

**LAW**  
**Nr. 8454, dated 4 February 1999**  
**ON THE PEOPLE'S ADVOCATE<sup>1</sup>**

In reliance on articles 60 through 63, 81 and 83, point 1 of the Constitution of the Republic of Albania, on the proposal of the Council of Ministers,

**THE ASSEMBLY**  
**OF THE REPUBLIC OF ALBANIA**

**DECIDED:**

**CHAPTER I**  
**GENERAL PROVISIONS**

Article 1  
**Object of the law**

The object of this law is the adoption of the rules for the organization and functioning of the People's Advocate.

Article 2  
**Duties of the People's Advocate**

The People's Advocate safeguards the rights, freedoms and lawful interests of individuals from unlawful and improper actions or failures to act of the organs of public administration as well as third parties acting on their behalf.

The People's Advocate guided by the principles of impartiality, confidentiality, professionalism and independence exercises his activity for the protection of human right and freedoms as defined by the constitutional provisions and by the laws. The provisions of this law shall also apply to protect the rights of foreigners, whether they are residing lawfully, in Albania or not, refugees as well as stateless persons within the territory of the Republic of Albania, pursuant to the terms set forth by law.

Article 3  
**Requirements for election of the People's Advocate**

People's Advocate may be any person who meets the following requirements:

- a) is an Albanian citizen;
- b) has outstanding knowledge of, and activities in the area of human rights, freedoms and law;
- c) has distinguished professional skills and moral-ethical qualities;

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<sup>1</sup> As amended by law no. 8600, dated 10 April 2000.

- d) has never been convicted criminally;
- e) is not a member of the parliament that proposes or elects him.

## **CHAPTER II ELECTION, REMOVAL AND RIGHTS OF THE PEOPLE'S ADVOCATE**

### **Article 4 Election of the People's Advocate**

The People's Advocate shall be elected by three-fifths of all the members of the Assembly.

### **Article 5 Term in office**

The People's Advocate can remain in office for a 5-year period, with the right of re-election.

### **Article 6 Immunities and salary**

The People's Advocate shall present to the Assembly an annual report. The People's Advocate shall report to the Assembly whenever the latter so requests and may request the Assembly to hear him on matters he deems important and shall only be responsible to the Assembly. The People's Advocate shall enjoy the immunity of a High Court judge. His salary shall be equal to the salary of the Chairman of the High Court.

### **Article 7 Termination of functions of the People's Advocate**

The functions of the People's Advocate shall terminate if:

- a) he resigns;
- b) his 5-year term in office elapses;
- c) he dies;
- d) he is removed from office.

### **Article 8 Removal of the People's Advocate from office**

The People's Advocate shall be removed from office only in case he:

- a) is convicted by means of a final court decision;
- b) becomes mentally or physically incapacitated to perform his duties;
- c) he conducts activities that violate the provisions of article 10 of this Statute;
- d) is absent from duty for more than three months.

The motion for the removal of the People's Advocate shall be presented by at least one-third of the members of the Assembly.

The decision of the removal from office of the People's Advocate shall be taken with the votes of three-fifths of the members of the Assembly.

#### Article 9

### **Election of a new People's Advocate**

The Assembly shall elect the People's Advocate within one month from the termination or removal from office of the previous People's Advocate. Until a new People's Advocate is elected as well as in case the People's Advocate is unable to perform his duties, the duties of the People's Advocate shall be carried out by the longest-serving commissioner.

#### Article 10

### **Incompatibilities with the duty of the People's Advocate**

The People's Advocate shall be prohibited from being member of any political parties or organizations, carrying out any other political, state or professional activities, or participating in the steering bodies of social, economic or commercial organizations. He may exercise the right to teach or be a book author.

#### Article 11

### **Securing the previous position of the People's Advocate**

Upon termination of duty pursuant to items "a" or "b" of article 7, the People's Advocate shall have the right to resume the public duty or position he occupied prior to his election. If this is not possible, he shall be provided an equivalent position.

## **CHAPTER III**

### **COMPLAINTS, INVESTIGATIVE PROCEDURES AND POWERS OF THE PEOPLE'S ADVOCATE**

#### Article 12

### **Right to complain**

Every individual, group of individuals or non-government organization, claiming that his/their rights, freedoms or lawful interests have been violated by the unlawful or improper actions or failures to act of the organs of the public administration shall have the right to complain or notify the People's Advocate and to request his intervention to remedy the violation of the right or freedom.

The People's Advocate shall maintain confidentiality if he deems it reasonable as well as when the person submitting the complaint, request or notification so requests.

Article 13

**Initiation of the proceedings**

The People's Advocate, upon finding or suspecting that a right has been violated, shall initiate an investigation of the case, upon the complaint or request of the interested or affected person, or on his own motion if the particular case is in the public domain and provided the interested or injured party consents.

