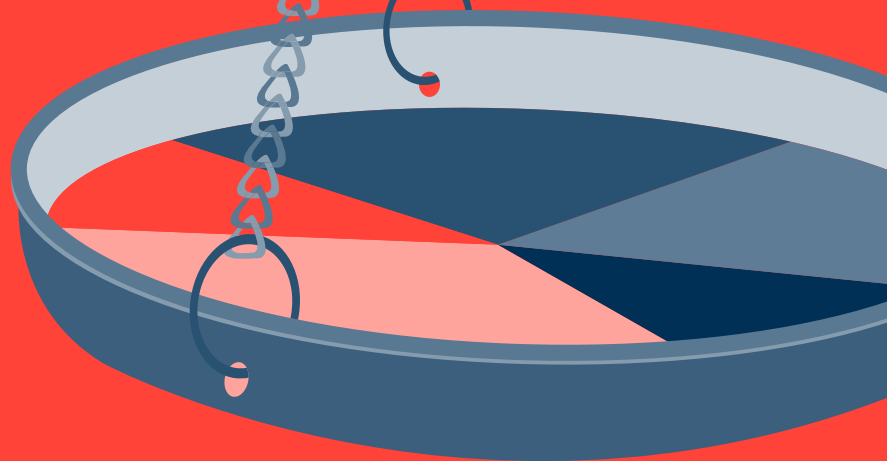
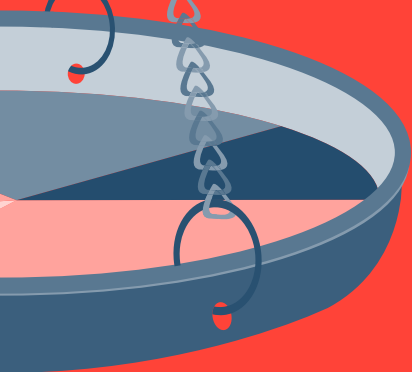


# SURVEY ON ACCESS TO JUSTICE IN ALBANIA



*Empowered lives.  
Resilient nations.*





**SURVEY ON  
ACCESS TO  
JUSTICE IN  
ALBANIA**

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## **DISCLAIMER**

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# ABBREVIATIONS

**ADRF** – Albanian Disability Rights Foundation

**ANAD** – Albanian National Association of the Deaf

**AWEN** - Albanian Women’s Empowerment Network

**CLCI** – Center for Civic Legal Initiatives

**CRPD** – Convention on the Rights of Persons with Disabilities

**LGBTI** - Lesbian, Gay, Bisexual, Trans, and/or Intersex

**NGO** – Non-governmental organization

**UNDP** – United Nations Development Programme

# EXECUTIVE SUMMARY

There is a large need for justice in Albania that is predominantly unmet. According to our survey, consisting of a questionnaire administered to 1758 persons (as well as interviews and focus groups), we conclude that almost half of the population has had legal problems in the last five years, and that these have largely gone unresolved due to a lack of legal awareness in society and the underperformance of justice sector institutions. This is particularly true for members of disadvantaged groups, including the poor, those with a low level of formal education, the Roma, members of the LGBTI community, victims of domestic violence and others. Nonetheless, with most disputes being inexpensive to resolve, the moderately fair outcomes produced by courts and recent improvements to the law, the Albanian population has reason to hope that access to justice can be increased in the future to meet its needs.

## THERE IS A SIGNIFICANT DEMAND FOR ACCESS TO JUSTICE

**Almost half of the population (48.7%) has had legal problems in the last five years.** Disputes are frequently focused on property and land and on obtaining benefits. Those with most frequently disputes are men and members of the Roma community, while the residents of rural areas have fewer disputes than the residents of Tirana and other urban areas. Citizens' disputes are overwhelmingly against, or involving, the government.

The results highlight the **large demand for access to justice among individuals in Albania.** With nearly half of the population having justice needs over the past five years, there is a need to have a responsive and fair justice system to handle these disputes.

## Limited legal knowledge and questionable attitudes

**Individuals have a fairly low level of awareness of their rights:** more than a quarter of those surveyed cannot name a single constitutional right or freedom. There are gaps in knowledge when it comes to awareness of women's rights, as well as of LGBTI rights and of other disadvantaged groups. For instance, just over a third claim that a married woman that received dowry is not thereafter entitled to an inheritance from her parents. **The low level of legal literacy is most pronounced among the Roma community, those with a low level of formal education and lower earners.**

Aside from a lack of legal awareness, **the respondents' conceptions of justice include some questionable attitudes.** Tolerance of corruption has become fairly entrenched, as has tolerance of domestic violence, with 22.5% of those surveyed believing that "it should be up to the husband to discipline his wife". Further, a large minority believe it is acceptable to discriminate against members of the LGBTI community, believing an employer should be able to fire a gay person if he makes him/her feel uncomfortable.

**Nearly three quarters of the population believe the Albanian justice system does not protect their rights.** The leading reason – cited by almost half of all respondents – for this lack of trust is corruption of the justice system. Worryingly, those that have had experiences with the justice system are far less likely to believe it protects their rights than those that have not come in contact with it over the past five years.

**These three factors – legal illiteracy, dubious attitudes on justice, and a lack of trust in the justice system – present a fragile framework for access to justice in Albania.**

## Underperforming justice system

This framework is further weakened by the poor showing of justice sector institutions in Albania; by these, the survey means any institution, such as local government, the courts, the police and others, that has a role in resolving citizens' legal disputes. Indeed, the **underperformance of justice sector institutions is possibly the major obstacle to accessing justice in Albania.**

This is borne out by the figures. For instance, only slightly over a fifth (21.8%) of those surveyed managed to resolve their legal disputes, while just under half (43%) of the respondents believe the outcome was very unfair.

The underperformance of institutions in providing access to justice is manifested in a number of ways. First, officials and institutions in the justice system are poor communicators, have a lack of openness to citizens seeking redress and do not show them respect – particularly in local and central government. Second, citizens feel there is a lack of fairness in the justice system, both in process and in outcome. Third, while courts and lawyers offer higher quality services, many are unable to access them due to higher costs. And fourth, it takes too long to access justice.

## Disadvantaged groups

**Some disadvantaged groups have an even harder time in accessing justice and resolving disputes fairly.** They include the Roma, low earners, persons with little formal education, members of the LGBTI community, persons with disabilities, victims of domestic violence and children from residential institutions.

These groups face various obstacles that make accessing justice even harder than for the average Albanian citizen. Many, such as the Roma, persons with disabilities, those in the LGBTI community and others, are the victims of widespread discrimination. They are also frequently economically deprived, which leaves them unable to access better quality services. As a result some do not even attempt to reach out to institutions, leaving their legal issues unaddressed. Moreover, they frequently know less about the law and the functioning of the justice system than the average person, which leaves them ill-equipped to enjoy their rights.

## Making progress in the future

While the results illustrate the barriers facing citizens in accessing justice, they also show that there have been achievements that can be used as a springboard for further progress.

**Access to justice should be improved through a range of measures.**

**First, free legal aid, mediation and other mechanisms should be introduced to make legal advice and courts more accessible.** Results show that courts and lawyers provide fairer processes and outcomes than other justice institutions. The chief problem is that they are less accessible and more expensive than other institutions, which can be remedied best by the creation of a functional legal aid system. This system should be designed to take into account the results contained in this survey: for instance, it should reflect the fact that most people want to resolve disputes out of court, that they turn to local and central government first among institutions and that their disputes are inexpensive to resolve and centre predominantly around land and property. A new legal aid system should make special provisions to reach persons that do not have the knowledge or the means to reach it: this would include outreach measures such as mobile providers, pop-up office hours in remote communities and telephone and online services to connect with those with lower earnings and lower levels of formal education. A mediation system would fill a demand to resolve disputes peacefully.

In designing such mechanisms, the state should cooperate with civil society organisations that have had previous success in this area. Aside from legal advice, legal representation and access to courts should be made more accessible through reduced court and expert fees, infrastructural adjustments, the availability of sign language interpreters and a range of other measures.



**Second, special measures should be introduced to improve access to justice for disadvantaged groups.** Reform efforts should focus on rectifying one of the major problems identified in this survey by raising awareness among local government officials, police officers and different actors in the justice system about the rights of LGBTI persons, persons with disabilities, victims of domestic violence and members of other disadvantaged groups. Efforts should also be focused on filling legislative gaps by bringing Albanian legislation in line with international human rights law on issues such as disability rights and domestic violence.

**Third, the legal literacy of the population and the level of service in the justice system should be improved.** The findings of the survey highlight a need to raise the population's level of knowledge of the law and the functioning of the legal system. Such programmes should include the promotion of rights of disadvantaged groups, not just among their members but among the population as whole, as results show worrying discriminatory attitudes towards LGBTI persons, women and ethnic minorities. This is linked to a need to enhance the level of service provided by justice sector officials to the population as a whole, and disadvantaged groups particularly, in resolving their disputes.

**Fourth, justice sector actors should be innovative and scientific in their approach.** It is imperative that reform efforts are tested and measured before they are rolled out nationally; equally, efforts that have been shown to work elsewhere – such as telephone hotlines, mobile clinics and outreach activities – should be liberally borrowed in the course of reform.

– INTRODUCTION –

# SCOPE AND OBJECTIVE OF THE SURVEY

This report presents the findings of a survey conducted  
in 2017 to examine access to justice in Albania.

The objective of the survey was to explore and measure  
the needs and experiences of Albanians in accessing  
justice.



In order to do this, the survey focused on four crucial aspects of access to justice in Albania.

The **first is knowledge of the law and conceptions of justice**: the populace was surveyed on how well they know basic provisions in the law and what they think justice demands when it comes to citizens' rights. This provides us with a baseline for understanding how individuals approach their justice problems.

The **second aspect is the justice needs of the Albanian population**. The survey ascertained the disputes on justice of the Albanian population and broke them down by subject matter and adversary.

The **third aspect is the experiences of the respondents in accessing justice**. The survey examines the decision-making processes of ordinary citizens in resolving disputes and legal issues. These experiences may consist of filing a request to the local government to issue a building licence, filing a criminal complaint to the police for harassment, seeking advice from a friend or a lawyer on labour rights, or suing one's neighbour in court. The survey focuses on how **fair, respectful and transparent** such experiences with institutions and persons in the justice system were. It also examines how much these efforts **cost, how long they lasted and how efficient they were**. Finally, it looks at whether the **outcomes** of these *dispute resolution journeys* were **fair**, whether they **satisfied** citizens and whether they were **enforced**.

The first three aspects are measured through the use of a questionnaire that was administered to a large cross-section of the Albanian population. Although it produced insightful and detailed results that highlight the main obstacles to accessing justice in Albania, there are certain groups in Albanian society whose experiences it does not capture because they may be too small or difficult to register in this manner.

As a result, the **fourth aspect is the particular experiences of certain disadvantaged groups, such as the LGBTI population, victims of domestic violence, children in conflict with the law, Roma and Egyptian communities, persons with disabilities and others**. The identities of members of these groups and their living conditions or circumstances mean they have different sets of constraints in attempting to access justice than the remainder of the population. Consequently, the survey devoted additional attention to their experiences in accessing justice. In order to do so, it employed different research methods, such as interviews and focus groups.

## Key issues and groups

**Identifying key access to justice issues and disadvantaged groups** in Albanian society was a **two-fold process**: on the one hand, **they were generated through the above-mentioned questionnaire** in a bottom-up manner. This ensured that the results reflect the real justice needs, disputes and grievances of citizens, even though they may have rarely been

# BREAKDOWN

QUANTITATIVE RESEARCH

## 1758

INDIVIDUALS AGED 16 AND OVER WERE INTERVIEWED IN THE PERIOD BETWEEN MARCH AND MAY 2017 IN AREAS OF TIRANA, SHKODER, VLORA, PERMET AND MAT

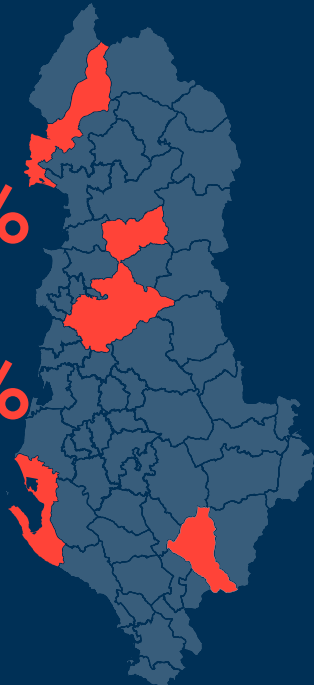


## 50.3%

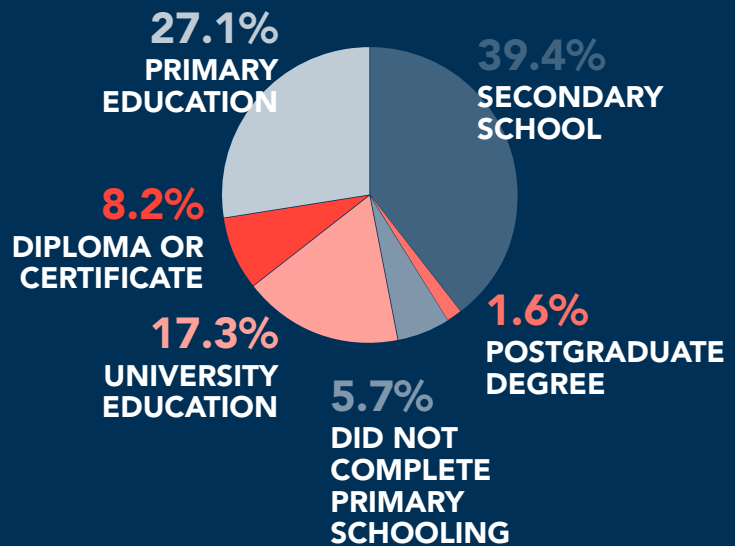
WERE DRAWN FROM RURAL AREAS

## 49.7%

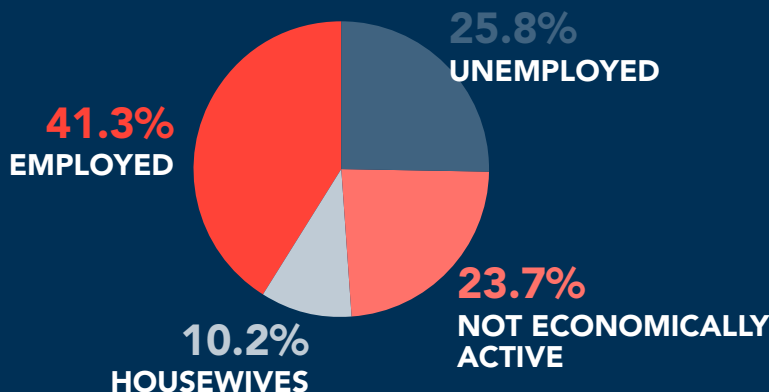
WERE DRAWN FROM URBAN AREAS



## EDUCATION



## EMPLOYMENT



## 13.6%

BELONGED TO A MINORITY GROUP

## 75.6%

OF RESPONDENTS WERE MARRIED

the subject of court cases. The questionnaire was therefore designed so as to generate justice needs and dispute resolution journeys in an open manner.

**On the other hand,** as was mentioned above, it was necessary to highlight the plight of some disadvantaged groups that the quantitative survey (administered through the questionnaire) would be unable to cover. In order to do this, **the research team identified disadvantaged groups that the survey would focus on through qualitative research.**

These include groups whose issues the quantitative survey could not reliably capture because they are too small (such as persons with disabilities), groups whose members might be reluctant to share their experience to an anonymous enumerator (such as the LGBTI population or victims of domestic violence), as well as groups that cannot be easily reached through a household survey (such as children in residential institutions and children in conflict with the law). In order to more comprehensively portray difficulties in accessing justice of these groups, the survey also conducted interviews with justice service providers, such as judges, lawyers and others.

## METHODOLOGY OVERVIEW

The survey was conducted using a mix of qualitative and quantitative methods, thus allowing for an extensive and in-depth analysis of access to justice and related issues. The quantitative and qualitative research complemented each other to produce the findings presented in this report. For a full overview of the methodology, please see appendix 1.

### Breakdown of the sample of quantitative research

- A total of 1758 individuals aged 16 and over were interviewed in the period between March and May 2017.

- The respondents were interviewed in areas of Tirana, Shkoder, Vlora, Permet and Mat. 595 respondents (33.8%) were drawn from Tirana, 575 from Shkoder and Vlora (32.7%) and 588 from Permet and Mat (33.4%). Of these 874 (49.7%) were drawn from urban and 884 (50.3%) from rural areas.

- 896 (51.1%) respondents were men and 854 (48.7%) were women.

- The most represented age group were those aged between 45 to 54 (22.8%), followed by those aged between 55 to 64 (21.6%), those aged between 35 to 44 (15.9%), those aged 65 and over (14.9%), those aged between 25 and 34 (13.6%), those aged between 18 and 24 (10.3%) and 16 and 17 year-olds (0.7%).

- Nearly one in seven respondents (13.6%) stated they belonged to a minority group. Of these, 6% stated they were members of the Roma community, 1.3% said they were Egyptian and 6.3% that they belonged to other minorities.

- The most common educational qualification among respondents (39.4%) was to have a completed secondary school; a further 27.1% had completed their primary education, 17.3% had a university education, 8.2% had diplomas or certificates, 5.7% did not complete their primary schooling, while 1.6% had a postgraduate degree.

- Nearly two in five respondents claimed they were employed, with 21% claiming they were self-employed, 12.3% working in the private sector and 6.4% in the public sector. The remainder of the population were either unemployed (25.8%), despite looking for a job, or not economically active (23.7%) as they were not actively seeking employment or housewives (10.2%).
- The overwhelming majority of respondents were married (75.6%), while less than one in six (15.6%) were single, 5.4% were widowed, 2.1% were divorced and 1% were cohabiting.
- The majority of respondents (59.6%) did not have any children, 20% had one child, 15.8% had two children, while only 3.2% had three or more children.
- More than one in ten interviewees were the recipients of benefits, with 6.5% receiving economic assistance and 4% disability benefits.

## Breakdown of the sample of the qualitative research

- A total of 55 individuals participated in **focus groups** in the period between March and May 2017.
- A further 32 persons were **interviewed** in the same period as part of the research for the survey.
- The **focus group participants and interviewees come from the ranks of disadvantaged groups**, including **persons with disabilities, victims of domestic violence, children in residential institutions, children in conflict with the law, members of the Roma community and members of the LGBTI community**. They also came from the ranks of **service providers, including legal aid providers, NGOs** providing assistance to, and advocating for the rights of, victims of human rights abuses, **social care workers**, presidents of **courts**, staff at **residential institutions for children**, as well as staff of the **Ombudsman** and of the **Commissioner for Protection Against Discrimination**.
- The respondents were mostly interviewed in Tirana, as it is the seat of many of the service providers mentioned above. In addition, respondents were interviewed in Shkoder, Vlora and rural areas.

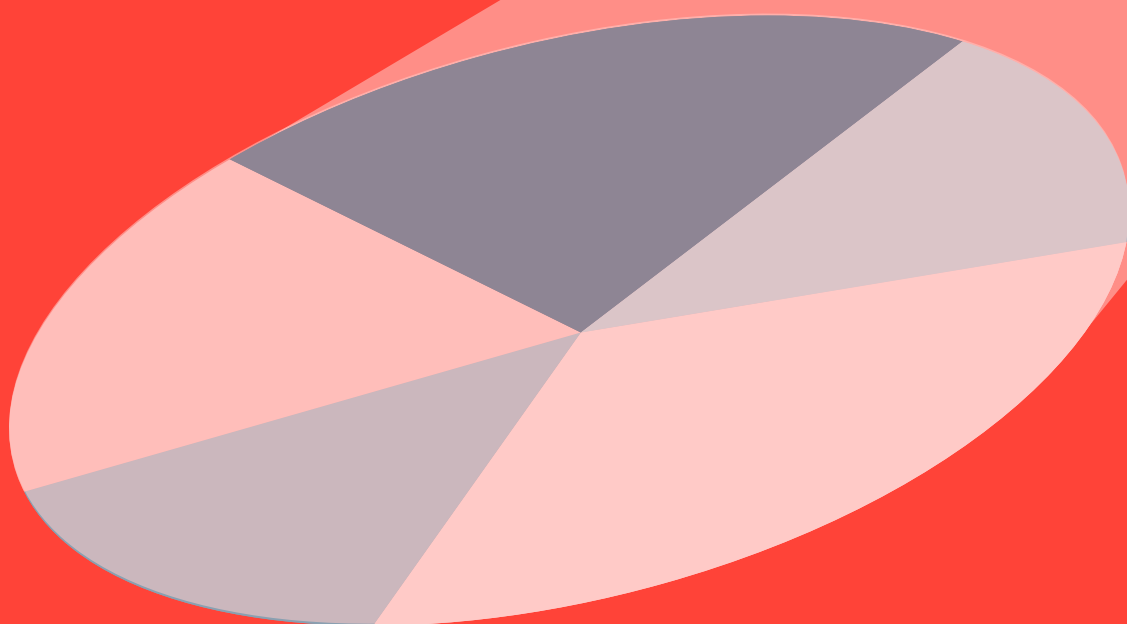
## Comparative regional perspective

The survey adds to the existing body of research on access to justice in Southeast Europe. Previous research is predominantly focused on two aspects of access to justice. The first is the performance of justice sector institutions, such as a country's judiciary or legal aid board. The second is the access to justice of particular groups, such as children or the victims of domestic violence.

This survey, however, takes a bottom-up approach that seeks to ascertain the justice needs and experiences of the residents of Albania, without restricting its focus on particular institutions or groups. It thereby adds to the small number of studies in the region that have taken as their starting points the justice needs and experiences of the population as a whole. In doing so, it will hopefully serve to promote the comprehensive and holistic approach to access to justice taken here.

# KNOWLEDGE OF THE LAW AND CONCEPTIONS OF JUSTICE

Knowing the law and having a conception of justice are important elements of access to justice. While citizens are not expected to have the same knowledge of the law as a legal professional, their familiarity with basic provisions and key tenets of the law is a precondition for accessing justice. In order to ascertain their legal literacy, Albanian citizens were surveyed on knowledge of the law and opinions of justice.

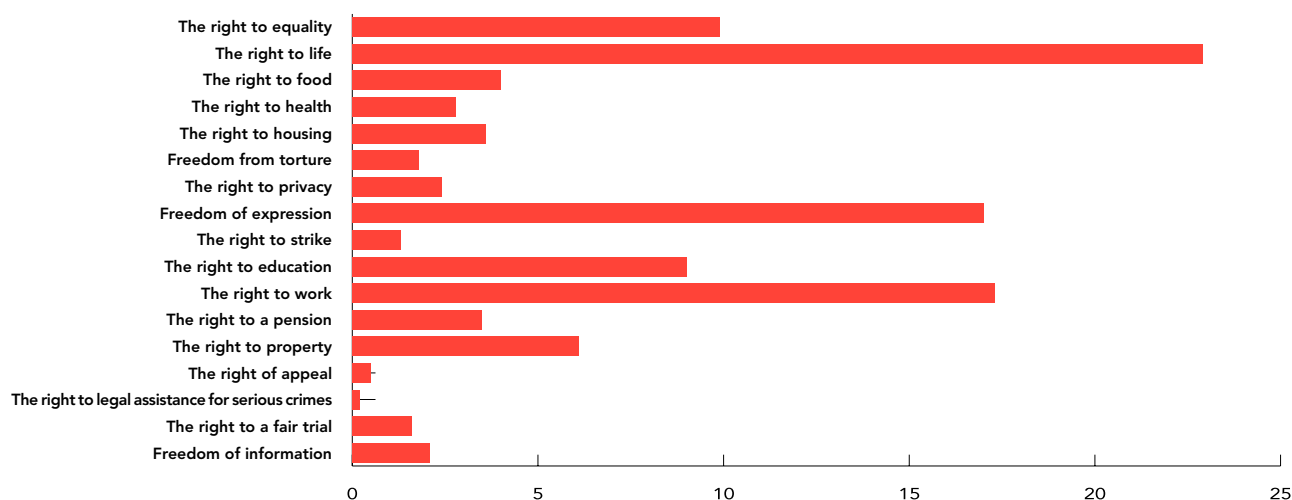






## 1.1 Knowledge of the law

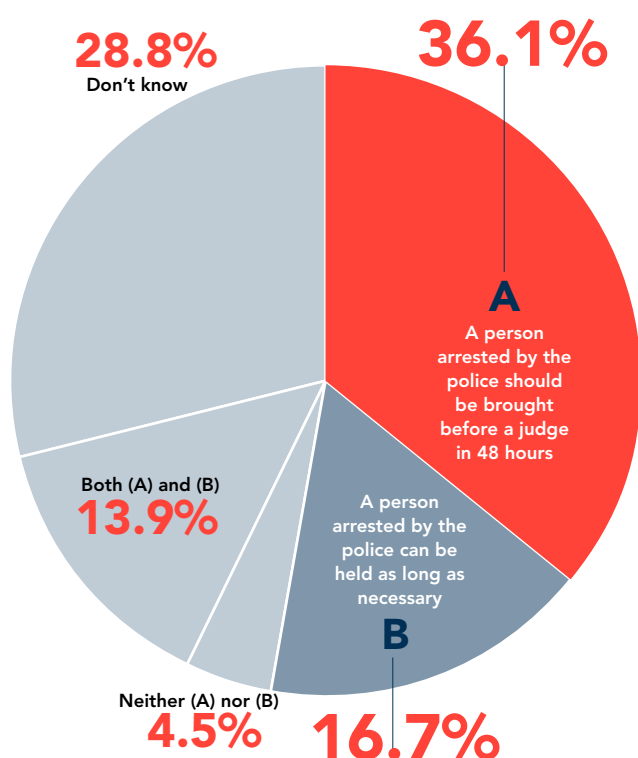
### Name all of the rights protected by the Albanian constitution that you are familiar with (%)



The results demonstrate a low level of awareness among citizens of their rights. There is not a single right or freedom that more than a quarter of respondents can name, while only three rights or freedoms (the right to life (22.9%),<sup>1</sup> the right to work (17.3%)<sup>2</sup> and freedom of expression (17%)<sup>3</sup>) can be named by more than a tenth of the population. The Constitution is the fundamental legal document of Albania; if its people are unfamiliar with its contents, it renders it useless and means they will be hard pressed to demand these rights should be protected.

When asked more detailed questions, the results reflected, for the most part, a similarly modest level of legal awareness.

### The powers of the police to detain



Only over a third (36.1%) of the population identified **A** as the correct answer.<sup>4</sup> Even fewer of the Roma population (18.4%), persons lacking in formal education (27.3% of those with an incomplete primary school education, as opposed to 47.4% of those with a university education) and those with lower incomes (17.4% of those earning between 2001 and 5000 lek monthly, contrasted with 49.8% of those earning between 50,001 and 100,000) identified the correct answer. At the same time, fully a sixth thought that those arrested by the police can be detained as long as necessary.

This graph also illustrates a pervasive pattern found in Albanian society: the level of education, size of income and belonging to the Roma community stand out as three very important determining factors in the level of legal literacy. In other words, if a person is of Roma ethnicity, has a low level of formal education and earns little, the less likely it is they will know provisions of the law. This theme is recurring and will be illustrated in subsequent results as well.

1. See Constitution of the Republic of Albania, art. 21, <http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan013810.pdf>, last accessed 26 June 2017.

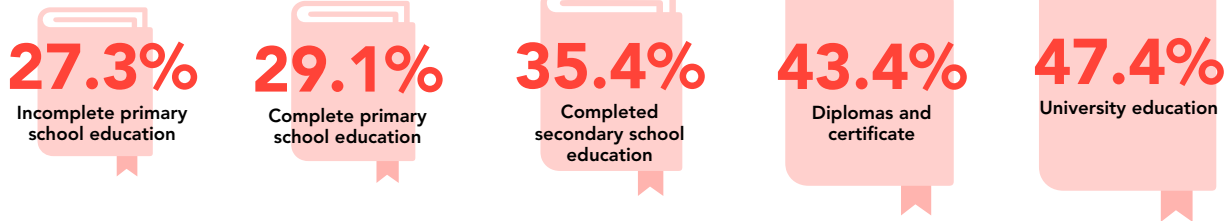
2. Ibid, art. 49.

3. Ibid, art. 22.

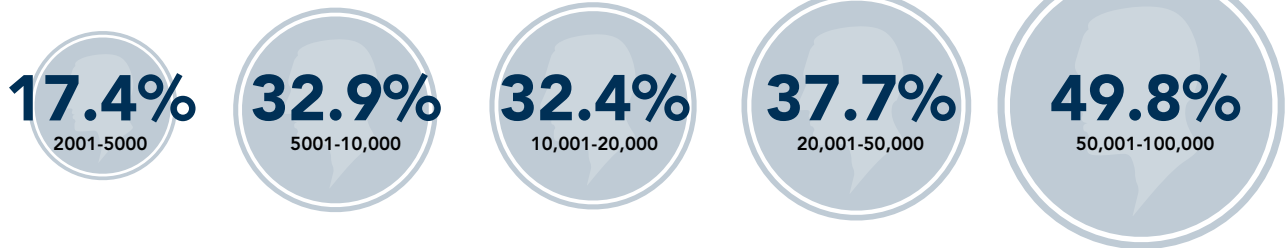
4. Ibid, art. 28(2).

**A person arrested by the police should be brought before a judge in 48 hours - AGREE**

**Education**



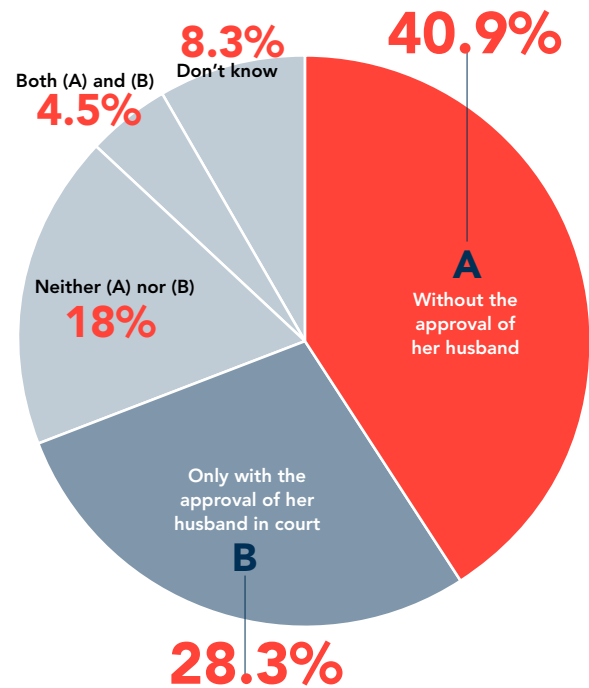
**Monthly income in lek**



Respondents were similarly divided on a woman’s right to obtain a divorce. Only **two in five respondents (40.9%) stated that a woman can obtain a divorce without her husband’s approval**,<sup>5</sup> while the remainder were not aware of this provision, with with over a quarter (28.3%) believing that a woman must have her husband’s permission in order to obtain a divorce.

Once again, the level of education was a significant determinant of the level of legal literacy. Namely, while less than a third (32.3%) of those with an incomplete primary education stated that a woman can obtain a divorce without her husband’s consent, that percentage rose to over half (53.6%) of those with a university education.

**A woman can obtain a divorce**

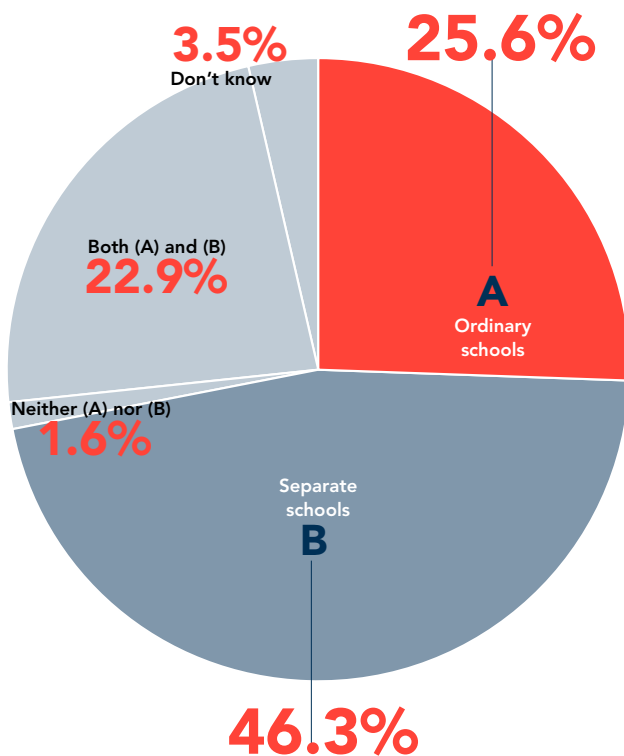


**A woman can obtain a divorce without her husband’s permission - AGREE**



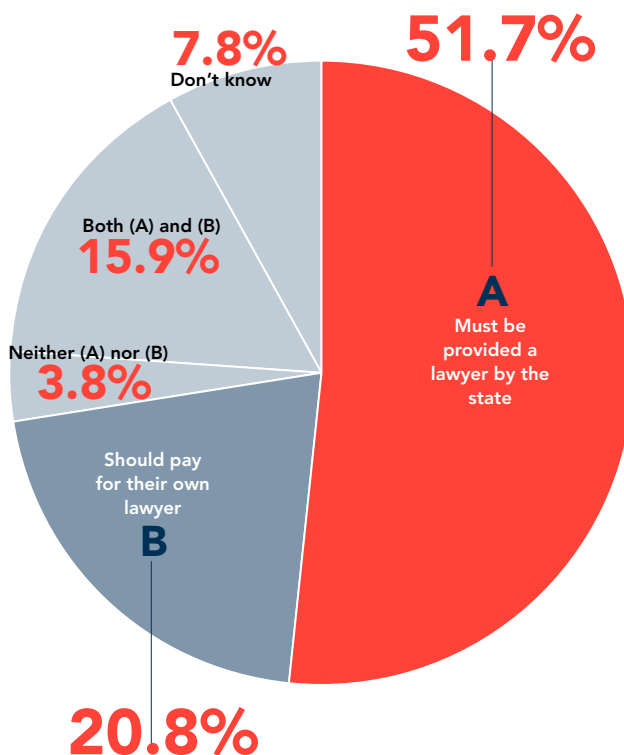
5. Art. 132 of Family Code.

