime or to transfer inheritance rights to each other, regardless of their actual situation. Currently, couples of the same sex are not recognized as having the right to have children either through assisted reproductive procedures or through adoption procedures, while in any case what is sanctioned is only the right to have children as a single parent, and not as a two-parent family. In the framework of the UPR, over the past year Albania has noted 5 recommendations on taking concrete measures towards comprehensive legislation, which enables gay\*, and lesbian\* couples to marry or establish a cohabitation regime legally regulated.

From the jurisprudence of the European Court of Human Rights, it results that the lack of legal provisions, equally with the existence of discriminatory laws, affects the deterioration of the level of realization of the fundamental rights, and freedoms of individuals. The SDG 10 cannot achieve its comprehensive spectrum if the basic aspects of the life of each individual are not impartially regulated, such as the right to legally recognize marriage or cohabitation, therefore we

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<sup>47</sup>ILGA Europe (2020) Report on Albania

<sup>48</sup>LGBT Alliance (2018) Annual Report on the situation of the LGBTI+ Community in Albania

estimate that in this last decade of the implementation of the Agenda 2030, accelerated and transformative actions are required by the Government of Albania so that LGBTI+ individuals are not left behind of the guarantees provided.

On the other hand, the situation of transgender people is unregulated from a legal and practical point of view, as the lack of a law on gender identity recognition makes it impossible for them to change gender marker in official documents, a fact that is emphasized in the 2016 report of the Commissioner for Protection from Discrimination under the 64th session of CEDAW.

Given the facts we have mentioned when analyzing the implementation level of the SDGs 3, 4, 5, and 8, the main problems faced by LGBTI+ individuals, such as access to health institutions, dropping out of school due to discrimination, poor level of education, difficulties in the labor market, economic hardship, and housing problems, drive a high number of transgender people towards sex work, which continues to be criminalized in Albania. To address the specifically dangerous situation of transgender sex workers, and based on the CEDAW's recommendations of the 2010 periodic report, the Commissioner for the Protection from Discrimination, in 2012 recommended the decriminalization of sex work<sup>49</sup>. In 2015, after a long journey for the case going from the Supreme to the Constitutional Court, despite international recommendations, the Constitutional Court decided to keep Article 113 of the Criminal Code of the Republic of Albania that criminalizes prostitution, unchanged.

The criminalization of sex work, coupled with the impossibility of changing the gender marker, makes transgender people particularly at risk of arrest, and suffering arbitrary sentences in environments with other convicts of the same sex, in violation of their rights to dignity and physical integrity, exposing them to discrimination, and certain levels of violence because of their gender identity. In this context, we mention the case of a transgender member of the community, who was held in solitary confinement for 2 years, which corresponds to a period set by the Court as a measure for serving the sentence. The 2-year isolation came as a result of the lack of specialized structures for handling such cases, and as a result of the legal vacuum regarding the recognition of gender identity, in open violation of Article 3, and Article 6 of the European Convention on Human Rights, regarding the positive obligations of the state in guaranteeing the rights of everyone to due process of law, and dignified treatment.

In 2013, in a joint initiative between the Council of Europe, and a group of Albanian experts, a law on the recognition of gender identity was drafted, but it was never adopted by the Albanian Parliament. When asked about the causes of the collapse of the process, the experts who were engaged in drafting the law said that they considered as the main reason for not following through, the lacking political will. Further, they stressed the need for such changes in Albanian legislation to be presented in the form of legally integrated packages, and not in the form of individual laws. During last year's UPR process, Albania withdrew from the legal regulation of the issue of gender identity recognition for transgenders for the next 4 years, indirectly affecting the level of

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<sup>49</sup>UNDP (2017) Being LGBTI in Eastern Europe: Albania Country Report

implementation of the 10th SDG, leaving behind the transgender community from much needed specific regulations.

