

Distinguished Head of the Commission,

Dear Members of the Commission,

1. We would first like to thank you for inviting us, as a Constitutional body, having the protection and observation of the rights of Albanian citizens as the cornerstone of our activity, to provide our suggestions and opinions related to the administrative and territorial reform.
2. The Institution of the People's Advocate has followed the recent developments on the administrative and territorial reform. In this framework **we are of the opinion that this reform is necessary and should be completed, as it is a necessity of time considering all identified issues.** If we make reference also to the Progress Reports of the European Commission in the last three years, they emphasise their concern for the lack of progress in the administrative and territorial reform, due to the slow enforcement of the Law on territorial planning and the financial difficulties of smaller units (*reference to the 2013 Progress Report of the European Commission*).
3. Since the establishment of the Institution of the People's Advocate, 14 years ago, we have received thousands of complaints from the Albanian citizens against the municipalities and communes. Many complaints which should have been settled in the communes and municipalities, have not been settled, not only because of subjective reasons, but mainly also because of the lack of efficiency, the economic and financial incapability of the local administration, the lack of investments and the bureaucratic organisation, lack of competencies, etc. Moreover, the uncontrolled migration of people has resulted in the abandonment of vast territories, significant lack of infrastructure and services, loss of control of the territory and the large national asset, the agricultural land, avoidance of the payment of local taxes, the significant decrease of quality in areas such as education, health, etc.

Certainly, decentralisation is an important component of the social transformation process, because it brings citizens closer to the government by improving access to

governance, and it also lays the foundations to more effective governance. **Under these circumstances, the administrative and territorial reform is an important process, which cannot be completed in a short time and which also requires the approval of certain laws and bylaws to make it applicable.**

4. Considering the scope of activity of the Institution of the People's Advocate, consisting also in the monitoring of the public administration in the framework of the protection and respect of the citizen rights, impaired by the actions/lack of actions of the state institutions, **when drafting this reform we suggest taking into account the best interest of the citizens and their inalterable rights first.**
5. To help the efficient administration of powers, a continuous decentralisation reform is needed as the only way which shall improve the quality of local government, regarding higher effectiveness, efficiency, accountability and greater transparency in exercising competencies, not only from the parties pertaining to administrative processes, but also from the vast community.

In view of the scope of activity of the Institution of the People's Advocate, and of Non-Profit Organisations, importance is given to the information of citizens on this reform. This can also be considered as a constitutional obligation in the framework of Article 108 of the Constitution, stipulating that in administrative and territorial division of local government units, apart from the common economic interests and the historical tradition **"...the borders may be changed without taking the opinion of the population of the area"**. This constitutional requirement is in compliance with the European Charter of Local Self-Government. **We, as the Institution of the People's Advocate suggest the drafting of a detailed plan with the respective deadlines for implementation, for the accomplishment of this constitutional obligation. Our suggestion is that this plan be transparent and we also suggest meetings with individual groups living in cities and communes, notifying them on the purpose of this reform, the ways in which it shall serve them and what would be the most suitable version of the territory division.**

6. Over the years of activity of the Institution of the People's Advocate, local government has been inefficient and highly bureaucratic in providing services to the citizens, with the latter being sent back and forth for obtaining services. In the majority of cases, this happens because the small local government units are often economically unstable (*a concern mentioned by the European Commission in 2012 Progress Report*).
7. In all these years of activity, we have seen from the complaints addressed to us and also from cases we have followed on our own initiative, that local government bodies, such as municipalities and communes are financially unstable, and also lack efficiency in their work and in the services provided to the citizens. Moreover, according to the 2012 and 2013 Progress Report of the European Commission, in the majority of cases, local government decision-making lacks transparency and is made without consultations with civil society organisations and other stakeholders. This concern has also been noticed during the review of complaints on our side, with many individuals being neither summoned in public meetings of decision-making collegial bodies, nor being notified on the decisions already made. **Therefore, in drafting this reform, we would suggest considering the establishment of proper conditions for increasing the citizen's role and access to the decision-making process of the local government, aimed at better addressing the problems of the respective regions.**
8. We have noticed cooperation barriers at municipality level and cooperation and coordination barriers between the local and central government, often resulting in lack of efficiency in services provided to the citizens, thus reviewing the function and competencies of the respective Prefecture and Council. **Therefore, we suggest a better cooperation and coordination between the two governments, including other stakeholders in local government associations and civil society actors.**
9. We, as the Institution of the People's Advocate share the opinion that minority areas should remain unchanged, be that as units with the minimum assigned number, but making sure that they do not lack the necessary services and respective investments.

