



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



Ref: CommHR/EB/sf 018-2016

Mr Ylli MANJANI
Minister of Justice
Albania

Strasbourg, 11 March 2016

Dear Minister,

Following up on my dialogue with the Albanian authorities concerning access to justice, I would like to use this opportunity to raise with you certain outstanding issues concerning the implementation of the 2008 Law on Free Legal Aid.

I am concerned that the lack of effective implementation of the 2008 Law on Free Legal Aid continues to hinder access to justice by certain vulnerable social groups, including Roma and women victims of trafficking and of domestic violence. It is also of particular concern to me that despite the existence of the State Commission for Legal Aid, most of legal aid continues to be provided by non-governmental organisations. Reportedly, in 2014 NGOs received 3 675 requests for legal aid, while the State Commission received only 219 such requests. Access to legal aid remains limited for many citizens since the authorities have not yet established the regional offices/clinics for legal aid which have been provided for by a 2013 amendment to the Law on Free Legal Aid. There are reports indicating that the State Commission met only six times in 2014, while the Law on Free Legal Aid provides for a 10-day deadline for the Commission to respond to a request for legal aid. Concerns have been expressed that due to these shortcomings certain requests for legal aid have been rejected by the State Commission due to the expiry of the relevant deadlines. Lastly, I have been informed that the number of lawyers who provide legal aid remains limited, and that the selection of lawyers continues to lack transparency.

In view of this situation, I believe that the authorities need to step up their efforts aimed at establishing an efficient national system of legal aid. I noted with interest that various measures, including legislative ones, aiming to enhance the national legal aid system, are being considered as part of the on-going justice reform process.

Furthermore, I would like to share with you some concerns regarding the exemption from the payment of court fees in civil proceedings for persons with economic constraints, which I addressed in the 2014 report following my visit to Albania. Reportedly, judges are reluctant to exempt persons with financial constraints from the payment of court fees. As a result, few persons have been granted the exemption. In my 2014 report I regretted the lack of clarity surrounding this issue and considered that judges of the district and appeal courts should be provided with clear guidance which would help them in implementing the relevant Constitutional Court's case law. I would appreciate receiving information on any step taken by the authorities in this context. Moreover, the 2013 amendments to the Law on Legal Aid which tasked the State Commission for Legal Aid with granting exemptions from the payment of court fees, under certain conditions, have not borne any fruit since reportedly nobody has so far benefited from this possibility.

Recalling the Council of Europe Committee of Ministers' Resolution (78)8 on legal aid and advice, I wish to underline that effective access to justice, particularly by persons who are in an economically weak situation, cannot be achieved without an efficient national system of legal aid and legal advice. I therefore reiterate the call on your authorities to review and fully align the national legal aid system with the Council of Europe standards.

I look forward to receiving your reply and continuing our constructive dialogue.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Nils Muižnieks', followed by a long, horizontal, slightly wavy line that extends to the right.

Nils Muižnieks