The law on social housing<sup>50</sup> is one of the most important national remedies for members of the LGBTI+ community, especially for transgender people as the target group most affected by housing problems. The law directly addresses the community as a group of interest, but the realities faced by LGBTI+ individuals are complex. Due to violence, discrimination, stigma, bullying, and limited employment opportunities, community members often see the capital city as the only escape to being free, and to realize their right to an undisturbed life. Along with relocation, their need for accommodation arises, mainly because of the contractual relations of the lease.

The LGBT Alliance tries to assist individuals in this process, who often face many difficulties, unaffordable costs, but also discrimination from landlords due to the sexual orientation or gender identity of the tenants. During 2019, 6 persons of the LGBTI community were informed about the procedure and completion of the necessary documentation, who after the psycho-social counseling sessions expressed interest in registering as permanent residents in the city of Tirana. During 2019, 65 people were informed about the social housing programs applied by the Municipality of Tirana, through individual, and group informative sessions, while 35 LGBTI+ individuals were assisted in renting a house. Employees of the LGBT Alliance have accompanied 11 times the interested persons in the institutions, to encourage the employees of the administration to provide long-term solutions to the problems of the cases.

Difficulties in housing due to discrimination still pose a challenge to community members, while in 2019 alone, six transgender women were evicted from their landlords because of their gender identity.

It should be mentioned that among the main reasons for the housing challenge is the impossibility of benefiting from social housing programs offered by the Municipalities due to lack of confidentiality within the scoring system, where personal data and LGBTI+ status become public, while individuals may not have come out openly to family and social circle. Another issue on the matter of this law is also the absence of some of the bylaws, which make it impossible to implement correctly, where as noted in the article published by portavendore.al<sup>51</sup> often, facing this legal vacuum, regarding various aspects included in the law, institutions still use the reference to the provisions of the old law.

Another law that is of particular importance to LGBTI+ individuals within the national context, is the law on asylum<sup>52</sup>, which in its definition of a refugee, sanctions belonging to a certain social group as a potential basis for guaranteeing the refugee status for persecuted persons due to their LGBTI+ status in their countries of origin. However, the law does not explicitly mention

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<sup>50</sup>Law no. 22/2018 "On Social Housing"

<sup>51</sup><https://portavendore.al/2020/02/18/ligji-i-ri-per-strehimin-bashkia-e-tiranes-sorollat-te-pastrehet-me-ligjin-e-vjeter/>

<sup>52</sup>Law no. 121/2014 "On Asylum in the Republic of Albania"



sexual orientation and gender identity as causes of persecution, and as grounds that deserve added protection, and institutional attention. Up until now, there is no official data on the number of LGBTI+ persons who may have successfully used the current provisions of the law to gain asylum or added protection in the Albanian state, due to persecution in the country of origin. Meanwhile, if we talk about the Albanian LGBTI+ asylum seekers, there is an increased tendency of community members towards seeking asylum in other European countries due to the persecution they suffer in Albania based on sexual orientation and gender identity. In 2019 alone, 17 members of the LGBTI+ community sought asylum outside Albania.

Even in the law "On the rights and protection of the child",<sup>53</sup> where the only specific mention made for the situation of the LGBTI+ community, is that of sexual orientation as a basis for protection against discrimination in the field of health care, there are many problems, considering that gender identity is not referred in any case as a basis for protection or special care. Furthermore, the law does not mention the grounds of sexual orientation, and gender identity, as elements that deserve specific reference due to the special situation of LGBTI+ children, nor in the context of referral procedures, when children are not registered in Civil Registry offices, nor in situations of referral of cases by the respective child protection structures from local government units. This impossibility of the current law to address the situation of LGBTI+ children puts them and their families in a position of legal uncertainty. It is a necessity to take accelerated actions towards a comprehensive law, effectively based on the principles of equal treatment.

We consider it important to address in this report the non-provision by the Code of Criminal Procedures of sexual orientation, and gender identity as reasons for the persecution that may lead to the rejection of the request for extradition, and non-classification of sexual orientation, and gender identity as causes of discrimination that justify not allowing the execution of sentences abroad. The lack of these provisions puts LGBTI+ individuals in a situation of legal uncertainty, risking at the same time the non-fulfillment of positive obligations of the Albanian state in the framework of the commitment to the European Convention on Human Rights, but also the implementation of the SDG 10, which aims at comprehensive, and favorable legislation to all members of society, based on equal treatment.