**Children with disabilities should be placed in:**



When asked whether children with disabilities should be included in ordinary or separate schools according to the law, **only a quarter (25.6%) correctly identified that the law provides for the possibility of inclusion of this group of children in ordinary schools,**<sup>6</sup> while nearly half (46.3%) believe that the law mandates that they should be placed in separate schools. In keeping with the overall pattern, those with less educational qualifications, Roma citizens and those with lower incomes (only 15.2% of those earning between 2001 and 5000 lek monthly and 21.5% of those earning between 5001 and 10,000) were less likely to know the law on this point.

**Those accused of murder:**

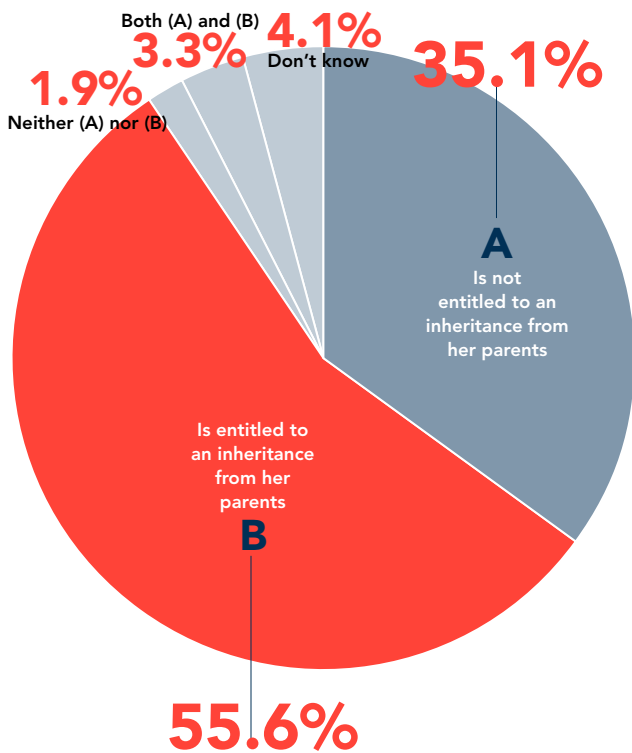


When asked about the rights of persons accused of murder, **only slightly over half of those surveyed (51.7%) were aware that they should be provided with a lawyer by the state if necessary.**<sup>7</sup> The figure was even lower among the Roma (42.9%), and among those with a lower level of education: while just over a third (37.4%) of those with an incomplete primary school education were aware that the state has the duty of providing legal aid to those accused of murder, nearly three fifths (58.2%) of those with a university education know this that the law provides such guarantees.

6. Articles 3 and 63 of the Law nr.69/2012 on Pre-university Education

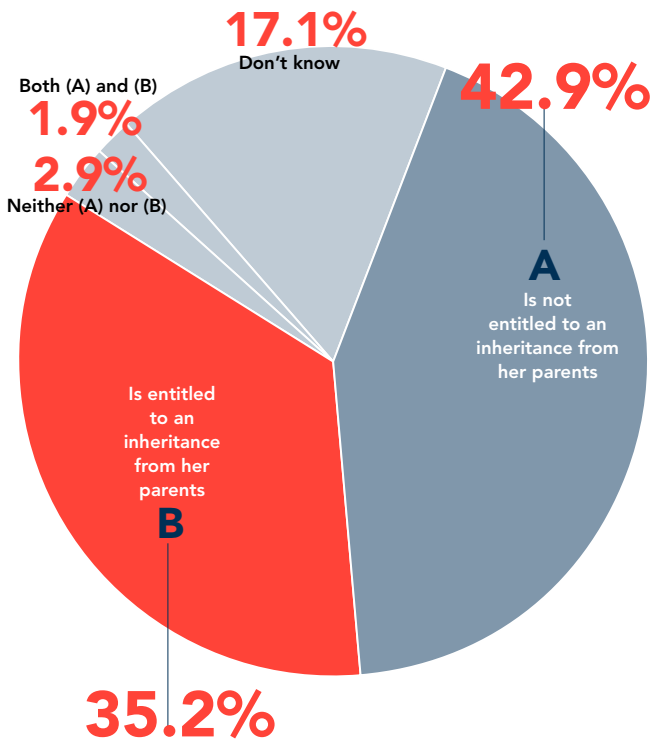
7. Art. 31(ç) of the Constitution and Art.6 of the Criminal Procedure Code.

**A married woman that received dowry:**



The Albanian public is not well informed about women's rights either. The survey results show how widespread a common misconception about the rights of married women is. Namely, **over a third (35.1%) of respondents believe the law states that a married woman that received dowry is not thereafter entitled to an inheritance from her parents**, while only slightly over half (55.6%) of those surveyed identified the appropriate provision – that a married woman is entitled to an inheritance from her parents, regardless of whether she received dowry.<sup>8</sup>

**Roma community - A married woman that received dowry:**

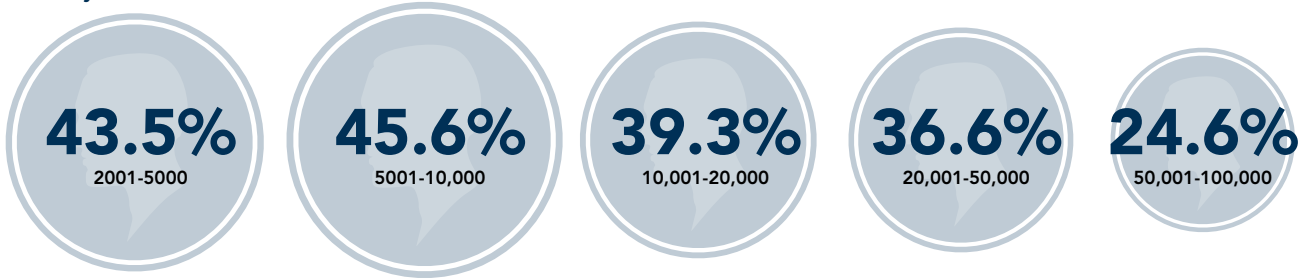


The Roma community, lower earners those with a lower level of formal education are again among the least informed about the law on this point. While over half (51.5%) of those with an incomplete primary school education believe married women are not entitled to an inheritance if they have received dowry, that number is halved (to 24.7%) among those with a university degree. Additionally, more Roma (42.9%) are of the opinion that the law prohibits married women from receiving an inheritance than know the law does not prohibit this (35.2%). Finally, while 43.5% of those earning between 2001 and 5000 lek monthly believe women that received dowry, are not entitled to an inheritance, that percentage drops to 24.6% for higher earners.

8. Art.360 of Civil Code.

**A married woman that received dowry is not entitled to an inheritance from her parents - AGREE**

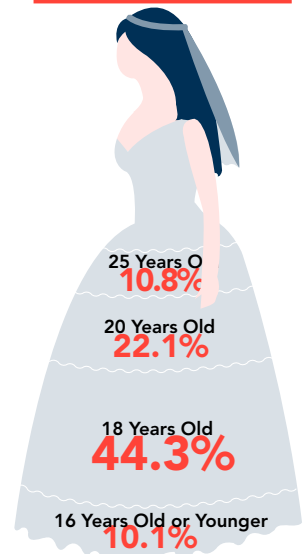
Monthly income in lek



**Disconcertingly, this fallacy is as prevalent among women as it is among men.** This is borne out by interviews carried out as part of this survey; Ines Leskaj, of the Albanian Women’s Empowerment Network (AWEN), states: “Women do not know that they have property rights; they don’t know that they are entitled to 50 percent of the property (upon divorce)”.<sup>9</sup> This is part of a general trend, whereby women “lack information”,<sup>10</sup> according to Kristi Kola and Atila Deda of the Woman to Woman NGO argue.

The Albanian population was also surveyed on its knowledge of the minimum age at which it is legal to get married. Only 44.3% of the respondents correctly identified 18 as the legal minimum age of marriage (notwithstanding the exception provided under the Family Code for “matters of importance”).<sup>11</sup>

**The legal minimum age of marriage in Albania is**

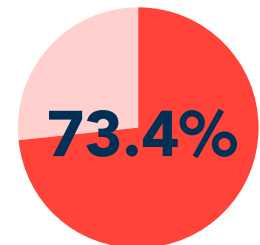


**Seeking information about the law**

Almost **three quarters (73.4%)** of the population has not sought information about the law.

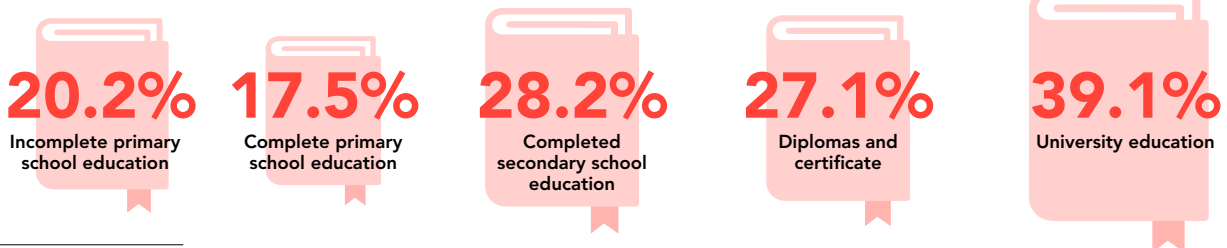
Those that have sought information have overwhelmingly done so (79.3%) in order to address their own disputes. Further, the most notable trend is that the more educated a person is, the more likely they are to seek out information about the law. Thus, those with a university education are almost twice as likely (39.1%) to try to develop their knowledge of the law than are those with an incomplete (20.2%) or complete (17.5%) primary school education. This result may go some way towards explaining the above-mentioned results that show a strong link between levels of education and levels of knowledge of the law.

Men are more likely (29.6%) than women (23.2%) to be seeking out information about the law.



**HAVE NOT SOUGHT INFORMATION ABOUT THE LAW**

**I have sought information about the law**



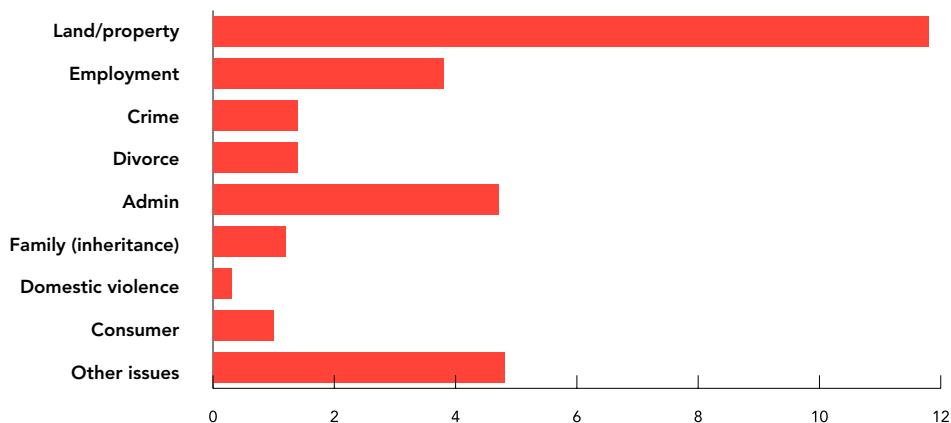
9. Interview with Ines Leskaj and Irena Shtiraza, Albanian Women’s Empowerment Network; Tirana, 10 February, 2017

10. Interview with Kristi Kola and Atila Deda, Woman to Woman; Shkoder, 22 February 2017

11. Art.7 of the Family Code.

The dominant subject matter of disputes of the Albanian population is land and property rights; accordingly, these were the most popular topics that respondents sought information about, followed by employment questions, administrative issues, and so on.

**What topic of law did you inquire about? (%)**



The most frequently consulted sources of information have been local government (8.2%), followed by central government (6.4%), lawyers (4.9%) and the internet and social media (4.9%) and friends and family (4.3%).

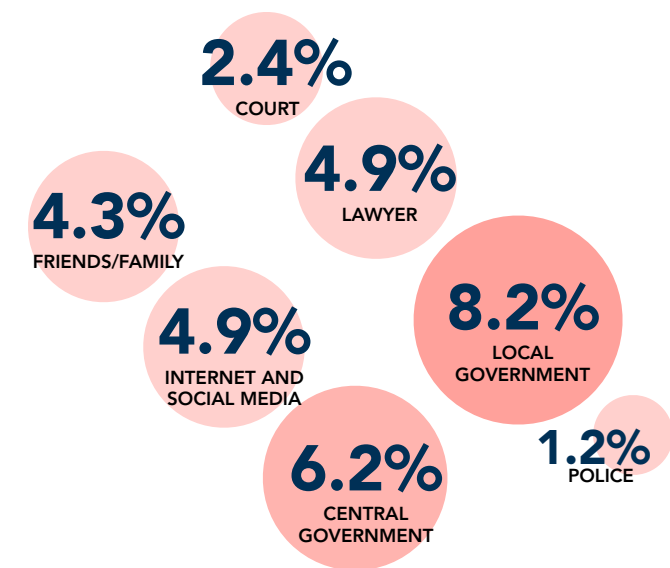
More respondents than not were dissatisfied with the information received. While approximately a third (32.1%) stated that they were satisfied, two fifths (40.2%) were not. There were sharp divisions within Albania as to the level of satisfaction with the information provided. For instance, the residents of Tirana were the least satisfied (24.1%) and nearly the most dissatisfied (45.8%) of any region in the survey.

The Roma population was particularly displeased, with three quarters (75.9%) stating they were dissatisfied and only 17.2% claiming the opposite. Stark differences are also found in the levels of satisfaction of those with lower and higher levels of education, with those with an incomplete primary education and a complete primary education being the most dissatisfied with the advice provided.

The quality of advice and information will be considered more in the chapters on dispute resolution.

It is also worth noting that there is no noticeable difference in the knowledge of the law between those that did and did not have experiences with resolving disputes in the justice system.

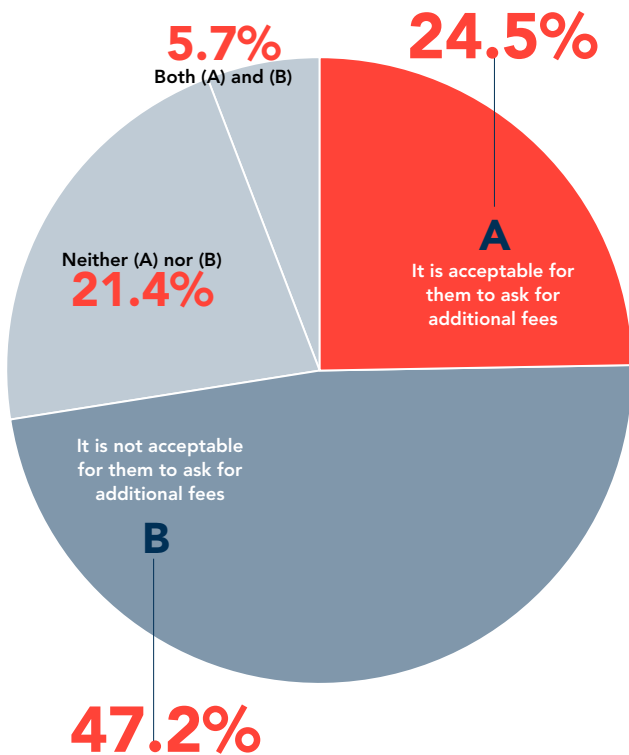
**Where did you seek information about the law?**



**40.2%**  
WERE NOT SATISFIED OVERALL WITH THE INFORMATION RECEIVED

## 1.2 Conceptions of justice

State officials are not paid enough, so:



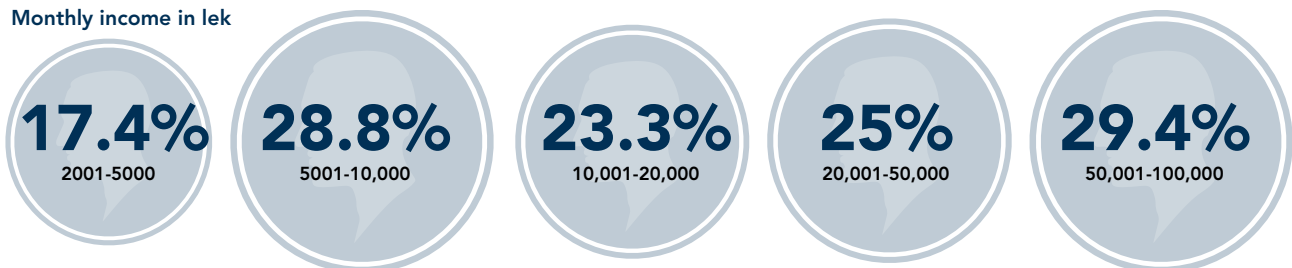
In addition to examining the Albanian population's knowledge of the law, the survey also examined its conceptions of justice. Along with the above results, these are supposed to provide a baseline for policymakers in Albania to reference when determining how best to improve access to justice, both in terms of awareness raising and in ameliorating institutional responses to those that demand assistance.

The results show that **the population at large has a high tolerance of corruption**. Nearly a quarter (24.5%) of those surveyed say it would be acceptable for state officials to ask for additional fees, while less than half (47.2%) definitively stated that it is not.

**Surprisingly, the younger, the more educated, and the higher earning a person, the more likely they are to tolerate corruption**. Thus, while 27.9% of 18-24 year olds said that state officials may ask for additional fees, only 18.5% of those over 65 said the same thing. Additionally, while 20.2% of those with an incomplete primary school education said they would tolerate these additional fees, 28.9% of those with a university degree expressed the same opinion. Finally, those earning 50,001-100,000 lek monthly are almost twice as likely (29.4%) to tolerate corruption as those earning 2001-5000 lek (17.4%) each month.

State officials are not paid enough, so it is acceptable for them to ask for additional fees - AGREE

Monthly income in lek



There is a **similar level of tolerance towards domestic violence** among the population as a whole. Nearly a quarter of the population (22.5%) believes that "it should be up to the husband to discipline his wife", while less than half (46.4%) say that "neighbours should report domestic violence to the police" and a further fifth (20.8%) believe both. Among those that believe in the former, there is not significant difference between men and women, with a full third of housewives (33.7%) being of that opinion.

Some activists say that, while "domestic violence was hidden and considered 'normal'" in the past, things have improved and domestic violence is condemned more by society at large.<sup>12</sup> Nonetheless, despite this possible improvement, plenty of evidence backs up the results of the survey shown above: the level of awareness among the citizenry at large and in official institutions is not enough to ensure a comprehensive and uniform reaction to instances of domestic violence across the country. Thus, a psychologist at a leading NGO says that women "do not know their rights [and] lack information" while also highlighting the attitudes of officials as playing a part: "police officers make jokes or blame women...they say 'it is good that he beats you. If you were my wife, I would have beaten you more'".<sup>13</sup>

12. Interview with Violeta Neziri, Hapa te Lehte (Light Steps); Shkoder, 22 February, 2017

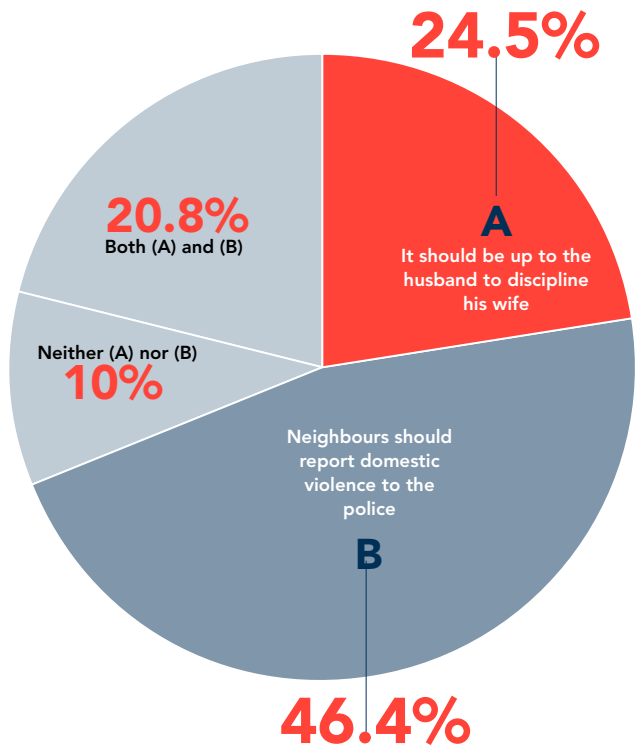
13. Interview with Fajbola Thana, Gruaja tek Gruaja (Woman to Woman); Shkoder, 28 February, 2017



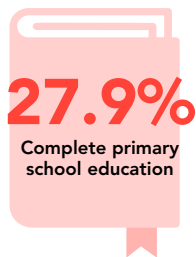
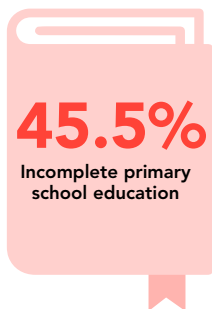
Tolerance of domestic violence is highest among the Roma (two fifths (40%) of whom back the first of the above-mentioned statements) and among those with a low level of formal education.

Moreover, the property and family rights of women are also not uniformly recognised across Albania. For instance, only 67.7% of men and 61.9% of Roma believe that a widow should be entitled to half of her husband's assets upon his death. Additionally, only just over half of the Roma population (50.5%) believes that, following divorce, courts should always award custody in accordance with the best interests of the child, rather than just to the father.

**On domestic violence**

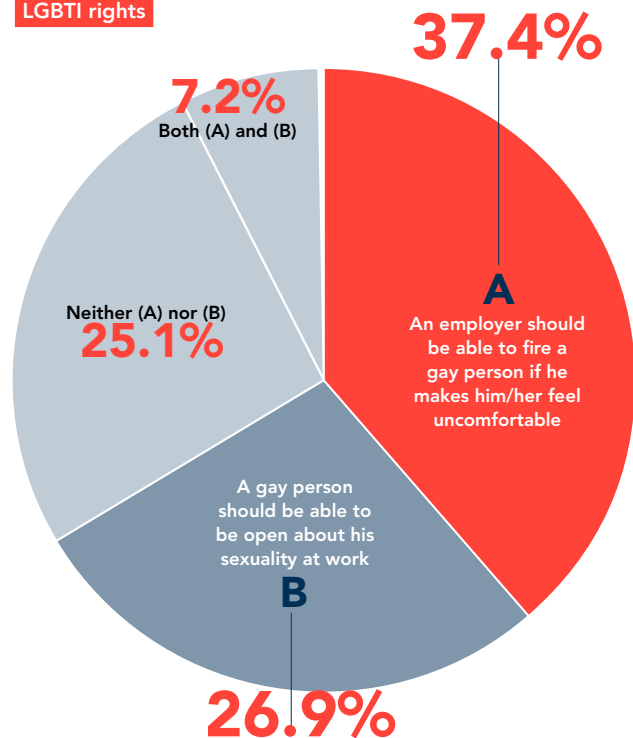


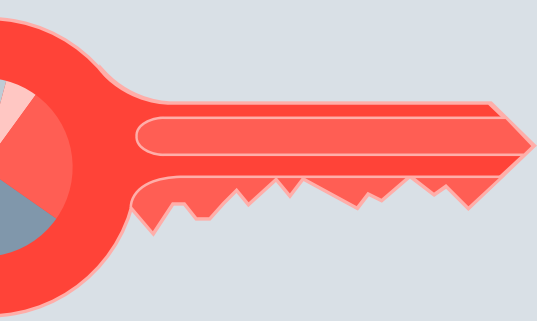
**It should be up to the husband to discipline his wife - AGREE**



The Albanian population is even less prepared to broaden its conceptions of justice to include the LGBTI population. Namely, significantly more citizens (37.4%) believe that an employer should be able to fire a gay person if he makes him/her feel uncomfortable than believe that a gay person should be able to be open about his sexuality at work (26.9%). The differences are most pronounced across income brackets and according to education. Namely, while 43.1% of those earning between 2001-5000 lek monthly and 47.5% of those with an incomplete primary education are in favour of allowing employers to fire gay persons they are uncomfortable with, those percentages drop to 25.1% for those earning between 50,001-100,000 lek monthly and to 27.6% of those with a university degree.

**LGBTI rights**





## KEY FINDINGS

The results show:

- **THE RESULTS DEMONSTRATE A LOW LEVEL OF AWARENESS AMONG CITIZENS OF THEIR RIGHTS.**

There is not a single constitutional right or freedom that more than a quarter of respondents can name, (the three most common are the right to life, (22.9%), the right to work (17.3%) and freedom of expression (17%).

- **THERE IS A SIMILARLY MODEST LEVEL OF LEGAL AWARENESS ON OTHER LEGAL PROVISIONS.**

For instance, only 36.1% of the population is aware that a person arrested by the police should be brought before a judge in 48 hours, while just 40.9% stated that a woman can obtain a divorce without her husband's approval.

- **THE ALBANIAN PUBLIC IS NOT WELL INFORMED ABOUT THE RIGHTS OF DISADVANTAGED GROUPS.**

For instance, only 25.6% correctly identified that the law provides for the inclusion of children with disabilities in ordinary schools, while 35.1% believe the law states that a married woman that received dowry is not thereafter entitled to an inheritance from her parents.

- **ALMOST THREE QUARTERS (73.4%) OF THE POPULATION HAS NOT SOUGHT INFORMATION ABOUT THE LAW.**

More respondents than not were dissatisfied with the information received, with the Roma population, the least educated and residents of Tirana being among the least satisfied.

- **THE LEVEL OF EDUCATION, SIZE OF INCOME AND BELONGING TO THE ROMA COMMUNITY STAND OUT AS THREE VERY IMPORTANT DETERMINING FACTORS IN THE LEVEL OF LEGAL LITERACY.**

In other words, if a person is of Roma ethnicity, has a low level of formal education and earns little, the less likely it is they will know provisions of the law and that they will have sought out information about the law.

- **THERE IS NO NOTICEABLE DIFFERENCE IN THE KNOWLEDGE OF THE LAW BETWEEN THOSE THAT DID AND DID NOT HAVE EXPERIENCES WITH RESOLVING DISPUTES IN THE JUSTICE SYSTEM.**

One possible conclusion from this is that citizens learned little to nothing about the law from their experiences. This highlights the need for a change in such interactions, in order to ensure they are educational as well as transactional and service-oriented.

- **THE POPULATION AT LARGE – AND ESPECIALLY THE YOUNG, HIGHLY EDUCATED AND HIGH EARNERS - HAS A HIGH TOLERANCE OF CORRUPTION.**

24.5% state that it would be acceptable for state officials to ask for additional fees. It would therefore appear that the tolerance of corruption has become fairly entrenched, including among the more privileged and educated sectors of society. A possible explanation is that the poor cannot afford additional fees, and are consequently opposed to the idea. Nevertheless, it is somewhat surprising to see that more educated respondents, who could be expected to be better versed on the ills of corruption, are so tolerant of it.

- **THERE IS A SIMILAR LEVEL OF TOLERANCE TOWARDS DOMESTIC VIOLENCE.**

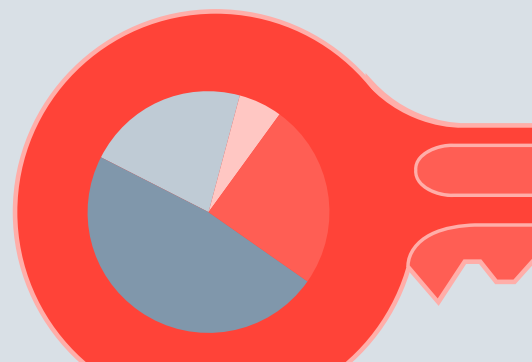
22.5% (including the women surveyed) believe that “it should be up to the husband to discipline his wife.

- **THE ALBANIAN POPULATION IS NOT PREPARED TO BROADEN ITS CONCEPTIONS OF JUSTICE TO INCLUDE THE LGBTI POPULATION.**

(37.4% believe that an employer should be able to fire a gay person if he makes him/her feel uncomfortable).

- **THE RESULTS ILLUSTRATE THE MODEST LEVEL OF KNOWLEDGE OF THE LAW AMONG THE ALBANIAN POPULATION.**

The lack of awareness of the rights guaranteed by the Constitution, along with the lack of knowledge of crucial laws and provisions, means that the legal aid system should focus much of its attention on proactively raising legal literacy and awareness. These efforts should be directed at the population at large, but should – in accordance with the results outlined above – be focused on those with a lower level of formal education, lower earners and the Roma community, which appear to have the biggest gaps in their legal knowledge, and thus the biggest impediments in accessing justice. Raising legal awareness, both among these groups and generally, will require proactive methods in order to bridge the gap to those that may not know where to seek out information.






– CHAPTER 2 –



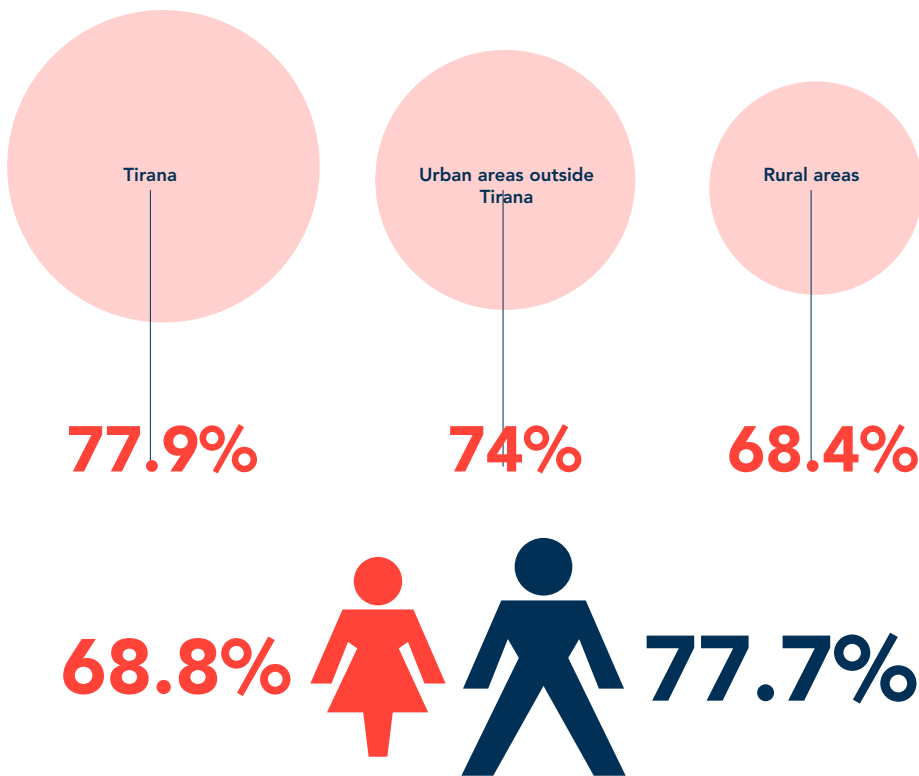
# LEVEL OF TRUST IN THE JUSTICE SYSTEM

Trust in the justice system is a key precondition for effective access to justice. The results show that the overwhelming majority of the population (73.4%) believes the Albanian justice system does not protect their rights.



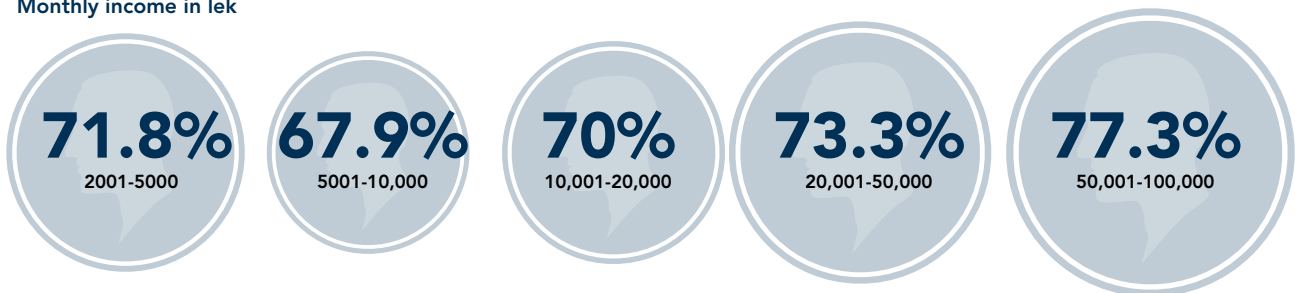


The Albanian justice system does not protect my rights - AGREE



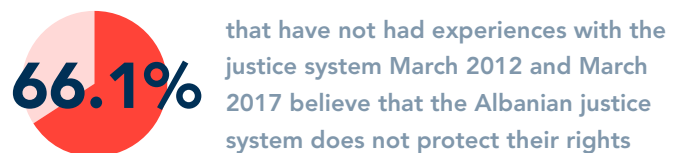
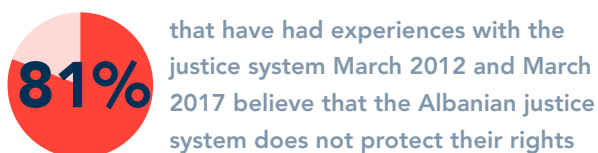
This lack of trust is most pronounced in Tirana, where only 77.9% said they do not trust the justice system, while rural areas have the most confidence in the justice system (68.4% said they do not trust their system). It is also present among higher earners, with 77.3% of those earning between 50,001 and 100,000 lek in monthly salaries stating that the justice system does not protect their rights.

Monthly income in lek



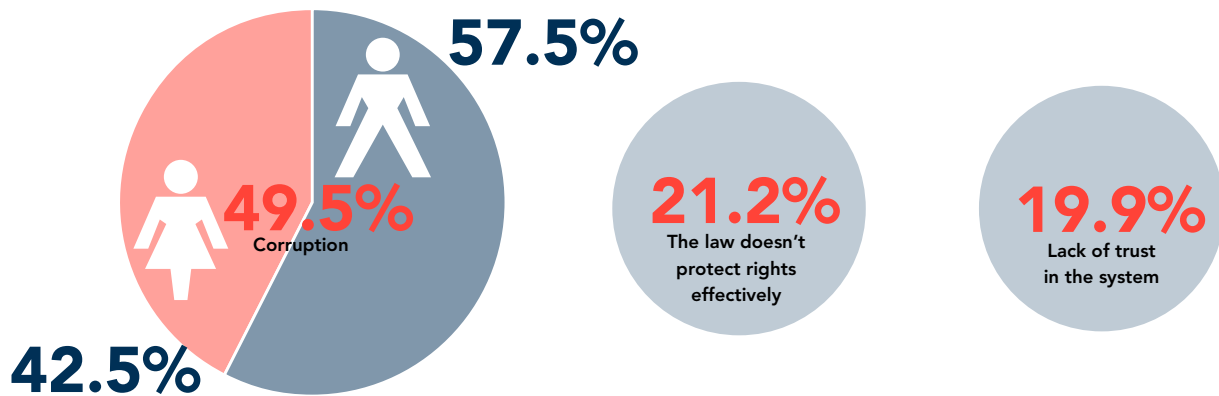
It is also notable that men and older people are those most lacking in confidence in the justice system. Namely, men have 9% less trust than women in the justice system. In addition, those 65 and above are significantly less confident in the system than young people: while 80.4% of older citizens state that the Albanian justice system does not protect their rights, that figure is much lower (67%) for 18-24 year olds.