Article 14

**Conditions of admissibility of complaints, requests and notifications**

The People's Advocate may refuse to initiate or may terminate the investigation of a case if the same case has been decided or is being scrutinized by public prosecutor or a court. In such a case, he shall be entitled to request information by those authorities.

Article 15

**No special form required for complaints and notifications**

No special form shall be required for the complaints, requests or notifications submitted to the People's Advocate, provided the object of the complaint or request is clearly indicated. The People's Advocate shall not accept anonymous complaints or requests.

Article 16

**Services free of charge**

All the services rendered by the People's Advocate with reference to the complaints, requests or notifications shall be free of charge.

Article 17

**Administration of complaints and notifications**

The People's Advocate, following the review of a complaint, request or notification of a violation, shall decide to:

- a) accept or refuse to look into the case;
- b) send a reply to the interested person indicating his rights and the remedies he can pursue to protect those rights; or
- c) forward the case to a competent authority.

In all cases, the People's Advocate shall notify the interested person [of his decision] within 30 days from the date he received the complaint, request or notification.

Article 18

**Procedure after admission of complaints for review**

Following admission of a complaint, request or notification, the People's Advocate shall proceed in one of the following ways:

- a) shall conduct himself an investigation;
- b) shall request explanations from the organs of public administration, as well as the public prosecutor in cases of pre-trial detention and arrest;
- c) shall make a recommendation to the High State Control to exercise its powers.

Article 19  
**Investigative procedures**

In case the People's Advocate decides to proceed with an independent investigation, he shall be entitled to:

- a) conduct investigations on the spot;
- b) request explanations from all organs of central and local administration and obtain all files or material relevant to the investigation;
- c) interrogate any person that, in his judgment, is involved in the matter under investigation;
- d) arrange or request an expert opinion.

Article 20  
**Access to information or documents classified as state secrets**

The People's Advocate shall have the right to request information or documents classified as state secrets that are relevant to the case under investigation. In such cases he shall comply with the rules for the protection of state secrets.

Article 21  
**Actions and powers after conclusion of investigation**

Upon conclusion of an investigation, the People's Advocate shall do one of the following:

- a) explain to the complainant that his rights have not been infringed;
- b) make recommendations on how to remedy the infringement to the administrative organ that, in his judgment, has committed the violation;
- c) make recommendations on how to remedy the infringement to the authority supervising the administrative organ that has committed the violation;
- d) recommend to the public prosecutor to start an investigation if he finds that a criminal offence has been committed;
- e) upon finding serious violations, propose to the relevant authorities, including the Assembly, to dismiss officials under their jurisdiction;
- f) in case of infringement of right by organs of the judiciary, the People's Advocate, without interfering with their procedures, shall notify the competent authorities of the violations;
- g) recommend to the injured persons to take their case to the court.

These actions are not mutually exclusive.

Article 22

**Obligation of organs of state administration to respond to recommendations of the People's Advocate**

The organs to whom the People's Advocate has submitted a recommendation, request or proposal for dismissal shall review the recommendation, request or proposal for dismissal and shall reply within 30 days from the date the recommendation, request or proposal for dismissal is delivered. The reply shall include reasoned explanations on the specific case as well as the actions, omissions or measures undertaken by that organ.

Article 23

**Case follow-up**

If the People's Advocate does not consider sufficient the reply or measures an organ has undertaken, he shall have the right to refer the case to the higher organ in hierarchy. If the violations are repetitive or the respective organ does not respond to the recommendations of the People's Advocate, the latter may present to the Assembly a report, which shall include proposals for specific measures to remedy the violations.

Article 24

**Right of legislative recommendations**

If the People's Advocate finds that it is the content of a statute or other legal act, and not its application that leads to violation of human right recognized by the Constitution or other laws; he shall have the right to:

- a) recommend to the organs vested with legislative initiative to propose amendments and improvement to the statute;
- b) propose to the Administration to amend and improve bylaws; or
- c) recommend to the Constitutional Court to invalidate those acts.

Article 25

**Persons and acts outside the jurisdiction of the People's Advocate**

The following shall be outside the jurisdiction of the People's Advocate:

- a) the President of the Republic;
- b) the Prime Minister;

The following shall also be outside the jurisdiction of the People's Advocate:

- a) statutes and other legal acts;
- b) military orders to the armed forces;
- c) court decisions.

Without prejudice to item "c" of this article, the People's Advocate shall accept complaints, requests or notifications of human right violations arising from the administration of the judiciary and judicial procedures. The investigations of the People's Advocate shall not infringe the independence of the judiciary in ruling.

**CHAPTER IV**  
**RELATIONS WITH THE ASSEMBLY, OTHER GOVERNMENTAL**  
**AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS**

Article 26  
**Report to the Assembly**

The People's Advocate shall submit an annual report to the Assembly, which shall discuss it in a plenary session.

A copy of the report shall be submitted to the President of the Republic and the Prime Minister.