Lastly, we would like to emphasize the situation of LGBTI+ activists in Albania, who are referred to, by the report of Civil Rights Defenders, as the most at-risk category of activists, together with activists for the rights of victims of trafficking, activists at the forefront of anti-domestic violence movements, and investigative journalists<sup>54</sup>. Regarding the freedom of expression of human rights activists, as one of the basic elements for achieving the goals of their activism, as stated in the report, is an area that continues to be affected, and constantly limited by the activity of state actors, specifically mentioning the presentation of the latest anti-defamation package, which sanctions several restrictions on freedom of expression in the context of online media activity. Currently, there are no legal provisions that position human rights activists as a

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<sup>53</sup>Law no. 18/2017 "On the rights and protection of the child"

<sup>54</sup>Civil Rights Defenders (2019) Human Rights Defenders in the Western Balkans

category, which due to the risk taken towards achieving the goals of equality, and social justice, deserves the increased attention of state authorities, in an environment where the mentality makes it extremely difficult for them to work, and often endangers them, making their position extremely unsafe.

In the framework of achieving the SDG 10, we consider it very important to take accelerated steps towards strengthened protection of human rights activists, through guaranteeing effective investigations by independent, and impartial bodies in cases of incidents against them, who work transparently in support of the invaluable role of civil society in social transformation processes, which comes in line with the commitment of the Albanian state in the Agenda 2030.



**LEAVE NO ONE  
BEHIND**



## VI. Recommendations

1. Adoption of legislation on the recognition of gender identity and sex characteristics, within 2030, in close cooperation with civil society organizations, ensuring their effective involvement in public consultation procedures.
2. Development of strategies and protocols focused on non-consensual, and unnecessary surgeries performed on intersex children, and on institutional access of transgender people to hormonal treatments, and sex reassignment surgeries.
3. Updating and supplementing the existing legal framework regarding assisted medical reproduction procedures in favor of public structures, enabling access to service at affordable costs by all.
4. Updating the law "On HIV/AIDS Prevention", including prophylaxis services before exposure, prophylaxis after exposure at a national level, and effective access to social assistance for people with HIV/AIDS, respecting the confidentiality provisions of sensitive personal data, and facilitating bureaucratic procedures during the process.
5. Strengthening the control and reporting mechanisms of the future National Action Plan on LGBTI+ persons, in the function of accountability, and transparency of public institutions in front of the LGBTI+ community.
6. Adoption of legislation that guarantees the right to marriage of same-sex couples, and/or legally recognized cohabitation, within 2030.
7. Drafting and adoption of specific protocols by state structures regarding capacity building of service providers concerning LGBTI+ issues, including law enforcement officers, academic staff, medical staff, public administration employees at a central and local level as well as psychologists, and social workers.
8. Updating education curricula with accurate, and impartial information regarding the social, legal, and health perspective on LGBTI+ issues, including information on sexual, and reproductive health, which directly targets LGBTI+ individuals.
9. Update and approximation of national legislation on children's rights, the right to asylum, as well as the provisions of the Code of Criminal Procedure regarding the inclusion of sexual orientation, and gender identity clauses, as a basis for increased protection to LGBTI+ individuals.
10. Drafting, and adopting an individual law on the incitement of discriminatory language, and hate speech, evoking the grounds of sexual orientation and gender identity as causes that legitimize more specialized protection for victims of these crimes.
11. Increasing the capacity of law enforcement officers in relation to reporting and handling cases of incitement of hatred, and discriminatory language used against the LGBTI+ community.
12. Strengthening the legal basis on cybercrimes, as a subcategory of hate crimes, and strengthening organic capacity within law enforcement agencies, in relation to continuous reporting and prosecution.

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