The most striking disparity when it comes to trusting the justice system, however, is the most indicative. **Those that have had experiences with the justice system are far less likely to believe it protects their rights than those that have not come in contact with it** over the past five years. Specifically, of those that have not had legal issues over this period, 66.1% do not trust the justice system, while this percentage rises considerably to 81% for those that have had legal issues and resulting contacts with the justice system.



There are various reasons given by citizens for the belief the Albanian justice system does not protect its citizens' rights. The **leading reason was corruption, with 49.5% of the population stating that the system did not protect their rights because of it.** This percentage is **even higher among those that have had experiences with the justice system,** as 55.9% of these citizens claimed that corruption was hindering its ability to protect their rights. This belief is also more likely to be held among higher earners, who have – as we will see in the rest of the study – have had more in-depth experiences with the justice system than those who earn less. Additionally, men are more likely to think that the justice system is corrupt than women.

**Leading reasons for lacking trust in Albanian justice system**



These results are supported by the qualitative research conducted as part of this survey. The lack of ability of the justice system to protect rights was a persistent theme in various interviews and focus groups across Albania.

For instance, one female participant in a focus group said, "Court sessions last forever. They extend them, extend them, and extend them, even if you have all the documents in order. **Why do they do this? They do it because they want money. I do not trust the justice system at all.**"<sup>14</sup>

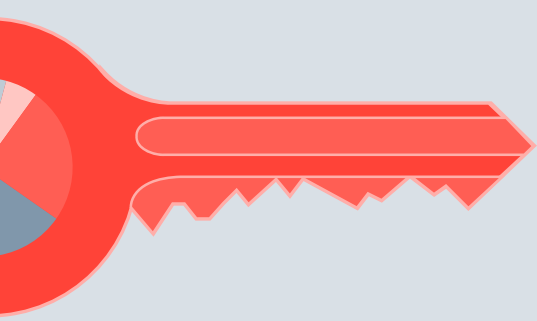
In another focus group with LGBTI persons, a participant stated: "the justice system is corrupt.... As a community, we see corruption everywhere. To obtain any kind of service, we have to pay. If you pay, the person doesn't care if you are gay or not. All they care about is the money."<sup>15</sup>

Another participant in the survey stated discussed corruption and incompetence as the causes of a lack of trust in the justice system: "In general, persons with disabilities do not have trust in the judiciary system. They believe judges are incompetent, do not have knowledge of the legislation related to persons with disabilities and are corrupt."<sup>16</sup>

14. Focus group with rural and urban women; Vau i Dejës, 3 March 2017.

15. Focus group with LGBTI persons at Aleanca (Alliance); Tirana, 23 February 2017.

16. Focus group with persons with disabilities; Tirana, 31 March 2017.



## KEY FINDINGS

The results show:

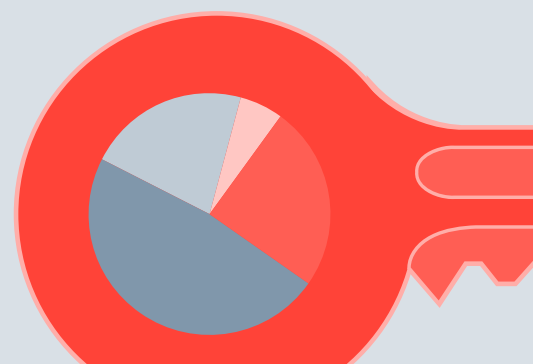
- **NEARLY THREE QUARTERS (73.4%) OF THE POPULATION BELIEVES THE ALBANIAN JUSTICE SYSTEM DOES NOT PROTECT THEIR RIGHTS.**
- **THIS LACK OF TRUST IS MOST PRONOUNCED AMONG THE ELDERLY (80.4%).**

The residents of Tirana (77.9%), men (77.7%) and higher earners (77.3% for those earning between 50,001 and 100,000 lek).

- **THOSE THAT HAVE HAD EXPERIENCES WITH THE JUSTICE SYSTEM ARE FAR LESS LIKELY (66.1%) TO BELIEVE IT PROTECTS THEIR RIGHTS THAN THOSE THAT HAVE NOT COME IN CONTACT WITH IT OVER THE PAST FIVE YEARS (81%).**

- **THE LEADING REASON FOR MISTRUST IN THE JUSTICE SYSTEM WAS CORRUPTION (49.5%),** with over half of higher earners and those who have had experiences with the justice system (55.9%) holding this belief.







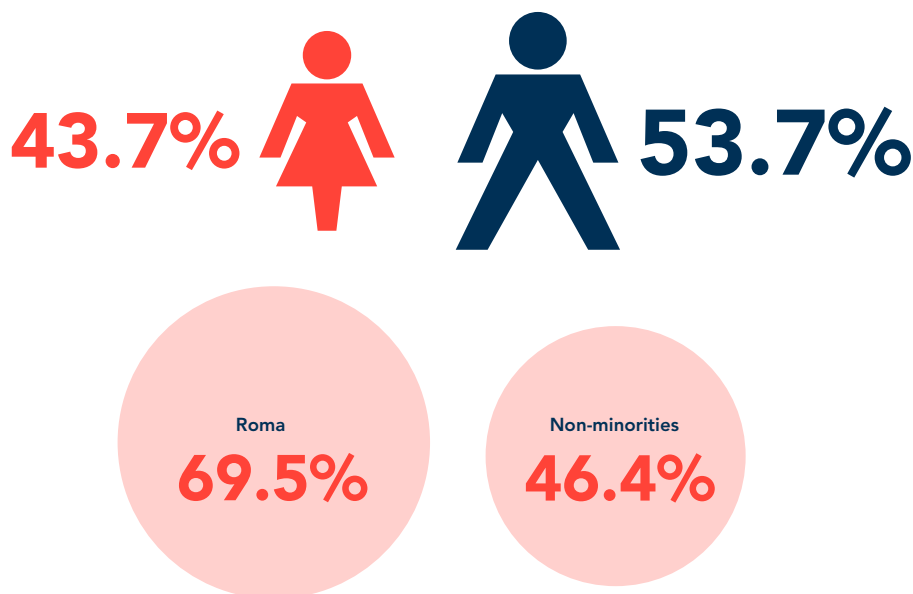
– CHAPTER 3 –

# BREAKDOWN OF CITIZENS' DISPUTES

This chapter highlights the legal disputes of Albanians and the characteristics of these disputes, such as their subject matter, the opposing side and the kinds of damage incurred. It will present an overview of this data, while the following chapters will explore the manner in which these disputes are resolved.



**I have had disputes raising legal issues:**



Almost half of the population (48.7%) has had legal problems in the last five years, with some having more than one dispute.

Men (53.7%) have had more disputes than women (43.7%). It is also notable that the residents of rural areas had fewer disputes (43.5%) than the residents of Tirana (51.6%) and other urban areas (51.1%) and that Roma (69.5%) had significantly more disputes than non-minorities (46.4%).

**The most frequent kinds of disputes are focused on property and land.** Namely, **10% of the population has had disputes over land titles**, which are principally between two individuals who both claim to be the legitimate owners of land.

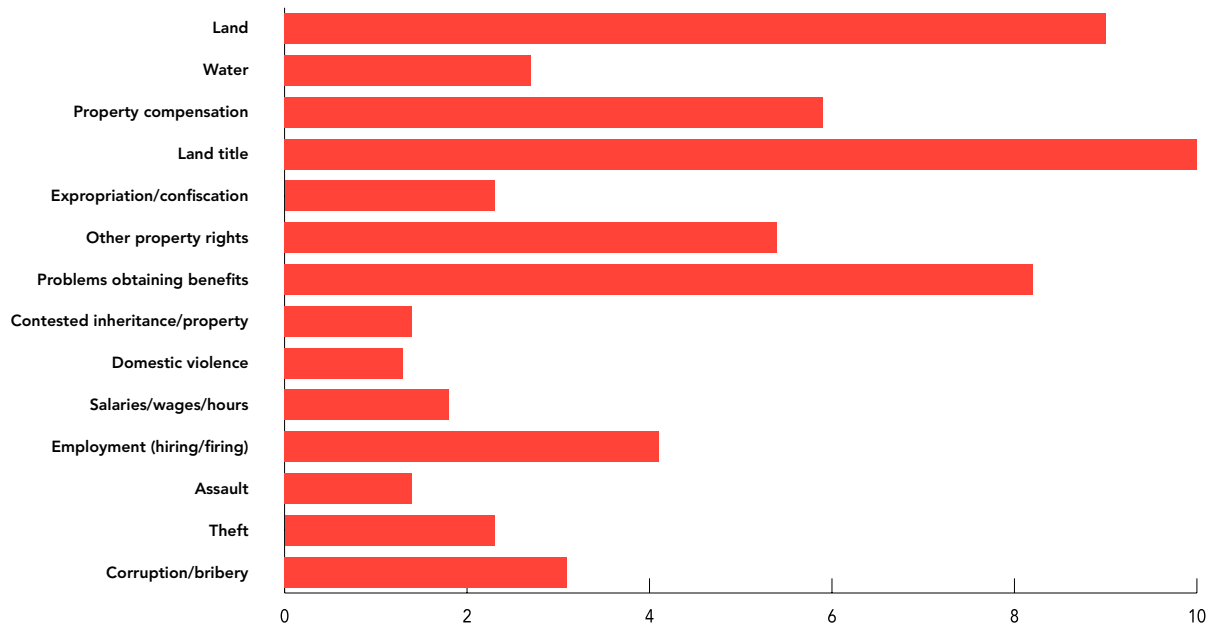
Similarly, **9% of the population had disputes over land**, such as disputes over the restitution for the expropriation of land by the former communist regime. A further **5.9% of the population had disputes over property compensation**, be this over payments for sales of movable and immovable properties, or over the payment of taxes, while **5.4% had disputes over other property rights**.

Another significant category of disputes among the citizenry was disputes over **obtaining benefits, such as social assistance or economic aid**, with **8.2% of the population having had a dispute on this subject**. These were almost exclusively with the government, and 79.2% of them (or 6.5% overall of the overall population) sustained financial damage as a result.

Other categories of disputes include those over labour rights, including on employment status. **One in twenty-five, or 4.1%, of the population, claim they have had a legal issue with hiring and firing** over the past five years. A further **1.8% had issues over their salaries** (such as their non-payment) **or their working hours**. Additionally, **0.7% of the population has had accidents at work** and the associated legal issues arising out of these.

Crime is a far less frequent legal issue for the population at large. The most represented crime is corruption: an additional **3.1% of the population has had disputes around corruption and bribery**. This number, however, does not reflect the scale of corruption in Albanian society, as further chapters show that more citizens have paid bribes or engaged in corruption in order to favourably resolve their cases.

## Subject matter of disputes



Other types of crime were reported as less prevalent. For instance, a relatively small percentage (2.3%) of the population reported being affected by theft over the past five years. Assault was also said to be slightly less prevalent, with 1.4% of the population having been victims of it in this period. Domestic violence was also reported as occurring very rarely, similarly frequently, with 1.3% of the population having had legal issues centring on it. Finally, drug abuse and human trafficking was also recorded as being exceedingly rare. Of course, it should be noted that **these types of disputes are more prone to under-reporting than others** (for example, other studies indicate that 23.7% of women have experienced physical violence over their lifetimes), which would make it likely that it occurs somewhat more frequently than the above-mentioned results show.<sup>17</sup>

Citizens that have had legal issues over family rights (i.e. those between family members that may not be focused on property) are, according to the survey, also relatively rare. Thus, only **1.9% of respondents declared that they have had legal issues over contested divorces in the past five years**, which would suggest that most divorces are conducted sufficiently amicably for them not to raise legal difficulties. Moreover, **1.2% claim they have had problems obtaining family documents** (such as birth certificates) only **0.7% of the population report having had legal issues over child custody or child support**.

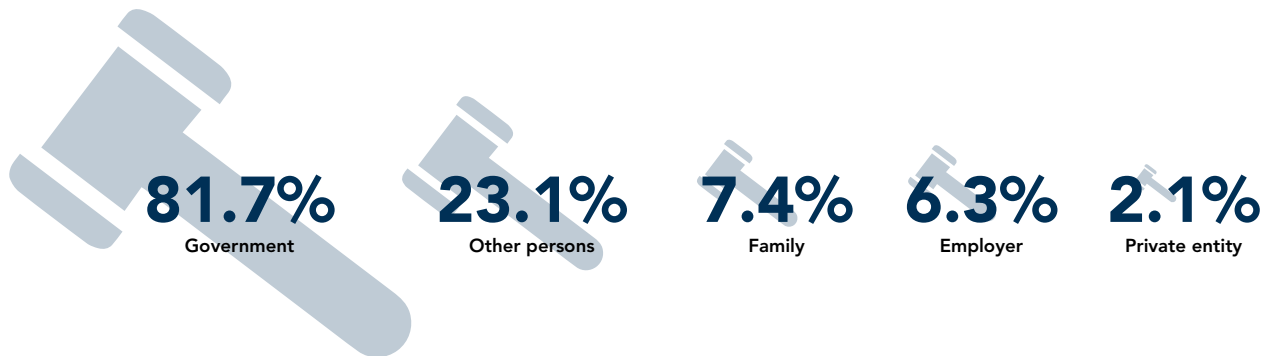
Finally, a small percentage of citizens have had issues that arise out of private commercial dealings, such as business agreements that were not respected (1.4%) or the failure to repay loans (1.2%).

Therefore, the **dominant types of disputes had by the population were property disputes: either over land and the properties on it, or over compensation and other attendant property rights**. Then come disputes with employers (noted above), crime, family issues and contracts (business agreements etc.)

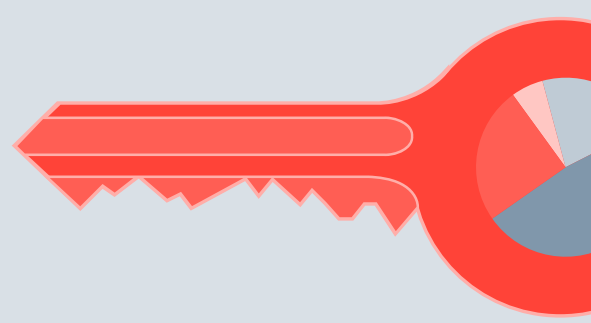
17. See [https://un.org.al/sites/default/files/UNW%20Gender%20Brief%20Albania%202016\\_EN\\_web.pdf](https://un.org.al/sites/default/files/UNW%20Gender%20Brief%20Albania%202016_EN_web.pdf) and <https://www.parlament.al/wp-content/uploads/2017/04/RAPORTI-PP-2016.pdf>, last accessed 24 July 2017.

Despite the varied subject matter, **the disputes are overwhelmingly with one entity: the government** (a catch all term used to denote the local government, the central government and any other state entities). Namely, of those that reported having disputes, 81.7% were with the government (which represents a total of 39.8% of all respondents). This far outstrips the other adversaries: 23.1% of those that reported having disputes had them with other persons (some disputes featured plural adversaries, including the government and other persons); 7.4% had disputes with family members, 6.3% with employers and 2.1% with private entities.

**Who is the other side in disputes?**



**This finding has serious implications for the future legal aid system: namely, that it should be independent enough to ensure that those in need of legal assistance receive it, even when facing the government.** Otherwise, if those managing the system lack sufficient independence, there is a risk that the legal aid system will have at its heart a conflict of interest and that it will not provide help to those wanting to make a legal claim against the government.



## KEY FINDINGS

The results show:

- **ALMOST HALF OF THE POPULATION (48.7%) HAS HAD LEGAL PROBLEMS IN THE LAST FIVE YEARS, WITH SOME HAVING MORE THAN ONE DISPUTE.**
- **MEN AND MEMBERS OF THE ROMA COMMUNITY ARE NOTABLE FOR HAVING MORE DISPUTES THAN WOMEN AND NON-MINORITIES, RESPECTIVELY.**

Conversely, the residents of rural areas have fewer disputes than the residents of Tirana and other urban areas.

- **THE MOST FREQUENT KINDS OF DISPUTES ARE FOCUSED ON PROPERTY AND LAND.**

10% of the population has had disputes over land titles and a further 9% of the population had disputes over land, be they with family or with the government. Other common disputes are over obtaining benefits (8.2%).

- **LESS COMMON ARE DISPUTES OVER LABOUR RIGHTS**

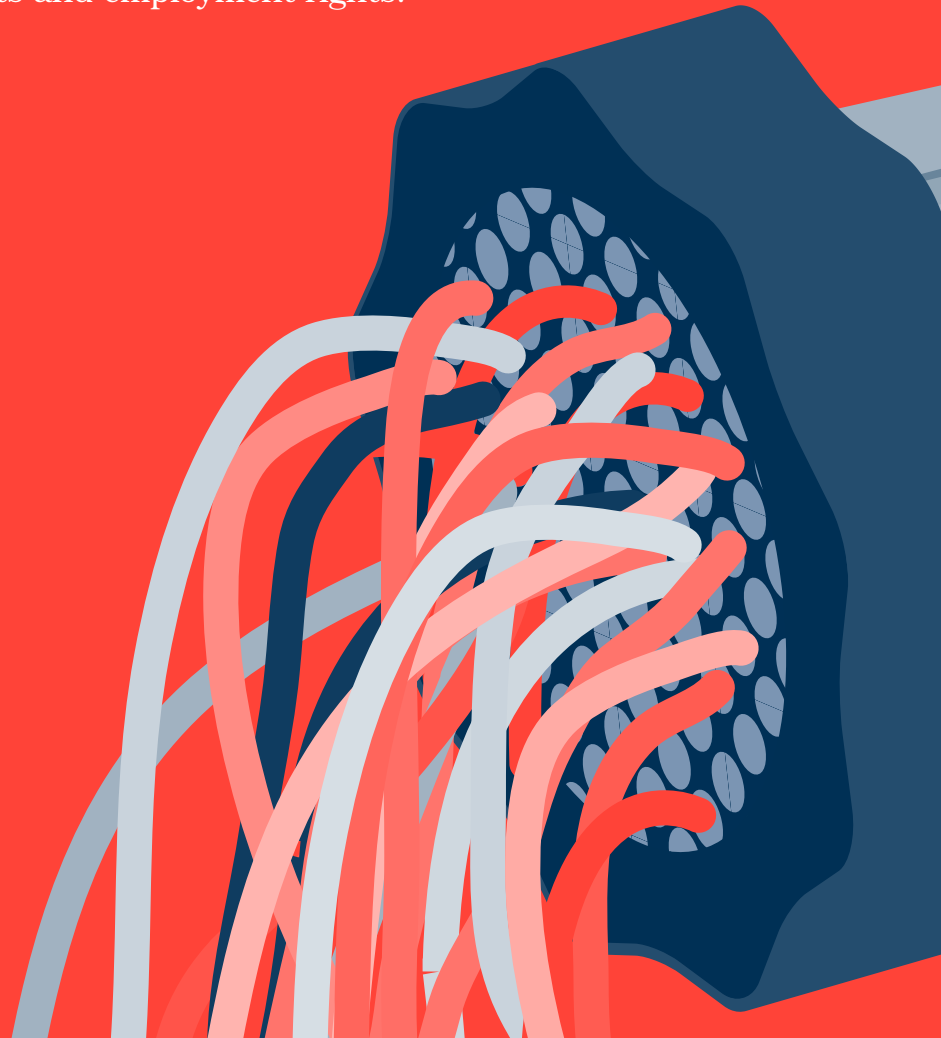
(with 4.1% having disputes over hiring and firing) and over crime (the most prevalent is corruption (3.1%)).

- **THE DISPUTES ARE OVERWHELMINGLY (81.7%) WITH THE GOVERNMENT.**

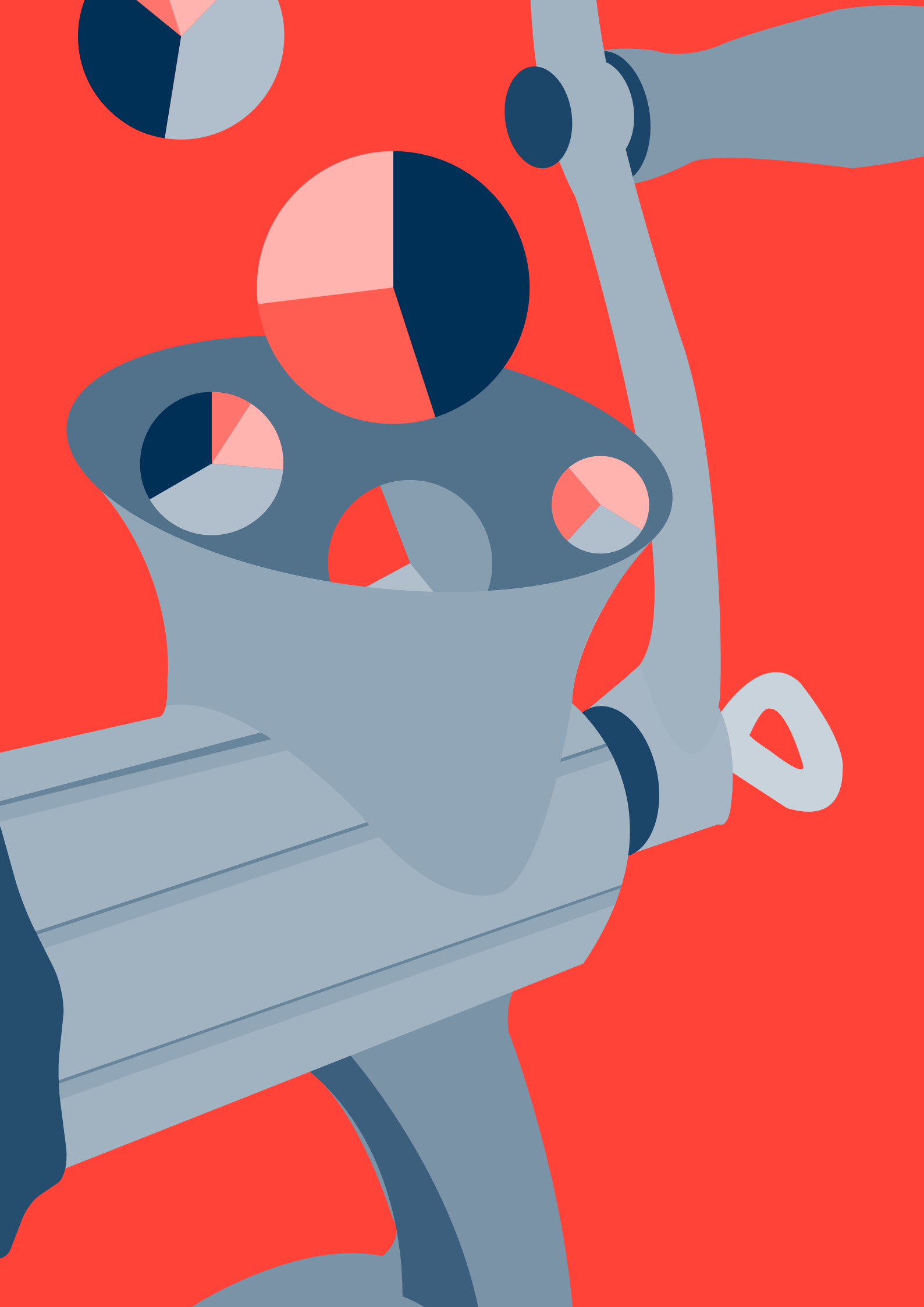
– CHAPTER 4 –

# DISPUTE RESOLUTION AND THE JUSTICE SYSTEM

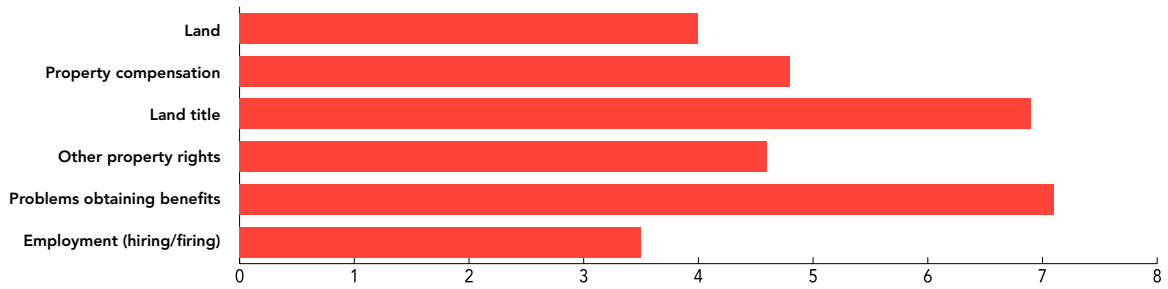
Nearly half (48.7%) of the population had disputes with legal implications over the past five years. Of those, the most important issues are focused on land and property rights, as well as on problems obtaining benefits and employment rights.







**What has been the subject of your most pressing dispute over the past five years?**



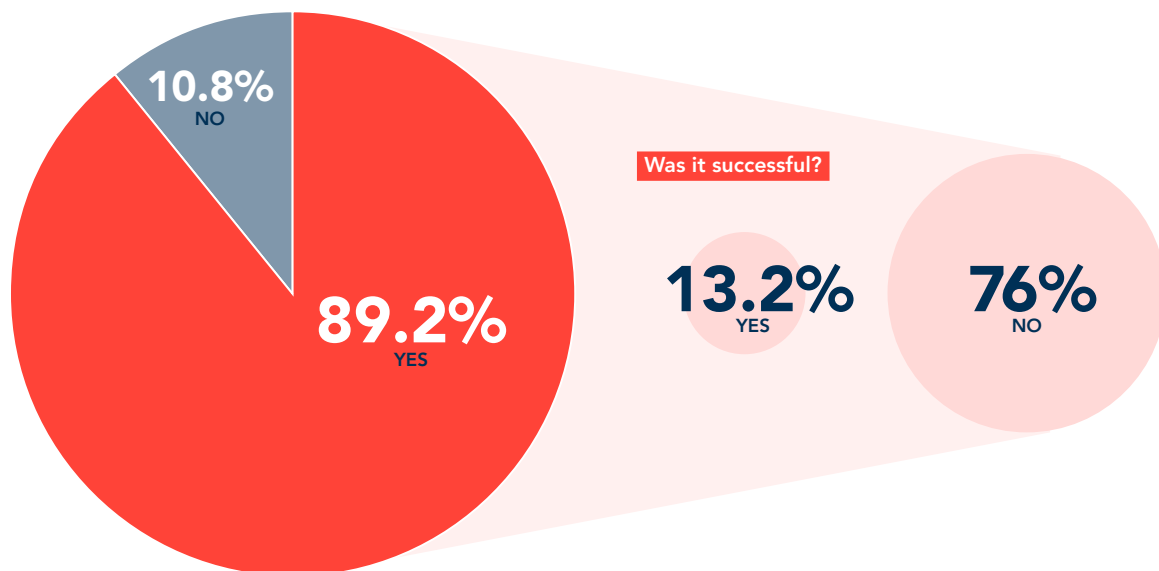
The following chapters will walk the reader through the ways in which Albanians resolve disputes. They will present the characteristics of the dispute resolution journeys undertaken by the Albanian population in four phases – one for each step taken by the population to resolve their legal issues.

### PRELIMINARY PHASE

The **initial step of the overwhelming majority (89.2%) of the population was to approach the other party** – be it the government, a private citizen, an employer or someone else. **This indicates a willingness among Albanians to resolve disputes cheaply and without the involvement of the authorities.**

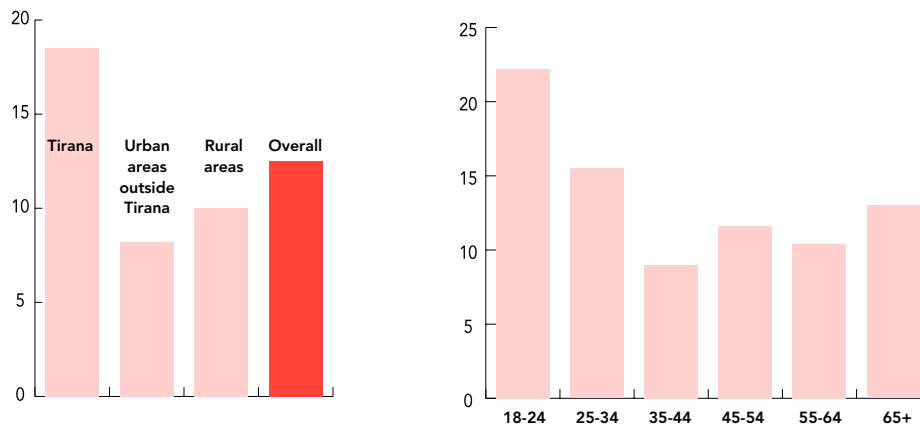
However, these attempts were almost entirely unsuccessful. Only in 14.8% of the cases where an approach was made were these direct negotiations successful.

**Did you initially approach the other party to resolve your dispute? Was it successful?**



Aside from being mostly unsuccessful in resolving disputes, these interactions between the two parties were not always peaceful. **In one in eight (12.5%) instances at least one of the parties threatened the other with violence. This was most pronounced in Tirana**, where 18.5% of the residents threatened violence (as opposed to urban areas outside Tirana where this occurred in only 8.2% of the cases). In addition, **this is a problem that plagues the young more than the old**: it happened in 22.2% disputes featuring 18-24 year olds and 15.5% 25-34 year olds.

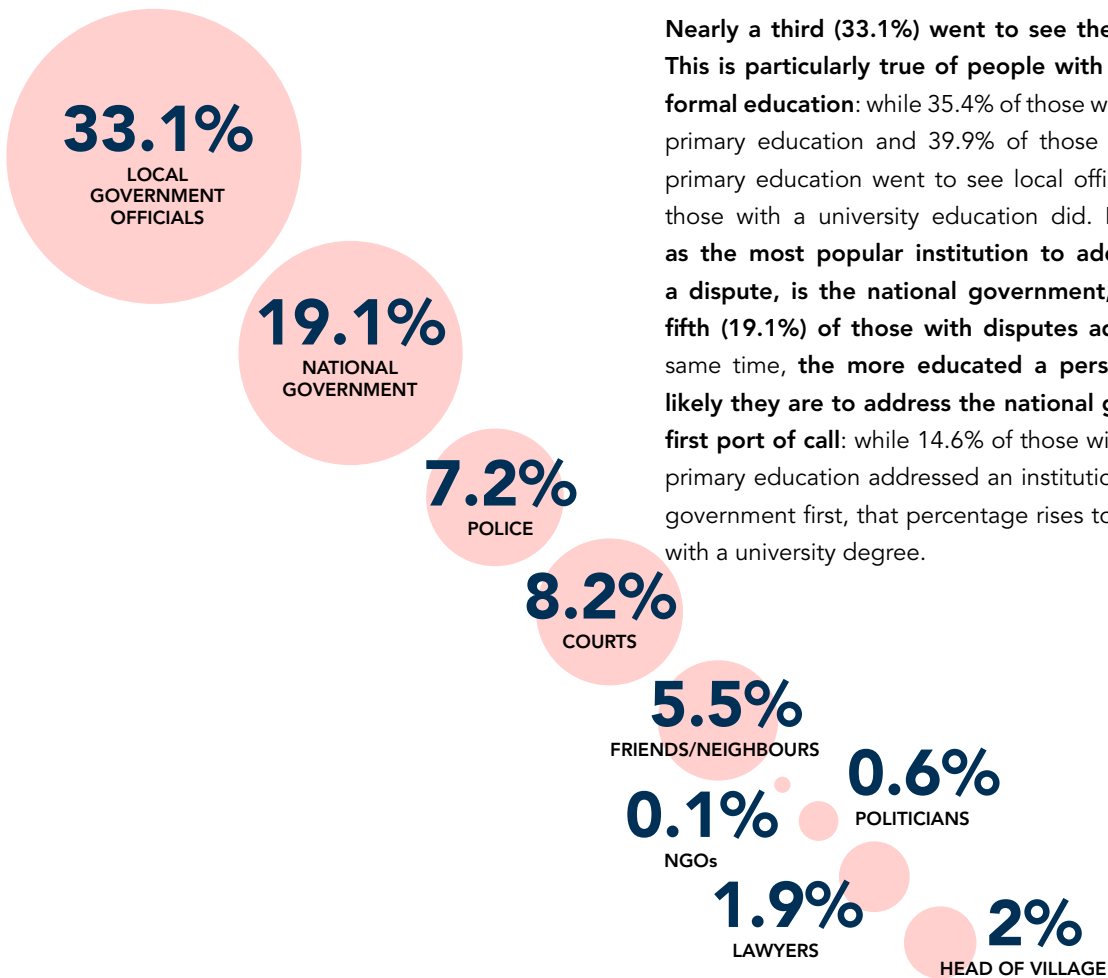
**Did either party threaten violence during the direct contacts or negotiations? - YES**



**CHAPTER 4.1 – THE FIRST PHASE**

The results show that the vast majority of cases (86.8%) were not resolved through direct negotiations with the other party. So, where did people with legal issues turn to next? The majority (52.2% in total) turned to local or national government to resolve their issue.