10. In the framework of the scope of our work and from the problems resulted from the addressing of complaints against the local government, we have found out that in 2013 the Institution of the People's Advocate has registered a total of 589 complaints against local government units, 140 of which were complaints against communes. The subject of the complaints has been mainly requests related to the right to work (130 complaints), disability payments (172 and 63 complaints), the right to housing (86 and 6 complaints), economic aid (34 and 13 complaints), the actions of INUV and INUK (38 and 5 complaints), property rights (25 complaints), information rights (12 and 1), consumer protection (10 and 11 complaints), etc. We notice that the lack of efficiency in work and services provided by the local government units is also evident in their failure to reply to the letters sent by the Institution of the People's Advocate, in which we have raised concerns and requested clarifications and information, pursuant to the competences provided to us by the law. **We would suggest that the abovementioned problems which we have identified and addressed be resolved with the new administrative and territorial reform, so that such problems are avoided and not repeated, and given a permanent solution.**

11. Based on the problems identified mostly from the complaints addressed against the local government, mainly those on housing for mainstream population, and particularly that of Roma minority, we would suggest that the administrative and territorial reform takes into account the revision of housing policies, with the purpose of being more efficient for the citizens. The statistics of our institution for the last three years show that 527 complaints were related solely to housing. On the other hand, the information received from 42 municipalities indicates that out of the total number of homeless people, only 13% were able to benefit. Meanwhile, the municipalities and communes justify this with the lack of funds. **Thus, we suggest that such problems be properly taken into consideration and become part of the new administrative and territorial division.**

12. The fragmentation of the territorial units has resulted in a real dysfunction or effective misuse of the legal duties of these local units. From our activity we have observed an effective dysfunction of INUV for communes, due to the insufficiency of funds to

support the demolition of illegal buildings within the administrative territory in their jurisdiction, as 70% of them do not generate incomes. **Therefore, we think that the new territorial division, by consolidating the administrative units to a smaller number, would create the basis for a more efficient work practice for the achievement of the functional duties related to the area of construction.**

13. Regarding the defined criteria which shall be the reference for the conduction of the administrative and territorial reform, a problem emerges in the division of those units where minority communities live. Pursuant to the criteria of administrative and territorial division of local government units, the cases which consider the best international practices for the protection of ethnic minorities, where these minorities constitute the majority of the population, shall be reviewed as exceptional criteria. We suggest keeping the territorial boundaries for these groups intact. **We, as the Institution of the People's Advocate share the same opinion and suggest that keeping the existing boundaries for these units should constitute the key element in the definition of the special exclusive criteria for these territorial areas, along with a wider consultation with the stakeholders of those communities themselves.**

14. The administration of certain local government bodies has problems with the drafting of administrative acts, the lack of legal references, the method of administrative proceeding, failure to meet legal deadlines, violation of certain principles like the cooperation of the administration with private persons, conclusion of the proceeding by making a decision, the right to notify individuals, conflict of interests in decision-making, family relations between local government employees and the residents, bringing subjectivism into decision-making, and in the execution of administrative acts or concrete plans of local government units. **All these problems result in poor service of the administration towards the citizens, delays in resolving the problems of the residents and the disregard of the standards of an administration serving the individual. We suggest taking into consideration the local government structures in order to improve the performance of local government bodies and improve the quality of service.**

15. On the other hand, we must bear in mind that the new administrative and territorial division shall reduce the number of local government units and therefore shall bring the dismissal from work of a number of employees working in these units. Based on some fiscal and economic data, it results that there are around 20,000 employees in the local government, 6,500 consultants and 2,000 heads of villages. **Therefore, we suggest keeping into account the increase of employment opportunities by analysing them in a strategy or plan of measures.**

16. **Additionally, in the new reform we suggest considering the establishment of efficient local government structures from the organisational and road infrastructure point of view, aimed at bringing improvements to the efficiency of service provision and increasing the access of citizens to local government units.**

Finally, in support to the realisation of the administrative and territorial reform, we consider this as a positive step, always focusing on fundamental rights and freedoms of the individual, also taking into account the improvement of human resources and financial efficiency, along with the increase of service and the number of services.

COMMISSIONER

Etilda Gjonaj (Saliu)