Article 27  
**Special reports to the Assembly**

In addition to the report provided by article 26, the People's Advocate shall report to the Assembly on his own motion or upon written request of the Speaker of the Assembly or a group of members of the Assembly. The Speaker of the Assembly shall decide on whether the report shall be heard by:

1. the plenary session of the Assembly;
2. distributing the report;
3. the standing committees of the Assembly.

A copy of the report shall be sent to the President of the Republic, the Prime Minister and the highest administrative authority, whose subordinate [authorities] are mentioned in the report.

Article 28  
**Publication of reports**

The annual and special reports shall be made available to the public and shall be published no later than one month after the date of their discussion by the Assembly. The Assembly shall publish the reports.

Article 29  
**Drafting human right reports**

The People's Advocate may assist, give opinions and make recommendations in the drafting of reports and other documents by the Albanian State on human rights and freedoms in the Republic of Albania.

Article 30  
**Co-operation with non-governmental organizations**

The People's Advocate shall perform his duties in close cooperation with non-governmental organizations and shall regularly request their opinion on the human rights situation.

The People's Advocate, in cooperation with non-governmental organizations, shall organize, at least annually, a national activity on the situation of human rights and freedoms in the Republic of Albania.

## **CHAPTER V COMMISSIONERS, OFFICE AND BUDGET**

### **Article 31 Structure**

The Office of the People's Advocate shall have three specialized sections; each headed by a Commissioner.

The sections shall be:

- a) a section for the organs of central administration, local government and third parties acting on their behalf;
- b) a section for the police, secret service, prisons, armed forces and the judiciary;
- c) a general section in charge of all the issues falling outside the scope of the two other sections, co-operation with non-governmental organizations as well as studies and activities in the area of human rights and freedoms.

### **Article 32 Appointment of a local representative**

If the People's Advocate deems it reasonable, he may appoint a local representative for a specific matter and definite time. The local authorities shall provide the representative with office space and working conditions that shall be adequate for the fulfillment of his duties under this Statute. The representative shall be remunerated from the budget of the People's Advocate.

### **Article 33 Election and salary of commissioners**

The commissioners shall be selected from among the most outstanding lawyers for a three-year term, with the right to reelection.

The Assembly, upon the proposal of the People's Advocate shall elect them. The requirements of articles 3 and 10 of this Statute shall also apply to election of commissioners. The salary of the commissioner shall be equal to the two-thirds of the People's Advocate salary.

### **Article 34 Termination of functions and removal of commissioners**

The rules in this Statute regulating termination of functions and removal of the People's Advocate shall also apply to the commissioners.



When the position of a commissioner remains vacant, upon the elapsing of the 3-year term or pursuant to items “a”, “c”, or “ç” of article 7 as well as article 8 of this Statute, the People’s Advocate, within a month, shall propose to the Assembly the new commissioner to be elected.

Article 35  
**Employees of the office**

The staff members of the Office of the People’s Advocate shall be members of the Civil Service of the Republic of Albania.

The structure and the organigram of the People’s Advocate’s Office is defined by the People’s Advocate.

Article 36  
**Budget**

The financial resources for the People’s Advocate shall be paid by the state budget, which shall have a separate chapter, for the People’s Advocate.

The draft budget shall be proposed by the People’s Advocate to the Standing Committee for Economic, Financial and Privatization Affairs of the Assembly, which shall submit it to the Assembly for approval pursuant to Statute nr.8379, dated 29.7.1998, “On the drafting and implementation of the state budget”.

The People’s Advocate shall prepare every year his accounts pursuant to law nr. 8379, dated 29.7.1998, “On the drafting and implementation of the state budget”. The financial records of the Office of the People’s Advocate shall be subject to review by the High State Control.

Article 37  
**Acceptable donations**

The People’s Advocate may benefit from donations in money or in kind. The donations may not include conditions that might affect the independence, impartiality or constitutionality of the People’s Advocate activity. The donations shall be declared and registered in a registry held for this purpose by the Office of the People’s Advocate. The People’s Advocate shall provide, by the end of the year, the High State Control and the Standing Committee for Economic, Financial and Privatization Affairs of the Assembly with a copy of the registry each. The registry shall include the type of donation, quantity, date of donation, person and mode of delivery of donation. The registry shall also include the name and signature of the donor.

**CHAPTER VI  
TRANSITORY PROVISIONS**

Article 38  
**Transitory provisions**

The Assembly shall elect the People's Advocate within two months from the date of entry into force of this Statute.

The People's Advocate, within one month from his election, shall propose to the Assembly the commissioners.

Article 39  
**Internal regulations**

The People's Advocate, within 3 months from his election and in cooperation with the commissioners, shall adopt internal regulations.

Article 40  
**Entry into force**

This law shall enter into force 15 days after publication in the Official Gazette.

**SPEAKER**  
**Skënder Gjinushi**

**Promulgated with decree no. 2314, dated 11 February 1999 of the President of the Republic of Albania, Rexhep Meidani.**