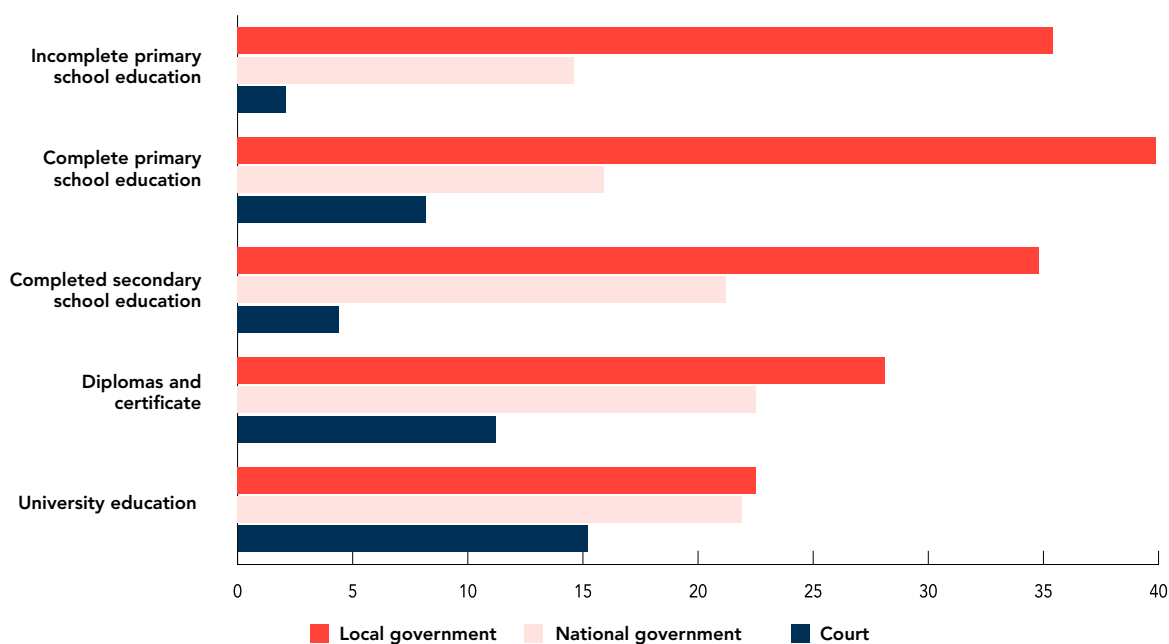
**Who did you first turn to (besides/after the other party) to try to resolve your dispute?**



It is also important to highlight that over half of those with disputes turned to government, rather than friends, neighbours, courts, the police, lawyers, NGOs or other institutions. When asked why, 74.1% answered that they addressed certain institutions or people because they have 'authority.' The only other reason that stands out is people seeking to resolve their disputes chose their path because they wanted to address those with 'skills and/or information' (8.9%).

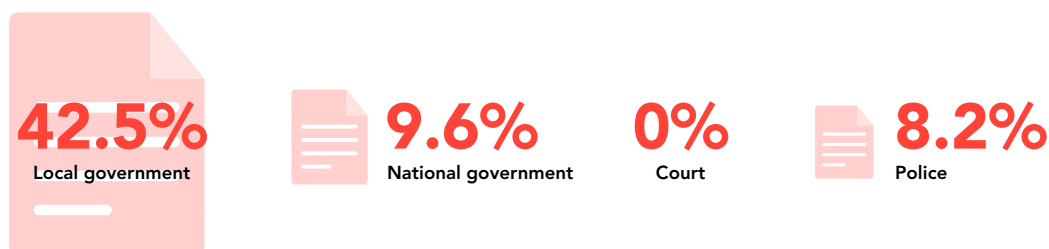
It is also notable that the more educated a person is, the more likely they are to go to court as a resort of first instance in order to resolve their dispute.

**Went to see these institutions first (besides/after the other party) to try to resolve dispute**



The Roma population is even likelier (42.5%) to address the local government than the general population, **while there were no Roma citizens that went to court as a first port of call in order to resolve their disputes.** A judge interviewed as part of the survey stated that Roma individuals usually "resolve disputes among themselves and do not access courts".<sup>18</sup> The reasons for this could be myriad, from this being a cultural norm to the costs being prohibitive for most members of the Roma community.

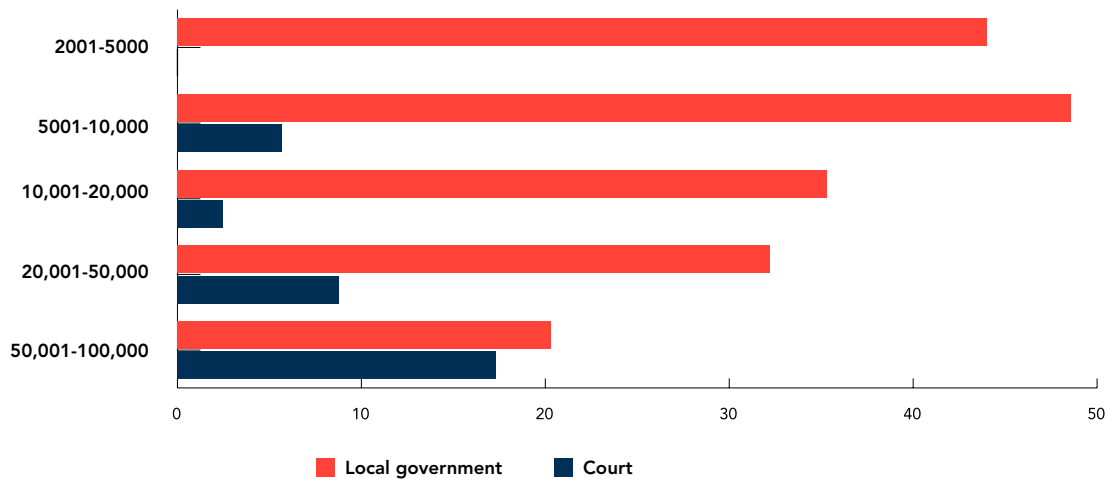
**Went to see these institutions first (besides/after the other party) to try to resolve dispute - Roma**



**Income is a significant predictor of how people attempt to resolve their disputes.** The less a person earns, the likelier they are to go to local government to attempt to resolve their disputes. Conversely, low-income earners are extremely unlikely to go to court, even after failing to resolve a dispute with the other party to it. **Thus, none of the respondents earning between 2001 and 5000 lek monthly chose to go to court in order to obtain redress; conversely, 17.3 of those earning between 50,000 and 100,000 lek did.**

18. Interview with Head of Shkoder Administrative Court; Shkoder, 22 February 2017.

Went to see these institutions first (besides/after the other party) to try to resolve dispute - by income

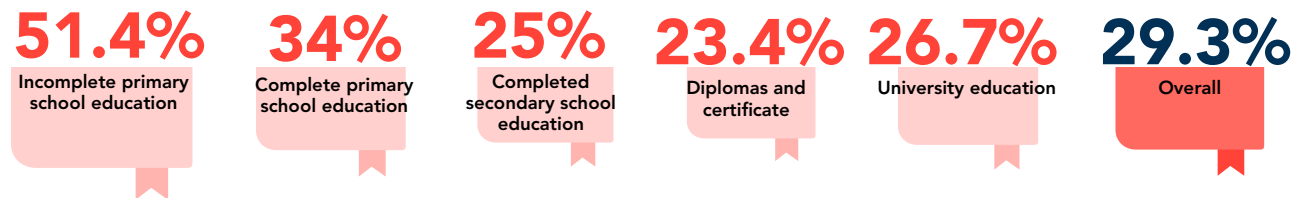


### Communication and respect during first phase

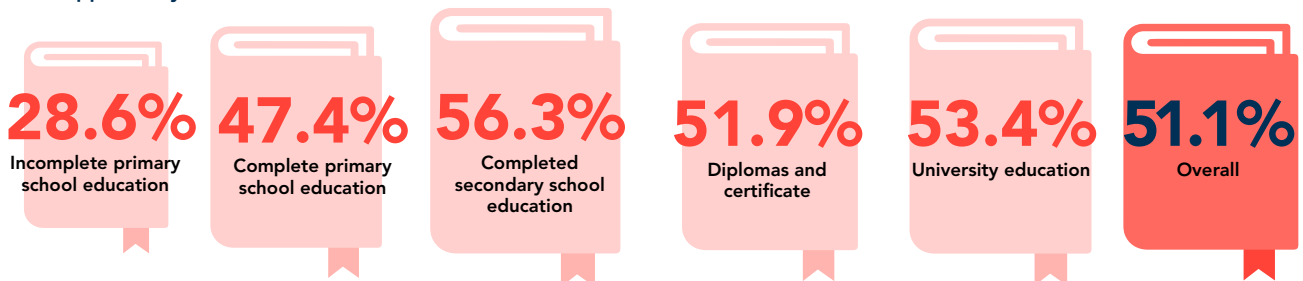
Nearly three in ten (29.3%) of those surveyed in the first phase stated that they had almost no opportunity to state their opinions when interacting with the institution they addressed during this phase (which were predominantly local officials or the national government). The most seriously affected include the residents of Tirana, Roma and those with a low level of education and a low income. Among the residents of Tirana, 40.5% felt they had no opportunity to state their opinions when interacting with the institution they addressed during this phase, while this figure rises to 55.2% for members of the Roma community. Additionally, the lower a person’s formal level of education is and the less they earn, the more likely it is they had no opportunity to state their opinions to the institutions addressed.

To what extent did you have an opportunity to express your opinions to the institution you addressed? (by education)

Little opportunity

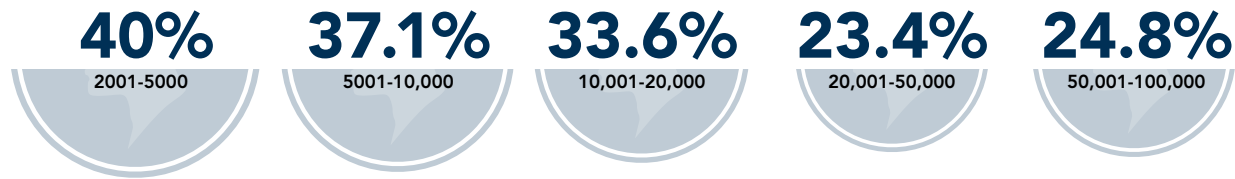


Full opportunity

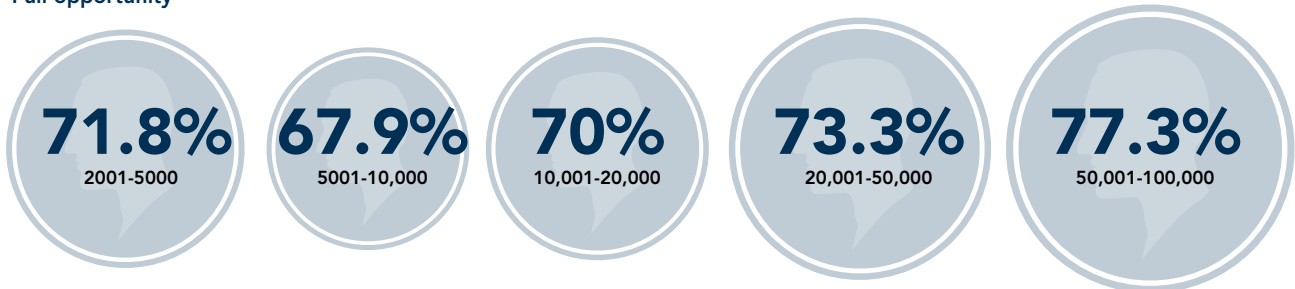


To what extent did you have an opportunity to express your opinions to the institution you addressed? (by income)

Little opportunity



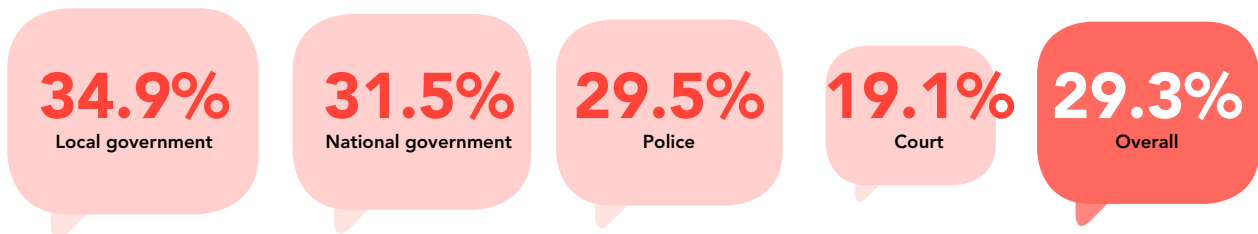
Full opportunity



More specifically, when broken down by institution, local and national government are the least open to providing clients with an opportunity to express their opinions (34.9% of respondents that headed to local government, and 31.5% that addressed to the national government, felt they had little opportunity to express their opinions). By contrast, the courts are shown to be much more welcoming (19.1% felt they had little opportunity while 44.9% thought they'd been awarded a full opportunity).

To what extent did you have an opportunity to express your opinions to the institution you addressed?

Little opportunity



This would suggest that local and national government officials, which the majority of Albanians addressed in the first phase in an attempt to resolve disputes, are not particularly respectful and do not listen to beneficiaries in general, and particularly those from the Roma community, with lower levels of education and low incomes, along with residents of Tirana. And while courts scored better on this count, interviewees with social care workers indicate that, "people from disadvantaged communities are not always treated with respect by judges and others in the judiciary."<sup>19</sup>

The respondents were also surveyed on whether their opinion was understood by the person or institution that heard it. A full 27.1% of respondents felt that it had not been at all. Once again, the most dissatisfied with the communication with institutions were the residents of Tirana (35.5% felt their opinion had not been understood), Roma (46.6%), the least educated (42.9% for those with an incomplete primary education rising to 22.9% for those with a university education) and low earners (36% for those with incomes between 2001 and 5000 lek and 20.3% for those earning between 50,001 and 100,000 monthly).

19. Interview with Head of Social Services Sector, Department of Social Care Services, Housing and Public Health Care, Municipality of Shkoder; Shkoder, 22 February 2017.

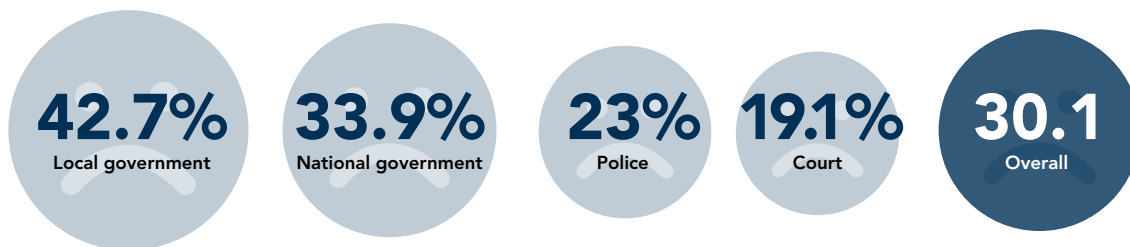
These results form a part of a pattern; **when asked if they were satisfied with the respect given by person or institution they took the dispute to, 30.1% of respondents said they were completely dissatisfied, while only 11.3% said they were fully satisfied.** Among the least satisfied were the residents of Tirana (35.9 completely dissatisfied), Roma citizens (50%) and those with low levels of education (48.6% for those with an incomplete primary education and 31.3% for those with a university degree).

As one of the members of the Roma community interviewed states: *"The distance [between us and officials] is too long. We have been to offices, state institutions but we have never found the service that we used to find during communist times. Back then, if I were to knock on the door of state institutions, they would take immediate measures. Now, this is lacking. It is completely lacking. The municipality, the land registration office have forgotten us...they responded to our claims after nine years and they have destroyed our houses."*<sup>20</sup>

**When broken down by institution, it is again local (42.7%) and central (33.9%) government that citizens are most dissatisfied with in terms of the respect given to them.** By contrast, only 19.1% of citizens were completely dissatisfied with the respect given to them in court.

**Were you satisfied by the level of respect given by person or institution you took the dispute to?**

**Completely dissatisfied**



**Fully satisfied**



**Fairness of proceedings**

During this first phase, **nearly two thirds (64.2%) of the respondents felt that this phase of the process was very unfair, while only 12.2% felt it was very fair.** This is particularly true for members of the Roma (74.1%) and Egyptian (87.5%) communities, compared to the results of non-minorities (63.4%).

**University education is also an important determining factor:** whereas 74.3% of those with an incomplete primary education felt this phase of the process was very unfair, that percentage drops to 60.8% for those with a university degree.

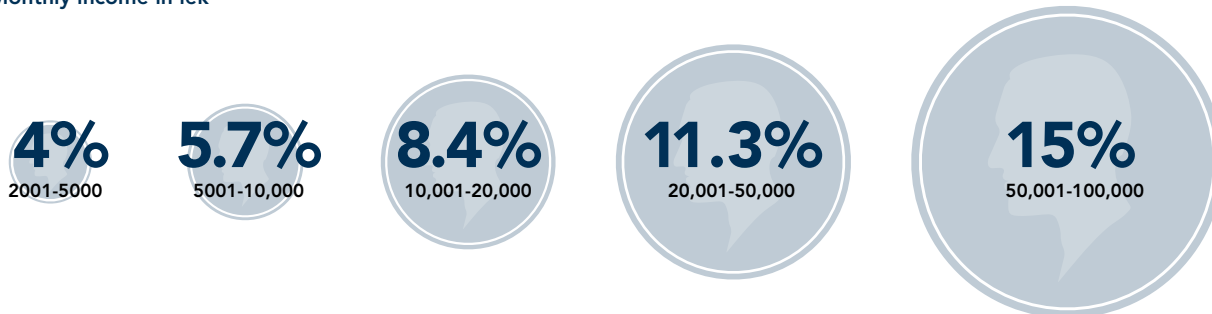
**Finally, income is also key in how fairly a person gets treated by the authorities:** while 56% of those earning monthly salaries of between 2001-5000 lek and 71.4% of those earning between 5001-10,000 lek believe they this stage of the process was very unfair, that number drops to 52.7% and 52.6% for those earning between 20,001-50,000 and 50,001-100,000, respectively. Legal aid providers interviewed for this survey lend support to this finding: *"In general, the Albanian judicial system differentiates between those that are economically powerful and those that are not."*<sup>21</sup>

20. Focus group with members of the Roma and Egyptian communities; Community Center, Selitë, Tirana, 24 February 2017.

21. Interview with Legal Aid Provider Res Publica; Tirana, 13 April 2017.

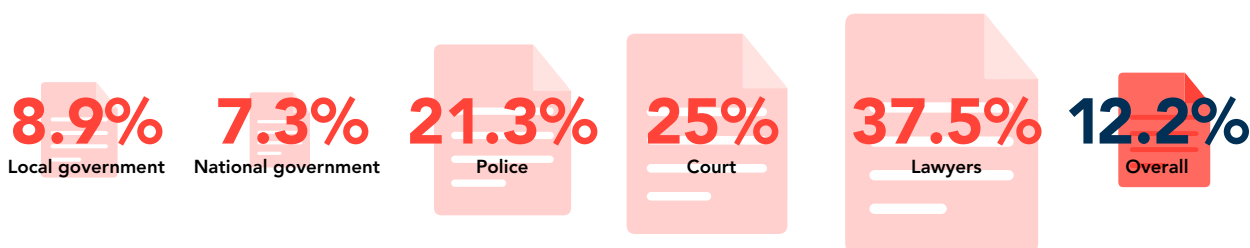
**This stage of the process was very fair**

Monthly income in lek



The respondents that felt this stage was least fair were those that addressed the government to resolve their dispute: a massive 76.5% of respondents that addressed their local government (which, as the above-mentioned results show, tend to be poorer and with a lower level of formal education) said this stage of the process was very unfair, while only 8.9% said it was very fair. Similarly, 63% of those that took the dispute to the central government (who also tend to be among the poorer and with a lower level of formal education) said this process was very unfair, while 7.3% felt it was very fair. By comparison, the courts (which were petitioned overwhelmingly by higher earners at this stage) meted out somewhat better treatment: where 61.8% said proceedings before the courts were very unfair and 25% said they were very fair. Of the other institutions, the police are notable for having scored higher (although by no means well), with 50.8% believing they were treated very unfairly and 21.3 very fairly, while lawyers scored better, with only 25% of their clients believing their treatment was very unfair, while 37.5% believed it was very fair.

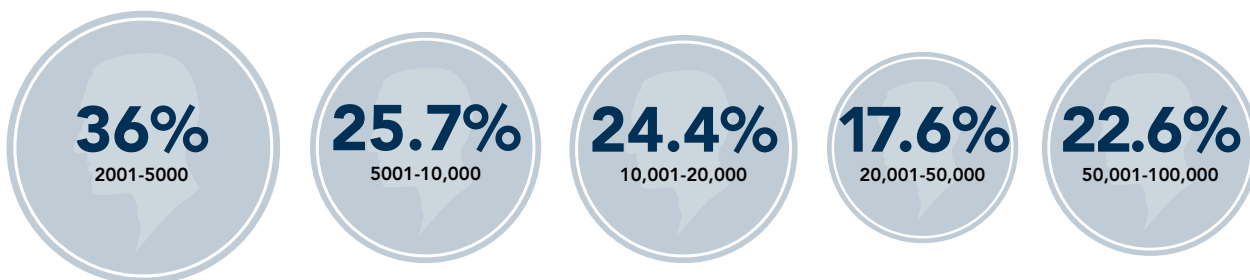
**This stage of the process was very fair**



During this first phase, nearly a quarter (24.1%) said that rules were applied completely unequally to both parties, while 12.7% said they were somewhat equally applied and 46.7% said they were applied completely equally. The most aggrieved were the residents of Tirana (34.7% of whom felt the rules were applied completely unequally, as compared to 19.8% in other urban areas and 16% in villages), members of the Roma community (58.6%), those with a lower level of formal education and those with lower incomes.

**The rules were applied unequally to you and the other parties**

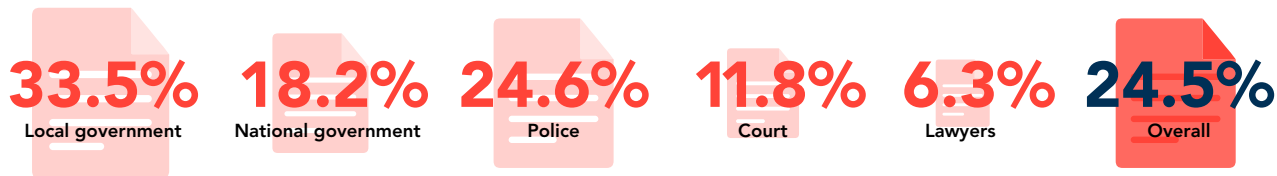
Monthly income in lek





The respondents that took their disputes to the local government were again the most displeased, with approximately a third (33.5%) believing that the rules were applied completely unequally in their case. This compares unfavourably with the results of other institutions, which were felt to have applied the rules more equitably.

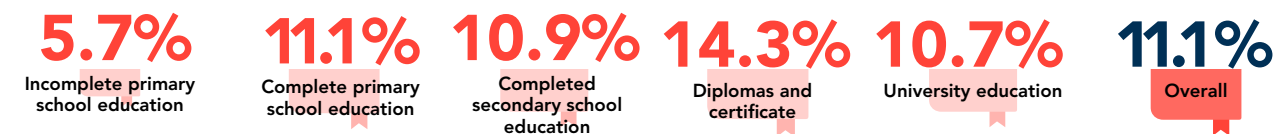
The rules were applied unequally to you and the other parties



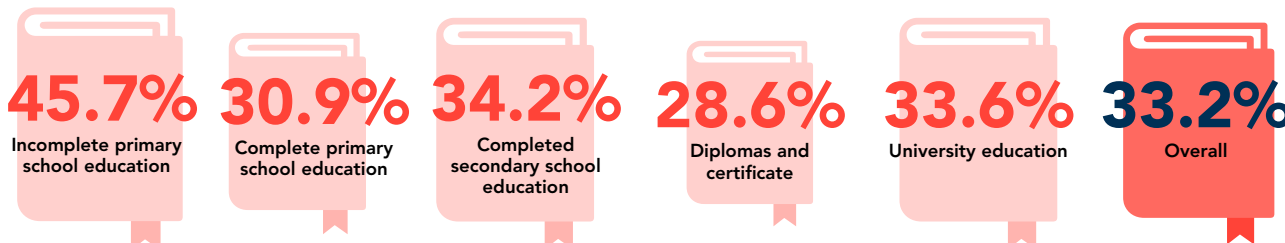
When polled on the role of outside forces in the outcome of their dispute, nearly a third (33.2%) of respondents expressed their belief that the institutions they addressed were wholly under external influence, while three times fewer (11.1%) believed that they were completely free of it. This belief is most pronounced among the Roma community (47.4% stated institutions petitioned were wholly under external influence) and among those with a lower level of formal education (45.7% of those with an incomplete primary education).

To what extent did you feel the institutions you addressed were under external influence?

Not at all

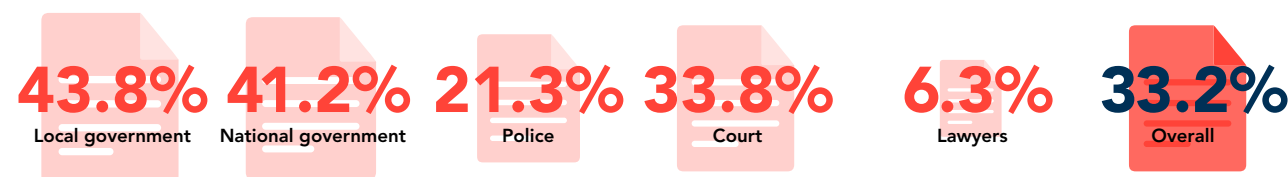


Fully



It is felt that the local and national governments are most influenced by external forces when addressing and adjudicating disputes. With regard to the former, 43.8% of respondents felt they were wholly influenced by external forces, whereas with the latter that figure is 41.2%.

The institutions you addressed were fully under external influence

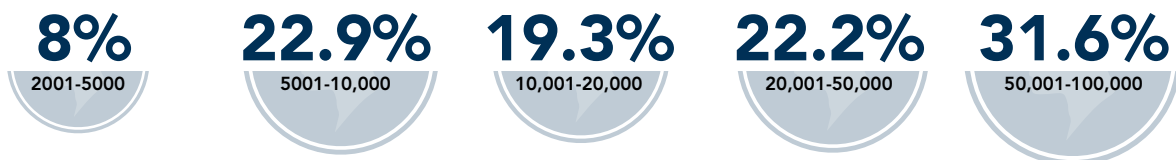


Aside from external influence, the respondents voiced their belief that the institutions' prejudice and bias plays a large part in resolving their disputes. Namely, **28.3% stated that the institutions they addressed arrived to their decisions under the influence of prejudice and bias**, while 27% stated that these institutions were free of prejudice and bias. **More than two thirds of the Roma population (68.4%, as compared to 25.5% of non-minorities) and more than seven in ten of those with incomplete primary education (70.6%, as opposed to 20% of those with a university degree) voiced this belief. The residents of Tirana (34.9%) also felt as if prejudice and bias played a larger part in how their disputes played out than did the residents of other urban areas (25.5%) or in rural areas (23.1%).**

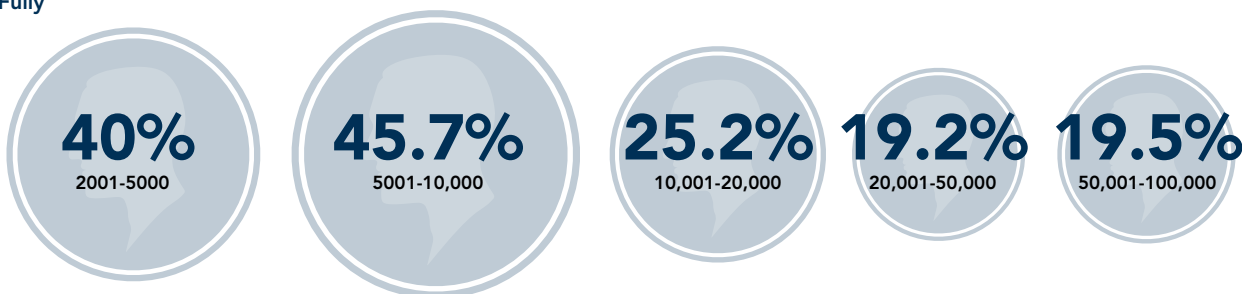
**Lower earners also alleged that the institutions they addressed were prejudiced or biased in their handling of disputes.** While 40% of those earning between 2001 and 5000 lek monthly stated institutions that they addressed to resolve disputes were prejudiced, less than half (19.5%) of those in the 50,001 to 100,000 income bracket felt this.

**To what extent did you feel the institutions you addressed were prejudiced or biased?**

Not at all



Fully

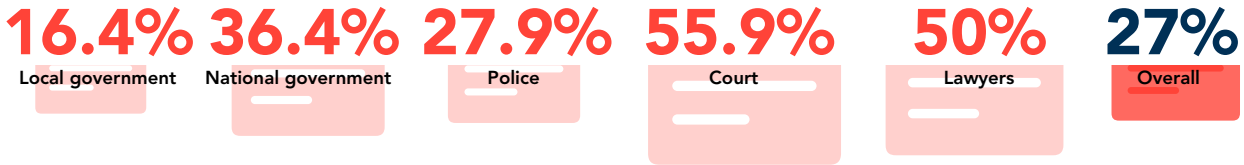


**It is also noteworthy that men were more likely than women to believe that the institutions they addressed disputes to were prejudiced.** This is in keeping with results related to other questions, which generally show women feel the institutions to be fairer and more respectful than men.

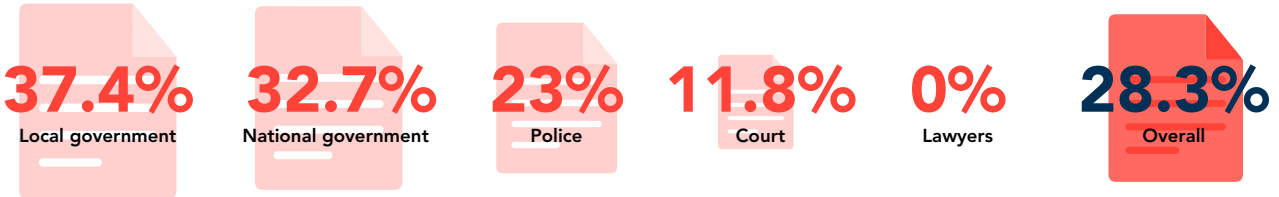
The institutions that were felt to have exhibited the most prejudice or bias were local and national government, with 37.4% and 32.7%, respectively, stating that they acted in a prejudiced or biased manner. Conversely, the courts were felt by respondents to have been the least prejudiced in their decision-making, with the exception of lawyers, who were viewed positively on this front by their clients.

**To what extent did you feel the institutions you addressed were prejudiced or biased?**

Not at all



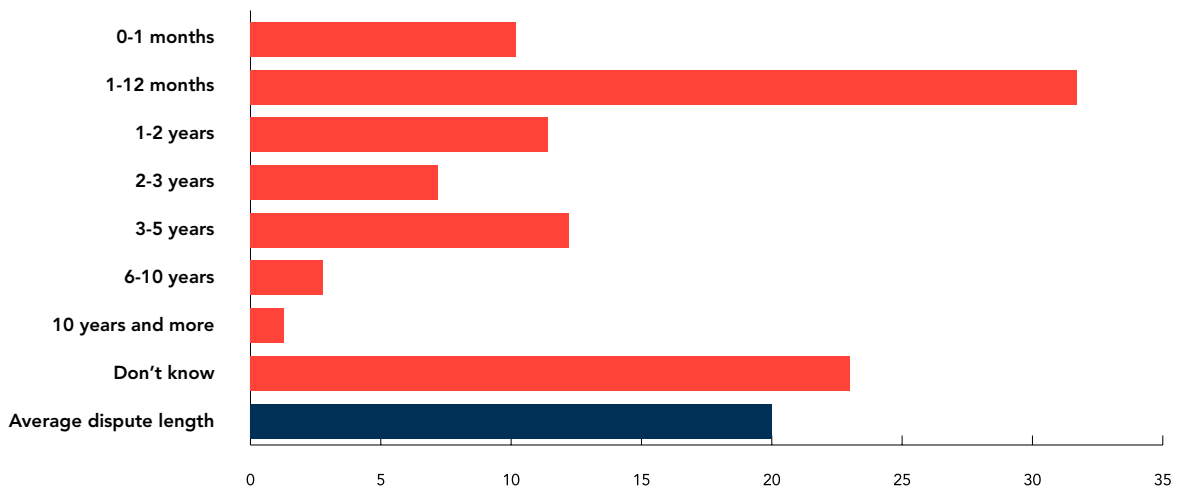
Fully



**Time spent and personal toll caused by first phase of proceedings**

The survey set out to measure the time spent by citizens on their disputes. **During the first phase, the average dispute took 20 months.** Approximately a tenth (10.2%) of disputes took less than a month before the institutions or persons in question, nearly a third (31.7%) took up to a year, and just over a third (35.1%) took over a year, with 2.8% lasting between six and ten years. And 1.3% lasting over ten years.<sup>22</sup>

**How long did the first phase of the proceedings take?**

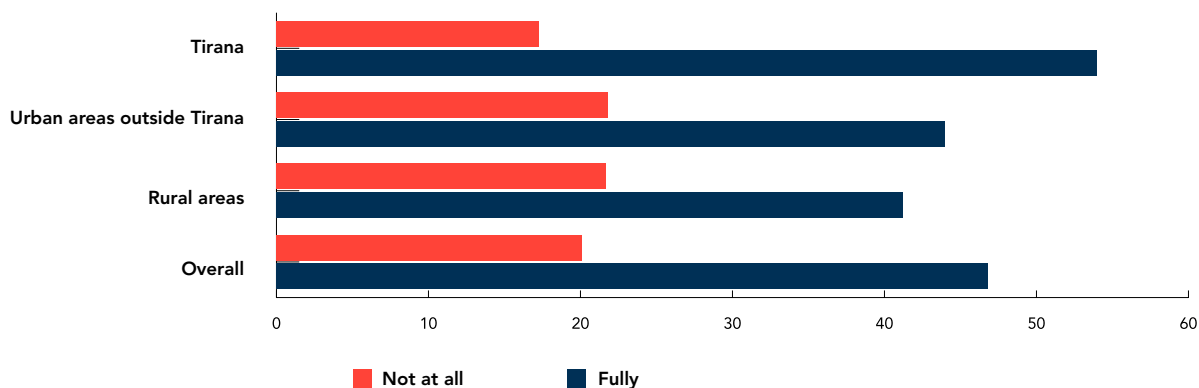


The survey also measured the length of time of proceedings before each institution. **It found that proceedings last longest when addressed by the national government (2 years and 5 months), followed by the courts (2 years and three months) and the local government (1 year and 9 months).** Conversely, the fastest average duration of disputes was before NGOs (3 months, with a very small sample size), police (4 months) and heads of village (8 months, also with a very small size).

<sup>22</sup> The remaining 23% did not answer or did not know the answer to this question.

The time spent on this phase of the proceedings took its toll on the respondents' work and families. Nearly half (46.8%) stated that the proceedings completely disrupted their work and family time; this was more pronounced in Tirana (54%) than in urban areas outside Tirana (44%) or rural areas (41.2%).

**To what extent did this phase of the proceedings take a toll on your work and family time?**

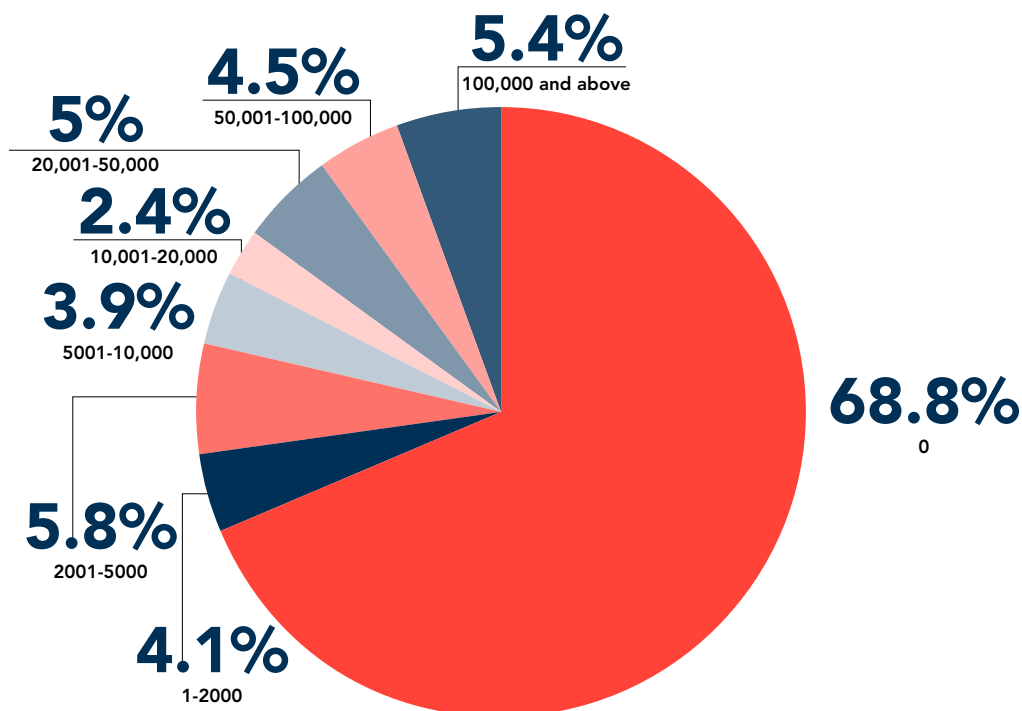


The proceedings also made approximately three quarters (77%) of respondents stressed and angry (73%). Once again, it was the residents of Tirana (81%) that bore the largest cost (in terms of stress), while the proceedings caused the most anger among members of the Roma population (83%) and those with an incomplete primary education (82.9%).

**The costs of proceedings and the quality of service provided**

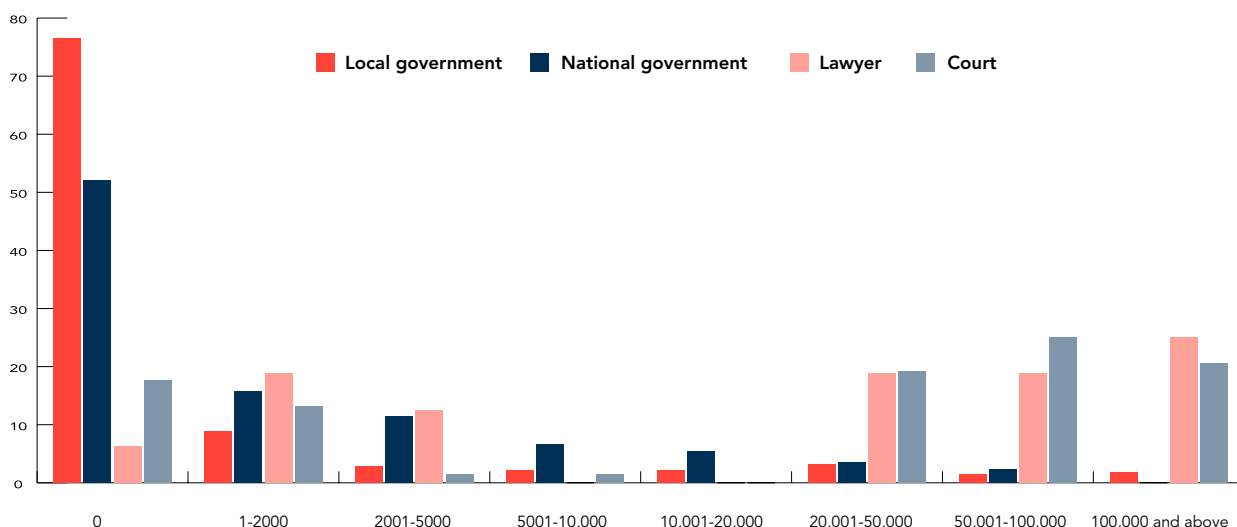
The survey measured the total cost of proceedings (lawyers fees, travel and other elements) for citizens during the first phase. More than two thirds of respondents (68.8%) did not incur any costs during the first phase of the proceedings. Of those that did, a total of 13.8% paid less than 10,000 lek in sum for the duration of the first phase, a further 11.9% paid between 10,000 and 100,000 lek, and 5.4% paid more than 100,000 lek in total.

**How much money did this phase cost in total?**



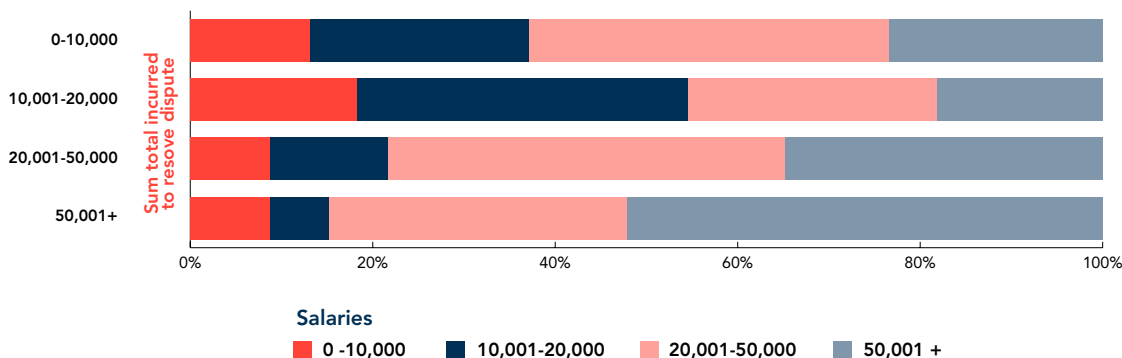
The costs incurred vary significantly between institutions. While the overall cost of addressing disputes with local and national governments are fairly low, that is not the case for those whose disputes were taken to lawyers or courts. Namely, while only 1.8% of those that addressed local government and none of those that addressed the national government had to pay more than 100,000 lek in total, those percentages were 25% and 20.6% for those that took their disputes to lawyers and courts, respectively. Conversely, while over three quarters (76.5%) of those that petitioned local government – and over half (52.1%) of those that petitioned the national government - paid nothing, only 1 in 16 of those that visited lawyers (6.3%) and less than one in five (17.6%) of those that visited courts could say the same.

**How much money did this phase cost in total before each institution?**



Unsurprisingly, the largest costs were borne by those with the highest earnings. Nearly two thirds (64%) of those that did pay 100,000 lek or more in total have earnings of over 50,000 lek monthly. Similarly, of those that incurred total costs of between 50,001 and 100,000 lek, 85.7% had monthly earnings of 20,000 lek or more, while of those that incurred costs of between 20,001 and 50,000 lek, 78.2% had monthly salaries of more than 20,000 lek. This shows that only the higher earners could afford to pay the larger costs that would enable them to avail themselves of a lawyer’s services or to seek redress in court.

**The relationship between the size of incomes and the total costs incurred to resolve disputes**

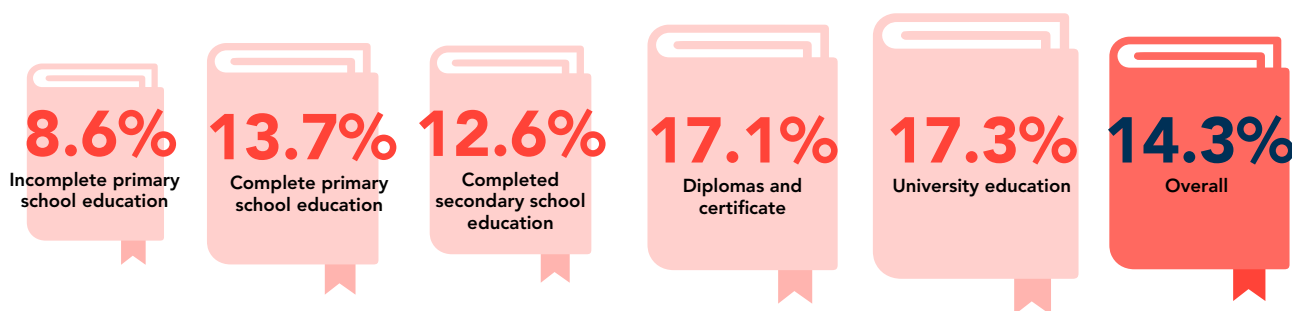


When surveyed how affordable this first phase was, approximately one in six respondents (16.5%) said it was completely unaffordable. That was true for one in five (19.9%) of Tirana’s residents and only one in eight respondents from rural areas (12.6%).

Generally, the affordability of this phase goes up as incomes of the respondents increase. Thus, while 33.3% of those with monthly earnings below 2000 lek and 25% of those with earnings between 2001 and 5000 lek found the phase unaffordable, those percentages decline as incomes go up (with the exception of those earning between 50,001 and 100,000 lek, who may have found this unaffordable due to incurring the largest lawyers' and court fees).

The level of satisfaction with legal services provided in this phase varies significantly with the level of education of the respondents: **the more educated a respondent is the less likely they were to be satisfied with the services provided.**

**I was not at all satisfied with the quality of legal services provided to me**



## Corruption

The survey sought to examine the role that corruption plays in accessing justice. **In the first phase, 5.1% of those providing an answer to this question (4.3% of the overall sample of those with disputes) admitted to paying bribes.**<sup>23</sup>

Of these, 1% (nine persons) said they paid between 10,000 and 100,000 lek, with bribes being paid to local government officials, police, courts, and the national government. A further 0.9% (8 persons) stated they paid over 100,000 lek (with the highest recorded bribe being 2,000,000 lek), with four of these being paid to the courts, two to the police, one to local government officials and one to a lawyer.

## Outcomes of first phase

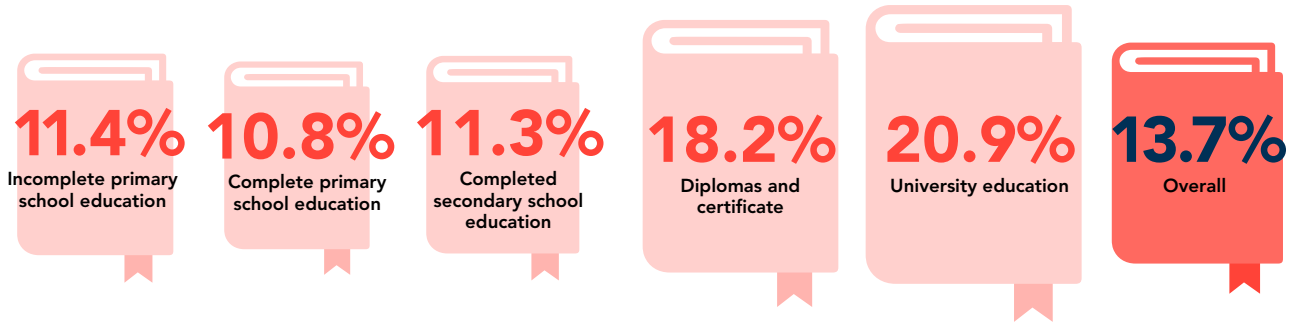
Only 13.7% of those respondents that entered the first phase resolved their disputes, while 85.9% had not. The least likely to resolve their disputes were members of the Roma community (8.9%) and the least educated (11.4% of those with an incomplete primary education, as compared to 20.9% of those with a university education).

**Did you resolve your dispute in this phase? - YES**



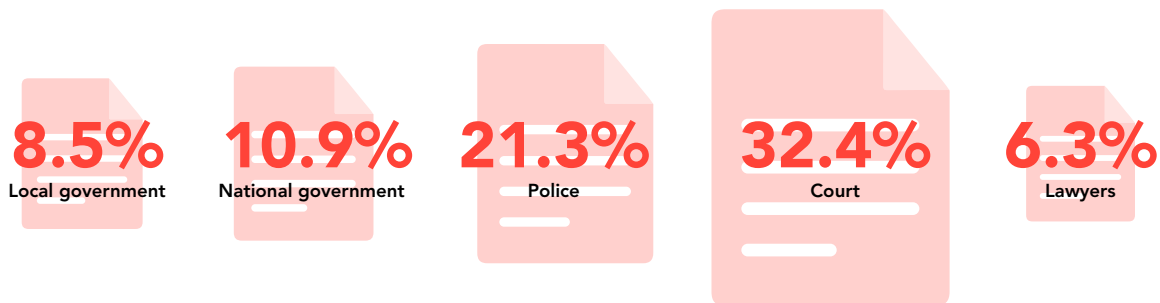
23. It should be noted that corruption is commonly under-reported in surveys such as this one, which leaves open the possibility of the actual percentage of those that paid bribes being higher.

Did you resolve your dispute in this phase? - YES



Respondents were most successful in resolving disputes before the court, where almost a third (32.4%) managed to do so. In addition, 21.3% of those that addressed the police resolved their disputes. Conversely, despite the large numbers of those addressing local and national governments, these respondents were very rarely successful in settling their legal issues, with only 8.5% and 10.9% having done so. Even the rarely used avenue of addressing the head of village proved to be more fertile, with 22.2% succeeding in concluding their disputes.

Did you resolve your dispute in this phase? - YES

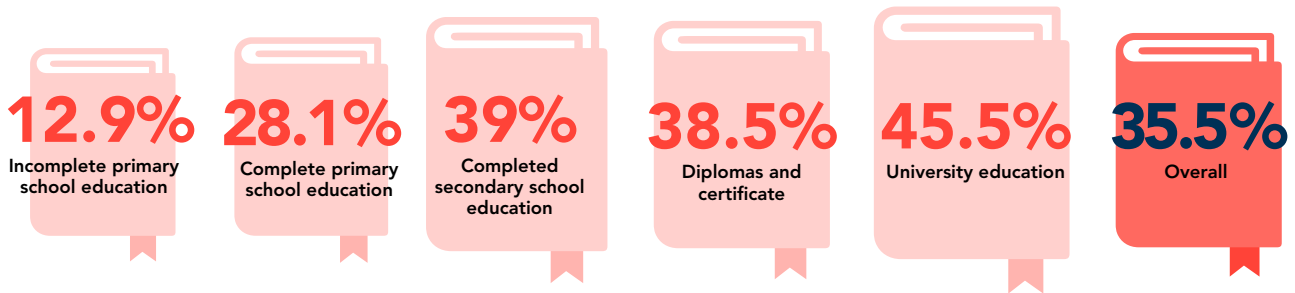


The most successful respondents in resolving disputes according to income bracket are those earning between 50,000 and 100,000 lek. This would appear to show that as those respondents are the likeliest to use the court system, they are also likelier to conclude their disputes than other citizens. It is also noteworthy that the other results show no exact direct correlation in the size of income and the resolution of disputes.

The survey polled the respondents on whether, having concluded the first phase (mostly without resolving their disputes) they requested further assistance. Despite 85.7% having failed to resolve their disputes, only slightly over a third (35.5%) requested further assistance from someone else to do so. The least likely to do so were those with less formal education, members of the Roma community, women and those from outside Tirana.

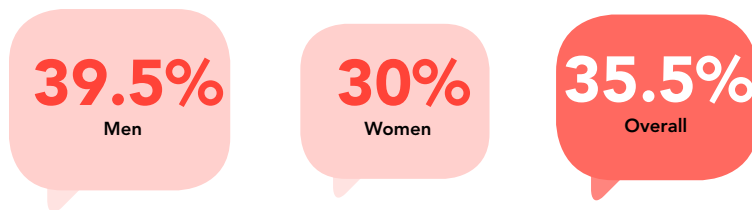
Only 12.9% of those with an incomplete primary education sought further help to achieve satisfaction in their disputes. This should be contrasted with nearly half (45.5%) of those with a university education, which highlights the disparities between these two groups in navigating the justice system.

Did you request assistance from another person or institution to resolve this problem? - YES



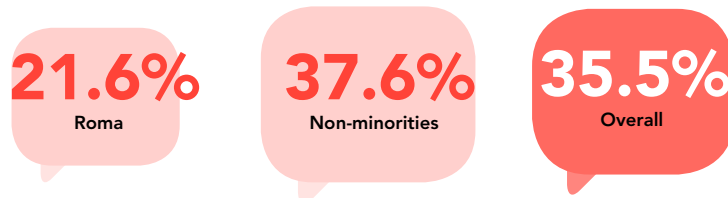
Women were also less likely (30%) to seek further assistance than men (35.5%) in resolving disputes.

Did you request assistance from another person or institution to resolve this problem? - YES



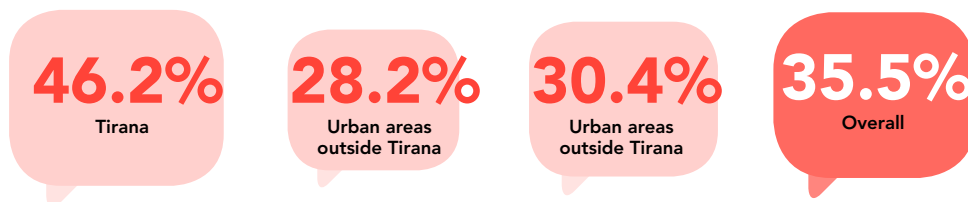
Roma citizens (21.6%) were almost twice less likely to seek further assistance than non-minorities (37.6%).

Did you request assistance from another person or institution to resolve this problem? - YES



The residents of Tirana were also far more likely (46.2%) to pursue unresolved matters further than citizens from other urban areas (28.2%) or rural areas (30.4%).

Did you request assistance from another person or institution to resolve this problem? - YES



The results also show a trend that the more a respondent earns, the more likely they are to continue their efforts to resolve their disputes successfully by requesting assistance elsewhere. Almost half (47.4%) of those earning between 50,001 and 100,000 lek did so, with ever decreasing percentages as we descend down the income brackets (aside from the lowest income bracket in this table, which appears to be an aberration).



## KEY FINDINGS on dispute resolution from phase one

The results show:

- That nearly **nine in ten (89.7%) citizens with disputes are willing to resolve their disputes amicably and effectively by addressing the other party.** However, **these efforts are rarely successful (in 13.7% of cases) and are obstructed by occasional (12.5%) threats of violence** between the two parties. This highlights the need for an **effective mediation system** that would channel the desire for peaceful resolution of disputes in a constructive way.
- **The majority of citizens with disputes chose to address either local (33.1%) or national (19.1%) governments. They addressed the courts (8.2%), lawyers (1.9%), NGOs (0.1%), the police (7.2%) and friends and neighbours (5.5%) far less frequently.** While some of these results can be attributed to central and local government having a remit over the disputes in question, citizens also made these choices because they believe (74.1%) these are bodies with 'authority'. **It is notable that, rather than addressing those with skills and information, ascertaining the cost, seeking the advice of those they trust and so on, the majority of the Albanian population believes it is important to address the most powerful first and foremost.**
- **These results appear to indicate that the population places its trust overwhelmingly in the government, rather than the judiciary, civil society or others, as the most powerful arbiter to resolve their disputes. This despite the findings showing that** these institutions (local and central government) treat them with less respect and less fairly than other aforementioned institutions and individuals. The results would indicate that this is, in part at least, due to the cost of judicial proceedings and lawyers, which are prohibitive for many private persons. These findings also suggest that individuals may frequently be unaware which authority is best suited to solve their dispute. Moreover, the results could be interpreted as **a sign of the weakness and ineffectiveness of civil society and the judiciary and/or a sign of the cultural tendencies, built up over time, to address the government to resolve one's problems.**
- **The citizens who fared the worst in the first phase were the Roma, the least formally educated, the lowest earners and the residents of Tirana. For instance, they received the worst service – in terms of clarity of communication, openness and respect,** as 40.5% of the residents of Tirana and 55.2% members of the Roma community felt they had no opportunity to state their opinions when interacting with the institution they addressed, as opposed to the 29.3% national average.
- **Members of these groups also believe they were treated least fairly:** 34.7% of the residents of Tirana, 58.6% of the Roma community, 36% of those with a monthly income of between 2001 and 5000 lek monthly and 54.3% of those with an incomplete primary education felt the rules were applied completely unequally, contrasted with the 24.1% national average.
- **The institutions that performed the worst in the first phase were local and national governments. For instance, they provided the worst service,** as citizens were most dissatisfied with the respect given to them by local (42.7%) and national (33.9%) governments.
- **Local and national governments are also believed to have been the least fair in their treatment of citizens.** For example, these institutions exhibited the most prejudice or bias, with 37.4% and 32.7%, respectively, as opposed to a national average of 28.3%.
- More than **two thirds of respondents (68.8%) did not incur any costs during the first phase of the proceedings.** Of those that did, 11.9% paid between 10,000 and 100,000 lek, and 5.4% paid more than 100,000 lek in total.

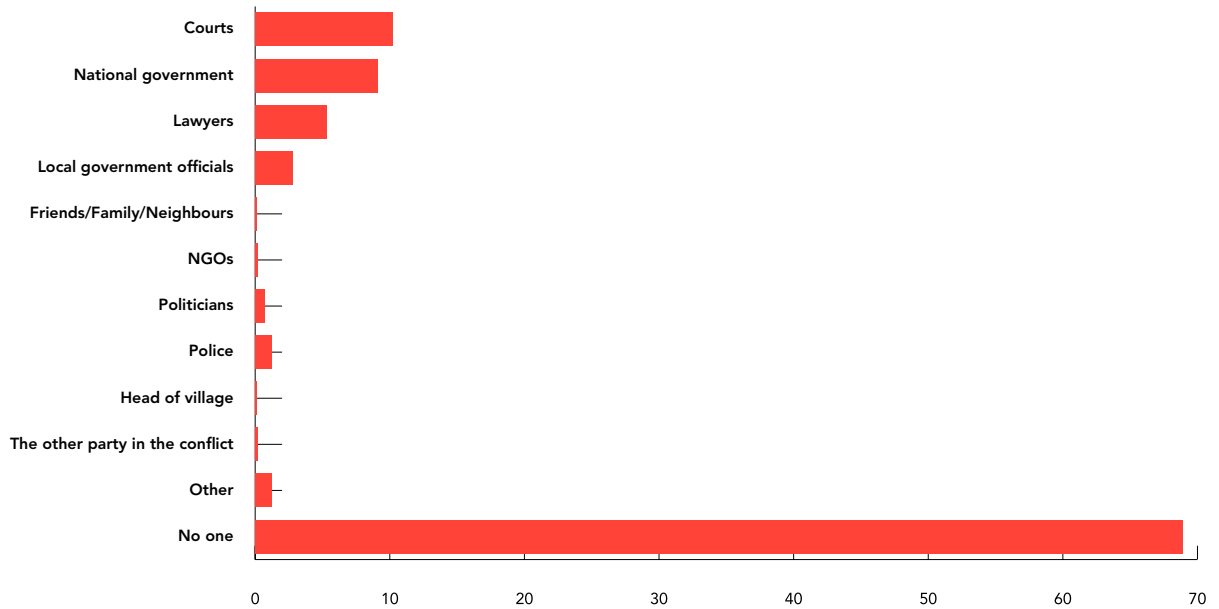
- **The costs incurred vary significantly between institutions.** While addressing local and national governments is relatively inexpensive, and none of those that addressed the national government, 25% and 20.6% of those that took their disputes to lawyers and courts, respectively, had costs of more than 100,000 lek in total.
- **In the first phase, 4.3% of the overall sample of those with disputes (but 5.1% of those providing an answer to this question) admitted to paying bribes.<sup>24</sup>, with the highest recorded being 2,000,000 lek.**
- **Only 13.7% of those respondents that entered the first phase resolved their disputes.** The least likely to resolve their disputes were members of the Roma community (8.9%) and the least educated (11.4% of those with an incomplete primary education), along with the lowest earners.
- **Respondents were most successful in resolving disputes before the court,** where almost a third (32.4%) managed to do so, **and far less successful when addressing local and national governments,** with only 8.5% and 10.9% having done so, respectively.
- **The most successful respondents in resolving disputes according to income bracket are those earning between 50,000 and 100,000 lek,** who used the court system more than lower earners - none of the respondents earning between 2001 and 5000 lek monthly chose to go to court in order to obtain redress.
- **During the first phase, the average dispute took 20 months. Proceedings last longest when addressed by the national government (2 years and 5 months), followed by the courts (2 years and three months) and the local government (1 year and 9 months).** Although the local governments are slightly quicker than courts, this difference should be viewed in the context of the previous results, which consistently show that citizens that take disputes to local government officials have the lowest degree of satisfaction with how disputes are resolved there.
- **Despite 85.7% having failed to resolve their disputes in the first phase, only 35.5% requested further assistance from someone else to do so. The least likely to do so were those with less formal education, members of the Roma community, women and those from outside Tirana.** Moreover, the more a respondent earns, the more likely they are to continue their efforts to resolve their disputes successfully by requesting assistance elsewhere. The dispute resolution journeys of those who continued seeking satisfaction will be examined in the next chapter.
- **For those choosing not to continue at the end of the first phase, this effectively ended their efforts to seek redress for their grievances – which were overwhelmingly unsuccessful. Those who failed and gave up at this stage are far more likely than not to have smaller salaries, have a lower level of formal education, be members of the Roma community and live in Tirana. These are the principal fault lines in accessing justice in Albania.**

24. It should be noted that corruption is commonly under-reported in surveys such as this one, which leaves open the possibility of the actual percentage of those that paid bribes being higher.

## CHAPTER 4.2 – THE SECOND PHASE

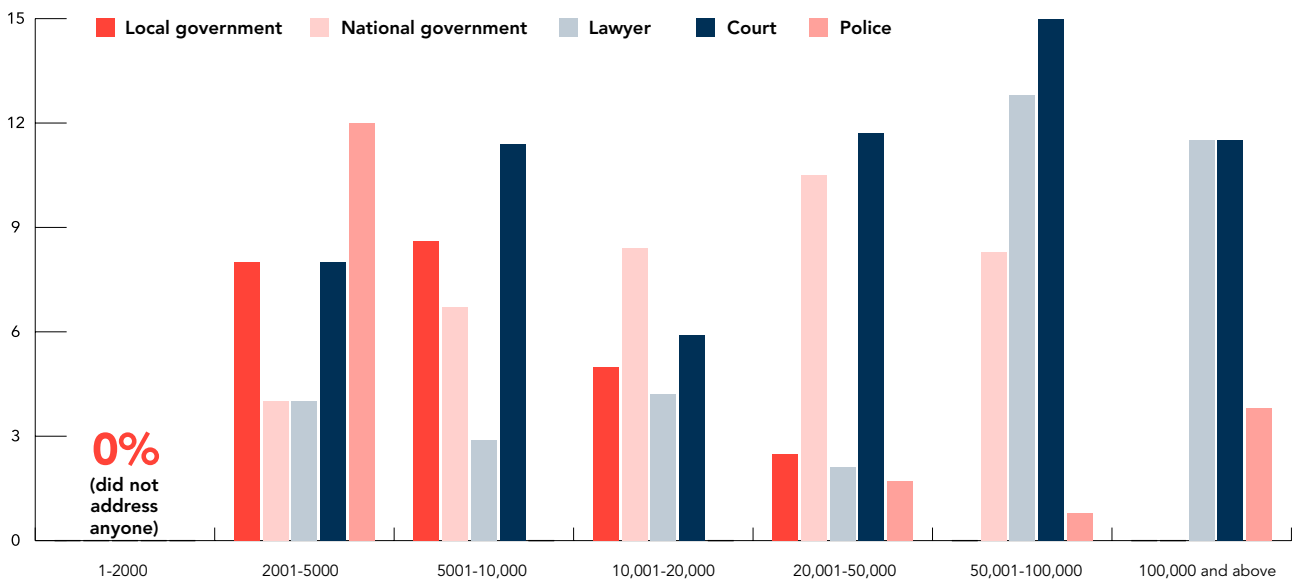
As was mentioned above, the results show that only 35.5% of those respondents that went through the first phase of dispute resolution said they sought assistance from another person or institution. This chapter will examine their efforts to access justice in the second phase of dispute resolution.

### Who did you next turn to (after the first phase) to try to resolve your dispute?



The results show a significant change from the first phase, when respondents favoured local and national governments as institutions that could resolve their disputes. Instead, those who continued on to the second phase, favour courts (10.2%), the national government (9.1%) and lawyers (5.3%), while only 2.8% addressed their local government. The wealthier a person is, the more likely it is they availed themselves of the services of courts (and, to a lesser degree, lawyers and the national government) in the second phase. Conversely, the poorer a person is the more likely it is they sought out the services of their local government. Finally, the lowest earners (those earning up to 2000 lek monthly) were too poor to petition any persons or institutions in the second phase.

### Which person/institution did you address in second phase? (by income)



In addition, the more educated a person is, the more likely it is they availed themselves of the services of lawyers and courts at this phase.

Roma citizens were notably less likely (23.3%) than non-minorities (33.4%) to pursue disputes into the second phase. Moreover, of those that did, they were far less likely to attempt to resolve their disputes in court or to hire a lawyer. A significantly higher percentage of men (36.2%) than women (24%) went on to pursue their disputes in the second phase.

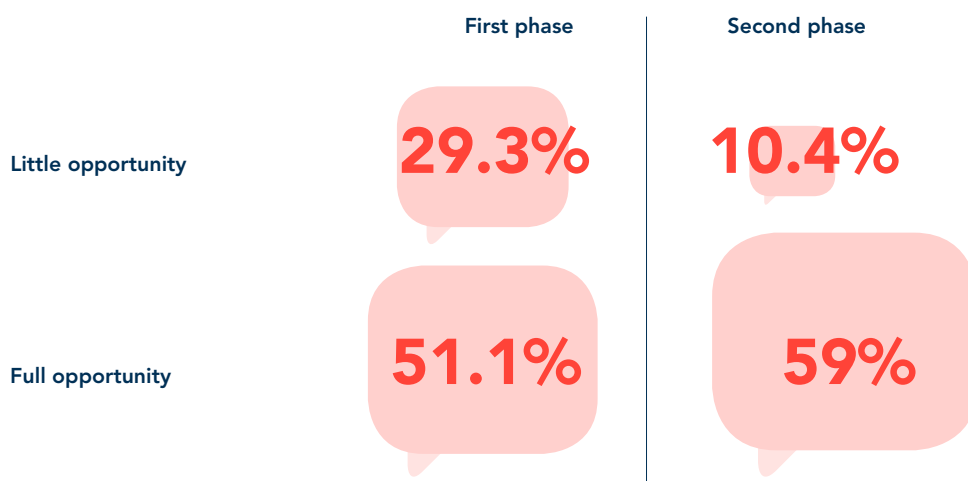
Did you turn to any person or institution (after the first phase) to try to resolve your dispute?



### Communication and respect during second phase

Slightly more than one in ten (10.4%) of those surveyed in the second phase stated that they had almost no opportunity to state their opinions when interacting with the institution they addressed, while nearly three in five (59%) stated they had full opportunity. This marks a strong change from the first phase, where 29.3% stated they had little opportunity and 51.1% said they had full opportunity.

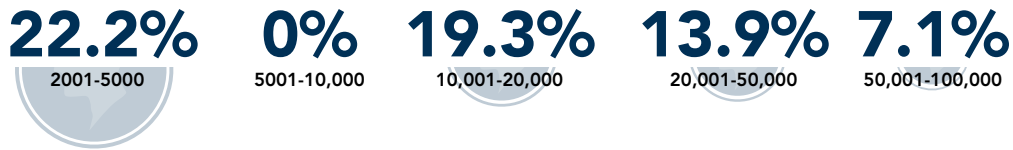
To what extent did you have an opportunity to express your opinions to the institution you addressed?



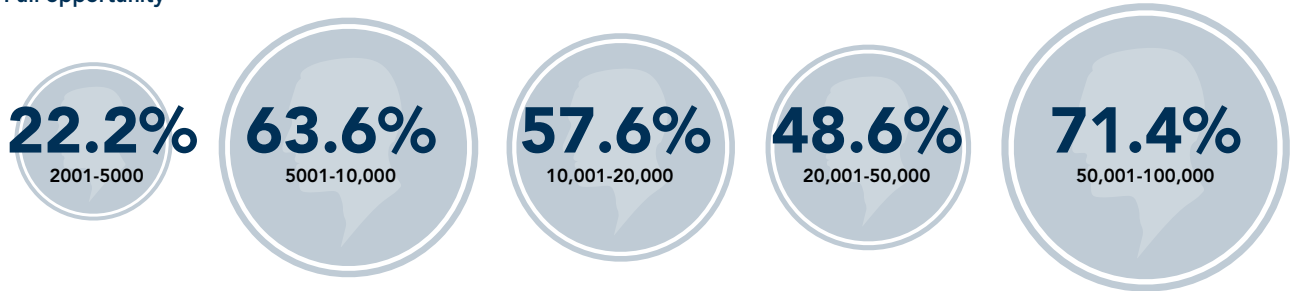
Those with lower incomes are still likely to feel they had had less of an opportunity, as shown in the table below.

To what extent did you have an opportunity to express your opinions to the institution you addressed?

Little opportunity



Full opportunity



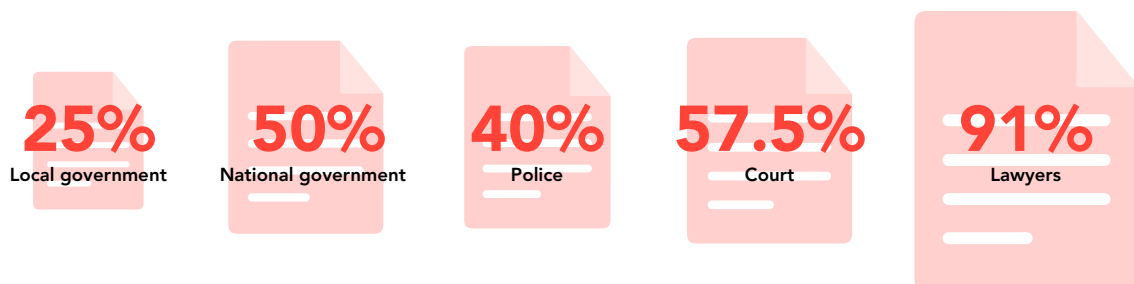
Nonetheless, the improvement from the first phase is partly down to the institutions addressed. **Namely, as courts and lawyers play a larger part in the second phase, the opportunity to express one's opinions has increased.** With regard to citizens' experiences before the courts, 6.9% felt they had little opportunity while 57.5% thought they'd been awarded a full opportunity. When it comes to experiences with lawyers, 2.2% said they had little opportunity and 91.1% had a full opportunity to express their opinions.

To what extent did you have an opportunity to express your opinions to the institution you addressed?

Little opportunity

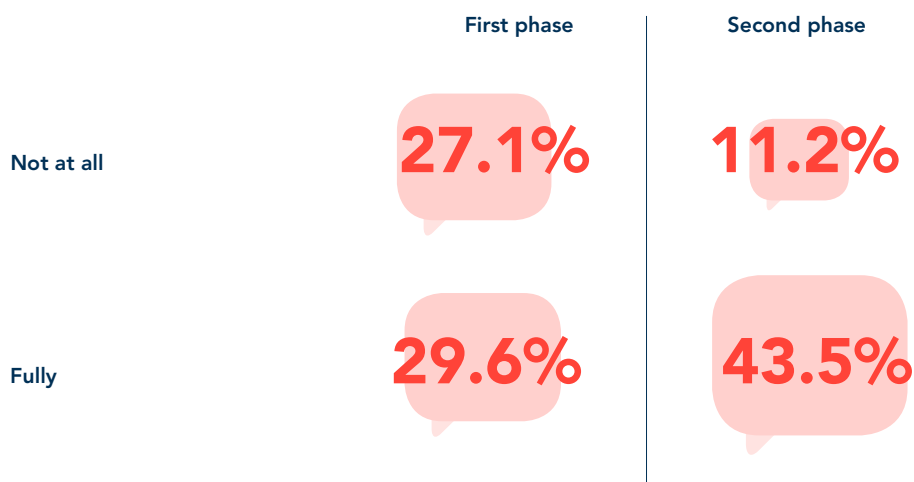


Full opportunity



When surveyed on whether their opinion was understood by the person or institution that heard it, 11.2% felt it has not been at all, while 43.5% said it was fully understood. This again marked a significant improvement from the first phase (as shown in the table below), with improvements in Tirana being most notable.

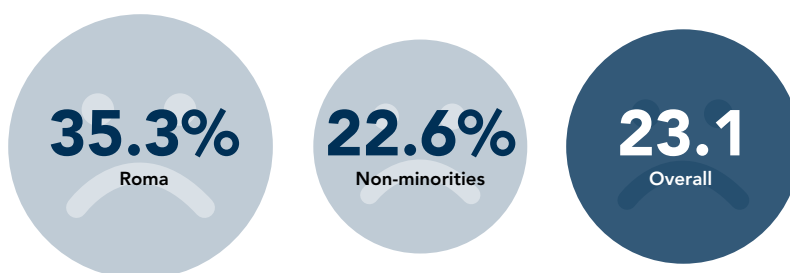
As far as you know, was your opinion understood by the person/institution to whom the dispute was taken in the first phase?



These improvements from the first phase are a part of a trend; a greater percentage of respondents were satisfied with the respect given by person or institution they took the dispute to (29.3%) than in the first phase (11.3%). The results show that 23.1% of respondents said they were completely dissatisfied, with 29.1% saying they were fully satisfied. Those who are still insufficiently respected in the second phase include Roma citizens (35.3% dissatisfied) and those with low levels of education (40% for those with an incomplete primary education and 23.3% for those with a university degree).

Were you satisfied by the level of respect given by person or institution you took the dispute to?

Completely dissatisfied



Fully satisfied



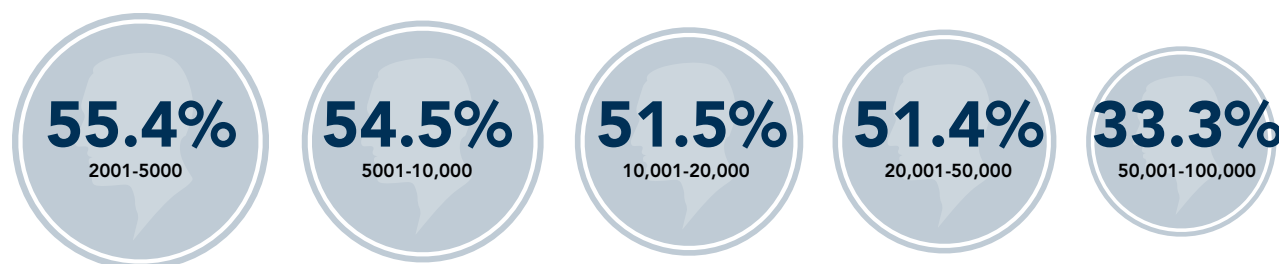
Lawyers (68.9%) are the persons or institutions that citizens are most satisfied with in terms of the respect given to them, followed by the national government (26.9%) and the courts (19.5%).

## Fairness of proceedings

During the second phase, **nearly half (45.5%) of the respondents felt that this phase of the process was very unfair, while 27.6% felt it was very fair.** Members of the Roma community (52.9%) and persons with a lower level of formal education (80% of those with an incomplete primary education, up to 33.9% for those with a university education) are some of the respondents that feel the most harshly treated at this stage. **Nonetheless, this again marks an improvement from the first phase**, where 64.2% respondents overall felt the proceedings were very unfair and only 12.2% stated they were very fair.

**Additionally, the poorer a person is the less likely they are to be treated fairly by institutions or persons at this stage:** although 55.6% of those earning monthly salaries of between 2001-5000 lek believe they this stage of the process was very unfair, only 33.3% of those earning salaries between 50,001-100,000 lek do.

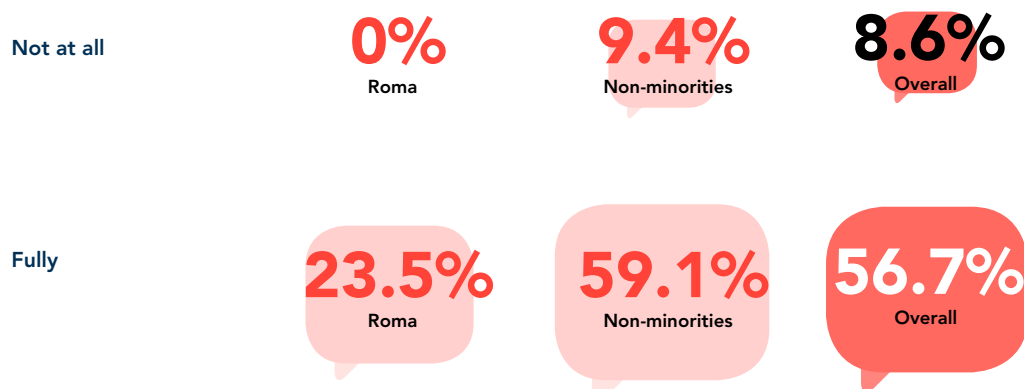
### This stage of the process was very unfair



**There was an across the board improvement in the institutions between the first and second phases.** The local government still had the worst score, but 58.3% of respondents that addressed said this stage of the process was very unfair (up from 76.5% in the first phase). The courts also improved: while 48.3% said proceedings before the courts were very unfair, that's an improvement from 61.3% in the first phase.

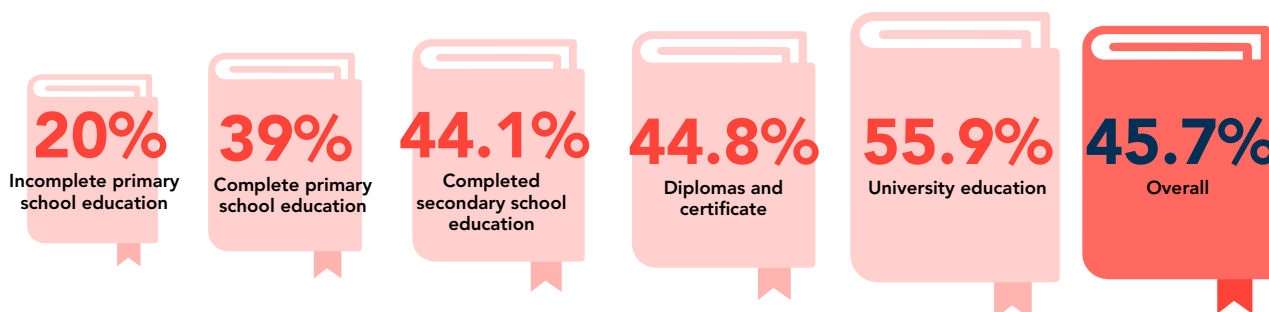
During this second phase, **few respondents (8.6%) said that rules were applied completely unequally applied to both parties**, while 13.4% said they were somewhat equally applied and 56.7% said they were applied completely equally. The residents of urban areas outside Tirana felt wronged the most (15.8% stated the rules were applied completely unequally, as compared to 5.6% in Tirana and 5.9% in villages). The opinion of members of the Roma community improved considerably, so that there were no recorded answers of those who thought the rules were applied completely unequally, down from 58.6% in the first phase. While they still lag behind non-minorities, this is a significant improvement from one phase to the next.

### To what extent were the rules applied equally to you and the other parties?

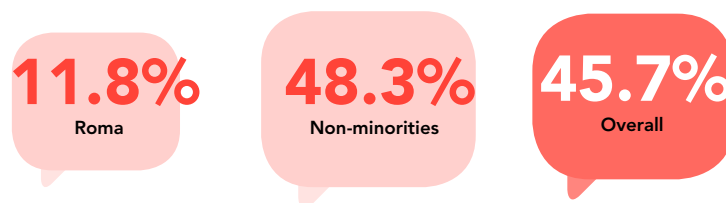


The respondents believed that the prejudice and bias of institutions and persons to whom the disputes are addressed still plays an important part in decision-making. **More than a sixth (17.5%) said they were treated with prejudice and bias, while 45.7% stated that they had not been. Few of the Roma population (11.8%, as compared to 48.3% of non-minorities) agreed with the latter sentiment.**

**The institutions I addressed were not at all prejudiced or biased**



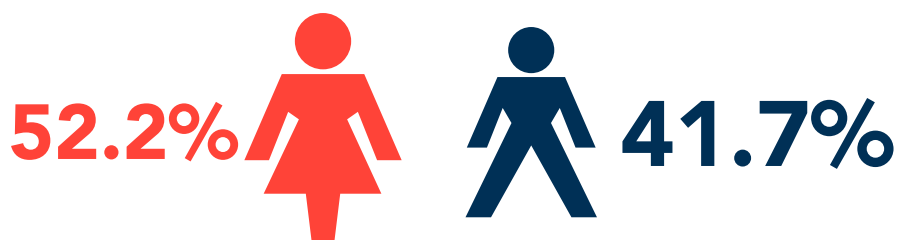
**The institutions I addressed were not at all prejudiced or biased**



The lowest earners are still more likely to think that there is prejudice against them than higher earners but the relationship between the two is not as direct as it was in phase one.

As in phase one, **men were more likely than women to believe that the institutions they addressed disputes to were prejudiced.** This is consistent with other results, according to which women believe the dispute resolution mechanisms available **are fairer and more respectful than men.**

**The institutions I addressed were not at all prejudiced or biased**



Overall **the results represent an improvement on the scores regarding fairness from the first phase.** The **most prejudiced or biased institutions in this phase were believed to be the local and national governments, with 41.7% and 21.8%, respectively.** Conversely, the courts were felt by respondents to have been the least prejudiced in their decision-making, with the exception of lawyers, who were viewed positively on this front by their clients. **There was an overall reduction (in comparison to the first phase) in the belief that institutions and relevant persons in the justice system were prejudiced or biased.**



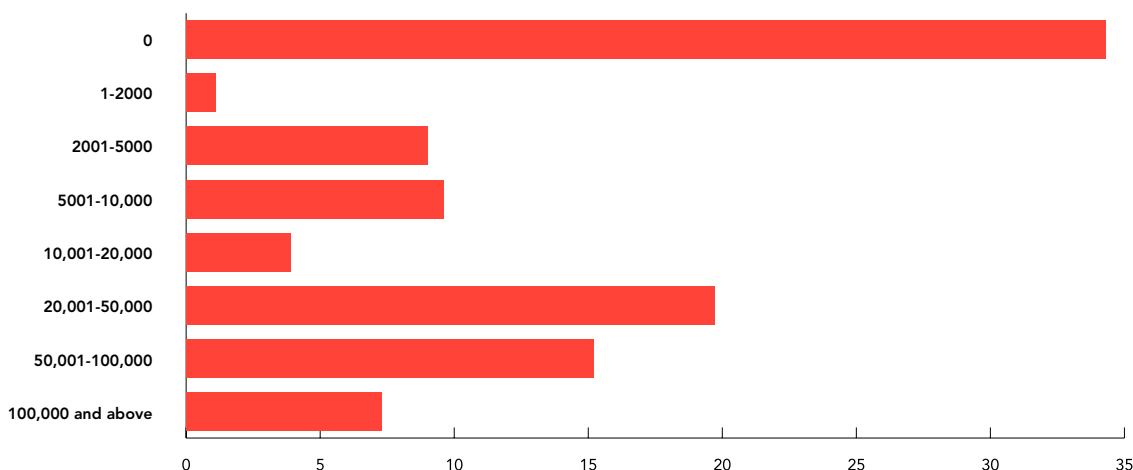
## Time spent and personal toll caused by second phase of proceedings

The average dispute during the second phase took 16 months, or four months less than in the first phase. Nearly two thirds (64%) said that the proceedings completely disrupted their work and family time, up from 46.8% in the first phase. As with the first phase, approximately three quarters (76.4%) of respondents felt stressed and angry (71.6%).

## The costs of proceedings and the quality of service provided

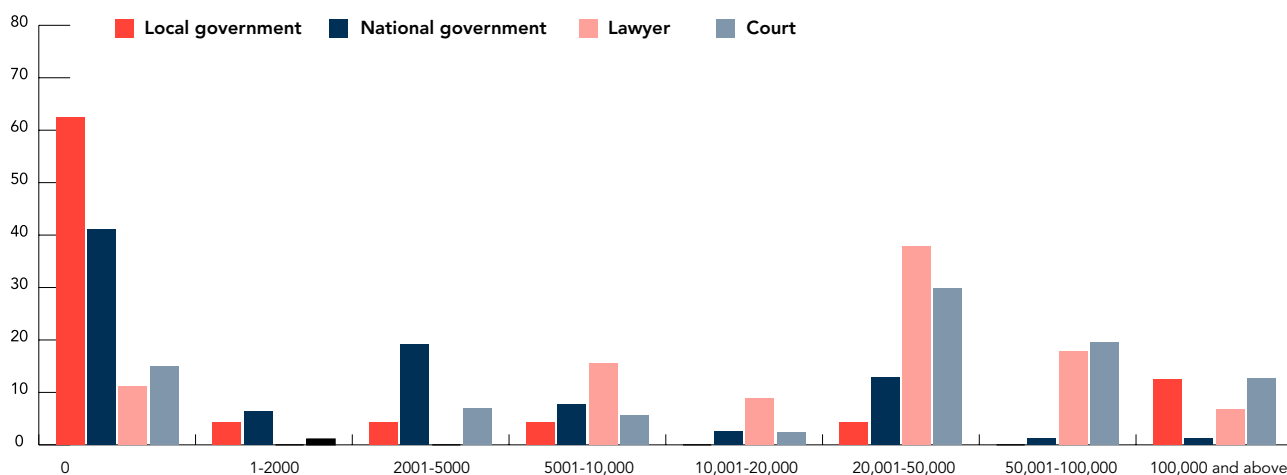
The total cost of proceedings (lawyers fees, travel and other elements) for citizens increased considerably from the first to the second phase. Whereas more than two thirds of respondents (68.8%) did not incur any costs during the first phase of the proceedings, that figure has been almost exactly halved, so that 34.3% of respondents incurred no costs. Moreover, for those that are paying, the costs are bigger: 38.8% are paying between 10,001 and 100,000 lek (11.9% in the first phase) and 7.3% paid more than 100,000 lek in total (5.4% in the first phase).

How much money did this phase cost in total?



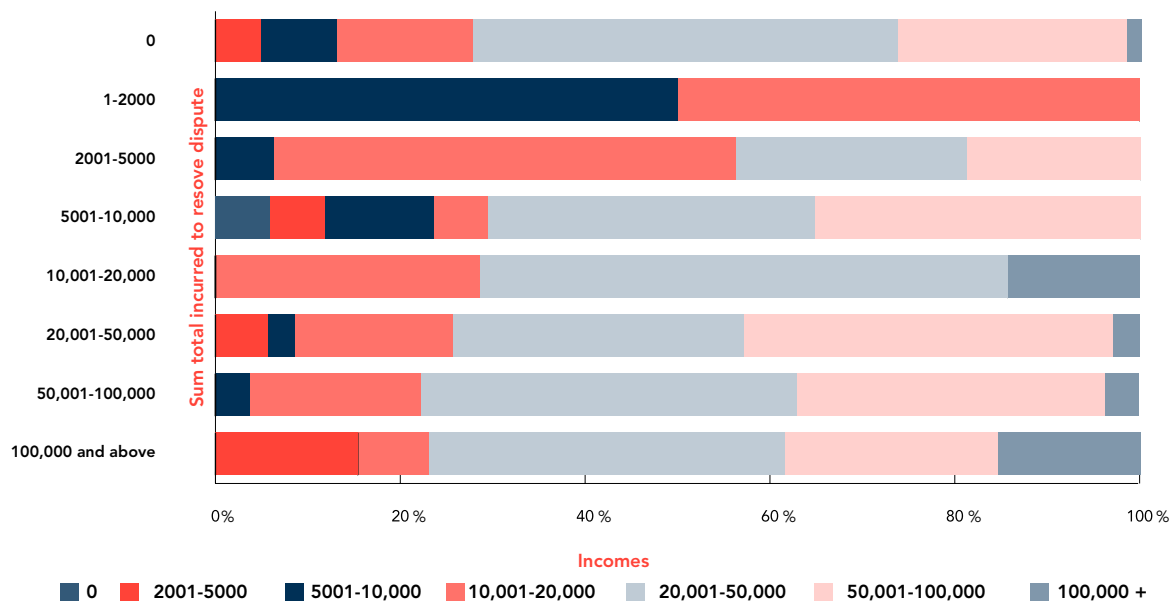
The costs incurred vary significantly between institutions. Going to court is costly: 12.6% of those that took their disputes to court had to pay more than 100,000 lek, while 19.5% had to pay between 50,001 and 100,000 lek. Hiring a lawyer is also expensive: 6.7% of those that did had to pay more than 100,000 lek, while 17.8% had to pay between 50,001 and 100,000 lek. By way of contrast, 62.5% of those that took disputes to their local government and 41% of those that petitioned the national government paid nothing, which happened far less frequently in courts (14.9%) and before lawyers (11.1%).

How much money did this phase cost in total before each institution?



Once again, it was those with the highest salaries that bore the largest costs. More than three quarters (77%) of those that incurred total costs of 100,000 lek or more have salaries of over 50,000 lek monthly. Similarly, of those that incurred total costs of between 50,001 and 100,000 lek, 77.7% had monthly earnings of 20,000 lek or more, while of those that incurred costs of between 20,001 and 50,000 lek, 74.3% had monthly salaries of more than 20,000 lek. **This shows that only the higher earners could afford to pay the larger costs that would enable them to go avail themselves of a lawyer’s services or to seek redress in court. Poorer people are unable to get those kinds of services – which, according to the results of phase one and the outcomes discussed below – means they are not nearly as likely to obtain satisfaction or redress for the harm they have suffered.**

**The relationship between the size of incomes and the total costs incurred to resolve disputes**



The increased costs during the second phase, and the cumulative costs of the two phases together, led more respondents (24%, up from 16.5% in the first phase) to declare that this phase was completely unaffordable. Generally, the affordability of this phase goes up as incomes of the respondents increase, although the direct correlation is not as strong as it was in the first phase.

## Corruption

In the second phase, 7.9% of those participating in this phase and providing an answer to this question (2.3% of the overall sample of those with disputes) stated they paid bribes to institutions or persons involved in resolving their disputes.<sup>25</sup>

Of these, 2.75% (seven persons) said they paid between 10,000 and 100,000 lek, with bribes being paid to national government officials, politicians, and courts. A further 2.4% (six persons) stated they paid over 100,000 lek (with the highest recorded bribe being 2,000,000 lek), with bribes being paid to local government officials, courts, police, and a lawyer. The highest recorded bribe was 500,000 lek.

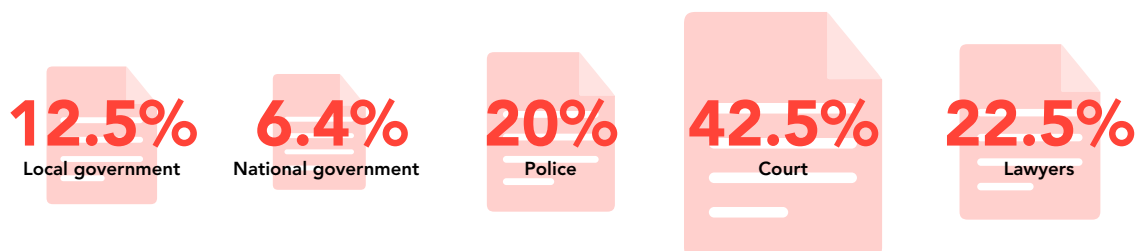
25. As the number of people participating in the second phase is but a fraction of those participating in the first, it is instructive to consider both ratios.

## Outcomes of second phase

Nearly a quarter (24.4%) of those respondents that participated in the second phase resolved their disputes.

Respondents were most successful in resolving disputes before the court, with 42.5% succeeding in doing so. Moreover, 22.2% of those that hired a lawyer and 20% of those that addressed the police succeeded in resolving their disputes. As with the first phase, respondents that addressed local and national governments had little success in settling their legal issues, with only 12.5% and 6.4% managing, respectively.

### I resolved my dispute in this phase

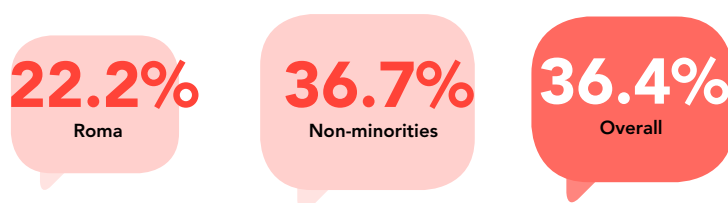


The more a person earned, the more likely it is they resolved their disputes in this phase as well: 37.5% of those earning between 50,001 and 100,000 lek monthly were successful, the highest percentage of any income bracket.

Of those that concluded the second phase, 36.4% stated that they requested further assistance from someone else to do so. Those who did so most frequently were university educated (56.8%, as compared to 31.6% of those with a completed primary education) and from Tirana (46.2%).

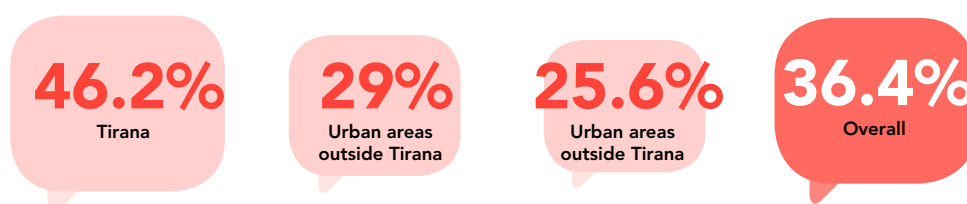
In a turnaround from the first phase, women (40.9%) were more likely to seek further assistance than men (33.9%) in resolving disputes. Roma citizens (22.2%) were far less likely to seek further assistance than non-minorities (36.7%).

### Did you request assistance from another person or institution to resolve this problem? - YES



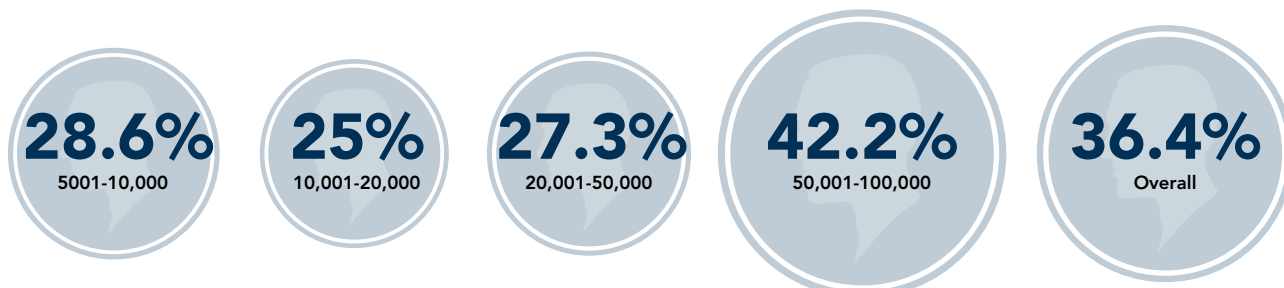
The residents of Tirana were again more willing (46.2%) to continue to seek justice than citizens from other urban areas (29%) or rural areas (25.6%).

### Did you request assistance from another person or institution to resolve this problem? - YES



Finally, the higher a person's earnings, the likelier they were to continue to seek justice and seek help from other institutions or persons. More than two in five (42.2%) of those earning between 50,001 and 100,000 lek stated they sought assistance at the end of the second phase, with ever decreasing percentages as we descend down the income brackets.

Did you request assistance from another person or institution to resolve this problem? - YES



## KEY FINDINGS on dispute resolution from phase two

The results show:

- A significant change from the first phase in institutions addressed: those who continued on to the second phase favoured courts (10.2%), the national government (9.1%) and lawyers (5.3%), while only 2.8% addressed their local government.
- The wealthier and more educated a person is, the more likely it is they availed themselves of the services of courts (and, to a lesser degree, lawyers and the national government) in the second phase.
- Roma citizens were notably less likely (23.3%) than non-minorities (33.4%) to pursue disputes into the second phase. Moreover, of those that did, they were far less likely to attempt to resolve their disputes in court or to hire a lawyer.
- Although the Roma, the least formally educated and the lowest earners still fared the worst in terms of communication, respect and fairness, they also fared somewhat better than in the first phase. For instance, while 36% of those earning between 2001 and 5000 lek stated the rules were not applied equally to all parties in the first phase, in the second phase that figure was reduced substantially to 11.1%.
- The most prejudiced or biased institutions in this phase were believed to be the local and national governments, with 41.7% and 21.8%, respectively. Conversely, the courts were felt by respondents to have been the least prejudiced in their decision-making, with the exception of lawyers, who were viewed positively on this front by their clients.
- The findings on communication, respect and fairness indicate a clear improvement from the first to the second phase in these aspects of dispute resolution. For instance, 10.4% of those surveyed in the second phase stated that they had almost no opportunity to state their opinions when interacting with the institution they addressed, compared to 29.3% in the first phase.
- The reasons for this appear to be myriad; one of these seems to be that wealthier and better-educated citizens, who form an outsized proportion of this group, receive better treatment by institutions. Another

is that this improvement from the first phase is partly down to courts and lawyers playing a larger part in the second phase. For instance, only 6.9% before the courts and 2.2% before lawyers felt they had little opportunity to express their opinions. However, the results that also show that even less wealthy and educated individuals receive somewhat better treatment than previously by institutions such as local governments are not as easily explicable.

- The **average dispute during the second phase was took 16 months**, or four months less than in the first phase. Proceedings lasted the longest when addressed by the national government (2 years and 5 months), followed by the courts (2 years and three months) and the local government (1 year and 9 months).
- **The total cost of proceedings (lawyers fees, travel and other elements) for citizens increased considerably from the first to the second phase.** Whereas more than two thirds of respondents (68.8%) did not incur any costs during the first phase of the proceedings, that figure has been almost exactly halved, so that 34.3% of respondents incurred no costs. Moreover, for those that are paying, the costs are bigger: 38.8% are paying between 10,001 and 100,000 lek (11.9% in the first phase) and 7.3% paid more than 100,000 lek in total (5.4% in the first phase).
- **The costs incurred vary significantly between institutions.** Going to court is costly: 12.6% of those that took their disputes to court had to pay more than 100,000 lek. Hiring a lawyer is also expensive: 6.7% of those that did had to pay more than 100,000 lek.
- **This shows that only the higher earners could afford to pay the costs of a lawyer or of going to court. Poorer people are unable to get those kinds of services, which means they are not nearly as likely to obtain satisfaction or redress for the harm they have suffered.**
- **In the second phase, 7.9% of those participating in this phase and providing an answer to this question (2.3% of the overall sample of those with disputes) stated they paid bribes** to institutions or persons involved in resolving their disputes. The highest recorded bribe was 500,000 lek.
- **Nearly a quarter (24.4%) of those respondents that participated in the second phase resolved their disputes.**
- **Respondents were most successful in resolving disputes before the court**, with 42.5% succeeding in doing so. Moreover, 22.2% of those that hired a lawyer and 20% of those that addressed the police succeeded in resolving their disputes.
- **The more a person earned, the more likely it is they resolved their disputes in this phase as well:** 37.5% of those earning between 50,001 and 100,000 lek monthly were successful, the highest percentage of any income bracket. **This lends further credence to the hypothesis that wealthier citizens do better in the justice system, as they are more likely to use courts and lawyers, which are fairer means of resolving disputes than other large institutions, such as the local and national governments.**
- Of those that concluded the second phase, **36.4% stated requested further assistance from someone else to do so.** Those who did so most frequently were university educated and from Tirana.

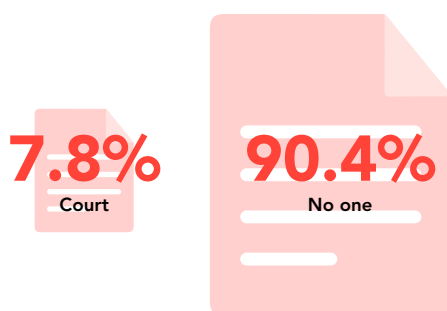
## CHAPTER 4.3 – THE THIRD PHASE

In this chapter we will focus on those respondents who continued after the second phase in an attempt to find satisfaction and resolve their disputes.

**While 90.4% of those with disputes did not 'reach' this phase, of those that did, the overwhelming majority petitioned the courts (7.8%) in order to access justice.** The sample for other institutions is too small to draw any conclusions on, so the third phase reflects very much upon the quality, fairness, cost and speed of proceedings before the courts.

As results for the third phase are similar to respondents that petitioned the courts in the second phase, we will present an abbreviated version of the results, highlighting areas of subtle difference.

**Who did you next turn to (after the second phase) to try to resolve your dispute?**



### Communication and respect during third phase

**The openness of communication and respect shown to respondents mirrors closely the results of those that petitioned the courts in the second phase.** For instance, only (8.4%) of those surveyed in the third phase stated that they had almost no opportunity to state their opinions when interacting with the institution they addressed, while 54.2% stated they had full opportunity.

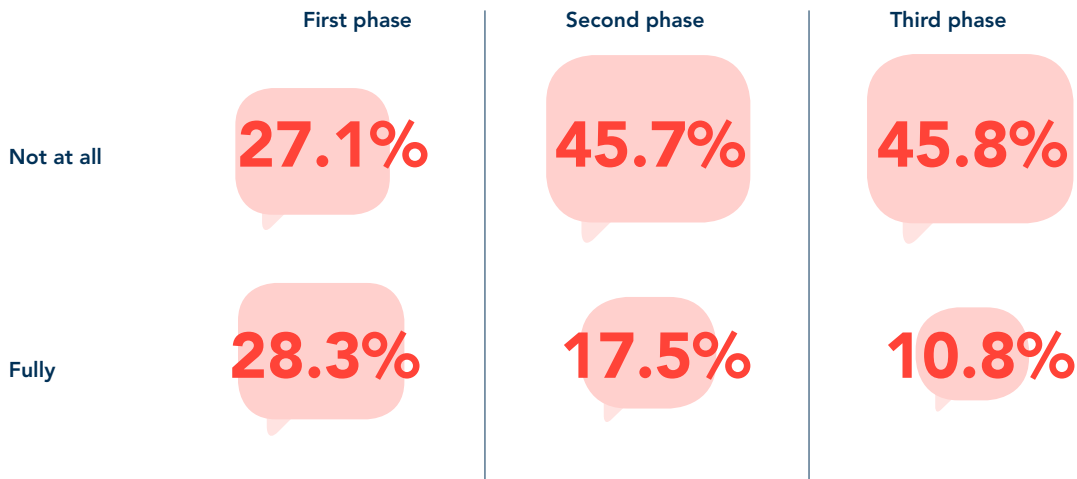
### Fairness of proceedings

**There was a notable improvement in the fairness of the proceedings,** with 30.5% of the respondents believing that this phase of the process was very unfair, as compared to 45.5% during the second phase (and 64.2% during the first).

The respondents also felt that the rules were applied consistently, with **only 4.9% stating they had been applied completely unequally applied to both parties (as opposed to 8.6% in the second phase and 24.1% in the first phase)**

There was also a **decrease in the percentage of respondents who believed that the prejudice and bias of institutions (10.8% in the third phase, 17.5% in the second and 28.3% in the first).**

**To what extent did you feel the institutions you addressed were prejudiced or biased?**



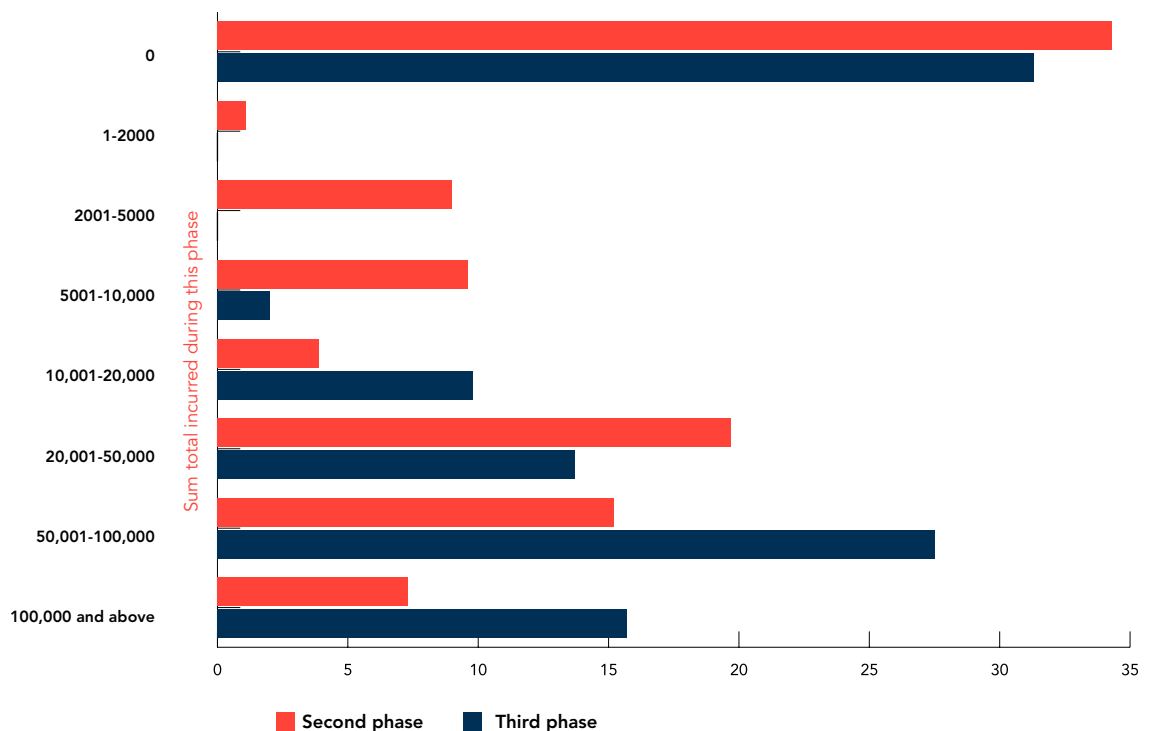
**Time spent and personal toll caused by third phase of proceedings**

The average dispute before the courts during the third phase was 17 months, the same length as during the second phase.

**The costs of proceedings and the quality of service provided**

The total cost of proceedings (lawyers fees, travel and other elements) for citizens increased significantly from the second to the third phase. Although a similar ratio – around a third – of respondents incurred no expenses, costs did increase for those that had to pay: 27.5% paid between 50,001 and 100,000 lek (15.2% in the second phase) and 15.7% paid more than 100,000 lek in total (7.3% in the second phase).

**How much money did this phase cost in total?**



## Corruption

In the third phase, 14.9% of those participating in this phase and providing an answer to this question (1.2% of the overall sample of those with disputes) stated they paid bribes to institutions or persons involved in resolving their disputes.

Of these, 9% (six persons) said they paid between 20,001 and 100,000 lek and 4.5% (three persons) stated they paid over 100,000 lek (with the highest recorded bribe being 700,000 lek). All of these bribes were paid to the courts.

## Outcomes of third phase

Over two fifths (42.7%) of those respondents that participated in the third phase resolved their disputes (a substantial increase from 24.4% in the second phase and 13.7% in the first phase). All of these were disputes resolved before the courts.

### KEY FINDINGS on dispute resolution from phase three

The results show:

- That those who continued on to the third phase did so almost exclusively to petition courts. They tend to be higher earners and highly educated.
- **Although the Roma, the least formally educated and the lowest earners still fared the worst in terms of communication, respect and fairness, they also fared somewhat better than in the second phase.**
- **There was a notable improvement in the fairness of the proceedings, even in comparison with the second phase.**
- However, the **total cost of proceedings (lawyers fees, travel and other elements) for citizens increased significantly from the second to the third phase.**
- **14.9% of those participating in this phase stated they paid bribes.**
- **42.7% of respondents participating in this phase resolved their disputes.**
- **Individuals who persist (by way of having sufficient financial resources, time or other opportunities) in resolving their disputes and, to paraphrase a legal term, want to 'exhaust all their remedies', gradually get a better system and more access to justice.**

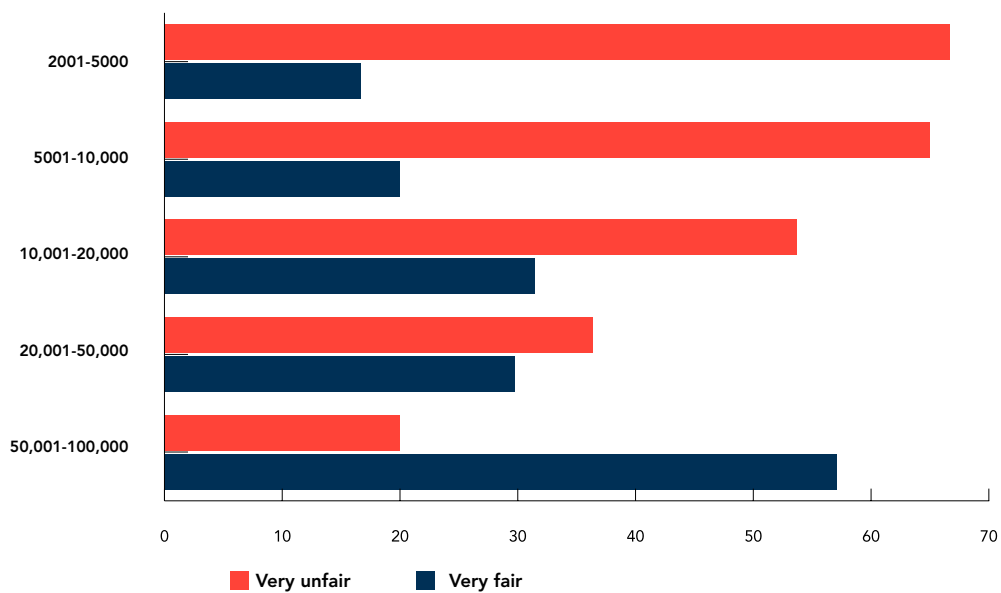


## CHAPTER 4.4 – FINAL OUTCOMES

The respondents were surveyed on some of the characteristics of the final outcomes of their disputes. **The first issue surveyed was the fairness of the final overall outcome** (the results in the previous chapters concern the fairness of the proceedings rather than the outcome).

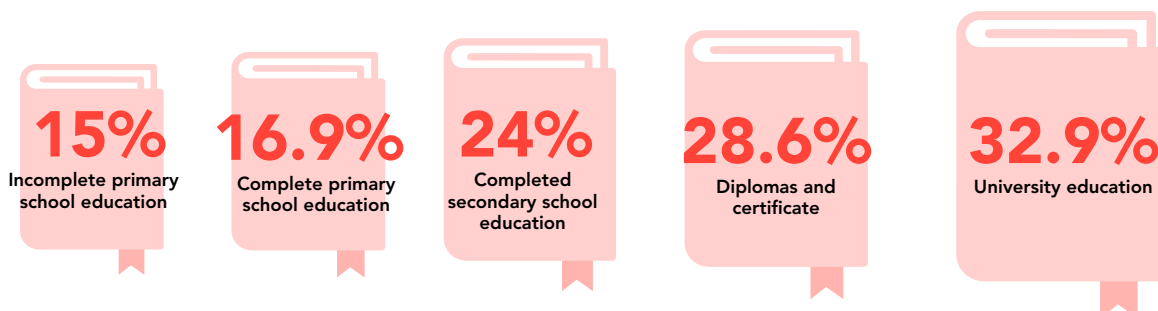
The results show that **only 21.8% of those surveyed succeeded in resolving their disputes**. The results show that **43% of the respondents believe the outcome was very unfair**. This is particularly true for those with lower incomes (66.7% of those earning between 2001 and 5000 lek), a lower level of formal education (60% of those with an incomplete primary education, as opposed to 40.5% of those with a university education), members of the Roma community (70.6%) and residents of Tirana (49.1%).

### How fair was the final decision in your dispute? (by monthly income)

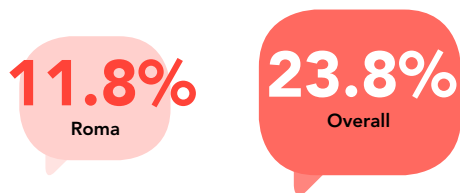


The final outcome fully restored the position of 23.8% of respondents while failing to restore the position of 40.5%. Once again, it was those with fewer formal qualifications (55% of those with an incomplete primary education), members of the Roma community (64.7%), those with lower incomes (72.2% of those earning between 2001 and 5000 lek monthly) and the residents of Tirana (49.7%) that were the most aggrieved.

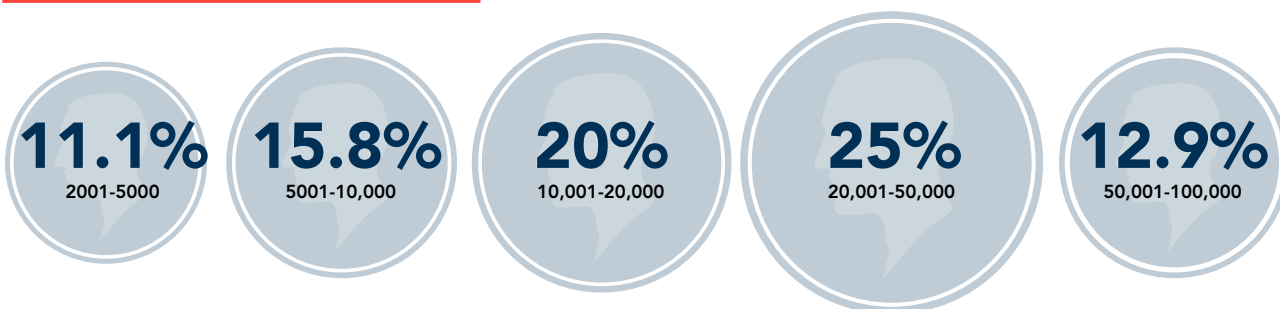
### The final decision fully restored my position



The final decision fully restored my position - FULLY

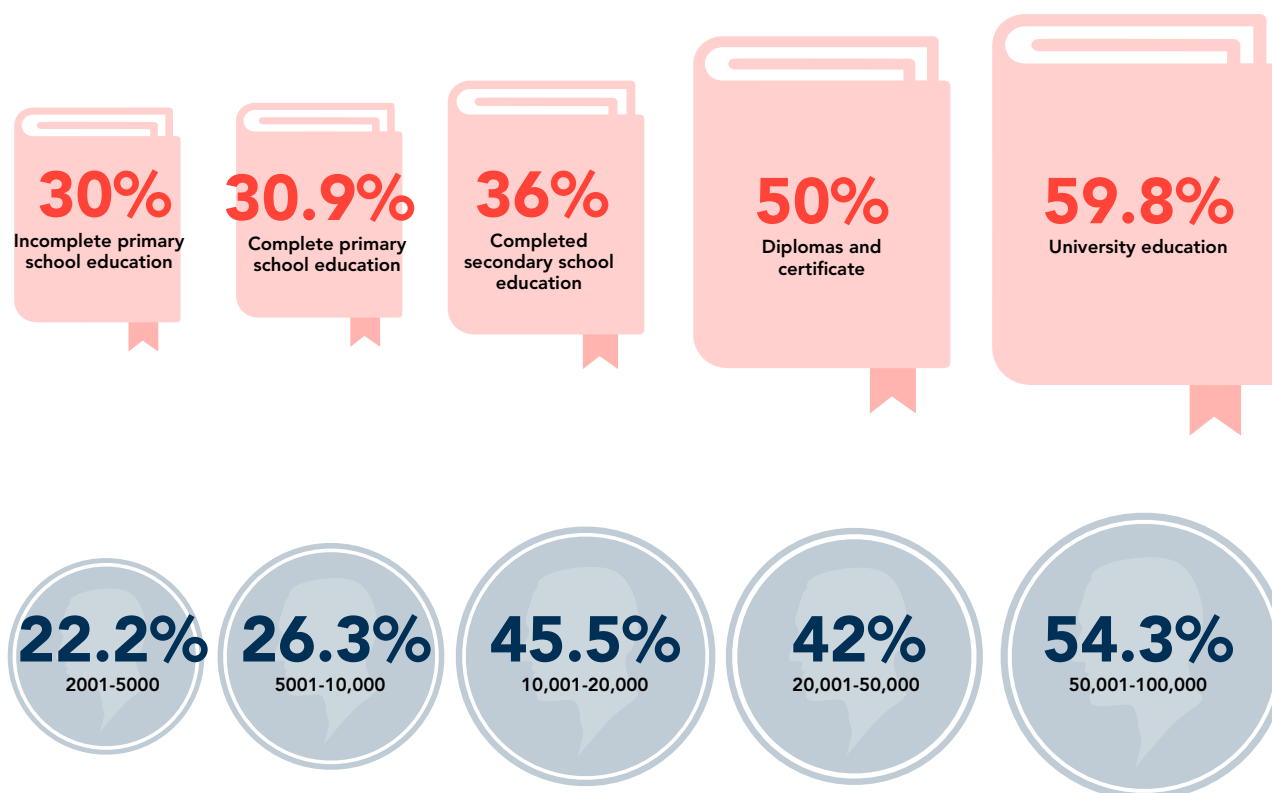


The final decision failed to restore my position



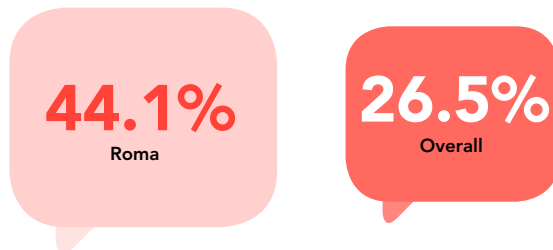
The final decision was explained well to 40.6% of respondents, while nearly a quarter (24.8%) felt it had been explained poorly. This is especially true of members of the Roma community (52.9%), those with a lower level of education (35% of those with an incomplete primary education, as opposed to 18.3% of those with a university education), those with smaller salaries (50% of those earning between 2001 and 5000 lek monthly, compared with 10% of those earning between 50,001 and 100,000 lek) and the residents of Tirana (31.9%).

The final decision was fully explained to me

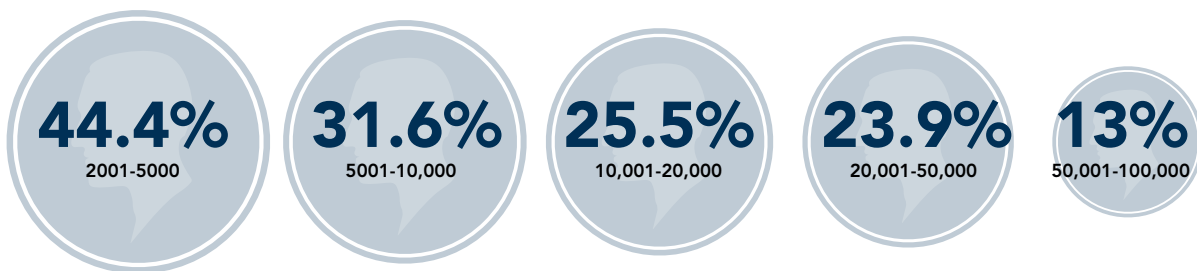


The results show that **less than half of the final decisions have been fully enforced (45.3%), while approximately a quarter (25.6%) have not been enforced at all.** This is particularly true for the Roma, 44.1% of whom said the final decisions in their cases had not been enforced at all. It is also true for those with lower earnings and less formal qualifications. The failure to enforce also covers some of those who were awarded compensation: namely, while compensation was awarded to 34.7% of those who sought it, it has been received in full by only 9.5%.

**The final decision has not been enforced at all**



**The final decision has not been enforced at all**



**One in twenty (5%) of those responding, or 1.8% of the overall sample, made additional payments to get the decision enforced.** The highest recorded payment was 100,000 lek.

## CHAPTER 4.5 – SUMMARY OF DISPUTE RESOLUTION JOURNEYS

These are the principal implications from the results of the survey described in the previous chapters:

- 1. Albanian citizens' efforts to resolve their disputes are mostly unsuccessful - only 21.8% of those surveyed managed to resolve their disputes. Moreover, 43% of the respondents – and the majority of lower earners, those with a lower level of formal education and members of the Roma community - believe the outcome was very unfair. The following hinders Albanian citizens in attempting to resolve their disputes:**
  - a. Poor communication and a lack of openness;
  - b. A lack of respect for them by institutions and officials in the justice system;
  - c. A lack of fairness both in process and in outcome;
  - d. The high cost of accessing a better quality, fairer service – such as the courts
  - e. The length of time it takes to access justice.

All of these problems should be tackled if Albanians are going to have a meaningful opportunity to access justice through the formal and informal justice system. They can be tackled in the course of systemic justice reform, such as the strengthening of the mediation system to encourage citizens to resolve disputes amicably.

- 2. Resolving a dispute fairly requires persistence and deep pockets.** Initial efforts of many Albanians to resolve a dispute by going through the local government are overwhelmingly unsatisfying. Those who are unsuccessful usually give up at this stage, while better off persons are more likely to continue and successfully resolve their disputes. Thus, it is a case of “the further you go in the justice system, the better you will do”, as it is necessary to reach the court system in order to ensure some measure of satisfaction. However, that requires deep pockets to pay for costs such as lawyers' fees and court fees, which is the reason that many never meaningfully access justice.
- 3. The odds of resolving a dispute fairly are significantly lowered for four groups: lower earners, those with little formal education, the Roma and residents of Tirana.** Belonging to one of these groups is an obstacle to accessing justice in Albania. Belonging to two or more of them at once is a major hurdle that is very likely to leave justice needs unmet.
- 4. There is a major lack of knowledge of the law, which hinders Albanians from accessing justice.** If you do not know what the law says, you cannot conceive that you have a claim. If you do not know how the law works, you do not know whom to address when making that claim. It is therefore paramount to raise legal awareness among the population in general, and among the four above-mentioned groups in particular. **It is also paramount to rectify these gaps in knowledge of the law by introducing affordable legal aid.** The results above show that, while respondents were generally satisfied with the quality of legal representation they received, it was only the higher earners that could afford to avail themselves of a lawyer's services or to seek redress in court. This has to be changed – through the introduction of a comprehensive legal aid system - to ensure a level playing field and equality of arms.
- 5. The results of the quantitative survey underline the need for a system of high quality and accessible primary legal aid to be created.** This would even the playing field at least somewhat for members of disadvantaged groups. However, an effective legal aid system has to work proactively to reach beneficiaries because the findings indicate that people of lesser means are culturally disposed to address the authorities directly, without seeking available legal assistance.



# ACCESS TO JUSTICE OF DISADVANTAGED GROUPS

This chapter will focus on the experiences of particular disadvantaged groups in accessing justice. As explained in the introduction, the principal tool utilised in the survey – the questionnaire administered to 1758 persons across Albania – was inadequate to understand the experiences of certain groups that may be few in number, that may be reluctant to discuss their plight with anonymous enumerators or that may be difficult to reach. As a result, the research team selected certain groups with these characteristics and utilised additional research tools, including interviews and focus groups, to seek better insight into the difficulties they face in resolving disputes and using the justice system in Albania.





## CHAPTER 5.1 – THE LGBTI POPULATION

The LGBTI population faces numerous obstacles to accessing justice in Albania. One of the most pressing is the lack of protection by the police and the justice system from systemic and widespread violence. Members of the LGBTI community are vociferous in their belief that they are being persecuted by police departments who are either indifferent to their plight or are openly hostile to them.

Interviewees and focus group participants had numerous stories about their **unprofessional, illegal and degrading treatment at the hands of the police**. For instance, one participant at a focus group in Tirana said:

*“Police departments persecute us. They [police officers] look at us like we are different creatures. Even when they try to comfort us, they don’t do anything. There are even instances when they say to perpetrators, ‘Bravo for what you did.’”<sup>26</sup>*

Another participant at the same focus group shared a story of being rescued from a possible beating by the police, but later finding police officers encouraging the aggressors, which caused him to lose trust in the police force:

*I went to the police department to complain because I had a fight with 6 young men. I was walking home and they shouted at me. I got angry and raised the middle finger. Two of them were about to beat me up but I was very lucky that the police patrol was very close. I went to the police station to give my testimony and when I was about to leave the station, I heard a police officer saying to one of the people who wanted to beat me up: “Don’t worry about it; what you did was good. You should put in your statement that you were drunk and that can be used as a justification for your actions.” I was totally shocked and since then I have never trusted police officers.<sup>27</sup>*

Other participants confirmed that the **police have a habit of humiliating members of the LGBTI community** that report instances or threats of violence. In their experiences, those who do wish to press charges or submit criminal complaints are often not taken seriously: *“If you go to the police department, they start making fun of you.”<sup>28</sup>* Others pointed to police being slow or completely unwilling to respond to complaints:

*“Why is it that when people complain about us, the police react immediately and when we complain, no one shows up? Why are the police using double standards? [Raised voice]”<sup>29</sup>*

The **police treatment of sex workers and transsexuals is even more brutal**. They are not only ignored or humiliated, as often happens to gay or bisexual persons, but are occasionally the victims of police violence themselves:

*“I was walking on the street and police officers asked me for my identity card. An officer looked at the card and didn’t believe that it was me. He took me to the police station and kept me in the station for two hours and made fun of me. Hahaha, they laughed. They asked me: Are you a man? One of the police officers said: “Your breasts are larger than mine.” When they released me, one of the police officers said: “Walk away, pederast, motherfucker.” He was about to kick me but I ran.”<sup>30</sup>*

26. Focus group with LGBTI persons at Aleanca (Alliance); Tirana, 23 February 2017.

27. Ibid.

28. Ibid.

29. Ibid.

30. Ibid.



LGBTI persons' **right to privacy is often violated, as a means of dissuading them** from their activism or from pursuing their complaints. Police officers "publish your information in the media; they don't care if you have a family that might be hurt by this information".<sup>31</sup> As another LGBTI person stated, "the more visible we are, the more violence we experience. If I am mentioned twice in the media, I won't be able to rent a house."<sup>32</sup>

Another common practice highlighted by interviewees from the LGBTI community is **victim-blaming** by the likes of the police. An example comes from a participant in a focus group who, upon reporting a physical assault to the police, was asked by a police officer:

*"Why do you dress in such a way?" I told him: 'mind your own business. I will dress the way I like.' Then, he said: 'if you dress up in such a way, you should take into consideration the consequences. People will attack you.'"<sup>33</sup>*

These discriminatory attitudes exhibited by the police are prevalent in the justice system and society at large. An interviewee states, "institutions and institutional actors are homophobic",<sup>34</sup> while another diagnoses homophobia as a societal problem: "discrimination is institutionalized; it is everywhere."<sup>35</sup> For instance, discrimination against LGBTI persons regarding housing is widespread. Landlords "refuse transgender persons" who apply for housing.<sup>36</sup>

Such attitudes, both in the justice system and in society more broadly, have **discouraged LGBTI citizens from using the justice system** to protect their rights. One participant reflected:

*"Once, I was almost killed by three people who were driving a car. They hit me and then spit me in the face. Where would I go for help?"<sup>37</sup>*

LGBTI citizens that are not assisted by the police rarely have avenues for seeking justice. Their support networks are small and friends and family often shun them: "If police officers do not respond, we don't do anything. The family doesn't provide help; friends neither."<sup>38</sup>

Members of the LGBTI community rarely file claims before the courts because they believe discrimination against them to be rampant among lawyers and judges. As a result of the various barriers that LGBTI persons that are victims of violence face,

*"The law is the last thing that goes into their mind. They do not have sufficient information [to use the law or justice institutions effectively]. Also, they do not understand discrimination. They might say that 'he insulted me' (me foli shume keq) but they do not denounce the person discriminating against them."<sup>39</sup>*

In addition to these, LGBTI citizens **face obstacles that are common to other individuals wishing to use the justice system**. These include:<sup>40</sup>

- The **high court tariffs and high expert fees**, which are unaffordable for those that are economically disadvantaged
- **The lack of a functioning legal aid system**. This has a particular effect on citizens, and members of the LGBTI community, outside

31. Focus group with LGBTI persons at Aleanca (Alliance); Tirana, 23 February 2017.

32. Ibid.

33. Ibid.

34. Interview with PRO LGBT and Alliance against LGBT discrimination; Tirana, 1 March 2017.

35. Interview with official at LGBTI Shelter; Tirana, 27 February 2017.

36. Interview with Woman to Woman (Gruaja tek Gruaja); Shkoder, 3 March 2017.

37. Ibid.

38. Ibid.

39. Interview with official at LGBTI Shelter; Tirana, 27 February 2017.

40. Interview with legal aid provider; Tirana, 31 March 2017. Interview with lawyers at CLCI; Tirana, 4 April 2017. Interview with lawyers at Res Publica; Tirana, 13 April 2017.

Tirana, as the residents of Tirana at least have some civil society groups that are able to assist them (despite their limited resources).

- **The length of court proceedings** tends to dissuade victims of violence from the LGBTI community and others from using the justice system.
- The **perception that the justice system is corrupt** and open to outside influences (as documented in the findings from the quantitative research).

## KEY FINDINGS on access to justice of LGBTI persons

The research shows:

- That, **due to the widespread discrimination** against the LGBTI community, both in the justice system and in society as a whole, **the LGBTI community cannot avail itself of the services of the justice system or exercise its rights under the law.**
- **That LGBTI persons do not rely on the police to protect them from systematic violence.** This is due to the police's own discriminatory practices and attitudes, and its treatment of LGBTI persons, which can sometimes include the incitement or practice of violence by the police itself.
- That **police treatment of sex workers and transsexuals is even more brutal than that of other LGBTI persons.**
- **That the attitudes and practices of the police and other actors in the justice system have to be changed** if LGBTI persons are to enjoy their constitutionally guaranteed rights.

### Suggestions on measures that would improve the access to justice of LGBTI persons

- **Strengthening of the legal aid system;** the current system is inadequate and has not provided effective legal assistance to the poor and disadvantaged groups, such as members of the LGBTI community.
- **Raising awareness among officials in the justice system (lawyers, judges, police officers, prosecutors and others) on LGBTI rights.** These discussions should be broader their focus from the right of assembly to other rights of the LGBTI community (labour rights, the right to housing, non-discrimination and others) that are being systematically violated.
- **Raising awareness among the LGBTI community on their rights and how to access them.**

## CHAPTER 5.2 – PERSONS WITH DISABILITIES

Persons with disabilities face a wide range of obstacles that prevent them from enjoying their constitutional rights on an equal footing with the remainder of the population.

They are, by their own admission, **not well informed** about their rights under the law. While some are aware of the legislation related to financial benefits, they are not well informed about their other rights, including non-discrimination, the right to education, the right to accessibility, and others. Needless to say, this makes it very difficult to raise their awareness about the law and their rights according to it.

It is also believed that the **authorities do not enforce their rights because they do not know the legislation on disability rights well**. For example, a focus group participant was entitled under the law to an exemption from his fees at his university but was not informed by the staff of the university, which was unaware of the relevant provision.<sup>41</sup> Moreover, until recently, Albanian law did not recognise hearing impairment as a form of disability for benefit purposes.<sup>42</sup> As a result, hearing impaired people have not benefited from financial schemes and other services offered to persons with other forms of disability.

Persons with disabilities have a **plethora of challenges and negative experiences** with the justice system in which their disability played a significant part.

An oft-mentioned **challenge to accessing justice is the literal lack of infrastructural accessibility** of courts and other buildings for persons with physical disabilities. Participants shared examples of family members having to carry them into court buildings, a situation which made the persons feel humiliated and unwelcome there. This has dissuaded many persons with disabilities from using the justice system altogether, thus depriving them of the possibility of redress. Other challenges include some that are common to members of other disadvantaged groups:

- **The lack of free legal aid for persons with disabilities for civil and administrative proceedings.** Even in criminal procedures, when persons with disabilities receive free representation, "their lawyers are not familiar with the legislation and specific requirements for reasonable accommodation of persons with disabilities."<sup>43</sup>
- **A lack of trust in the justice system by persons with disabilities**, which stems from the lack of understanding of their plight on the part of the judiciary and other institutions, along with the inhospitable environment in these institutions, which is not conducive to building up trust.
- **High court fees, including notary and expert tariffs**, which deter persons with disabilities, often of limited means, from seeking redress in court. This includes examples of a person with disabilities represented by the Albanian Disability Rights Foundation who was exempted from court fees but could not afford the expert fee of approximately 800 Euros and thus had to borrow in order to finance his case.<sup>44</sup>
- Members of the **Albanian judiciary look upon persons with disabilities as "charity cases, rather than with the human rights-based approach in accordance with the Convention on the Rights to Persons with Disabilities."**<sup>45</sup> This sort of treatment violates the dignity of persons with disabilities, who "do not want charity and solidarity - they want the judiciary to guarantee their human rights as recognized by the State."<sup>46</sup>

**Hearing-impaired persons with disabilities** have faced additional sets of challenges in accessing justice. Until recent

41. Focus group with persons with disabilities; Tirana, 31 March 2017.

42. New legislation has been adopted in accordance with the Convention on the Rights of Persons with Disabilities that would recognize persons with hearing impairment as having a disability for benefit purposes; however, these provisions are not yet being implemented in practice.

43. Interview with Albanian Disability Rights Foundation, Tirana, 24 February 2017.

44. Ibid.

45. Ibid.

46. Ibid.

amendments to the Criminal Procedure Code enacted in May 2017, during criminal proceedings the state did not guarantee the use of sign language, a right to a sign language interpreter and did not pay interpreters' fees.<sup>47</sup> These rights are still not guaranteed in civil proceedings. This makes life very difficult for the people with hearing impairment, 98% of whom are illiterate or have very limited writing and reading skills.<sup>48</sup>

The experiences of hearing-impaired persons with disabilities illustrate the difficulties of persons with disabilities in accessing justice. One focus group participant spoke of having approached,

*"the municipal authorities of Saranda, but communication with them was difficult or almost impossible. No one could help with the communication except my parents, but it was with them that I had my conflict, so they were not much of any help. Also, my writing and reading skills were too limited to use them as a means of communication."*<sup>49</sup>

A focus group participant shared her experience when her family, all of whom are deaf, attended a court hearing at which none of them could understand what was said, which effectively disqualified them from the judiciary proceedings.<sup>50</sup> Another participant who had been sentenced several times for theft said that

*"only once, several years ago, was a sign language interpreter provided to assist me in court proceedings. I was asked to sign papers I barely understood and participated in court proceedings where I was not aware of anything the judges or prosecutors were saying."*<sup>51</sup>

Legal barriers to access justice also exist for persons with mental and intellectual disabilities.<sup>52</sup> Namely, Albanian law contains provisions that would allow for the removal of the legal capacity of such persons; however, advocates for the rights of persons with disabilities state that these provisions of Albanian law, such as those in the Civil Code and Code of Civil Procedures are not in conformity with the Convention on the Rights of Persons with Disabilities, which considers the provisions on removal or legal capacity for persons with mental and hearing impairments incompatible with the right to equality before the law. These provisions create serious barriers for this category to access justice.

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47. These rights are now provided by art. 8 of the Criminal Procedure Code.

48. Interview with the Albanian National Association of the Deaf, Tirana, 27 February 2017.

49. Focus group with hearing-impaired persons with disabilities, Tirana, 9 March 2017.

50. Ibid.

51. Ibid.

52. Focus group with persons with disabilities; Tirana, 31 March 2017.

## KEY FINDINGS on access to justice of persons with disabilities

The research shows:

- **Persons with disabilities are not well informed about their rights, which severely hinders** their efforts to access justice.
- The **authorities are often as ill-informed about the law**, and not aware about the rights of persons with disabilities, including various subsidies and benefits they are eligible for.
- The **lack of infrastructural accessibility** is a major impediment to access to justice, as are the **lack of trust in the system by persons with disabilities**, and **high court fees**.
- Certain groups of persons with disabilities face even more strenuous challenges. This includes **hearing-impaired persons**, who report having difficulties with following court proceedings, accessing official documentation (due to their high rate of illiteracy) and a variety of other problems, as well as persons whose legal capacity has been removed in contravention of the International Convention on the Rights of Persons with Disabilities, which Albania has been a party to since 2012.

### Suggestions on measures that would improve the access to justice of persons with disabilities persons

- Raising awareness among communities of persons with disabilities on their rights and the existing legislation.
- Raising awareness among officials in the justice system on relevant legislation and adequate measures needed to make court proceedings accessible. These efforts should target judges, prosecutors, lawyers and the administration. The rights of persons with disabilities should be included in the curriculum that magistrates are taught in the Magistrate School.
- The introduction of necessary legal amendments to bring Albanian legislation in conformity with the CRPD, such as amendments to the Civil Code on the removal of legal capacity of persons with disabilities.
- The use of sign language interpreters in court proceedings.

## CHAPTER 5.3 – VICTIMS OF DOMESTIC VIOLENCE

Victims of domestic violence face numerous challenges in accessing justice.

One of these, highlighted repeatedly in interviews and focus groups, is that **victims of domestic violence often lack economic means**. As an activist states, *“Women have little income; therefore they do not bring their cases (domestic violence) to the court.”*<sup>53</sup>

Without sufficient funds, victims cannot be economically independent and therefore find it difficult to contemplate leaving their abusers. Moreover, this lack of economic means can leave victims of domestic violence unable to fund legal costs of any sorts, as a result of which they are more likely to suffer indefinitely and not avail themselves of the services of the court system.<sup>54</sup> The decision to press charges is made all the more difficult by the slowness of the judicial system.

The victims also often **lack information on their rights under the law and the functioning of the system of protection orders – even though the law states that they should receive information** from law enforcement authorities on their legal status as victims and on various services they are entitled to.<sup>55</sup> As one psychologist says, *“Women do not know their rights. They lack information. They sign the protection order without first reading it.”*<sup>56</sup> One of the victims interviewed for this survey says that, when she eventually decided not to tolerate the violence perpetrated by her husband (after he had rendered her unconscious), she *“had no information”* on what legal steps to take.<sup>57</sup> Eventually, she sought help from an NGO that specializes in assisting victims of domestic violence.

Another victim was similarly in the dark about where to turn for help. She *“did not even know that there are measures that the state authorities can take to protect women like me from domestic violence.”*<sup>58</sup> Eventually, it was her brother that gathered the information that allowed her to find shelter for herself and her children, along with legal aid that allowed her to move forward with legal proceedings.

According to lawyers providing legal aid to victims of domestic violence, there are several reasons why women who are victims of domestic violence or human trafficking do not receive adequate information from the authorities.<sup>59</sup> They include:

- A **lack of knowledge among police officers** about their obligations under the law caused by the high turnover of staff (see below in this section for more).<sup>60</sup>
- A **lack of human resources**; the “limited number of police officers”<sup>61</sup> hampers their effectiveness and does not provide them with sufficient time to inform victims of domestic violence of their rights in sufficient detail.
- Until recently, it was unclear under the law which organ of the government and judiciary had the obligation to inform victims of domestic violence and human trafficking about their rights. However, recent amendments to the Criminal Procedure Code provide a clearer framework on the exact role of the police and the prosecution office in this regard.<sup>62</sup>
- A **lack of accountability** among the authorities for failing to comply with their legal obligations. A legal aid provider interviewed for this survey has tried to hold police officers and other law enforcement officials responsible for failing

53. Interview with Woman to Woman (Gruaja tek Gruaja); Shkoder, 3 March 2017.

54. Interview with official at Light Steps (Hapa te Lehte); Shkoder, 13 March 2017.

55. Interview with lawyers at CLCI; Tirana, 4 April 2017.

56. Interview with Woman to Woman (Gruaja tek Gruaja); Shkoder, 3 March 2017.

57. Interview with victim no.2; Vlora, 10 March 2017.

58. Interview with victim no. 1; Shkoder, 19 March 2017.

59. Interview with lawyers at CLCI; Tirana, 4 April 2017.

60. Ibid.

61. Ibid.

62. Ibid.

to provide specific information to victims of domestic violence and human trafficking but these efforts have rarely resulted in concrete sanctions and measures that would improve the lack of accountability in the system.<sup>63</sup>

It is not just the victims that are lacking in knowledge about the law; according to activists and victims, **it is also officials in the justice system that are sometimes unfamiliar with the provisions on the law on domestic violence.** At the beginning, one expert says, *"court and police officers did not know about the functioning of the protection order."*<sup>64</sup> Although the situation is better by some accounts, others still maintain that the police *"don't know about the law on domestic violence."*<sup>65</sup>

In Puka, another person working on combating domestic violence says,

*"perpetrators are taken to prison. Women are not given protection orders. There is a misconception that it is better to take perpetrators to prison because in this way they will understand the mistake that they have made."*<sup>66</sup>

The **attitudes of justice officials can be dismissive and humiliating for victims of domestic violence.**

*"While interacting with women, police officers make jokes or blame women. For instance, they say: 'Why do you want to leave your husband? It is good that he beats you. If you were my wife, I would have beaten you more often.'" This reaction occurs very frequently.*<sup>67</sup>

Judges have also been noted to remark to minors: *"We beat women in the house and [you think we should] not beat you?"*<sup>68</sup> This is the product of an attitude that sees domestic violence as 'normal'.

Efforts have been made in recent years to teach professionals on the law on domestic violence and its application. Resources have been invested in training police officers, judges, prosecutors and other officials on the nature of domestic violence, the functioning of the system, the role of protection orders and shelters, and so on. However, activists have noted that *"we have worked with police officers, lawyers, and judges, but what happens is that once they get trained or learn about the experiences of women, they are replaced with other professionals."*<sup>69</sup> In other words, **the high turnover of professionals trained to combat domestic violence invalidates these efforts and makes it more difficult to access justice.**<sup>70</sup>

Aside from these, victims of domestic violence and human trafficking face some of the above-mentioned **barriers faced by other individuals, and particularly members of disadvantaged groups, wishing to use the justice system.** These include:<sup>71</sup> the lack of a functioning legal aid system; the excessive length of court proceedings which is a disincentive for potential users of the justice system; the perception that the system is corrupt; and high court tariffs and high expert fees. The latter are particularly salient for victims of domestic violence and human trafficking, as a psychotherapist is usually needed to serve as an expert and their fees are very high. Although lawyers providing legal aid to victims of domestic violence and human trafficking try to collaborate with organisations that offer free psychological support, they *"don't always manage to engage free experts."*<sup>72</sup>

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63. Ibid.

64. Interview with Woman to Woman (Gruaja tek Gruaja); Shkoder, 3 March 2017.

65. Interview with psychologist at Woman to Woman (Gruaja tek Gruaja); Shkoder, 3 March 2017.

66. Interview with social worker at Light Steps (Hapa te Lehte); Shkoder, 13 March 2017.

67. Interview with psychologist at Woman to Woman (Gruaja tek Gruaja); Shkoder, 3 March 2017.

68. Ibid.

69. Interview with social worker at Light Steps (Hapa te Lehte); Shkoder, 13 March 2017.

70. Interview with lawyers at CLCI; Tirana, 4 April 2017.

71. Interview with legal aid provider; Tirana, 31 March 2017. Interview with lawyers at CLCI; Tirana, 4 April 2017. Interview with lawyers at Res Publica; Tirana, 13 April 2017.

72. Interview with lawyers at CLCI; Tirana, 4 April 2017.

## KEY FINDINGS on access to justice of victims of domestic violence

The research shows:

- **Victims of domestic violence often lack economic means**, which discourages them from seeking justice.
- **Victims also lack information on their rights under the law** and the functioning of the system of protection orders. Similarly, **justice officials also lack information and do not apply the law on domestic violence consistently**.
- The **attitudes of justice officials can be dismissive and humiliating for victims of domestic violence**.
- The **high turnover of professionals trained to combat domestic violence invalidates** efforts made to train them and makes it more difficult to access justice.

### Suggestions on measures that would improve the access to justice of victims of domestic violence

- Improving the legal literacy of women, children and (potential) victims of domestic violence. Core groups from the community should disburse this information, while health centres should also be involved.
- Raising awareness among officials on the law on domestic violence, the functioning of the protection orders, the role of shelters, and so on.
- The provision of mobile services to victims of domestic violence.
- The establishment of a functional system of free legal aid.



## CHAPTER 5.4 – CHILDREN IN RESIDENTIAL INSTITUTIONS

This chapter considers the obstacles that children in residential institutions have in accessing justice.

One of the principal difficulties that the children and the residential institutions face is to **balance the rights of the child and his or her best interests with the need for family life**. This balancing act can lead to difficult decisions regarding the transfer of guardianship from the parent to the institutions, as well as the transfer back of custody to the parents and regarding issues of adoption by children in residential institutions.<sup>73</sup>

A major challenge in ensuring the enjoyment of rights of children in residential institutions occurs in cases when there is no risk of exploitation or abuse, but, rather, where the family cannot afford to financially support a child. In such instances the **legislation and procedures followed by the court** are flawed, as judges almost always decide to remove children from the family's custody, without considering other options such as the involvement of social services to provide assistance and other kinds of support to the family. Once such rulings are made, courts are very reluctant to grant custody back to families to enable them to resume guardianship. It is hoped that recent amendments to the law, which introduce a principle that a child should not be placed in a residential institution for economic reasons, will put an end to this practice.<sup>74</sup>

At the same time, **children run the risk of suffering from continued abuse when parents are granted visitation rights to residential institutions that have been granted guardianship**. In such instances, the courts occasionally allow parents to bring children home for short periods of time, whereupon parents occasionally continue exploiting them by forcing them to beg.<sup>75</sup>

As such, it is paramount, according to staff at residential institutions, that the relevant **legislation should change**, particularly in the context of the ongoing deinstitutionalization reform that aims to support families to take care of their children rather than placing them in a residential institution when possible.

A further challenge, in addition to the inadequate legislation, is to **change the attitudes of the judiciary** so as to instil in them recognition for the right of the child to remain with his or her biological family when this is in the best interests of the child. The enactment of the new law on child protection, which places the best interests of the child as a governing principle in determining the fate of children, offers reason for optimism.<sup>76</sup>

Another barrier to access to justice is that **parents and family members are not informed about relevant legal procedures** in place to regain guardianship over their children. Moreover, because these are often children from poor families and disadvantaged groups, their parents **frequently do not have the means to afford private lawyers and court fees**, exacerbating the need for a functional legal aid system. An example encountered in the course of the survey is that of a mother who had left her child from birth to a residential institution without any documentation. When she returned after a few years and requested the child, she was informed that a DNA test is required by the court to establish that she is the mother. However, as this test is very expensive, she is unable to afford it and the child cannot yet be reunited with her mother, despite her best interests.<sup>77</sup>

As with the other disadvantaged groups, children in residential institutions also face the above-mentioned **obstacles to using the justice system**, including the lack of a functioning legal aid system; the excessive length of court proceedings; the perception that the system is corrupt; and high court tariffs and high expert fees.

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73. Focus group, residential institution for children; Tirana, 5 April 2017.

74. See Art.9(1) of the new Law on Child Protection no.18/2017.

75. Ibid.

76. See art. 5/1 (Principles) in conjunction with art.6 (The best interest of the child) of the new law on child protection no.18/2017.

77. Ibid.

## KEY FINDINGS on access to justice for children in residential institutions

The research shows:

- Until recently, **legislation and procedures followed by the court** were flawed and not equipped to protect the best interests of children in residential institutions. The recent enactment of the new law on child protection (law no. 18/2017) should, if implemented, improve this situation. The implementation of the new law should be reviewed in the following period.
- **Children run the risk of suffering from continued abuse when parents are granted visitation rights to residential institutions that have been granted guardianship.**
- It is necessary to **change the attitudes of the judiciary** to promote the right of the child to be with his or her biological parents when it is in their best interests.

### Suggestions on measures that would improve the access to justice of children in residential institutions

- The establishment of a functional legal aid system.
- Training of judges on the principle of the best interests of the child.
- Amending legislation so as to promote the principle of deinstitutionalisation.

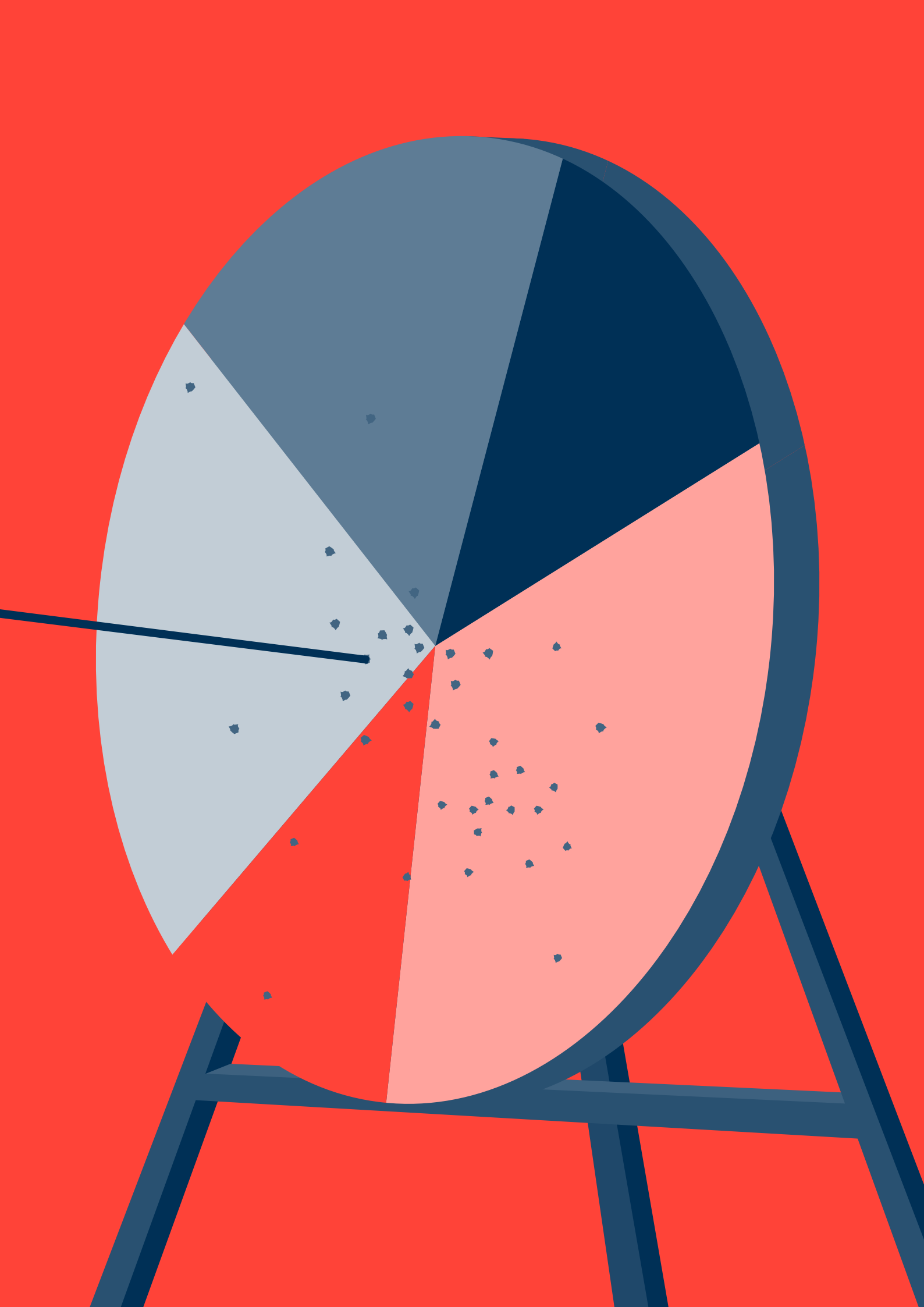


– CHAPTER 6 –

# KEY FINDINGS

This chapter offers an overview of the most important results of the survey.





## Limited legal knowledge and questionable attitudes are elements of a fragile framework for access to justice

**Individuals have a fairly low level of awareness of their rights.** There is not a single constitutional right or freedom that more than a quarter of 1758 respondents can name, and there is limited awareness of how these rights are implemented in practice. For instance, **there is a blind spot when it comes to awareness of women's rights**, with less than half knowing that a woman can obtain a divorce without her husband's approval and just over a third claiming that a married woman that received dowry is not thereafter entitled to an inheritance from her parents. Respondents are similarly poorly informed about the right to fair trial.

Despite this low level of awareness, almost three quarters of respondents have not sought information about the law. Of those that have, more respondents than not were dissatisfied with the information received.

**The low level of legal literacy is most pronounced among the Roma community, those with a low level of formal education and lower earners.**

The respondents' conceptions of justice include some questionable attitudes. For instance, **tolerance of corruption has become fairly entrenched** (particularly among the young, highly educated and high earners). There is a similar **level of tolerance towards domestic violence**, with 22.5% of those surveyed believing that "it should be up to the husband to discipline his wife". Additionally, **discrimination against members of the LGBT community is considered acceptable by a large minority** who believe that an employer should be able to fire a gay person if he makes him/her feel uncomfortable.

**Nearly three quarters of the population believes the Albanian justice system does not protect their rights.** Disconcertingly, those that have had experiences with the justice system are far less likely to believe it protects their rights than those that have not come in contact with it over the past five years. The leading reason for this lack of trust is the corruption of the justice system, with almost half of all respondents citing this rationale.

**The implication of these findings is that three factors – low levels of legal literacy, dubious attitudes on what is just, and a lack of trust in the justice system – present a fragile framework for access to justice in Albania.** The lack of legal literacy negatively affects citizens' ability to recognise violations of their rights and demand justice; narrow conceptions of justice, which propagate discriminatory attitudes and tolerate corruption, may mean that victims of abuses from the ranks of disadvantaged groups and victims of corruption do not receive adequate support from their families, friends and the authorities in seeking redress; and finally, a lack of trust in the justice system leads citizens not to pursue claims in the justice system and thereby causes a failure to protect their lawful rights.

## Numerous disputes create a significant demand for access to justice

**Almost half of the population (48.7%) has had legal problems in the last five years.** Men and members of the Roma community are notable for having more disputes than women and non-minorities, respectively, while the residents of rural areas have fewer disputes than the residents of Tirana and other urban areas.

**Disputes are most frequently focused on property and land.** Ten percent of the population has had disputes over land titles and a further 9% of the population had disputes over land, be they with family members or with the government. Other common disputes (8.2%) relate to obtaining benefits (such as economic aid or disability benefits), while disputes over labour rights and crime are less common. It should, however, be noted that figures on crime are likely, as in other surveys, to be under-reported. Citizens' disputes are overwhelmingly against, or involving, the government.

The findings on disputes highlight the **large demand for access to justice among individuals in Albania.** With nearly half of the population having justice needs over the past five years, there is a need to have a responsive and fair justice system to handle these disputes.

## A better justice system is required to ensure improved access to justice

Albanian citizens' efforts to resolve their disputes are mostly unsuccessful - only 21.8% of those surveyed managed to resolve their disputes. Moreover, 43% of the respondents – and the majority of lower earners, those with a lower level of formal education and members of the Roma community - believe the outcome was very unfair. The following hinders Albanian citizens in attempting to resolve their disputes:

- **Poor communication and a lack of openness** on the part of various officials in the justice system in their treatment of citizens seeking redress. Additionally, the findings show the same traits (poor communication and a lack of openness) on the part of a minority of citizens who threaten violence when approached by the other party to their dispute.
- **A lack of respect for citizens by institutions and officials in the justice system**; this is most apparent when it comes to local and central government.
- **A lack of fairness of the justice system both in process and in outcome.**
- **The high cost of accessing the courts and lawyers who** offer a higher quality service.
- **The length of time it takes to access justice**, with some disputes recorded in the survey taking upwards of ten years to resolve.

Improving access to justice means that all that of these problems should be dealt with in a comprehensive manner.

**Being Roma, a low earner, a person with little formal education and from Tirana decreases one's odds of resolving a dispute fairly.** Belonging to two or more of these groups at once is an even bigger hurdle to accessing justice. The explanations for these findings with regard to the first three groups appear obvious and are inter-linked: the Roma are more likely to be economically disadvantaged, have lower levels of formal education and face discrimination; the less educated are also frequently lower earners and know less about the law and the functioning of the justice system. Finally, those earning less cannot afford better quality avenues for accessing justice, such as courts. However, the results did not offer a clear answer why the residents of Tirana (apart from the well off) have less success in resolving disputes.

**The results show that improving access to justice requires a more respectful, fairer, less costly, more accessible and efficient justice system.**

## Disadvantaged groups have added difficulties in accessing justice

**Members of disadvantaged groups face added obstacles to accessing justice.** Many members of disadvantaged groups, such as those in the LGBT community, persons with disabilities and others face **widespread discrimination that creates major obstacles in accessing justice system.** This makes it difficult for them to get protection from the police from the systematic violence they face; indeed, as the findings show, it is sometimes police officers themselves that incite violence against members of the LGBT community.

**Members of disadvantaged groups are also frequently economically deprived and are therefore unable to access better quality legal services.** This discourages them from attempting to access justice. This is the case with those victims of domestic violence that are economically disadvantaged and are therefore unable or unwilling to pursue their claims through the justice system.

**Members of disadvantaged groups are also frequently ill-informed about the law and the functioning of the justice system as it pertains to them.** For example, persons with disabilities and advocates for their rights participating in the survey emphasised that members of this group are often unaware of their rights, such as various subsidies and rights they are eligible for.

Aside from these challenges, members of disadvantaged groups are also hampered by other obstacles to accessing justice that affect the remaining population as well: a **lack of trust in the system**, the **high court and expert fees** (which are particularly important for groups such as victims of domestic violence), the lack of a functioning legal aid system and the excessive length of court proceedings.

## Reasons for optimism

Despite the obstacles outlined above, there are some reasons for optimism and achievements that can act as building blocks for improved access to justice.

**The respondents view the performance of courts in a fairly positive light.** While courts are prohibitively expensive for most respondents, when it comes to the fairness of process and outcome, the respect shown to the parties and the opportunity of parties to present their case, the courts scored fairly well. This shows the ability of courts to provide fair outcomes and underlines the need to make courts more accessible to persons of more modest means.

**Certain recent legislative changes have made justice more accessible.** Examples include the new law on child protection (no. 18/2017), which has enshrined the principle of acting in the best interests of the child into law, as well as amendments of the Criminal Procedure Code that provide persons with impaired hearing the right to a sign language interpreter during court proceedings.

**Most disputes are not very costly to resolve.** Results have shown that the majority of disputes cost respondents little or nothing. However, the findings have also shown that the quality of dispute resolution services in such instances needs to be improved in order to provide fairer processes and outcomes.


**The great majority of respondents attempted to resolve their disputes peacefully with the other party.** The relative lack of success highlights the need for further support to dispute resolution avenues that do not rely on official institutions.





# RECOMMENDATIONS

The recommendations outlined below are aimed at making practical improvements to access to justice in Albania. They are derived from the results of the study and are linked to goals and actions contained in the draft Cross-Sector Justice Strategy 2017-2020 (hereafter the draft Justice Strategy), associated action plans and the recommendations contained in the European Commission's 2016 Progress Report on Albania. As such, the recommendations presented in this chapter are also aimed at accelerating the process of European integration of Albania.





## 1. Improved access to justice

**The findings show the need to have better access to justice for the Albanian population.** Too many of those surveyed have had negative experiences with the justice system in resolving their disputes. They, and others like them, need fairer, more efficient and cheaper avenues to justice. This recommendation dovetails with various parts of the draft Justice Strategy, such as Goal 1 under the draft Action Plan of the Cross-Sector Justice Strategy (hereafter the draft Action Plan), which is 'Strengthening the Independence, Efficiency, Effectiveness and Accountability of the Justice System Institutions', whose objective 1.4 calls for increased access to justice, and to Goal 3, which calls for an 'Improvement of the Operation of the Judicial System by Strengthening its Efficiency, Transparency and Accessibility in Accordance with European Standards.'

Implementing this recommendation will require at least some of the following actions:

**Establishing a functional legal aid system.** A legal aid system is the bedrock for a fairer system that provides citizens with access to justice (as recognised under objective 3.3 of the draft Action Plan). It should address both criminal and civil cases, for, as the findings show, the bulk of the legal issues that citizens have are focused on property and land disputes. It should also recognise that – as the findings from the survey show – individuals address a variety institutions for their justice needs and, in particular, their local and central government officials. The legal aid system should be designed to take these habits into account; for instance, local and central government officials should have the relevant information on legal aid providers once the system is established, so as to route beneficiaries to them. This takes a paramount importance especially for local governmental units, in the frame of the recent territorial and administrative reform.

Future legal aid providers should also make **efforts to reach persons that do not have the knowledge or the means to reach them.** As the findings demonstrate, a substantial minority of citizens - those with the lowest level of formal education and those with the lowest earnings – are not adequately informed about which institution to address when they have justice needs. In order to avoid having such disadvantaged people 'falling through the cracks' of the legal aid system, legal aid providers should make efforts to reach out to them, whether through mobile legal aid clinics, outreach programmes, appointment hours in impoverished areas such as Roma settlements or other means. These methods should be piloted and in the course of designing them, legal aid providers should draw on mechanisms that civil society organisations have had success with.

**Making legal representation and advice more accessible.** The findings show that there is room for cheaper and less labour-intensive means of providing legal advice to those with justice needs and ongoing disputes. These include means such as free phone lines offering advice, websites and interactive online services. A well-rounded justice system that offers more efficient and cheaper access to justice should pilot such mechanisms to test their effectiveness.

**Making the court system more accessible.** The survey has extensively documented the effect of high court fees and expert fees in lowering the number of persons who choose to go to court to resolve their disputes. It is paramount that these fees are reduced in order to allow economically disadvantaged persons to receive a fairer, more transparent and respectful service through the court system. This is in line with objective 3.2 of the draft Action Plan: 'Establish a reasonable and proportionate court fees system in order to ensure financing of justice services as well as guaranteeing access to court.'

The **accessibility of courts should be improved in other ways as well**; the position of persons with disabilities could be improved by making infrastructural adjustments and by making sign language interpreters available throughout the court network. This action would support the fulfilment of objective 1.4 of the draft Action Plan,<sup>78</sup> which foresees repairs being carried out in courthouses across Albania.

**Building an effective mediation system.** As was mentioned in the findings, the Albanian population has a tendency to

78. 'The reorganization of the judicial and prosecutorial map as well as of judicial police and the distribution of courts in accordance with the new territorial division, the number of population and the backlog of court cases in order to strengthen the role and functioning of the courts and ensure access to justice.'

attempt to resolve disputes directly through negotiations with the other party. This is welcome; however, the success rate could be improved through the establishment of an effective mediation system (as demanded by objective 8.9 of the draft Action Plan: 'Strengthening the role of mediators and improvements of the legal framework for the application of mediation in civil, commercial, family, criminal and administrative proceedings').

## Introduce additional measures to ensure better access to justice for disadvantaged groups

Improving the access to justice of disadvantaged groups will not be achieved solely through the above-mentioned actions. Instead, targeted actions are required in order to address the needs of disadvantaged groups. The list below is not exhaustive, but highlights one or two measures for each of the disadvantaged groups profiled in this survey:

**Raising awareness among officials in the justice system (lawyers, judges, police officers, prosecutors and others) on the rights of LGBTI persons, persons with disabilities, victims of domestic violence, children in residential institutions and others.** The survey has shown that officials have narrow ideas of what rights are important to certain groups (for instance, the right of assembly for the LGBTI community) but are not aware of others (labour rights, the right to housing, non-discrimination and others) that are being systematically violated. The raising of public awareness is in line with recommendations outlined in the EC Progress Report on Albania for 2016.<sup>79</sup>

**Introducing necessary legal amendments to bring Albanian legislation in conformity with international law.** A prominent example is amending Albanian law in line with the CRPD (as recommended by the EC Progress Report on Albania for 2016)<sup>80</sup> through changes, for instance, to the Civil Code on the removal of legal capacity of persons with disabilities. Other examples include the need to align Albanian legislation on domestic violence with the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention).

**The provision of mobile services to members of disadvantaged groups.** This is particularly important for those, such as victims of domestic violence, certain persons with disabilities and others that are prevented from accessing lawyers or other providers of legal aid. Civil society organisations in the region have had successes with lawyers that have carried out house visits to persons with disabilities whose movement may be impaired, setting up visiting hours in Roma settlements once a week and establishing mobile clinics. The management body that will be set up to oversee the legal aid system, and all legal aid providers working under its supervision, should test these methods in order to establish which work best in Albania.

## Improved legal literacy and level of service in the justice system

The lack of legal literacy and questionable attitudes to justice of many citizens should be addressed in order to provide more access to justice. The following actions will support the implementation of this recommendation:

**Raising awareness of the law and legal procedure.** There can be no equality of arms – no level playing field in the justice system – if some citizens are not aware of their rights. Addressing this problem requires a range of measures, including legal education programmes through schools; outreach activities by legal aid providers and open days by courts, prosecutors' offices and lawyers.

**The promotion of the rights of disadvantaged groups.** This survey highlighted the blind spot among the population at large when it comes to the rights of women, the Roma and the LGBT community. Efforts – such as awareness-raising campaigns and outreach events - should be made to rectify this gap.

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79. See p.67.

80. Ibid.

**Build the capacity of justice sector officials to provide better service.** The findings show that service providers, such as the local government, are not particularly respectful, fair or transparent in their communications with citizens. Moreover, those that have had experiences with the justice system invariably have worse opinions of it than those that did not. This state of affairs should be rectified through systematic capacity building efforts featuring activities such as training, mentoring and exchanges with providers of access to justice in the region.

**Use innovative and empirical methods to provide efficient access to justice**

**The realisation of the above-mentioned recommendations will require the use of innovative mechanisms.** Actors in the justice sector should not be afraid to introduce new methods for the better provision of access to justice. Some of these, such as hotlines, mobile clinics and outreach activities, have been outlined above; the actors in the justice sector will generate others over the course of time.

**It is paramount, however, that the effectiveness of new – and existing – mechanisms is empirically measured.** Going forward, mechanisms used for providing access to justice should be accompanied by a sound methodological design for measuring their effectiveness. More specifically, they should include control groups, sound research design, randomly selected samples, and other features of scientific quantitative and qualitative research.

It is also important that the **measurement of the success rate is continuously measured and shared widely.** This will lead to improvements in the provision of access to justice over time. Finally, it is paramount that **actors in the justice sector are exposed to best practices globally,** to enable them to improve and find more effective mechanisms for providing access to justice.



# APPENDIX 1 – METHODOLOGY

The survey was conducted using a mix of qualitative and quantitative methods, thus allowing for an extensive and in-depth analysis of access to justice and related issues. The quantitative and qualitative research complemented each other to produce the findings presented in this report.

## QUANTITATIVE METHODS

The centrepiece of the data collection was a poll of the population of Albania. Researchers recruited by UNDP administered a questionnaire (see Annex A) to a randomly selected sample of 1758 Albanians (16 years or older). The representation of men and women in the sample was roughly equal – 896 men (51.1%) and 854 women (48.7%).<sup>81</sup>

The sample of 1758 was drawn from Tirana, areas covered by large centres outside of Tirana (Shkoder and Vlora) and rural areas. Albania was divided into three strata, formed according to the independent variable of the availability of avenues for accessing justice. It was therefore decided that Tirana, which has a plurality of options for legal assistance, such as NGOs providing legal aid, would form one stratum; that areas outside Tirana, such as Shkoder, Durres and so on, which are the seats of courts of first and second instance, and which have a mix of an urban and rural population, would form the second stratum; and that deeply rural areas, which are more isolated from some of these elements of the formal justice system, would form a third stratum.

Once these strata were decided on, the researchers assigned random numbers to municipalities within Tirana, and two were randomly selected for administering the survey. Equally, random numbers were assigned to large centres that are the seat of courts outside Tirana, and Shkoder and Vlora were selected by a random number generator for administering the survey (with municipalities within each of these areas further randomly selected). Finally, the municipalities of Permet and Mat were randomly selected as representative of the deeply rural stratum.

The number of respondents was carefully designed to reflect the ratio of each stratum within the population, in accordance with publicly available data. There were 595 respondents from Tirana, 575 from Shkoder and Vlora and 588 from Permet and Mat.

The ultimate sampling unit was the adult, but in order to reach them, households were approached. The interviewees were chosen from a random selection of households, with one member interviewed per household. Although the sample was randomly selected, one slight concession was made to purposeful (non-random) sampling; it was thought to be important to have gender-balance in the sample. Therefore, for each selected household, a listing of the adult members was made and one of them selected randomly, keeping in mind that the gender of the person selected should be different from the one selected in the previous household, if at all possible. This ensured that the male-female ratio did not veer significantly from 1:1.

A total of 12 enumerators took part in the fieldwork for the quantitative poll. The enumerators were trained to collect data on the personal experiences of individuals related to their justice needs and their knowledge and perceptions of justice. Following their training, the research team and the enumerators piloted the quantitative questionnaire, which was subsequently revised in accordance with the suggestions received during this phase.

Once the actual survey began, the enumerators were monitored to ensure they provided data of uniformly high quality. The principal researchers provided enumerators with detailed feedback, such as additional explanation regarding particular questions when we suspected they had been misunderstood.

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81. The gender of eight respondents was not recorded.



One of the principal challenges encountered by the enumerators was that interviewees in urban areas – and particularly those that were well to do - were occasionally suspicious and had concerns with regard to confidentiality and the purpose of the exercise. This meant that getting a sufficiently large sample in urban areas required an extensive and prolonged effort. Conversely, rural respondents, as well as those of lesser economic means, were more willing to participate in the study. As a result, there were almost no refusals in rural areas.

Another challenge encountered by the researchers is the possible under-reporting of crime and income. As was noted in the body of the report, there are discrepancies in crime figures that would suggest a possibility that experience of crimes was under-reported in the survey. Similarly, there is a well-documented uncertainty about the reporting of income, which has presented obstacles to surveys of this sort.<sup>82</sup> The research team was cognisant of these tendencies in analysing data and drawing conclusions from it.

## Breakdown of the sample of the quantitative research

- A total of 1758 individuals aged 16 and over were interviewed in the period between March and May 2017.
- The respondents were interviewed in areas of Tirana, Shkoder, Vlora, Permet and Mat. 595 respondents (33.8%) were drawn from Tirana, 575 from Shkoder and Vlora (32.7%) and 588 from Permet and Mat (33.4%). Of these 874 (49.7%) were drawn from urban and 884 (50.3%) from rural areas.
- 896 (51.1%) respondents were men and 854 (48.7%) were women.
- The most represented age group were those aged between 45 to 54 (22.8%), followed by those aged between 55 to 64 (21.6%), those aged between 35 to 44 (15.9%), those aged 65 and over (14.9%), those aged between 25 and 34 (13.6%), those aged between 18 and 24 (10.3%) and 16 and 17 year-olds (0.7%).
- Nearly one in seven respondents (13.6%) stated they belonged to a minority group. Of these, 6% stated they were members of the Roma community, 1.3% said they were Egyptian and 6.3% that they belonged to other minorities.
- The most common educational qualification among respondents (39.4%) was to have a completed secondary school; a further 27.1% had completed their primary education, 17.3% had a university education, 8.2% had diplomas or certificates, 5.7% did not complete their primary schooling, while 1.6% had a postgraduate degree.
- Nearly two in five respondents claimed they were employed, with 21% claiming they were self-employed, 12.3% working in the private sector and 6.4% in the public sector. The remainder of the population were either unemployed (25.8%), despite looking for a job, or not economically active (23.7%) as they were not actively seeking employment or housewives (10.2%).
- The overwhelming majority of respondents were married (75.6%), while less than one in six (15.6%) were single, 5.4% were widowed, 2.1% were divorced and 1% were cohabiting.
- The majority of respondents (59.6%) did not have any children, 20% had one child, 15.8% had two children, while only 3.2% had three or more children.
- More than one in ten interviewees were the recipients of benefits, with 6.5% receiving economic assistance and 4% disability benefits.

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82. See, for instance, J. Moore, L. Stinson and E. Welniak, 'Income Measurement Error in Surveys: A Review', <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.39.6539&rep=rep1&type=pdf>, last accessed 25 July 2017.

## QUALITATIVE METHODS

In addition to the poll, the survey also gathered a variety of data using qualitative methods. The principal tools used in this regard were focus group scenarios and questionnaire used in semi-structured interviews. Both of these were designed to probe in-depth about respondents' attitudes towards, and knowledge of, the law, as well as their experiences in resolving disputes. The interviewees included respondents from disadvantaged groups, such as LGBTI persons, victims of domestic violence and others. In addition, interviews were conducted with justice service providers such as lawyers and judges, as well as representatives of civil society organizations and National Human Rights Institutions.

### Breakdown of the participants in the qualitative research

- A total of 55 individuals participated in focus groups in the period between March and May 2017.
- A further 32 persons were interviewed in the same period as part of the research for the survey.
- The focus group participants and interviewees come from the ranks of disadvantaged groups, including persons with disabilities, victims of domestic violence, children in residential institutions, children in conflict with the law, members of the Roma community and members of the LGBTI community. They also came from the ranks of service providers, including legal aid providers, NGOs providing assistance to, and advocating for the rights of, victims of human rights abuses, social care workers, presidents of courts, staff at residential institutions for children, as well as staff of the Ombudsperson and of the Commissioner for Protection Against Discrimination.
- The respondents were mostly interviewed in Tirana, as it is the seat of many of the service providers mentioned above. In addition, respondents were interviewed in Shkoder, Vlora and rural areas.

Overall, the methodology outlined above, with its mix of qualitative and quantitative data collection methods, helped to draw up a comprehensive picture of the obstacles facing the Albanian population in accessing justice. It also clarified the challenges presented to the Albanian state and judiciary in providing access to justice and remedies to the citizenry.



